

Tuesday, 23 February 2021

1  
2 (10.00 am)  
3 **SIR BRIAN LANGSTAFF:** Good morning, Mr Stevens.  
4 **THE WITNESS:** Good morning, Sir Brian.  
5 **SIR BRIAN LANGSTAFF:** You're at home, are you?  
6 **THE WITNESS:** I am. And thank you very much for giving me  
7 the opportunity to be so.  
8 **SIR BRIAN LANGSTAFF:** Not at all. It's what we have to do  
9 in the particular circumstances we find ourselves in  
10 at the moment.  
11 Now, let me tell you who you're talking to.  
12 You're talking to a room here in Fleetbank House in  
13 which there are three members of the legal team  
14 opposite me, there are three members of the Inquiry  
15 staff, one of whom is Mary who will ask you to take  
16 the oath in a moment or two, and there is Soumik whose  
17 job it is -- which he does with great professionalism,  
18 I have to say -- is to make sure that the right  
19 document is shown to you at the right time and  
20 highlighted in the appropriate place.  
21 Beyond us, there are probably somewhere around  
22 200 or so people who will be watching. So although  
23 you're talking immediately to us and more immediately  
24 in answer to Ms Richards' questions, you will be  
25 talking to an audience of at least 200. It may very

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1 the fund until 2017?  
2 **A.** Yes.  
3 **Q.** You were also involved with MEPT Limited?  
4 **A.** Yes.  
5 **Q.** And you were a trustee of Caxton, the Caxton fund,  
6 from 2011 to 2013?  
7 **A.** Yes.  
8 **Q.** I'm going to be asking you questions today largely  
9 about the Macfarlane Trust and hopefully also the  
10 Eileen Trust, and then tomorrow about Skipton, Caxton,  
11 and some more general thematic issues, just so that  
12 you understand where the questions are going.  
13 **A.** Okay.  
14 **Q.** Mr Stevens, you provided the Inquiry with a written  
15 statement, and you were provided with quite a lot of  
16 documentation for the purpose of that statement, but  
17 I understand you've seen more documents since  
18 finalising your statement which has prompted your  
19 memory in a number of respects; is that right?  
20 **A.** I wouldn't necessarily say it prompted my memory, but  
21 certainly, I was supplied with a lot documents after  
22 my statement was written, and there were places where  
23 the written record, which I had forgotten, would  
24 supplant my poor memory.  
25 **Q.** We'll hopefully address those issues in the course of

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1 well be more because of the particular interest that  
2 your evidence will have. But thank you very much for  
3 coming. Ms Richards.  
4 **MS RICHARDS:** I think Mary's going to administer the oath  
5 first.  
6 **SIR BRIAN LANGSTAFF:** Of course.  
7 **PETER ROGER STEVENS, affirmed**  
8 **Questions by MS RICHARDS**  
9 **Q.** Mr Stevens, can you see and hear me?  
10 **A.** Yes.  
11 **Q.** You were a trustee of the Macfarlane Trust from 1988  
12 to 1992?  
13 **A.** Correct.  
14 **Q.** And during that time, you were also a trustee with the  
15 two Macfarlane special payment trusts, MSPT1 and 2?  
16 **A.** Yes.  
17 **Q.** You then had a second stint at the Macfarlane Trust as  
18 trustee and chair, 1999 to late 2006, beginning of  
19 2007?  
20 **A.** Yes.  
21 **Q.** You were chair of and trustee of the Eileen Trust,  
22 1999 to 2017?  
23 **A.** Yes.  
24 **Q.** You were involved in the establishment of the  
25 Skipton Fund from 2003 onwards and were a director of

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1 today and tomorrow. And at the end of tomorrow, if  
2 there's anything in your statement that you  
3 particularly want to raise or address or correct, I'll  
4 ensure that you have the opportunity to do so.  
5 **A.** Okay. Thank you.  
6 **Q.** Prior to your first involvement with the  
7 Macfarlane Trust in 1988, can you just tell us briefly  
8 what your background and employment history was?  
9 **A.** Sorry, in the --  
10 **Q.** Your employment history prior to becoming involved  
11 with the Macfarlane Trust --  
12 **A.** Yes.  
13 **Q.** -- what had your work been, and what were your  
14 qualifications?  
15 **A.** I worked a number of mostly financial roles in three  
16 companies. And latterly during the time that I was  
17 involved with the Alliance House with the joint  
18 international insurance workers called Willis. And  
19 I got into -- my involvement with Macfarlane Trust  
20 stemmed from a previous short period as a trustee of  
21 The Haemophilia Society where the Reverend Alan Tanner  
22 got to know me and asked me whether I would join him  
23 as a trustee of the new Macfarlane Trust. I wouldn't  
24 say I had any particular qualifications for it. Just  
25 he asked me, I suppose, because of my general

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1 experience.

2 **Q.** So you were appointed I think in around March 1988,

3 and I won't go to the records, but we can see the

4 first meeting you attended as a trustee was April of

5 1988.

6 **A.** The first -- I missed the first board meeting. After

7 that, I suppose I tried to attend most of them, but

8 there were occasions when I couldn't.

9 **Q.** Did you have any -- other than the brief time you had

10 had as a trustee of The Haemophilia Society, did you

11 have any prior experience in the management of

12 charities?

13 **A.** No.

14 **Q.** When you took up the role as trustee, was any training

15 arranged or provided for you and your fellow new

16 trustees?

17 **A.** I don't think -- after all, we were all -- the whole

18 thing was new. We were all new to the job. I don't

19 think we ever had any formal training.

20 **Q.** What did you know at that time when you accepted the

21 Reverend Tanner's invitation to become a trustee at

22 MFT? What did you know of the circumstances in which

23 people had been infected as a result of blood

24 products?

25 **A.** I had two sons, both of whom had haemophilia. My

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1 trustees that you can recall?

2 **A.** I don't think so. I don't believe that I did any

3 visits to any haemophilia centres then. That came

4 later. I don't believe at that stage the Trust

5 organised any sort of any weekend events, for example.

6 Those, I think, all came later. No, I think I was

7 simply a trustee.

8 **Q.** You were a Haemophilia Society nominated trustee --

9 **A.** Yes.

10 **Q.** -- as I understand it. Did that give you any

11 particular or different responsibility as a trustee

12 than other trustees?

13 **A.** I don't think so. As I recall, the board at that

14 stage contained eight -- contained six -- the board of

15 ten contained six people nominated by the society;

16 four nominated by the Department of Health. I never

17 received, that I can recall, any instructions or

18 requests from the Society. I was simply, as it were,

19 on my own, a free agent doing -- giving -- making such

20 decisions, giving such judgment as seemed to be right

21 really as an individual.

22 **Q.** Now, do you know why the Macfarlane Trust was

23 established as a trust, rather than taking some other

24 form? Is that something you were involved in?

25 **A.** No, I wasn't involved in the establishment at all.

7

1 eldest son contracted HIV. I subsequently -- after he

2 died in 1989, I subsequently saw his autopsy report,

3 and to my untutored eye, the damage done to his

4 internal organs would suggest he had Hep C as well.

5 My younger son, who is now 50, contracted Hep C but

6 not HIV. He has now eliminated Hep C and is fit and

7 well.

8 **Q.** Can you tell us what, broadly speaking, were your

9 responsibilities as a trustee of the Macfarlane Trust

10 in that first period, 1988 to 1992? What practically

11 did you have to do, and what kind of decisions did you

12 have to make?

13 **A.** I think I was broadly simply a trustee to help to join

14 in with the other trustees in consideration of the

15 policy and execution of the policy of the Trust.

16 I was specifically charged with addressing or trying

17 to address the -- see the need for mortgage and

18 insurance, life insurance solutions to the problems

19 that the Trust residents faced. Other than that,

20 I don't think there was anything particular I can

21 remember about my role.

22 **Q.** What, in practical terms, did participation as

23 a trustee entail over that four-year period? There

24 was attendance at the regular trustee meetings. Was

25 there anything else in particular that was required of

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1 I can only surmise that it was -- because it was set

2 up I think at the instigation of the Government as

3 a charity, it had to be -- in those days, I think

4 charities and trusts were quite closely linked, and so

5 it was set up as a discretionary trust with charitable

6 objectives.

7 **Q.** When you took up your role in 1988, what did you

8 understand to be the reasons for the establishment of

9 the Macfarlane Trust and the purpose of the Trust at

10 that point in time?

11 **A.** To provide support -- basically financial support to

12 people who had been -- to people with haemophilia who

13 had been infected with contaminated blood, with HIV.

14 **Q.** I am just going to ask you to look briefly with me at

15 the trust deed, the original version of the trust

16 deed. Soumik, it's MACF0000003\_064, please. If we go

17 to page 5 and look at paragraph 4, we can see there

18 the objects of the Trust set out:

19 "The objects for which the Trust is established

20 are to relieve those persons suffering from

21 haemophilia who, as a result of receiving infected

22 blood products in the UK, are suffering from AIDS or

23 are infected with human immunodeficiency virus and who

24 are in need of assistance, or the needy spouses,

25 parents, children and other dependants of such persons

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1 and the needy spouses, parents, children or other  
 2 dependants of such persons who have died."  
 3 Did you understand, as far as you can recall,  
 4 the trust deed to draw any particular distinction  
 5 between those who were infected and their dependants?  
 6 **A.** I don't think at the time I was aware of any  
 7 distinction between those two groups. I think there  
 8 was -- a distinction did emerge in the trustees'  
 9 treatment of the groups, but it wasn't embodied in  
 10 that objects clause.  
 11 **Q.** We will come on to look at some of those issues at a  
 12 later stage, Mr Stevens. If we just, while still  
 13 looking at the trust deed, we can see, for the sake of  
 14 completeness, paragraph 5:  
 15 "In furtherance of the above object but not  
 16 further or otherwise the trustees shall have power to:  
 17 "(i) Provide or assist in the provision of  
 18 financial aid, holidays, food, clothing, and other  
 19 articles or assistance in kind, or of shelter,  
 20 hospice, housing, or other accommodation (whether  
 21 temporary or permanent).  
 22 "(ii) Promote the education of and provide  
 23 scholarships and apprenticeships for children and  
 24 young persons who are in need.  
 25 "(iii) Collect and receive funds, donations

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1 from the Ministry as to the original intention towards  
 2 spouses and as to whether those who became infected  
 3 were eligible to be registered in their own right and  
 4 not solely as 'dependents'.  
 5 It would appear from that record that questions  
 6 as to the intention of the Trust were regarded as  
 7 matters for the Department, the DHSS; is that right?  
 8 **A.** Yes.  
 9 **Q.** Why was it regarded as something upon which the  
 10 department's advice would need to be sought, rather  
 11 than the trustees forming their own view?  
 12 **A.** Because the Trust was set up at the instigation of the  
 13 Government and the Department, and the Department was  
 14 responsible to Government for the running of the  
 15 Trust. So it was right that we should go to them and  
 16 say, "What did you actually mean?"  
 17 **SIR BRIAN LANGSTAFF:** May I just ask why was the  
 18 Department responsible to Government for the running  
 19 of the Trust? Why weren't the trustees? It was  
 20 an independent trust, was it not?  
 21 **A.** Yes, the trustees -- we were independent. We were  
 22 certainly accountable to the Charity Commission not to  
 23 the Department. In the respect of the interpretation  
 24 of the trust deed, which was, I believe, originally  
 25 laid down in negotiation between Alan Tanner, his

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1 and legacies for the promotion of the above object,  
 2 provided that the trustees shall not undertake any  
 3 permanent trading activity in raising funds for the  
 4 above objects.

5 "(iv) Do all such other lawful things as may  
 6 be calculated to further the attainment of the above  
 7 objects, provided that nothing herein contained shall  
 8 permit or be deemed to permit the doing of any thing  
 9 or the pursuit of any purpose which are not  
 10 exclusively charitable."

11 Now, I want to ask you about one early meeting.  
 12 If we look at MACF0000002\_015 please, Soumik. You  
 13 will see, Mr Stevens, this is a meeting of the  
 14 trustees on 2 May 1989 in which you were in  
 15 attendance. If we could go to the bottom of the  
 16 second page, please, Soumik, you'll see in the last  
 17 paragraph there's a reference there to infected  
 18 partners:

19 "An application for registration by a once  
 20 common law wife separated from the registered partner  
 21 was rejected pending further consideration (though it  
 22 was agreed that in that meantime help could be given  
 23 with expenses ..."

24 And then this:  
 25 "It was agreed that advice should be sought

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1 number two, Clifford Grinsted and the Department,  
 2 I think it was right that we should go back to the  
 3 Department and say "What did you actually mean by  
 4 this?"

5 **SIR BRIAN LANGSTAFF:** Well, the meaning would be a matter  
 6 for the court, would it not, ultimately, because the  
 7 words used in making the gift or setting up the Trust  
 8 are "the Trust" and, once it's established, the  
 9 further views of the settlor don't matter, do they, in  
 10 law? Did you take legal advice on this?

11 **A.** I'll have to take your advice. You're a far better  
 12 lawyer than I am. At the time, the trustees believed  
 13 that the correct approach is to go back to the  
 14 Department to ascertain, as it says there, the  
 15 original intention towards spouses.

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

17 **MS RICHARDS:** We can take that down, thank you, Soumik.  
 18 I wanted to ask you next about the arrangements  
 19 for the appointment of trustees and employees and  
 20 these questions span both periods of time that you  
 21 were at the Macfarlane Trust. Now, you've told us  
 22 that there were a certain number of Haemophilia  
 23 Society-appointed trustees, a certain number of  
 24 DHSS-appointed trustees.

25 Were any particular characteristics or

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1 experience deemed either desirable or necessary in  
 2 selecting who should become a trustee, as far as you  
 3 can recall?

4 **A.** I think we did occasionally specify, either to the  
 5 Department for their nominees or to the Society for  
 6 their nominees, certain skills we're after.  
 7 I remember there was a time when we felt that we were  
 8 deficient in legal skills on the board. But I recall  
 9 seeing a statement somewhere in the heap of documents  
 10 about the Department, when the Department were filling  
 11 vacancies that they were required to fill, they were  
 12 simply looking for senior retired -- or retired senior  
 13 officials from the Department, people who had some  
 14 experience in medical and management matters without  
 15 any specific skills.

16 **Q.** As and when new trustees joined the board, what, if  
 17 any, efforts were made, as far as you can recall, to  
 18 ensure that those new trustees had sufficient  
 19 knowledge of the background to circumstances in which  
 20 people had become infected with HIV and had some  
 21 understanding of its impact?

22 **A.** This is one of the areas where my written statement  
 23 was at variance with what I subsequently found in the  
 24 documentation. There was an induction pack prepared  
 25 by our solicitors so that any new trustee would have

13

1 a full grounding in the background and the purpose of  
 2 the Trust.

3 **Q.** Now, in terms of Chairmanship, the Reverend Tanner was  
 4 the chair for the whole of the first period of time  
 5 that you were a trustee and, when you returned in  
 6 1999, you yourself then -- I don't know, I've got  
 7 a record of the precise date -- but you took up the  
 8 position of chair. How was the decision made as to  
 9 who should be the chair of the board?

10 **A.** I've no idea. Alan and Clifford invited me  
 11 specifically to rejoin the board as a trustee with  
 12 a view to replacing Alan when he stood down at the end  
 13 of 1999 or -- I can't remember the precise date which  
 14 I took over from him in the chair, some time in 2000,  
 15 I think, probably.

16 **Q.** So you were invited to rejoin the board specifically  
 17 so that you would become chair?

18 **A.** Yes.

19 **Q.** But you don't know what discussions had taken place  
 20 prior to you being approached in that way?

21 **A.** I don't know whether there had been discussions with  
 22 the other trustees on the subject, or the Society or  
 23 the Department.

24 **Q.** Now, obviously the Reverend Tanner had been chair of  
 25 both the MFT (the Macfarlane Trust) and The

14

1 Haemophilia Society. Was that something that you  
 2 regarded then or regard now as having advantages or  
 3 disadvantages to have both those organisations jointly  
 4 chaired?

5 **A.** Not really, no. No, the role of the Society was  
 6 changing over the years and it was probably right that  
 7 when Alan stood down from the chair of the Trust,  
 8 I don't know whether he was still chair of the Society  
 9 at that stage, it was probably right that his  
 10 successor in the Society did not follow him into the  
 11 Trust, that an element of separation was created.

12 **Q.** Were any attempts made to ensure that there was any  
 13 form of representation on the Board of Trustees from  
 14 Scotland, Wales or Northern Ireland?

15 **A.** I don't think there was, no. If there was, that was  
 16 done by the Society and/or the Department. It was not  
 17 done at the request of the MFT board.

18 **Q.** I think in the first part of your appointment, the  
 19 1988 to 1992 period, there was an administrator and  
 20 then, by the time you returned in 1999, that role had  
 21 been replaced by that of a Chief Executive; is that  
 22 correct?

23 **A.** My understanding is that Ann Hithersay, who replaced  
 24 or succeeded Wing Commander Williams as administrator  
 25 at some stage during the period when I was away from

15

1 the Trust, felt that her job should be better seen as  
 2 that of Chief Executive and put that to Alan and  
 3 Clifford and that was accepted.

4 **Q.** When you were chair, there were, I think, two chief  
 5 executives, first Ann Hithersay and then  
 6 Martin Harvey. What was your understanding, as chair,  
 7 of the role of the Chief Executive?

8 **A.** To make sure that the Trust was executing the policies  
 9 and the strategy determined by the trustees.

10 **Q.** Where did decision-making responsibility or authority  
 11 lie as between the Chief Executive and the board?

12 **A.** Decision-making responsibility was with the board. If  
 13 the Chief Executive had any doubts about what he is  
 14 being asked to -- he or she was being asked to  
 15 implement, they would have to go to the Chairman to  
 16 find out what it was the board wanted done.

17 **Q.** The Macfarlane trust's office was in London and  
 18 I think, in fact, the offices of the Alliance House  
 19 organisations were in London, ultimately in the same  
 20 location. What consideration was given to having some  
 21 form of presence or office outside of London, in  
 22 particular in Scotland, Wales or Northern Ireland?

23 **A.** At times when there was a lease termination or a lease  
 24 renewal coming up in London there was, from time to  
 25 time, some discussion whether the offices should be

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1 somewhere else. But with a staff as small as that of  
 2 the Trust, there was no -- it wouldn't be practical to  
 3 suggest -- to think of having a satellite office  
 4 anywhere else. So either the office as a whole would  
 5 move or it would -- every time we renewed it we  
 6 decided that the costs and the inconvenience to  
 7 everybody, including the registrants, of moving the  
 8 offices away from London were such that we would be  
 9 better put to stay where we were.

10 **Q.** What, if any, particular efforts were made to ensure  
 11 that beneficiaries in all parts of the United Kingdom  
 12 were able to access services and support equally?

13 **A.** Yes. I mean, most beneficiaries looked, first of all,  
 14 to their haemophilia centre for their care and  
 15 well-being, and the haemophilia centre would work with  
 16 them on approaches to the Trust for assistance. There  
 17 was an element of post code lottery, if you like, here  
 18 in that some centres were better than others at  
 19 providing the support, which we became aware of over  
 20 years but, generally, wherever they were,  
 21 beneficiaries had equal access to the Trust and to  
 22 advice and help from their centres.

23 **Q.** If we could look, please, at another document, it is  
 24 a set of minutes of July 1988. Soumik,  
 25 MACF000002\_006. These are minutes of a meeting of

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1 see in relation to Glasgow, it's described as there  
 2 being some:  
 3 "... initial anger directed at four points:  
 4 "The inadequacy of the £10 million fund.  
 5 "The decision by the Trustees not to pay all or  
 6 most of the fund immediately on a lump sum basis to  
 7 everybody.  
 8 "Means testing'.  
 9 Then the fourth is about a specific request.  
 10 I am going to pick up on some of these themes later,  
 11 Mr Stevens, but if we go to the next page, we can see  
 12 top half of the page there's a reference to the visit  
 13 to Edinburgh, and the second paragraph, reads:  
 14 "A considerable amount of time in addition was  
 15 spent 'discussing' the limits imposed upon us by the  
 16 Trust Deed and anger was expressed at the fact the  
 17 copies of the Trust Deed had not, as a matter of  
 18 course, been sent to everybody."  
 19 I'm not going to take you to too many documents  
 20 unnecessarily, I hope, but if you take it from me,  
 21 Mr Stevens, there's another set of minutes which shows  
 22 that copies of the trust deeds were going to be sent  
 23 to Haemophilia Centre Directors. Is there any reason  
 24 why the MFT had not made arrangements to ensure that  
 25 all potential beneficiaries had a copy of the trust

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1 20 July 1988 at which you were in attendance. If we  
 2 go to the bottom of the second page please, Soumik, we  
 3 can see from the very bottom of the page, this is  
 4 after a discussion about securing premises at  
 5 Alliance House, it said:  
 6 "... it was agreed that the address should  
 7 remain confidential and that a new PO Box number be  
 8 secured in SW1."  
 9 Why was the address to be kept confidential and  
 10 not shared with registrants?

11 **A.** As far as I know, the address was available to  
 12 registrants through the Society organised centres.  
 13 I can't remember why we wanted to address to continue  
 14 to remain confidential, probably to keep away unwanted  
 15 callers but I can't remember.

16 **Q.** Could we look at another set of minutes,  
 17 MACF000002\_011. You will see, Mr Stevens, these are  
 18 meetings of a trustees' meeting on 9 December 1988,  
 19 again you were present. If we go please, Soumik, to  
 20 page 6, you'll see if we look at the top half of the  
 21 page that, in fact in this early period in 1988, you  
 22 did go on some visits at least to haemophilia centres.  
 23 It records here two Scottish visits, meetings in  
 24 Glasgow and Edinburgh. If we just go down the page to  
 25 the second half of the page, please, Soumik, we will

18

1 deeds?  
 2 **A.** I can't think why that -- whether that -- I don't know  
 3 whether that was a conscious decision or we simply  
 4 didn't get round to it. I don't know.

5 **Q.** Then if we look at the bottom half of this page, under  
 6 the heading "Summary and Recommendations", point 2  
 7 refers to the depth of anger expressed in both Glasgow  
 8 and Edinburgh, and a suggestion that there should be  
 9 similar meetings at all major centres. Then at 3, it  
 10 says this:  
 11 "The Society's assistance should be sought to  
 12 assess which Centres are most likely to contain  
 13 particularly embittered people; these Centres should  
 14 be seen sooner rather than later (it is understood  
 15 that Cardiff might be a prime candidate)."  
 16 Why were people being identified there as  
 17 potentially "particularly embittered"? Why that  
 18 choice of words? This is your document, I should say.

19 **A.** I suppose by then we or The Haemophilia Society had  
 20 picked up the fact that there was particular anger in  
 21 Cardiff. I couldn't tell you why. I'm sorry in my  
 22 earlier answer I had forgotten entirely about these  
 23 visits.

24 **Q.** Before we look at some of the early decisions of the  
 25 Macfarlane Trust in that 1988 to 1992 period, I just

20

1 want to ask you a little about the two special payment  
2 trusts. The first special payment trust, MSPT1, was  
3 established in early 1990. I'm not going to go to the  
4 original trust deeds. Is this right, it was to  
5 administer what were called *ex gratia* payments of  
6 £20,000?

7 **A.** Yes.

8 **Q.** If we look at a set of minutes of the Board of  
9 Trustees discussing this, it's MACF0000002\_020,  
10 please, Soumik. You'll see, Mr Stevens, if we look  
11 that these are the minutes of an extraordinary meeting  
12 of the trustees held at Alliance House on  
13 29 November 1989, and if we look at the bottom of the  
14 page, you'll see reference there:

15 "On ... 21 November, the Trust and The  
16 Haemophilia Society had been invited to a meeting with  
17 the Secretary of State ... scheduled for 12.45 on  
18 23 November. No detailed agenda or papers have been  
19 provided in advance of the meeting."

20 If we go to the next page, if you look at the  
21 top half of the page, you can see:

22 "At the meeting it quickly became clear that  
23 the Trust and the Society had been invited to be told  
24 the Government's intentions only just in advance of  
25 an official parliamentary statement and press release

21

1 notice or little advance involvement in the  
2 Government's planning and its announcement of this  
3 payment of £19 million. Is that your recollection?  
4 **A.** Yes, I think you probably would have to consider both  
5 the special payments trusts together because the first  
6 one -- the *ex gratia* payment was set up in order to  
7 forestall growing litigation by  
8 beneficiaries/registrants against the Government.  
9 Really it was a failure in the sense that it didn't  
10 actually forestall this litigation at all, and they  
11 had to move on to MSPT2. But MSPT1 was an attempt to  
12 buy people off, I think, with £20,000 each. You can  
13 see that from that -- the central paragraph there that  
14 the Government had absolutely no understanding of the  
15 words that came up in the earlier consideration of the  
16 trust deed. There was a phrase "exclusively  
17 charitable". They had absolutely no idea that MFT  
18 could not make these payments which were not  
19 charitable but simply *ex gratia* £20,000 to everybody.  
20 It was a failure that ran all the way through the  
21 entire period that I was -- I mustn't exaggerate here.  
22 Well, certainly all the way through into -- well into  
23 this century, the failure of the Government to  
24 appreciate that the charities were charities and could  
25 only act on the basis of charity law. They could not

23

1 ... There had therefore been no negotiation and very  
2 limited scope for discussion, though the views of the  
3 Trust and the Society had been firmly presented to the  
4 extent that the draft statement and press release had  
5 been modified in some areas.

6 "The Secretary of State had made it clear that  
7 the Government did not intend to alter its position  
8 that compensation must be handled by the Courts and  
9 hence that the proposed payment was not a settlement  
10 or compensation payment."

11 Then there's a reference to the chair, on  
12 behalf of The Haemophilia Society, saying this was  
13 just the beginning. Then if we go further down,  
14 there's reference to the Secretary of State being  
15 asked why the Government didn't make the payments  
16 itself:

17 "... the response was that using the Trust was  
18 necessary ... to give ... concessions on tax and  
19 social security payments.

20 "The Government proposal was to pay the Trust  
21 £19 million and for the Trust to provide the balance  
22 and be later reimbursed."

23 I don't know what, if any, recollection you  
24 have of these events, Mr Stevens, but it would appear  
25 from this that the Macfarlane Trust had little advance

22

1 just hand out money because the Government thought it  
2 was a good idea.

3 **Q.** If we go to -- sorry, before we leave this page, we  
4 can see from the paragraph below that that it says:

5 "The Government proposal was to pay the Trust  
6 19 million and for the Trust to provide the balance  
7 and be later reimbursed."

8 Can you recall this issue or this suggestion  
9 that the Trust would somehow contribute to this and  
10 then be reimbursed?

11 **A.** No. I mean, this is -- again, it's an outrageous  
12 suggestion by the Government that the Trust should  
13 provide any of the money at all and later be  
14 reimbursed, or pay out, or let alone handle the  
15 payments out of the Trust. It just showed complete  
16 lack of understanding of what they had set up.

17 **Q.** If we go to page 11 of this document, please, Soumik,  
18 we can see there a reference to advice it appears the  
19 Trust received from the Charity Commission in that  
20 regard. Then the bottom of the page, you will see  
21 there reference to a missing 5 million:

22 "Trust monies couldn't be directly involved."

23 Is that what the Government was expecting the  
24 Trust to contribute, 5 million, that the Government  
25 would somehow then later pay back to the Trust?

24

1 A. Yes. If you say £20,000 each, and there were about --  
2 at that stage, there were about 1,200 people  
3 registered with the Macfarlane Trust, that's  
4 24 million. So 5 million is the gap that they thought  
5 the Trust could find and pay out. It's just -- it is  
6 ludicrous. It is absolutely laughable that anybody in  
7 Government or in the Department could have thought  
8 that this was possible.

9 Q. If we could go back three pages to what I think is  
10 probably page 8 of the document, Soumik. So this is  
11 a draft press notice dated -- which was being  
12 considered by the trustees' meeting in November 1989.  
13 I don't think we have the precise date of it. But it  
14 refers to the original 10 million which had been  
15 provided in 1988 to set up the MFT in the first place,  
16 and then an additional 19 million. Then it records  
17 Mr Kenneth Clarke saying this:

18 "The Government had two objectives in mind.  
19 First, to enable the Trust if the trustees see fit to  
20 make individual payments of £20,000 this year. These  
21 would go to each person with haemophilia ... second,  
22 to enable the Trust to continue on a more generous  
23 scale their help to families in particular need."

24 If the £19 million was going to be used, and  
25 indeed wasn't quite enough to make the payments of

25

1 "To enable the Trust if the trustees see fit to  
2 make individual payments of £20,000 this year."

3 That suggests, though the rest of the paragraph  
4 would be to the opposite, that there was an element of  
5 discretion --

6 A. Yes.

7 **SIR BRIAN LANGSTAFF:** -- about the payment to individuals  
8 of the sum. The following said:

9 "This would go to each person with haemophilia  
10 who was infected."

11 In other words, that's a payment to which  
12 someone is entitled, and there's no discretion about  
13 it. What was -- how did you read what he was saying?  
14 Were the words "if the trustees see fit" an attempt to  
15 make this structure fit with the discretion which the  
16 trustees would otherwise have as trustees?

17 A. Yes. I can only suppose that somewhere in the  
18 Department and the Government there was a glimmer of  
19 understanding that the trustees of MFT could only make  
20 payments on a discretionary basis. So they put in  
21 these words "if the trustees see fit" to make it  
22 possible that MFT could make the *ex gratia* payments.

23 **SIR BRIAN LANGSTAFF:** If the purpose of paying it through  
24 the Macfarlane Trust one way or the other was to  
25 ensure that the payments in the hands of the

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1 £20,000, do you understand how it could be said that  
2 the 19 million could enable the Trust to continue on  
3 a more generous scale their help?

4 A. Sorry, I didn't hear the question.

5 Q. I'll rephrase it more clearly. Sorry, Mr Stevens.

6 Mr Clarke says there are two objectives in  
7 making this payment. The first is to enable the  
8 individual payment of £20,000.

9 A. Yes.

10 Q. That's what's ultimately done through MSPT1. But,  
11 secondly, he says the Government's objective is to  
12 enable the Trust to continue on a more generous scale  
13 their help to families in particular need.

14 As I understand it, Mr Stevens, none of this  
15 £19 million was going to -- ended up going to the MFT  
16 to pay out in accordance with its charitable  
17 objectives.

18 Do you understand how the Government was able  
19 to say that this payment was to enable the Trust to be  
20 more generous in its help?

21 A. Probably through political or official idiocy.

22 I mean, it was ludicrous. Ludicrous.

23 **SIR BRIAN LANGSTAFF:** Just before we leave that, can you  
24 help me with the phrase that Mr Clarke is reported to  
25 have said? It's:

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1 beneficiaries were not taxable and did not affect  
2 benefits, they would have to be discretionary, as  
3 I understand what the previous document was  
4 suggesting; whereas this reads to the opposite but  
5 includes this sop, if it is a sop, to discretion.  
6 It's very curious.

7 A. Yes. If it wasn't for the fact that I was involved  
8 for so many years through the various organisations  
9 with the Department of Health, I would say that it was  
10 impossible this could ever have been drafted, could  
11 ever have been written. But, unfortunately, it became  
12 all too obvious that this is the way the Department  
13 and Government worked.

14 **MS RICHARDS:** What, in fact, then happened is, as I  
15 understand it, the Macfarlane said it couldn't proceed  
16 in this way, hence the Macfarlane Special Payments  
17 Trust, MSPT1, was set up.

18 A. Yes. I can't tell you what the timescale was, when we  
19 said -- when we got that message across, but I think  
20 it happened fairly quickly.

21 Q. Is this right: the role of MSPT1 was simply on  
22 a non-discretionary basis to administer the payments  
23 of £20,000?

24 A. Yes. The Macfarlane Trust -- MFT had the database of  
25 people involved; their names, addresses, and bank

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1 details. So it was very easy to have another  
2 organisation set up that could have access to that  
3 database. Whether or not we asked people whether they  
4 minded, I suspect we probably didn't in those days,  
5 but maybe we did. And so MSPT1 -- or MSPT as it was  
6 then was set up simply to get these payments out which  
7 we did fairly quickly.

8 **Q.** Now, an issue then arose as to whether receipt of the  
9 £20,000 payment should be taken into account by the  
10 Macfarlane Trust when it was considering applications  
11 for assistance. And if we look at MACF0000002\_022,  
12 please Soumik, we can see there these are the minutes  
13 of a trustees' meeting on 22 March 1990. If we go to  
14 page 7, please, you'll see there, Mr Stevens, under  
15 the heading "Allocation policy" a heading "The  
16 implications of the £20,000 *ex gratia* payment", and  
17 there is then a debate about whether the *ex gratia*  
18 payment should be taken into account when assessing  
19 applications for grants. If we go to the top of the  
20 next page, we look at first paragraph:

21 "The final majority view is that no direct  
22 account should be taken of the *ex gratia* payment in  
23 assessing grants by the Trust, and this was seen as a  
24 continuation of the existing policy. At the same  
25 time, it was recognised that it would be difficult to

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1 determine such need."

2 You go on to say that:  
3 "Clearly £20,000 cannot be considered  
4 sufficient compensation [underlined] -- nothing can,  
5 and you know that this is said with personal  
6 experience."

7 Then you talk, in that and the following  
8 paragraph, of different degrees of disadvantage, and  
9 you say in the following paragraph:

10 "... the family men, or their surviving widows  
11 and families, remain in general in need of assistance,  
12 and it is to them that I feel the Trust should give  
13 priority.

14 "I shall continue to urge my fellow Trustees,  
15 therefore, to take into account the *ex gratia* payment  
16 when considering applications received from those who  
17 fall, for example, into the first two groups  
18 I describe, in order that we can be more effective in  
19 our help to others on whom the burden of HIV infection  
20 falls even more severely. It is, of course, possible  
21 that we shall not receive many applications from those  
22 former groups, in which case the issue will rarely  
23 arise ..."

24 Two questions, Mr Stevens. The first is: why  
25 was it, in a nutshell, your view that the £20,000

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1 guarantee that trustees' awareness of the grant could  
2 be entirely set aside, and hence may affect their view  
3 of some requests for assistance such as mortgages or  
4 house improvements."

5 So that was the view taken by the Board. Your  
6 own view is what I wanted to ask you about,  
7 Mr Stevens, and that requires us to look at  
8 a different document. It is HSOC0013492, please.

9 This is an exchange of correspondence between  
10 you and Mr Watters of The Haemophilia Society. If we  
11 go to the third page, please, Soumik, we can see your  
12 letter. And if we look at the first half of the page  
13 to start with, you refer in the second paragraph to  
14 the letter having been discussed at the trustees'  
15 meeting. Those are the minutes I think we just looked  
16 at. Then you say in the third paragraph:

17 "In my opinion, as I told my fellow trustees,  
18 the £20,000 *ex gratia* payment cannot and indeed should  
19 not be excluded from our consideration of future  
20 requests for financial help from the Trust. In many  
21 cases it will not be relevant; but as I have expressed  
22 to you in connection with the campaign as a whole, I  
23 believe that with scarce resources we must be prepared  
24 to discriminate in favour of those in most need and  
25 the £20,000 payment is an obvious factor in helping to

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1 should be taken into account, at least in some cases?

2 **A.** I don't know why. That was my view, it is actually  
3 still my view, funnily enough, 20 years later,  
4 whatever it is. If you like, there's a phrase that  
5 has come up in various times during my career, The  
6 Daily Mail test, how would it look to the readers of  
7 The Daily Mail if they discover that this group of  
8 people were being given £20,000 and were then also  
9 being given other money from the same source, the  
10 taxpayer, that did not take account of the £20,000?  
11 I just felt, and still feel, that the whole financial  
12 picture needs -- should have been looked at and should  
13 be looked at. It wasn't the opinion of the majority  
14 of the board, as it said at the top of the previous  
15 page, and I had to go along with the majority. But as  
16 I said there in my letter to David, I would continue  
17 to urge my fellow trustees to take into account the *ex*  
18 *gratia* payment.

19 **Q.** The board's minutes, although reaching a view  
20 different from yours, had acknowledged that it might  
21 be difficult for trustees to avoid consideration of  
22 the receipt of the £20,000.

23 **A.** Yes.

24 **Q.** As a matter of fact, can you recall whether  
25 applications for assistance were rejected, in part at

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1 least because it was thought by trustees or by the  
2 administrator or the allocations subcommittee that,  
3 rather than come to the Macfarlane Trust,  
4 beneficiaries should use the £20,000 *ex gratia*  
5 payment?  
6 **A.** I can't recall that happening as a matter of fact, no.  
7 **Q.** Turning then to the second special payments trust,  
8 which I'll refer to for shorthand as MSPT2, that was  
9 set up in 1991 and that was pursuant to the settlement  
10 agreement in the HIV litigation; is that correct?  
11 **A.** Yes. I wasn't involved in the discussions about  
12 setting that up but I have to assume that the  
13 negotiations were between the Department and the  
14 solicitors acting for the litigants, with peripheral  
15 involvement from the Macfarlane Trust.  
16 **Q.** Is this correct that MSPT2, again on  
17 a non-discretionary basis, made payments -- the rate  
18 varied, but made payments in accordance with the  
19 amounts agreed as part of the settlement?  
20 **A.** Yes, there was a tariff agreed and we made payments  
21 according to that tariff, provided the applicants  
22 signed the waiver of litigation rights.  
23 **Q.** That's the next question or next matter I wanted to  
24 ask you about. If we can, just to contextualise this,  
25 look at the settlement agreement. I appreciate you

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1 and we had meetings to go through applications and we  
2 would sign off a payment to be made, provided the  
3 administrator, Wing Commander Williams, could assure  
4 us that the applicant was correctly -- was correctly  
5 assigned to whichever bit of the tariff he belonged to  
6 and that the application was accompanied by a signed  
7 waiver. Paragraph 8 there refers to qualifying  
8 non-plaintiffs but, you know, somewhere there there's  
9 a similar paragraph, I'm sure, that applies to  
10 plaintiffs.  
11 So nobody got a payment unless they had signed  
12 that waiver. The other interesting thing is, of  
13 course, that the reference to the hepatitis viruses,  
14 which I think was -- the hepatitis C virus had only  
15 just been identified and isolated and named in 1990.  
16 I couldn't tell you what date it was in 1990.  
17 Generally, the people who signed this waiver, I think,  
18 did not know about the risk of hepatitis infection.  
19 There was not parity of knowledge.  
20 **Q.** Did you and your fellow trustees, do you recall at the  
21 time, have any qualms or concerns about the fairness  
22 or morality of the waiver requirement?  
23 **A.** I don't recall protesting or observing to the  
24 Department officials, let alone the politicians, that  
25 there was something wrong here. We just -- we did

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1 were not involved in those negotiations, but if we  
2 look at DHSC0001942, you will see HIV haemophilia  
3 litigation, the main settlement agreement, and it  
4 refers to the Macfarlane Special Payments (No 2) Trust  
5 to be established and sets out the tariffs.  
6 If we go to page 16, please, paragraph 8, we  
7 can see there reference -- it's not the only reference  
8 in this document, but just for sake of convenience,  
9 I will just take you to this -- reference to the  
10 signing of an undertaking not to bring proceedings in  
11 respect of the administering of cryoprecipitate,  
12 Factor VIII or IX, save that they weren't prevented  
13 from bringing proceedings if the damage -- point 1 is  
14 relation to date and point 2 is:  
15 "The damage alleged does not include infection  
16 or the risk of infection by HIV and/or the hepatitis  
17 viruses."  
18 **A.** Yes.  
19 **Q.** So there's one of the references in the settlement  
20 agreement to the undertaking. What was the role of  
21 MSPT2 in evaluating the undertaking? Did you receive  
22 the assigned undertakings or check somehow that there  
23 was a signed undertaking before the payments were  
24 made?  
25 **A.** Yes. There were four trustees in MSPT2. I was one

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1 what we were told.  
2 **Q.** We can take that down, thank you, Soumik.  
3 Was there, as far as you can recall, any  
4 discussion within MFT about whether the monies paid  
5 under MSPT2 should be taken into account when grant  
6 applications were being assessed by the  
7 Macfarlane Trust?  
8 **A.** I don't recall any discussion. I'm sure that if there  
9 was some I would have been, again, in the minority,  
10 maybe a minority of one. I can't remember.  
11 **Q.** Now, I think it's clear from what you have said  
12 already, and from a number of the documents, that in  
13 this period, 1988 to 1992 the Macfarlane Trust's view  
14 was that it could only provide assistance in response  
15 to need.  
16 **A.** Yes.  
17 **Q.** Do you recall whether in that period the Trust had  
18 received legal advice on that issue?  
19 **A.** No, I can't recall that. I know, since it was  
20 explored in my second coming, kept on coming up and we  
21 took legal advice more than once, but I don't  
22 recall -- I don't recall legal advice being sought  
23 first time round.  
24 **Q.** At a fairly --  
25 **A.** Sorry, the objectives clause in the trust deed were

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1 pretty specific, it talked about need.

2 **Q.** I think at a fairly early stage, if we look at  
3 MACF0000002\_002?

4 **A.** One we've already had?

5 **Q.** I'm not sure this one is, it may be. This is the very  
6 first trustees' meeting, I think, 29 March 1988. It's  
7 the one you were not present at. You gave your  
8 apologies. But if we look at the third page, please,  
9 and we look at the second paragraph:

10 "Questions arose regarding a level of equal  
11 distribution to those people with haemophilia who had  
12 come into contact with the virus. This position had  
13 been raised by the General Secretary of The  
14 Haemophilia Society with the solicitors and their  
15 reply was circulated. Mr Paisner made it very clear  
16 in that reply that equal distributions which failed to  
17 take account of personal circumstances did not fall  
18 within the terms of the Charities Act 1960 and could  
19 not therefore take place. This situation was accepted  
20 and regret was expressed at this limitation."

21 So is this right, that from the very outset,  
22 the Trust's position was, for the reasons we see  
23 outlined there, that it could not simply equally  
24 distribute the funds which, at that stage, stood at  
25 £10 million?

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1 them is the fact that, even that was not -- that would  
2 not have been in accordance with our charitable  
3 objectives.

4 **Q.** Would you agree it's, however, perhaps not surprising  
5 that beneficiaries or registrants, those infected and  
6 their dependants, saw or felt that the monies paid by  
7 the Government to the Macfarlane Trust were monies  
8 that ultimately, having been paid in contemplation of  
9 or in threat of litigation in part, ultimately somehow  
10 belonged to them?

11 **A.** I don't find that surprising at all. I mean, it was  
12 clearly a wrong view but it's not a surprising view  
13 and it's one that we battled with constantly, all the  
14 way through both the first four years and in my second  
15 appearance there. It was the underlying view the  
16 whole time that: it's our money, give us our money.

17 **Q.** This was a cause of tension throughout the period that  
18 you were involved in the Macfarlane Trust?

19 **A.** Absolutely.

20 **Q.** What attempts were made, as far as you can recall, by  
21 the Trust to explain the limitations of its powers to  
22 the infected and affected community?

23 **A.** I suppose in newsletters and other documentation we  
24 would have attempted to put this view over, I can't  
25 remember. Unfortunately, the Macfarlane Trust had too

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1 **A.** Yes. Two comments: firstly, that some time in those  
2 first four years we, as trustees, did introduce  
3 a system of regular payment, a flat-rate regular  
4 payment to everybody of £25 a month. Justifying that  
5 on the basis that everybody who had haemophilia and  
6 HIV necessarily were incurring greater living expenses  
7 and, therefore, some assistance had to be given with  
8 those higher costs. Whether or not Mr Paisner would  
9 have accepted that, I don't know.

10 The second point that I was going to make, like  
11 most things in my life these days, has escaped me.  
12 No, it may or may not come back.

13 **Q.** Is it right to say that, really from the outset, there  
14 was a tension between the Trust's view that, having  
15 been set up as a charity and having the objects that  
16 we looked at in the trust deed, it could not proceed  
17 on an equal distribution basis but could only proceed  
18 in response to need, and the view of beneficiaries --

19 **A.** Sorry, that was the second point I was going to make,  
20 that if you think back to the notes about the visits  
21 to Cardiff -- sorry, to Glasgow and Edinburgh, one of  
22 the points at which anger was expressed is the fact  
23 that we simply didn't pay out £10 million divided  
24 between 1,200 people and just do that. I mean, there  
25 are various arguments against that policy but one of

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1 many registrants to be able to engage in personal  
2 dialogue with every one of them, whereas the  
3 Eileen Trust, the issues much the same, it was very  
4 much smaller and, particularly in the later years, we  
5 were able to engage in individual discussion and make  
6 sure they understood the problem, and they did. The  
7 case worker, Susan Daniels, did a great job of that,  
8 in ensuring that people didn't have these misguided  
9 views and didn't take out on the trustees and the  
10 Trust their anger. We had charitable objectives to  
11 fulfil that were overriding everything we did.

12 **Q.** As well as the decision at an early stage that you  
13 couldn't go down the road of equal distribution,  
14 a decision was taken at an early stage that it was  
15 inappropriate for the Trust to fundraise. I just want  
16 to look at that with you please. It's  
17 MACF0000002\_005, please, Soumik. These are the  
18 minutes of a meeting on 7 June 1988 attended by you  
19 and, if we go to the third page, we look at 88.32, so  
20 that's the "Any other business":

21 "Mr Grinsted raised the question of future  
22 funding arrangements. This was discussed in some  
23 detail and finally it was agreed that it would be  
24 inappropriate to fundraise in order to support the  
25 work of the Macfarlane Trust and that further

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1 recourse, when necessary, should be made to the  
2 Government."

3 Why was the view taken that it would be  
4 inappropriate to fundraise?

5 **A.** We just took the view that the Trust was too small,  
6 dealt with a very small number of people who certainly  
7 had been damaged very badly by the Government, but the  
8 Trust was being funded by the Government. If we were  
9 to fund -- if we were -- we thought we would both be  
10 unsuccessful in raising any funds, and that were we  
11 successful, the Government would say, "Fine. You  
12 don't need us anymore." So either way, we thought it  
13 was far better to stick with the devil we knew.

14 **Q.** If we go --

15 **A.** It's something we discussed many times over the years.  
16 It was formally raised then at the Board meeting, but  
17 it was -- we thought about this many times. We always  
18 felt the same, that we were not likely to be very  
19 successful. Bear in mind that this is before  
20 crowd-funding and social media which these days seem  
21 to raise large sums of money for the most  
22 extraordinary specific causes. We didn't think --  
23 well, that wasn't open to us in those days. We didn't  
24 think we would be successful, but if we were, the  
25 Government would wash their hands of us.

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1 **A.** Yes, I think that paragraph says it admirably.

2 **Q.** But why?

3 **A.** I think it goes back to what I said before, that if we  
4 got involved in campaigning, we would be, as it were,  
5 biting the hand of our paymasters. We preferred to  
6 take the money, however inadequate, rather than risk  
7 losing that money.

8 **MS RICHARDS:** Sir, I note the time. I'm going to move to  
9 a slightly different topic. Would this be  
10 a convenient moment to take a break?

11 **SIR BRIAN LANGSTAFF:** Yes. We'll take a break in a  
12 moment. Just a couple of questions arising out of the  
13 exchanges with counsel thus far.

14 The first was the making contact with the  
15 registrants which was through their haemophilia  
16 centres. Can you help with how contact will be  
17 maintained from those who were not themselves  
18 receiving treatment but were the relatives or  
19 dependants of those who had been infected but no  
20 longer were?

21 **A.** I think we took the view that the relatives of the  
22 deceased would still be known to the haemophilia  
23 centre, that there were continuing contacts between  
24 the centres and the bereaved relatives.

25 **SIR BRIAN LANGSTAFF:** Thank you. The second question,

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1 **Q.** Another early decision was about not campaigning. And  
2 if we look at MACF0000002\_019, these are the minutes  
3 of a meeting 20 November 1989. If we go to page 3,  
4 please, under the heading "The compensation campaign":

5 "Discussion on this subject was wide ranging  
6 but mainly centred on two aspects of Trust policy,  
7 namely what part, if any, should the Trust play in the  
8 campaign, and, secondly, what position should the  
9 Trust take if offered any large sum of money by the  
10 Government.

11 "On the first point, it was generally agreed  
12 that the position which had been maintained to that  
13 date (that the Macfarlane Trust and its work were  
14 separate from the issue of compensation) was correct  
15 and should be continued. It was also agreed that  
16 while the Trust could not entirely avoid being drawn  
17 into the public arena on this subject, it should not  
18 take any initiatives or active part in the campaign.  
19 At the same time, the Trust should take care to avoid  
20 any action or statement would which impede the  
21 campaign."

22 That, as I understand it, was a view which  
23 again the Trust maintained during the period when you  
24 were Chair, that it would not become involved in  
25 campaigning. Why was that?

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1 it's something of a lawyer's question, perhaps, but  
2 the undertakings which were required as a condition of  
3 payment from the special payment trusts were checked  
4 by the administrator to ensure that they were there.  
5 Who was the undertaking made with? Was it made with  
6 the Trust or with some other party?

7 **A.** I'm sorry, I didn't quite get the thrust of your  
8 question.

9 **SIR BRIAN LANGSTAFF:** Well, there are two possibilities.  
10 One is that as a condition of receiving payment from  
11 the Trust, the individual person seeking payment would  
12 have to sign a waiver.

13 **A.** Yes.

14 **SIR BRIAN LANGSTAFF:** That is a document prepared  
15 effectively by the Trust for them to sign before they  
16 can get the money out of the Trust. That's an  
17 obligation then being undertaken to the Trust.

18 The other is that they sign the agreement as  
19 part of a settlement reached with the Department or  
20 the Government with the other party in the litigation,  
21 and in which case, what the Trust will be looking for  
22 presumably will be evidence that that had been done.  
23 Can you help as to which it was?

24 **A.** I think it was -- I think what -- I think the first of  
25 your options was what we were doing. There was

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1 a form, a waiver, that was attached to form part of  
2 the application form which had to be signed. The  
3 wording on the form was as agreed between the  
4 solicitors or the lawyers for the litigants, and  
5 I suppose the Department, with the Macfarlane Trust's  
6 acceptance that we would administrator, make sure that  
7 these forms were appropriately signed.

8 I'm sorry, I'm not sure that I'm really  
9 understanding the distinction between your lawyerly  
10 points.

11 **SIR BRIAN LANGSTAFF:** No, it's a matter which I think  
12 I should take up elsewhere rather than delay this part  
13 of the evidence, which is on something which may  
14 matter but for the moment we don't need to, I think,  
15 resolve it further.

16 Perhaps, Ms Richards, we can have a look at  
17 that in due course, and a lot will depend upon the  
18 particular wording, I suspect, of the waiver and who  
19 had the right to enforce it.

20 **MS RICHARDS:** Yes, absolutely.

21 **A.** Can I just say that precisely the same tariff and  
22 waiver was a pre-condition to people becoming  
23 registrants of the Eileen Trust. There the  
24 application and the waiver is -- the correct  
25 completion of the application, including the signature

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1 of a waiver, was something which the Eileen Trust were  
2 not involved in; it was something that was  
3 administered by the Department or their lawyers.  
4 Otherwise, it's identical.

5 **SIR BRIAN LANGSTAFF:** Yes, thank you. We'll take a break  
6 now until 11.50.

7 **MS RICHARDS:** Sir, yes. Mr Stevens will require the  
8 explanation about not talking about his evidence.

9 **SIR BRIAN LANGSTAFF:** Mr Stevens, I don't know if you have  
10 watched any of our proceedings before, but if so, you  
11 will have heard me say to every witness who is being  
12 questioned at the time that we have a break that  
13 during that break they must not discuss the evidence  
14 they have given or any part of their evidence which  
15 they think they may yet be asked to give with anyone,  
16 whoever it is, and however innocent they may think it  
17 to be. That's without first asking the permission of  
18 me to do so. You can discuss anything else you like,  
19 so it's not a question of being put in purdah, but  
20 those are the rules, and they apply to every single  
21 break that we have because the chances are that you  
22 will be back with us, I think, tomorrow.

23 **A.** I understand.

24 **SIR BRIAN LANGSTAFF:** So 11.50.  
25 **(11.19 am)**

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1 **(A short break).**

2 **(11.50 am).**

3 **SIR BRIAN LANGSTAFF:** Just before we start, it's been  
4 reported to me during the break that there are one or  
5 two people who are listening remotely who have had  
6 difficulty in hearing not you, not me, but I'm afraid  
7 you, Mr Stevens, and you are the most important person  
8 to be heard here as a witness, so it's -- I think it  
9 may well be a technical problem. Bear with us,  
10 please, those who are watching remotely, and I hope it  
11 will be sorted. But if you need to take time or speak  
12 a bit more loudly, you'll understand why that is, I'm  
13 sure. Thank you.

14 **MS RICHARDS:** Sir, in answer to the query you raised  
15 before the break, I've got a copy not in a form I can  
16 put on screen I'm afraid, because it's not been  
17 redacted, but I've got a copy of the text of the  
18 undertaking that was to be given in accordance with  
19 the Macfarlane Special Payments (No 2) Trust deed, and  
20 it reads as follows:

21 "In expectation of receiving from the  
22 Macfarlane Special Payments (No 2) Trust the sum of  
23 [and then the sum obviously would depend upon the  
24 individual tariff], I undertake with the Secretary of  
25 State for Health that I will not at any time hereafter

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1 bring any proceedings against the Department of  
2 Health, the Welsh Office, the licensing authority  
3 under the Medicines Act 1968, the Committee on Safety  
4 of Medicines, any district or regional health  
5 authority, or any other Government body involving any  
6 allegations concerning the spread of HIV or hepatitis  
7 viruses through Factor VIII or Factor IX, whether  
8 cryoprecipitate or concentrate, administered before  
9 13 December 1990."

10 **SIR BRIAN LANGSTAFF:** Thank you for that. That seems to  
11 make it clear that the undertaking was given to the  
12 Secretary of State.

13 **MS RICHARDS:** Yes, and we are getting a copy of an  
14 Eileen Trust undertaking as well, just to double-check  
15 the wording in that regard.

16 Mr Stevens, the trustees recognised at an early  
17 stage of the Macfarlane Trust that the issues of life  
18 insurance and mortgage protection were hugely  
19 important issues for the cohort of beneficiaries with  
20 which the Trust was concerned; is that right?

21 **A.** Yes.

22 **Q.** If we look at MACF0000002\_002, please -- and we have  
23 looked at this one before. These are the minutes of  
24 the first meeting 29 March 1988. And if we go to the  
25 second page, please, we look at the item -- it's the

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1 first half of the page, item 88.5, "Life  
 2 insurance/mortgage protection", this is recorded:  
 3 "The Chairman reported that at one of the  
 4 preliminary meetings with the Secretary of State for  
 5 Social Services assistance had been promised with  
 6 exploration of the above topics."  
 7 And then if we look at the next paragraph, it  
 8 says that:  
 9 "This formed the crux of the future allocation  
 10 policy of the Trust, and the Chairman undertook to  
 11 pursue the question further with Mr Stevens."  
 12 As far as you can recall, was any assistance  
 13 forthcoming from the Secretary of State with regard to  
 14 either of these issues?  
 15 **A.** Sorry, I don't recall any direction or any work  
 16 emanating from the Secretary of State to resolve these  
 17 issues. There may have been some. I don't recall it.  
 18 But, certainly, I was charged by Alan Tanner to pursue  
 19 the questions simply because I worked in the City of  
 20 London basically, and I did.  
 21 **Q.** I'm not going to go through the details of all the  
 22 meetings at which it was discussed and the papers you  
 23 produced. You produced two papers, I think, in the  
 24 second half of 1988 on the issue of mortgages. And  
 25 then in early 1989, Mr Grinsted produced a paper which

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1 There was a general policy on home ownership, and this  
 2 is the equity sharing mortgage purchase of property.  
 3 If we just go to the second page, bottom half  
 4 of the page under the heading "Equity share", we'll  
 5 see what's described as the key feature of the Trust's  
 6 policy:  
 7 "The key feature of the Trust's policy in  
 8 granting a mortgage loan is the Trust's right (in  
 9 return for not charging interest) to participate in  
 10 the value in the property. Equity sharing means that  
 11 upon the occurrence of certain events ... the Trust  
 12 will be entitled to a return of its money plus a share  
 13 of any appreciation in the capital value of the  
 14 property, which share will be the same proportion as  
 15 the loan made by the Trust bears to the total of the  
 16 original funding."  
 17 Now, first of all, Mr Stevens, as far as you  
 18 can recall, were these written policies -- this is one  
 19 of the three policies relating to mortgages -- were  
 20 they shared with or provided to beneficiaries?  
 21 **A.** Sorry, what was the second -- the final words of your  
 22 question?  
 23 **Q.** Were these policies, copies of these policies, shared  
 24 with or provided to beneficiaries?  
 25 **A.** Yes.

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1 raised the question of lending money in exchange for  
 2 an equity share.  
 3 **A.** Yes.  
 4 **Q.** I want to just look with you at then the trustees'  
 5 meeting that followed that. So that is  
 6 MACF0000002\_013, please. So we can see these are the  
 7 minutes of a meeting on 16 February 1989. If we go to  
 8 the third page and we look at the bottom half of the  
 9 page under the heading "Mortgages", we can see there  
 10 a reference to Mr Grinsted's paper, and then in the  
 11 last paragraph general discussion on the matter of the  
 12 principle of assistance with house purchase:  
 13 "It was agreed that the paper offered a major  
 14 step forward and that the principle of equity sharing  
 15 could represent an important element of a policy which  
 16 protected the interests of the Trust as well as  
 17 providing help to individuals at the lowest possible  
 18 running costs."  
 19 Again, I don't need to take you to all of it,  
 20 but that was in due course confirmed as Trust policy,  
 21 and I want to look at one of the policy documents with  
 22 you. Soumik, it's MACF0000081\_127, please.  
 23 This is one of three policies approved by the  
 24 Trust in July 1989. One was about equity sharing  
 25 mortgages and substitution of an existing mortgage.

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1 **Q.** How was that done? How were these policies made  
 2 available?  
 3 **A.** In response to requests for help from beneficiaries.  
 4 The document you're looking at is the equity share  
 5 raised in the purchase of the properties, which is  
 6 different from -- slightly different from the equity  
 7 sharing for the -- as a substitution for existing  
 8 mortgages. Can I refer you, please, to  
 9 MACF0000081\_131.  
 10 **Q.** This is the policy on home ownership?  
 11 **A.** Yes.  
 12 **Q.** It will come up in a moment.  
 13 **A.** If you look at well the opening paragraphs on "General  
 14 Policy":  
 15 "The ... Trust is established to relieve the  
 16 needs ..." et cetera, et cetera, that's fine.  
 17 "Home ownership is not recognised per se as  
 18 an area of need, but it may be the most cost-effective  
 19 or even the only method of meeting the need for  
 20 housing."  
 21 That's quite key:  
 22 "A prime objective of the Trust is to enable  
 23 beneficiaries to preserve a balance of disposable  
 24 income after housing costs have been met ..."  
 25 Then if we go down the page to paragraph 5

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1 there.

2 **Q.** That's the bottom of the page, thank you.

3 **A.** So we were only prepared:

4 "... to allocate monies to the provision of

5 private housing where this is the only option

6 available to help provide or maintain satisfactory

7 living accommodation.

8 "The Trust will not help with home ownership as

9 a form of insurance to provide security ...

10 "Very large grants are not available ..."

11 Now, that was agreed as a matter of policy on

12 28 July 1989 and, if you go on to the third page of

13 that document and this bottom section A "Rescue of

14 Existing Mortgage", that sets out the circumstances in

15 which the Trust will offer help where there was --

16 there was a property, a family home, under mortgage

17 and it says there:

18 "Where reduced circumstances result in threat

19 to a mortgage, maintenance of the family in its

20 existing home is clearly the preferred solution ..."

21 Then they ask a number of questions.

22 Now, equity sharing, as a substitute for

23 a traditional mortgage, was actually -- I think was

24 the more common of the two forms, rather than

25 provision of a mortgage for purchase, a new purchase.

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1 legal advice by then, the rules had changed and we

2 could no longer give this sort of loan so we had to

3 stop doing it.

4 But at the outset it was quite an important

5 contribution to the task we had to do, which was to

6 help people.

7 **Q.** Can you recall whether there was any discussion,

8 either at the time these three policies were being

9 agreed or subsequently, of whether it was right for

10 the Trust to effectively be able to make a profit in

11 the event --

12 **A.** It didn't -- this word "profit" relating to the Trust

13 is, I find, most extraordinary and you're not the

14 first person who has expressed it. The Trust made

15 interest-free loans on these mortgages, quite

16 substantial, even if they didn't qualify for very

17 large grants, quite substantial. So this is money

18 that was being taken from Trust funds that could

19 otherwise be spent on other people who had other

20 needs.

21 So when the beneficiaries of an equity-sharing

22 mortgage had realised some appreciation in the value

23 of their house, it seemed only reasonable that the

24 Trust should share in that appreciation and enable the

25 trust fund had been maintained to help all

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1 Can I then refer you to MACF0000002\_017.

2 **Q.** These are the minutes of the July 1989 meeting?

3 **A.** Yes. I haven't got a page number, but if you go to --

4 **Q.** Page 9.

5 **A.** -- item number 89.59, that's it. So the document:

6 "... Chairman drew attention to the document

7 which had been discussed in outline of the previous

8 meeting ..." which is the one we've just been looking

9 at, certain redrafting going on, and then:

10 "(b) Equity Sharing Mortgage in Substitution

11 of Existing Mortgage. The chairman invited a detailed

12 review of the Second (Final) Draft of the

13 document ..."

14 I think it's worth going on to the final

15 paragraph, paragraph (c) there where the Chairman

16 basically thanked Clifford Grinsted for -- it was

17 a huge amount of work, and the meeting as a whole

18 endorsed this statement. I think there was a feeling

19 in some quarters that the Trust's policy on mortgages

20 was badly thought out or maybe off-the-cuff or

21 something like that. It was as a result of lot of

22 detailed, detailed work by Grinsted and then

23 consideration by the board. There were not many of

24 these equity sharing mortgages granted and I seem to

25 recall, when I subsequently became Chairman and we had

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1 beneficiaries. Simply a question of fairness.

2 I think that's probably all I need say there.

3 There are further documents relating to one particular

4 case, which may or may not come up.

5 **Q.** Is this right then: the trustees --

6 **A.** Excuse me, I've just got a strange window just come up

7 on my screen. I'm just going to get rid of that.

8 Okay.

9 **Q.** Is this right then, that the Trust didn't, either at

10 the time these policies were being approved or

11 subsequently, have any concerns or qualms or worries

12 about receiving -- I'll avoid the use of the word

13 "profit" -- a share of any appreciation in the capital

14 value of the property?

15 **A.** I don't think there were any qualms. I don't recall

16 any concerns being expressed. I think we recognised

17 that we had very limited funds, which was the source

18 of so much aggravation over the years, and that by

19 helping people, as said in one earlier reference, by

20 helping people as something that is not recognised

21 *per se* as an area of need -- it may be the only method

22 of meeting the need for housing -- by doing that we

23 were using funds that could otherwise be helping

24 people with childrens' education, with holidays --

25 sorry, I'm trying to get rid of this window, again --

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1 just being generally helpful on a broader front and  
2 that the people who benefited from these mortgages,  
3 equity-sharing mortgages, had the benefit of the  
4 appreciation in value of their property.

5 What it doesn't say in those documents is that,  
6 of course -- although I think it does in the detail of  
7 the deeds -- if the value of the property went down,  
8 not as a result of neglect but just simply market  
9 forces, the Trust would share in that depreciation as  
10 well. So it was even handed. But it ensured that the  
11 scarce Trust funds retained value, even after looking  
12 after this particular requirement.

13 **Q.** Could we just go back, Soumik, to MACF0000081\_131.  
14 This is the policy on home ownership. Just look at  
15 the very top paragraph, under the heading "Policy on  
16 Home Ownership":

17 "This document is CONFIDENTIAL to the Trustees  
18 for use in development and application of policy on  
19 assistance with home ownership. It is not intended  
20 for publication or for release to applicants or their  
21 representatives."

22 Now, whether that's the case in relation to the  
23 other two policies, I don't think they contain the  
24 same wording but why was the document here not  
25 intended to be shared with applicants or

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1 able to assist in arranging for life assurance for  
2 your cohort of beneficiaries didn't get anywhere?

3 **A.** No, that's right. That final sentence is basically  
4 stating what I was able to report. I had a discussion  
5 with a number of insurance companies and the insurance  
6 company representative body and it was quite clear  
7 that they were not interested.

8 **Q.** Was the possibility of any form of Government-backed  
9 insurance scheme ever pursued further, as far as you  
10 can recall?

11 **A.** I can't recall specific -- I'm sure that Alan Tanner  
12 and Clifford Grinsted had frequent meetings with  
13 Strachan Heppell and John Cannon at the Department, so  
14 I'm sure that this was raised and it was apparent that  
15 there was no Government action in hand which would be  
16 likely to bring any early relief. It's said there.  
17 I think that was an unchanged policy from the  
18 Government, of no help.

19 **Q.** Again, still on this early period 1988 to 1992, in  
20 terms of allocating funds, the Trust established  
21 an Allocations Committee or subcommittee which would  
22 consider applications for grants; is that correct?

23 **A.** I'm sorry, can you repeat the question --

24 **Q.** Yes, absolutely. So we can take this document down,  
25 Soumik, thank you.

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1 beneficiaries?

2 **A.** I couldn't tell you. I can't remember. Maybe because  
3 we didn't want to see it splashed over the front page  
4 of The Daily Mail.

5 **Q.** In terms of the issue of life insurance, if we go,  
6 please, to MACF0000076\_026, these are the notes of the  
7 minutes of a meeting with the Department of Health on  
8 7 September 1989, which I'll come back to for  
9 a different reason in a few minutes. But if we go to  
10 the fifth page, please, Soumik, if we look under the  
11 heading "Life Assurance", it says:

12 "The subject of assistance with life assurance  
13 was discussed. It was apparent that there was no  
14 Government action in hand which would be likely to  
15 bring any early relief. There was a difference in  
16 recall between Mr Heppell [he was the Department of  
17 Health official] and the Reverend Tanner as to what  
18 assurances had been given by the Minister on this  
19 subject at the time the grant was made, and Mr Heppell  
20 agreed to make further inquiry. From enquiries that  
21 the Trustees had made, it was clear that Insurance  
22 companies were not interested, and no help would be  
23 forthcoming from the industry."

24 Is this right: your attempts to explore with  
25 insurance companies whether they would be willing or

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1 The Trust established at a fairly early stage  
2 an Allocations Committee, which I think was  
3 a subcommittee of trustees at that point in time --

4 **A.** Yes.

5 **Q.** -- who would consider applications for grants?

6 **A.** Yes.

7 **Q.** Soumik, if we go please to MACF0000004\_113, we can see  
8 there an early allocations policy, the date of this is  
9 October 1988 and we can see the broad nature of the  
10 scheme set out the single payments, sometimes referred  
11 to I think as grant payments, and then the regular  
12 payments.

13 **A.** Yes.

14 **Q.** I just wanted to ask you one matter arising out of  
15 this policy. If we go to the second page, we can see  
16 the process set out there:

17 "All grants are authorised by the Allocations  
18 Sub-Committee of Trustees."

19 There was delegated authority to the  
20 administrator and social worker to make payments up to  
21 a certain sum. Then there's a paragraph beginning:

22 "Payments will not be made for items normally  
23 provided by the local authority or Department of  
24 Social Security ..."

25 What did the applicant have to show, in that

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1 regard, to the Allocations Subcommittee or the  
 2 administrator? Did they have to show that they had  
 3 first approached the local authority?  
 4 **A.** Whether they had to show it or whether they just had  
 5 to say they tried, I couldn't tell you, but certainly  
 6 it was a constant theme of grant making by MFT and by  
 7 Eileen Trust, and I think probably by Caxton as well,  
 8 that the charities were fall-backs, we were the  
 9 sources of finance of last resort, and that people had  
 10 to do their best to find the required finance from  
 11 somewhere else. We were not substitutes for the  
 12 Social Services, Social Security, we were backup.  
 13 **Q.** What consideration, if any, was given by trustees to  
 14 the burden that might impose upon those who were  
 15 themselves extremely ill or caring for those who were  
 16 extremely ill, that before they could even approach  
 17 the Macfarlane Trust, which had been especially set up  
 18 to assist, they had to go, for example, to their local  
 19 authority and, despite ill health, see what they could  
 20 get out of the local authority?  
 21 **A.** Well, that is an unfortunate corollary of having been  
 22 set up as a charity with insufficient funds by the  
 23 Government. It was a constant theme. We never had  
 24 enough money to do everything we would like to do.  
 25 So, unfortunately, we had to ask beneficiaries to try

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1 regular payments, a process the trustees believed  
 2 would have two advantages:  
 3 "1. Giving individuals more options ...  
 4 "2. Enabling the assistance to be more easily  
 5 adjusted in favour of those whose financial need is  
 6 greatest.  
 7 "The intention was, therefore, that the  
 8 increase in personal income provided would lead to a  
 9 reduction in the need for single grants, and recent  
 10 experience appears to justify this view.  
 11 Consequently, single grants will in future be  
 12 restricted to health-related issues, and grants for  
 13 household expenditure will only be made in exceptional  
 14 circumstances. Grants will not normally be made for  
 15 routine expenses, nor for occasional expenses such as  
 16 maintenance and redecoration of property or the  
 17 replacement of appliances or furniture."  
 18 Is it right to understand what's being set out  
 19 in these documents that there was a shift away from  
 20 grants to focus on regular pay as the primary means of  
 21 support in 1990/91?  
 22 **A.** Yes.  
 23 **Q.** Was that a reflection of the Trust's limited funds?  
 24 **A.** Yes. I mean, every aspect of our grant making was  
 25 determined or was constrained by the paucity of the

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1 elsewhere, even when we were aware that this was  
 2 imposing considerable burdens on them. We had to do  
 3 it.  
 4 **Q.** If we look at MACF0000005\_023, please, Soumik. If we  
 5 go to the third page and look in the top left-hand  
 6 side of the page, under the heading "The 1990 policy",  
 7 it says:  
 8 "The policy of emphasis on the regular payments  
 9 has three purposes."  
 10 And those are then set out. And then if we go  
 11 to the bottom paragraph before the heading "The 1992  
 12 review":  
 13 "Trustees have in this time been able to  
 14 concentrate expenditure on single payments into the  
 15 areas most directly connected with health or sickness.  
 16 Very few grants are now made for ordinary household  
 17 costs."  
 18 Then if we just go to the next page, this is  
 19 entitled "Trust grants policy". It refers to a  
 20 newsletter from April 1991. And then if we -- we can  
 21 see reference to an increased level of regular  
 22 payments. And then fourth paragraph down, it says:  
 23 "As stated in newsletter number 5, the  
 24 intention behind this change was to move the balance  
 25 between singular and regular payments towards the

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1 funding that was made available to us.  
 2 **Q.** And so grants would be restricted to health-related  
 3 issues. Was there any guidance or explanation as to  
 4 what was meant by health-related issues, as far as you  
 5 can recall at this time?  
 6 **A.** I suppose mobility -- people who had particular issues  
 7 with mobility as a result of their haemophilia.  
 8 Something that comes to mind. I can't think offhand  
 9 of lots of examples.  
 10 **Q.** If we then go -- again, this is still within the first  
 11 period of your post at the Macfarlane Trust -- to look  
 12 at the position of widows and dependants. Soumik,  
 13 could we have MACF000002\_018?  
 14 **SIR BRIAN LANGSTAFF:** I think it will have to be six  
 15 zeros.  
 16 **MS RICHARDS:** I'm sorry. MACF000002\_018. These are the  
 17 minutes of a meeting on 28 September 1989. If we go  
 18 to page 8, please, you can see there "Allocation  
 19 policy -- widows" and there's a reference to a paper  
 20 which had been circulated, and then there's a general  
 21 discussion and recognition of a need for a statement  
 22 of policy. If we look at that third paragraph:  
 23 "The need for a statement of policy was  
 24 recognised, and in particular that it was necessary to  
 25 be able to give some assurance to sufferers that their

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1 widows and dependants would be taken care of. At the  
2 same time, doubts were expressed on both the  
3 principles and the financial capability of long-term  
4 care of widows, especially those without dependant  
5 children. The principle of a finite period support  
6 after bereavement received some support, though there  
7 were differing views of what such a period should be."

8 Then it was agreed that further thought would  
9 be given to the matter.

10 Could we then in the same document, please, go  
11 to the paper that's referred to. Soumik, it's  
12 probably page 25. That's it. So this is the paper,  
13 "Widows and other dependants of deceased persons":

14 "1. The deed requires trustees to provide  
15 assistance for the needy spouses, parents, children,  
16 or other dependants of such persons who have died.

17 "2. Leaving aside for this purpose any  
18 remaining ambiguity in the definition of what is a  
19 spouse, there's a requirement for trusts to agree on  
20 how for all these dependants the Trust will interpret  
21 "needy".

22 "3. This basic policy decision is needed for  
23 two reasons: this sadly is a growing community which  
24 represents a potentially growing expenditure of Trust  
25 funds, both as a percentage and in absolute terms."

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1 deserving of less consideration; it was the trustees'  
2 view that that's how they'd be viewed by Government?

3 **A.** We felt that the way the Trust had been set up, the  
4 objectives for which the Trust had been set up put  
5 the -- put widows and dependants into a slightly lower  
6 priority category from the political point of view and  
7 as far as funding was concerned. Given the fact that  
8 we never had enough funds to look after everybody  
9 anyway, we had to take notice of this fear that --  
10 I mean, you can see in paragraph 4 there, however  
11 distasteful such arguments may seem, they are  
12 distasteful. We had to bear in mind that the way the  
13 politicians would perceive the Trust's objectives did  
14 not embrace giving widows and dependants exactly the  
15 same priority as people who had already had  
16 haemophilia and were infected with HIV by the  
17 Government.

18 **Q.** And it would appear from the closing words of  
19 paragraph 3 (b) that the trustees thought that  
20 expending money on widows and dependants might lead  
21 the Government not to give further funding to the  
22 Trust. Is that a correct understanding of 3 (b)?

23 **A.** It doesn't say that. It says:

24 "... could in time affect any decision to  
25 allocate further funds."

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1 Then this:

2 "This is the area of expenditure most  
3 vulnerable to criticism by our paymasters as  
4 encroaching on the grounds of compensation, and thus  
5 could in time affect any decision to allocate any  
6 further funds."

7 Are you able to assist, Mr Stevens -- I know  
8 this wasn't a paper authored by you -- with what was  
9 being referred to there in paragraph 3 (b), why it was  
10 thought that giving assistance to widows and other  
11 dependants would make the Trust vulnerable to  
12 criticism by "our paymasters"; presumably that's  
13 a reference to the Government?

14 **A.** I think we were concerned that the Government would  
15 say the Macfarlane Trust had been set up basically to  
16 give support to people with haemophilia who had been  
17 infected with HIV. We felt that they would not feel  
18 that widows and other dependants were on the same  
19 level of priority as the people -- as what we used to  
20 call the primary beneficiaries. It was just one of  
21 those limiting factors that we had to deal with, that  
22 we were dealing with politicians, and politicians have  
23 different standards sometimes from the rest of us.

24 **Q.** So is this correct: it wasn't the trustees' own view  
25 that widows and other dependants were secondary or

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1 So it might be thought it would reduce or delay  
2 further funding.

3 **Q.** The trust deed itself -- we can go back to it if need  
4 be, but the trust deed itself doesn't create  
5 a different priority, doesn't talk about primary  
6 beneficiaries and secondary beneficiaries --

7 **A.** No.

8 **Q.** -- so was it something that the Government had said --

9 **A.** The trust deed doesn't differentiate in terms of  
10 priority. Our fear is from discussions that the  
11 Chairman and Deputy Chairman then had had with  
12 politicians in the (unclear) that there was -- there  
13 might be a view in Government that people with  
14 haemophilia who were infected with HIV were just that  
15 little bit more in need of help from the Trust, which  
16 the Government had set up and funded, than their  
17 widows and dependants after their death.

18 **Q.** And do you know whether --

19 **A.** It's all set out there in paragraphs 3 and 4, the  
20 arguments -- however distasteful such arguments may  
21 seem. They were distasteful, but we had to have them.

22 **Q.** Do you know whether that was a view that had been  
23 expressed in terms to the Reverend Tanner and  
24 Mr Grinstead by Government officials?

25 **A.** No, I don't.

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1 Q. The policy that was then produced I think in  
 2 March 1991 for widows and dependants is at  
 3 MACF0000072\_003. We can see grant making policy.  
 4 Widows and other dependants of deceased persons,  
 5 March 1991. If we go to the second page, we can see  
 6 bottom of the page, four groups identified:  
 7 "1. Widows."  
 8 And then top of the next page:  
 9 "2. Parents of deceased adult registrant who  
 10 were dependent on the registrant at time of death.  
 11 "3. Children ..."  
 12 And:  
 13 "4. Other dependants who are accepted as such  
 14 at the trustees' discretion."  
 15 Those are the four categories of dependants  
 16 being recognised. Then the term "needy" was then  
 17 applied to the case of widows and other recognised  
 18 spouses (as we see in paragraph 8). In the shorter  
 19 term, the period of bereavement and a period of  
 20 adjustment; and in the longer term, widows who were  
 21 HIV infected widows with dependent children, widows  
 22 who are disabled or chronically sick.  
 23 And then we can see again in paragraph 9 in  
 24 relation to the dependent parents of adults, it's  
 25 short-term provision for the bereavement in relation

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1 sick.  
 2 So widows who did not fall into any of those  
 3 categories would effectively receive nothing after the  
 4 immediate bereavement payment period and the tapering  
 5 regular payments; is that right?  
 6 A. Yes.  
 7 Q. And if we just go to the bottom of the previous page  
 8 again, the position of widows who are HIV positive.  
 9 Now, what's said there is that widows who were HIV  
 10 positive would in all respects be treated in the same  
 11 way as registrants, including regular payments as in  
 12 the main scheme.  
 13 So was the intention that the policy adopted in  
 14 1991, therefore, that those who I think are referred  
 15 to in some documents as infected intimates, but widows  
 16 who were HIV positive themselves would be treated as  
 17 primary beneficiaries?  
 18 A. Yes.  
 19 Q. Would it be right to understand the basis for that was  
 20 because there wasn't any good reason for  
 21 distinguishing between those who were directly  
 22 infected and those who were indirectly infected?  
 23 A. I don't think there was any distinction drawn between  
 24 the support that those two categories would get or --  
 25 directly or indirectly.

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1 to bereavement; and longer term, parents who are  
 2 disabled or chronically sick.  
 3 Bottom of the page, we can see no general rule  
 4 is made for orphaned children:  
 5 "Trustees will consider any such case  
 6 individually."  
 7 Then if we go over the page, we can see at  
 8 paragraph 13 it's said:  
 9 "The assessment of financial need will take  
 10 into account all the existing resources and  
 11 commitments of the applicant and all statutory sources  
 12 of assistance. This will include the new 1991  
 13 settlement payment."  
 14 So that was to be taken into account, at least  
 15 in relation to widows and dependants.  
 16 Then we can see under the heading "Widows" what  
 17 was contemplated was there would be an immediate cash  
 18 payment of £1,000, and then there might be payments,  
 19 for example, for funeral costs. And then in terms of  
 20 regular payments, they would -- I'm paraphrasing  
 21 here -- they would taper off after a period of months.  
 22 And then in the longer term, regular payments would  
 23 only be made to widows who were HIV positive -- go to  
 24 the top of the next page -- widows with dependent  
 25 children, and widows who were disabled or chronically

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1 Q. Those who were infected directly through the use of  
 2 blood products, those who were infected as spouses or  
 3 partners, this policy appears to be recognising that  
 4 they should not be treated differently but the latter  
 5 category should be treated in all respects the same  
 6 way as the primary beneficiary.  
 7 A. Yes, I think 19(1) there covers all the data of HIV  
 8 positive whatever the source of that infection.  
 9 Q. Do you know whether, as a matter of fact, that policy  
 10 was adhered to by the Trust, that infected intimates,  
 11 as they were called, received regular payments in the  
 12 same way as other registrants?  
 13 A. I can only say I believe so. I can't -- I wouldn't  
 14 bet the house on it, I suspect -- I believe they were.  
 15 SIR BRIAN LANGSTAFF: Are we moving away from this?  
 16 MS RICHARDS: We are, sir, yes.  
 17 SIR BRIAN LANGSTAFF: Can I just understand the Trust's  
 18 position, as set out in this document? Picking it up  
 19 at 19(1), which is still on the screen, the very last  
 20 words are "as in the main scheme". So the main scheme  
 21 was seen as something different from the scheme, or  
 22 the supplementary scheme, or whatever it was; am  
 23 I right?  
 24 A. I think -- this is all written by Clifford, I think.  
 25 By "the main scheme" he is referring to the regular

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1 payments made to primary beneficiaries to people with  
2 haemophilia or people with bleeding disorders who were  
3 infected with HIV through the course of their  
4 treatment. So this document, which is -- I think in  
5 his mind he would call it a subsidiary scheme or  
6 a supplementary scheme or something, a secondary  
7 scheme, is in relation to widows. The main scheme  
8 refers to the term that was adopted by the Trust  
9 funnily enough when I wasn't there, the primary  
10 beneficiaries.

11 **SIR BRIAN LANGSTAFF:** Now, the expression "primary  
12 beneficiary" was understood to apply to those who had  
13 themselves been infected with HIV but to exclude those  
14 who were not in that category; am I right?

15 **A.** As far as I am aware, the term primary beneficiaries  
16 refers to people with bleeding disorders who were  
17 infected with HIV through the course of treatment with  
18 contaminated blood. So most of those are men, there  
19 were one or two who weren't. This paper is referring  
20 to the widows and dependants of such primary  
21 beneficiaries as had died, some of whom might also be  
22 HIV positive, and, if they were, they were regarded as  
23 primary beneficiaries and treated the same way.

24 **SIR BRIAN LANGSTAFF:** In the case of a widow who had no  
25 dependant children, am I right in thinking that the

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1 was further discussed with the Department. I'm sure  
2 this document would have been showed to the Department  
3 so they were aware what was going on. But I have to  
4 go back to the fact that had we had much more money,  
5 then the policy would have been different.

6 **SIR BRIAN LANGSTAFF:** Well, I understand that but there  
7 might be said to be two reactions to limited funds.

8 One is to maintain a category of need for anyone and  
9 everyone who qualifies under the trust deed, although  
10 the money that can be distributed is necessarily less.

11 The other is to cut out some people who may be in  
12 extreme grinding need but who simply aren't in the  
13 right category, a category which is created for those  
14 purposes by the Trust itself. It was the latter  
15 policy that this represents, was it?

16 **A.** Yes.

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

18 **MS RICHARDS:** Sir, was there anything further on this  
19 document? Thank you. That can come down.

20 Mr Stevens, I want to come on to now what has  
21 been a theme of your evidence so far, which is the  
22 question of the funding that the Macfarlane Trust had.  
23 The initial funding was the sum of £10 million and is  
24 this correct, that you as trustees in 1988 had a hope,  
25 perhaps, that that would be topped up or increased but

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1 effect of this policy would be that after the payments  
2 made immediately after bereavement and perhaps for  
3 a short while longer there would be no payment made at  
4 all?

5 **A.** Correct.

6 **SIR BRIAN LANGSTAFF:** Whatever the particular need of that  
7 individual was?

8 **A.** Correct.

9 **SIR BRIAN LANGSTAFF:** So this was ruling out the trustees'  
10 ability to give money in a case of need, which would  
11 be a genuine case of need as most people would see it,  
12 as The Daily Mail might see it, on the basis they  
13 weren't in the right category.

14 **A.** Correct. If there were no children and the widow was  
15 not infected with HIV, then after a taper period she  
16 was, I'm afraid, cut adrift.

17 **SIR BRIAN LANGSTAFF:** Was there any advice --

18 **A.** If we had had ten times the amount of money the policy  
19 probably would have been different.

20 **SIR BRIAN LANGSTAFF:** Was any advice taken as to how that  
21 fitted with clause 4 of the original trust deed?

22 **A.** The policy would have been discussed with  
23 beneficiaries, at least two of whom were on the board.  
24 I don't know whether it would have been discussed  
25 with -- whether legal advice was taken or whether it

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1 no particular idea as to when it might be increased or  
2 by how much?

3 **A.** Absolutely. I'm not sure whether hope is too strong  
4 a word. Anyway, we certainly had no idea and there  
5 was -- there are notes of a meeting with Department  
6 officials after about two years when they said "It's  
7 premature to ask for more money in a moment, come back  
8 in two years' time".

9 **Q.** Yes we'll come on to that. I know you weren't  
10 involved in discussions that led to the initial  
11 £10 million but did you have any understanding  
12 acquired subsequently as to how that £10 million had  
13 been calculated?

14 **A.** No.

15 **Q.** Is this correct, that, as far as the Trust was aware,  
16 that £10 million was not based on any attempt by the  
17 Government to assess or quantify need?

18 **A.** I had no idea how 10 million was derived.

19 **Q.** If we look at MACF0000030\_006 this is an interview you  
20 gave to Russell Mishcon for the purpose of  
21 a dissertation that he was preparing.

22 **A.** Yes.

23 **Q.** If we go to the third page and we pick it up, it is  
24 the first half of the page, in the long answer  
25 beginning "So I would say", but the last few lines of

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1 this answer you say this:  
 2 "I think the Trust was short term fix ..."  
 3 Then you say:  
 4 "I think they were caught out by the lack of  
 5 favourable response, which was why they then  
 6 introduced the two capital payments and then, at that  
 7 stage, I think they thought: 'Well okay that's done  
 8 and dusted, these people have only a couple more years  
 9 to go and we're off the hook'.  
 10 I want to see if I understood what you meant by  
 11 that, please correct me if I'm wrong. Are you there  
 12 suggesting that the Government's approach had been  
 13 a rough and ready provision of money on the basis or  
 14 on the assumption that those infected would, for the  
 15 most part, die fairly quickly?  
 16 **A.** Yes.  
 17 **Q.** Do you know whether the Department of Health's  
 18 allocation of funding to the Macfarlane Trust over the  
 19 years was ever based on an attempt to quantify actual  
 20 need?  
 21 **A.** I'm sure it wasn't. I think they gave us the answer  
 22 to our requests and our arguments and our business  
 23 cases. They gave us what they thought they could  
 24 afford and what they could get away with.  
 25 **Q.** I want to look at a meeting in September 1989 with

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1 have so far treated with caution ..."  
 2 Then if we look at the bottom paragraph on that  
 3 page, we can see it said:  
 4 "The Trust will be looking for a general  
 5 assurance that their grant allocation policy, and  
 6 investment policy are broadly on the right lines.  
 7 They feel vulnerable having received no communication  
 8 from the Department."  
 9 Then the document looks -- I'm not proposing to  
 10 go through the detail of it, but it looks at various  
 11 different aspects of allocation: dependants,  
 12 juveniles, and so on.  
 13 Was it correct, as far as you can recall, that  
 14 the Trust was seeking the Department's approval for  
 15 its actions, that they were in line with Government  
 16 expectations?  
 17 **A.** I don't think we were looking for approval. We were  
 18 telling them what we were doing, explaining why we  
 19 believed those actions, those policies were in line  
 20 with what they wanted us to do and saying we need more  
 21 money.  
 22 **Q.** If we look at the notes of this meeting next, Soumik  
 23 it's MACF0000076\_026. The first page sets out some  
 24 comments from the Department of Health on the notes  
 25 but I don't think any of those are particularly

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1 you. If we go first to DHSC0003318\_006, we can see  
 2 this is described as "Briefing for meeting with the  
 3 Macfarlane Trust -- 7 September '89". So it's  
 4 an internal Department of Health document, not,  
 5 I anticipate, a document that the trustees would have  
 6 seen at the time. It refers to the Department  
 7 strictly observing the independent status of the  
 8 Macfarlane Trust but then says this:

9 "However MS(H) [that's the Minister of State  
 10 for Health] has requested two-monthly reports on the  
 11 Trust's activities."

12 Were you and your fellow trustees aware that  
 13 the Minister of State for Health was seeking  
 14 two-monthly reports on your activities?

15 **A.** I certainly had no memory of it, whether we were aware  
 16 at the time I don't know but I have no memory. I have  
 17 no recollection that I was so informed at the time.

18 **Q.** Then we can see from paragraph 2 this is, again, it's  
 19 the internal Department of Health understanding of the  
 20 purpose of the meeting but they say this:

21 "The Trust seek this meeting to determine  
 22 whether present activities are in line with Government  
 23 expectations; to seek approval for expansive  
 24 variations to the Trust Deed; to seek approval for  
 25 a major escalation of financial help in areas they

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1 material for present purpose.

2 If we go to the second page, you'll see notes  
 3 of a meeting at the Department of Health  
 4 7 September 1989. You weren't present at the meeting,  
 5 Mr Stevens, but I can tell you this is a record taken  
 6 by CHG, so that's Mr Grinstead. So it's the Trust's  
 7 own record.

8 We can see from the introduction:

9 "Mr Heppell invited the Chairman to open the  
 10 meeting, and the Reverend Tanner explained that the  
 11 meeting had been requested so that we could place  
 12 before the Department the policies, schemes, and  
 13 practices that had been adopted by the Trustees from  
 14 the time the Trust was established in March 1988 and,  
 15 if justified, to receive from the Department an  
 16 assurance that such policies and practices were  
 17 rightly fulfilling the objectives envisaged by the  
 18 Government in setting up the Trust. The meeting could  
 19 also be a useful forum for discussion of certain  
 20 principles and interpretations that required to be  
 21 addressed by the Trustees, with the benefit of any  
 22 guidelines that the Department felt able to give."

23 So it would appear from that that the Trust was  
 24 seeking an assurance from the Department that the  
 25 Trust was fulfilling the objectives envisaged by the

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1 Government. Why did the Trust think it needed that  
 2 kind of assurance from the Government, given it was  
 3 an independent body with independent objectives?  
 4 **A.** Because we needed more money, because we were going to  
 5 ask for more money. I can't remember if we did at  
 6 this meeting or not but we knew that the £10 million  
 7 with which we had been endowed was insufficient to do  
 8 everything that we were trying to do at the time, let  
 9 alone what we might do in the future.  
 10 **Q.** So, is this right, to put it in somewhat colloquial  
 11 terms, the Trust was trying to keep the Government on  
 12 side, as it were, because it wanted to ask or would  
 13 want to ask in the future for more funding?  
 14 **A.** We knew that that was going to be required, yes.  
 15 **Q.** If we go to the next page, we can see at the top of  
 16 the page that the mortgage policies we looked at  
 17 earlier were provided to the Department, and then  
 18 under the heading "Additional funding", bottom half of  
 19 the page:  
 20 "The Reverend Tanner brought to the  
 21 Department's attention the most crucial item that  
 22 would be raised at this meeting; namely the prospect  
 23 for additional funding of the Trust. The trustees  
 24 were well aware that direct charitable expenditure was  
 25 exceeding the income received by the Trust from money

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1 at the present time would be too early. This advice  
 2 was gratefully received and would be confirmed by  
 3 a formal exchange of letters."  
 4 I know you weren't present at the meeting but  
 5 I'm going to assume that this was reported back to the  
 6 trustees. I imagine it would have been. Can you  
 7 recall what your view was, either then or now, as to  
 8 the adequacy of the Department's response to the  
 9 trustees' request?  
 10 **A.** I can't recall my reaction then. My reaction now is  
 11 this is totally in character. Put off the evil day of  
 12 giving the Macfarlane Trust more money until they are  
 13 on their uppers until they are on their knees and then  
 14 give them half what they asked for. That's standard  
 15 practice.  
 16 **Q.** Did this cause real problems for the Trust in being  
 17 able to commit to any long-term support for  
 18 beneficiaries? Were there --  
 19 **A.** We've discussed this several times already this  
 20 morning. Of course it caused problems. This is where  
 21 the anger that was expressed in Glasgow and Edinburgh  
 22 and other places stems from. We were never able to do  
 23 as much as people thought we should do and as we  
 24 wanted to do because we never got enough money. There  
 25 was never any assurance that the money was going to be

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1 invested, and that capital was being withdrawn to meet  
 2 the deficiency. Nevertheless, the trustees approved  
 3 such action in the belief that the requests for  
 4 assistance were wholly justified. In addition, the  
 5 Trustees faced requests, particularly in the support  
 6 for dependant children, that contemplated long term  
 7 commitments. It followed that the Trustees wished to  
 8 raise the question whether, if the Trust fund was  
 9 exhausted, any additional funding would be made  
 10 available by the Government to meet the longer term  
 11 needs of people with haemophilia and HIV infection,  
 12 and their dependants. Without such additional funding  
 13 future expenditure could be considerably inhibited."

14 So that's the request. Will the Government  
 15 make more money available? The response:

16 "Following discussion, Mr Heppell responded  
 17 that ministers would not want trustees to make more  
 18 limited offers of help than they would otherwise  
 19 consider reasonable simply to conserve funds and that  
 20 each case would continue to be judged on its merits.  
 21 However, the request for additional funds was a matter  
 22 of timing and he advised the Trust that the right time  
 23 to approach ministers about additional funding would  
 24 be when the Trust funds were sufficient to meet  
 25 commitment for only two to three years. An approach

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1 forthcoming. It went on all the way through the  
 2 Trust's existence.

3 I have no idea -- now that it's all under  
 4 a single scheme administrator, I have no idea how  
 5 beneficiaries are feeling now about what they are  
 6 getting. Maybe money is pouring out. I have no idea.

7 But as long as we were involved, as long as the  
 8 Macfarlane Trust was involved and I was involved with  
 9 the Macfarlane Trust as a trustee, there was never  
 10 enough money and the Department never, ever provided  
 11 us with a sufficient assurance that money would be  
 12 forthcoming.

13 There was a period in the late '80s -- no, it  
 14 was the late '90s when the Department would only  
 15 produce more money when they could afford -- when they  
 16 found it down the back of the sofa. Fortunately, they  
 17 had -- there was a senior civil servant then, Charles  
 18 Lister (who I suspect you're going to be talking to),  
 19 who was able to institute a regular annual,  
 20 predictable annual, amount. It was never enough but  
 21 at least we knew it was coming. But before then there  
 22 was a period when we just didn't -- we had no idea  
 23 when we would see another sum, -- another penny, from the  
 24 Department.

25 So I'm sorry but I get really -- I get quite

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1 aerated by consideration of this sort of -- this sort  
2 of discussion we had time and time and time again with  
3 the Department and then with ministers. If you look  
4 and see -- if you look at what I said on behalf of  
5 Eileen Trust (I think it was but maybe the  
6 Macfarlane Trust as well) to the Archer Inquiry, I was  
7 almost speechless with anger at the minister involved  
8 at the time who said that she was satisfied the amount  
9 of money they were giving us was enough. I said she  
10 had no right to be satisfied, express satisfaction.  
11 This was, you know, the little bit you showed up  
12 earlier, the whole attitude was "give them a bit and  
13 we're off the hook".

14 It just -- it coloured all our ability to  
15 respond to requests. It affected the registrants'  
16 attitude to us, which was obviously they blamed the  
17 Trust, not us, not the Government. We were just --  
18 that's something we had to live with it.

19 **Q.** Now, you --

20 **A.** Sorry, that's a rant -- not an answer but a rant.

21 **Q.** You left the Macfarlane Trust in, I think, early  
22 March, or thereabouts, 1992 and then returned, as you  
23 told us at the beginning of your evidence, in 1999 --

24 **A.** I think the Society felt that they wanted "one of  
25 their own" on the MFT board rather than me, that they

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1 lines below that, you say:

2 "I had been surprised that the Trust was still  
3 operating at a level of £2 million a year in 1999 and  
4 2000."

5 Do you recall being surprised when you came  
6 back to discover that the Trust position was  
7 essentially similar to how it had been when you left  
8 it?

9 **A.** Yes, that's what it says there.

10 **Q.** Did you --

11 **A.** The figures -- I may have been mistaken in my  
12 understanding what the figures were precisely. But  
13 really what we did at the outset, we've got  
14 £10 million so, as it says there, we should -- with  
15 investment income, we should be able to make that last  
16 about seven years and, at the time, it was thought  
17 that the life expectancy of the beneficiaries of the  
18 Trust was about five to seven years; so that would  
19 just about see the Trust out. Luckily, that didn't  
20 happen.

21 So then I said to Russell my memory was that we  
22 just increased our original expenditure without  
23 telling the Government in advance -- without asking  
24 the Government in advance. We just told them. I'm  
25 not sure that's actually strictly true at the time but

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1 wanted somebody who represented directly the Society  
2 rather than somebody who was appointed by -- they  
3 never saw me. They didn't even know who I was.

4 **Q.** So your time as trustee came to an end and you were  
5 not renominated by The Haemophilia Society; is that  
6 how it was?

7 **A.** I was -- yes, I was there at the invitation of Alan  
8 Tanner and basically I appeared as the nominee of the  
9 Society. And when my time came up, they said thank  
10 you and goodbye. Actually they didn't say "thank you"  
11 at all.

12 **Q.** Now when you returned in 1999, had the  
13 Macfarlane Trust's position in terms of funding from  
14 the Government significantly changed or improved as  
15 far as you can recall?

16 **A.** It had changed in respect what I said a few minutes  
17 ago, that by 1999 they were receiving occasional  
18 handouts when the Department found some money down the  
19 back of the sofa. Unpredictable in amount and  
20 unpredictable in time.

21 **Q.** I think if we go back to your interview with  
22 Mr Mishcon at MACF0000030\_006, please, Soumik, and we  
23 go to page 5, look at the top half of the page. It's  
24 the paragraph beginning "One of the things the Trust  
25 did in 2001", we can see, picking it up a couple of

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1 that's how it seemed to me.

2 **Q.** Well, I'm going to look with you, Mr Stevens, at some  
3 of the documents which show the steps taken to try and  
4 obtain more funding from the Government in the early  
5 2000s.

6 Sir, I note the time; so perhaps we can pick  
7 that up at 2 o'clock?

8 **SIR BRIAN LANGSTAFF:** Yes, we will take a break now until  
9 2 o'clock, which I hope gives you time for a lunch,  
10 and look forward to seeing you back here at 2 o'clock  
11 if that's okay. So 2 o'clock.

12 **(1.01 pm)**

**(Luncheon Adjournment)**

14 **(2.00 pm)**

15 **SIR BRIAN LANGSTAFF:** Yes.

16 **MS RICHARDS:** Mr Stevens, when you returned in 1999, prior  
17 to your return, a strategic review had been undertaken  
18 by the Macfarlane Trust. I want to look at it in  
19 a moment with you, or one part of it. But do you know  
20 who actually produced or wrote the strategic review  
21 document?

22 **A.** No. I think it was done internally by trustees with  
23 maybe one or two of the staff. I don't think --  
24 I don't think we had a -- I don't think there was an  
25 outside --

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1 Q. That's what I thought, but I wanted to check with you.  
 2 If we just look at it. It's MACF000045\_019.  
 3 So we can see it's "Strategic review. Final report,  
 4 January 1999". Soumik, can we go to -- it's page 9  
 5 using the internal pagination, so electronically, it's  
 6 probably page 14. That's it, thank you.  
 7 So I just want to pick up what the Trust  
 8 appears to have gleaned from looking at the position  
 9 of registrants. If we go to the bottom of the page:  
 10 "It would appear that at least 70 per cent of  
 11 registrants who responded to the review are largely  
 12 dependent on state benefits and Macfarlane Trust  
 13 funding for their financial needs. This is well over  
 14 twice the national average of people living at or  
 15 below the poverty line.  
 16 "Poverty and despair about money were common  
 17 features in questionnaire responses, particularly from  
 18 those at peak earning age and had taken on  
 19 responsibilities of a mortgage and a family."  
 20 Then if we go to the next page, top half of the  
 21 page:  
 22 "Although many people on benefits were sick,  
 23 there were others who were relatively well and in work  
 24 but without the usual access to provisions of life  
 25 assurance, permanent health insurance, mortgage

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1 chronic illness with periods of respite typified by  
 2 those with haemophilia and HIV."  
 3 Then if we see the next bold print paragraph:  
 4 "Many registrants were very concerned about the  
 5 future of the Macfarlane Trust and wanted confirmation  
 6 that the Trust would be there to support them for as  
 7 long as necessary and that payments would keep pace  
 8 with inflation."  
 9 So that is a snapshot. Then if we go to the  
 10 recommendations to the conclusion of the report.  
 11 Soumik, it's page 21 using the pagination bottom  
 12 right-hand corner. Again, probably page 26  
 13 electronically. That's it.  
 14 So if we look at the top half of the page,  
 15 there's a number of recommendations, but I'm just  
 16 going to draw attention to the top three:  
 17 "(i) Ministers/the Department of Health should  
 18 consider the changing patterns and increasing  
 19 financial demands and expectancies of registrants.  
 20 They should provide policy guidance and priorities and  
 21 furnish the required level of resources.  
 22 "(ii) To ensure ongoing funding to  
 23 Macfarlane Trust to enable continued support to Trust  
 24 registrants to meet existing and emerging needs, and  
 25 with Trust to review types and extent of provision

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1 protection at all or at a reasonable cost. This was  
 2 due to restrictive practices related to HIV infection.  
 3 "Respondents frequently expressed fears that  
 4 the Government would change the rules in forthcoming  
 5 welfare reforms affecting their entitlement to future  
 6 benefits.  
 7 "Those who were severely incapacitated were  
 8 entirely reliant on state benefits, Macfarlane Trust  
 9 payments, and other grants from charities.  
 10 "Many registrants were bogged down by debt, and  
 11 most were concerned that their essential outgoings  
 12 were covered by their income, leaving no leeway for  
 13 holidays, unexpected bills, house repairs, changes in  
 14 rent or council tax rates, let alone repaying debts.  
 15 "Many registrants expressed a genuine desire to  
 16 get back into some form of employment. However, none  
 17 was well enough to sustain full-time work, so  
 18 part-time work would have to be very well paid to  
 19 compensate for loss of benefits."  
 20 So that's the picture that emerged from the  
 21 questionnaire. And then the recommendation to  
 22 ministers we can see. There's a recommendation in  
 23 relation to current welfare benefit reviews to ensure  
 24 that they:  
 25 "... include recognition of the nature of

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1 required.  
 2 "(iii) To continue to fund an efficient  
 3 administration of the Trust."  
 4 So a key recommendation of the strategic review  
 5 that you would have become aware of, taking over as  
 6 Chairman in 2000, was that the Department should be  
 7 approached to secure continued funding at a level  
 8 sufficient to meet registrant needs; is that right?  
 9 A. Yes.  
 10 Q. Just before we leave this document, the first  
 11 paragraph refers to: the Department should provide  
 12 policy guidance and priorities.  
 13 Why was the Trust -- I know you didn't author  
 14 this, so maybe you can't answer it, but do you have  
 15 any understanding of why the Trust was looking to the  
 16 Department to provide policy guidance and priorities,  
 17 rather than formulating that themselves?  
 18 A. Couldn't tell you. Don't know. I didn't write that.  
 19 Q. Okay. So that's the strategic review. That's  
 20 beginning of 1999.  
 21 Is it fair to say that when you then took over  
 22 as Chair the following year, one of your  
 23 responsibilities would have been to follow up on these  
 24 recommendations?  
 25 A. Yes.

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1 **Q.** We can see -- if we go to MACF0000088\_026, we can see  
 2 what was proposed. These are the minutes of  
 3 a Partnership Group meeting on 28 February 2000 which  
 4 you were attending as you were due to become Chair of  
 5 the Trust with effect from the end of March. If we  
 6 go, please, to page 4, we can see under the heading  
 7 "Payments review group report", in the second  
 8 paragraph, you say:  
 9 "The Macfarlane Trust --"  
 10 Sorry. This is, I think, reporting what you  
 11 were saying. The minutes say:  
 12 "The Macfarlane Trust had been set up by  
 13 Government in 1988 to do a job that was perceived at  
 14 the time. It was not a campaigning organisation~...  
 15 could not be joined in the present campaigning  
 16 activities. However, there were many issues raised  
 17 today that had not been in the minds of those who  
 18 campaigned to set up the Trust in 1987 ..."  
 19 And an example is then given that is in  
 20 relation to HCV.  
 21 Then the next paragraph records that you:  
 22 "... would be meeting Lord Hunt in  
 23 April ... would be advising him of the increasing  
 24 range and level of needs identified in the strategic  
 25 review and its aftermath ... would tell Lord Hunt that

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1 chose to do, I can't remember.  
 2 **Q.** We can check that in relation to -- by reference to  
 3 the documents.  
 4 It records you were saying you were committed  
 5 to seeking extra funding. "There would be no  
 6 begging." What was meant by that? Why not beg the  
 7 Government by reference to the parlous state in which  
 8 many beneficiaries found themselves?  
 9 **A.** I think the point I was trying to get over there was  
 10 we weren't going to ask; we were going to tell. We  
 11 were going to say: this is what we're going to be  
 12 spending. Fund us.  
 13 **Q.** If we look --  
 14 **A.** Just that. There's no point requesting and them  
 15 saying no. We just wanted to tell.  
 16 **Q.** If we look at how things played out, if we go, first  
 17 of all, please, to DHSC0003264\_004.  
 18 Now, these aren't I think the minutes of the  
 19 meeting that you had with the Department of Health.  
 20 It appears to be a Department of Health briefing of  
 21 some kind, and we haven't been able to so far locate  
 22 any minutes. But we can see it says there under the  
 23 heading "Purpose of meeting", the Trust wished to  
 24 discuss the changing needs of Trust registrants and  
 25 the Trust's resulting financial requirements. And we

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1 trustees had determined to increase payments to  
 2 registrants from this year, and that the Trust would  
 3 be increasing its annual expenditure from 2 million  
 4 a year to 2.5 million.

5 "Up until this year, Trust spending had  
 6 remained at around 2 million a year. This had not  
 7 been a policy decision by trustees. It had just  
 8 happened that way. In implementing the  
 9 recommendations of the strategic review, greater  
 10 outlay of funds would be required. As the Trust's new  
 11 chairman, Peter Stevens, was committed to seeking this  
 12 funding, there would be no begging. The needs had  
 13 been identified. In order to meet those needs, top-up  
 14 would be needed from the Department earlier than had  
 15 been anticipated."

16 It's recorded there that two decisions that  
 17 appear to have been taken by the trustees by this  
 18 time. The first is to increase expenditure from  
 19 2 million to 2.5 million, and the second is to  
 20 approach Government to seek extra funding; is that  
 21 correct?

22 **A.** Yes. I think when I talked to Russell Mishcon, I said  
 23 we were going to put it up from 2 million to  
 24 3 million. There it says we were going to do it from  
 25 2 million to 2.5 million. I can't -- what we actually

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1 can see there it appears that you have told the  
 2 Department of Health you are going to increase from  
 3 2 million to 2.5 in 2000-2001 and then nearly  
 4 3 million by 2005-2006. This increase in payments  
 5 would need to be funded by the Department.

6 If we go to page 3 and look at the bottom half  
 7 of the page below the table, we can see this document  
 8 says:

9 "As a result, the Trust you asking for a top-up  
 10 payment of 4 million in 2001/02, a year earlier than  
 11 planned and of a greater sum than anticipated. At  
 12 present, there is no provision to make any payment to  
 13 the Trust in 2001/2002, and there's no contingency  
 14 funding that year."

15 There's then under the heading "Assessment of  
 16 position" reference to earlier discussions. It says:

17 "The Trust first discussed these proposals with  
 18 officials on 6 April. No commitment has been given to  
 19 provide the increased level of funding requested by  
 20 the Trust, other than the general commitment in  
 21 Lady Hayman's letter. We have no reason to doubt that  
 22 the financial position of the Trust's registrants is  
 23 worsening."

24 If we go over the page, there's reference at  
 25 the top of the page to the particular problems of

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1 co-infection with HIV and hepatitis C.  
 2 If we go to the bottom half of the page,  
 3 please, Soumik, we can see the Department saying  
 4 this -- it is below the first bullet point you see on  
 5 screen:  
 6 "It is hard to resist the Trust's request for  
 7 additional funding to meet the needs of registrants  
 8 when the Trust is acting within the terms of its remit  
 9 as laid down in the Trust deed. However, before  
 10 additional funds are committed (assuming the money can  
 11 be found in 2001/2002), we recommend that the  
 12 Department commissions an independent review of the  
 13 Trust's activities."  
 14 It says:  
 15 "This could ..."  
 16 Then a number of matters set out, the last of  
 17 which is:  
 18 "... examine the case for the Department  
 19 providing increased resources."  
 20 Go back to the bottom of the page:  
 21 "This would need to be done quickly and could  
 22 be presented in a positive way as a means of working  
 23 constructively with the Trust to ensure that the needs  
 24 of registrants are fully addressed. Although the  
 25 Trust has undertaken its own strategic review which

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1 what happened. You were not given additional funding  
 2 in response to your request, were you?  
 3 **A.** Yes. It's kick it into the long grass, or kick the  
 4 can a bit further down the road. It's a fairly  
 5 standard process for Government departments.  
 6 **Q.** We can see -- although we don't have the minutes of  
 7 the meeting with the Minister, we can see your report  
 8 back to trustees if we look at MACF0000013\_031. These  
 9 are the minutes of the meeting of 2 May 2000. And if  
 10 we go to page 4, please, Soumik. "Report on a meeting  
 11 with Lord Hunt Undersecretary of State for Health":  
 12 "The Chairman [by now this is you] reported  
 13 that he and the honourable treasurer, accompanied by  
 14 Dr Winter and the chief executive, had visited  
 15 Lord Hunt on 18 April. A meeting had been positive  
 16 but inconclusive. It had been curtailed due to our  
 17 late arrival on a subsequent lunch engagement of  
 18 Lord Hunt."  
 19 Then it, I think, seeks to summarise some of  
 20 the points that you had made at the meeting. Next  
 21 paragraph refers to things that Dr Winter had  
 22 identified:  
 23 "It was pointed out to Lord Hunt that there  
 24 were considerable inconsistencies in the provision of  
 25 services and resources across the country which led to

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1 went over some of this ground, it would be hard to  
 2 justify additional spending without an independent  
 3 assessment of the position."  
 4 Then if we go to the top of the next page or  
 5 first half of the next page, "Points to make":  
 6 "Stress the continuing commitment of Ministers  
 7 to the work of the Trust ... we will continue to fund  
 8 the efficient administration of the  
 9 Trust ... understand and sympathise with the worsening  
 10 position of the Trust's registrants ... we have not  
 11 set aside top-up funding for the Trust in 2001-2002.  
 12 This may present us with difficulties. There is no  
 13 contingency budget."  
 14 And then last bullet point:  
 15 "We will look carefully and quickly at the  
 16 Trust's proposal for increased resources to meet the  
 17 needs of registrants. Given the severe constraints on  
 18 resources at present, we propose before making  
 19 a decision to commission an independent assessment of  
 20 the situation by someone with a knowledge of  
 21 haemophilia who can work with the Trust and report  
 22 quickly to the Department."  
 23 Now, it would appear from this that although  
 24 the Department's saying it's hard to resist your  
 25 request for additional funding, that is effectively

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1 Trust funds being used to underpin inadequate  
 2 responses from other areas of the statutory sector.  
 3 The Chairman said that Lord Hunt had expressed  
 4 considerable interest in this and immediately  
 5 suggested that someone be appointed to work alongside  
 6 the Trust to identify cases where other statutory  
 7 bodies could have allocated funds."  
 8 Just pausing there. Was that ever done, as far  
 9 as you can recall?  
 10 **A.** Sorry, I was reading --  
 11 **Q.** This refers to a suggestion by Lord Hunt that someone  
 12 be appointed to work alongside the Macfarlane Trust to  
 13 identify cases where other statutory bodies could have  
 14 allocated funds. Was that ever done, to your  
 15 knowledge?  
 16 **A.** Not that I recall, no.  
 17 **Q.** And then it says:  
 18 "The Chairman had advised Lord Hunt of the need  
 19 to increase payments to registrants from September.  
 20 The reaction to this information had been neither  
 21 positive nor negative. However, Lord Hunt had  
 22 indicated he expected to have a further meeting with  
 23 Trust representatives later in the year."  
 24 And then you comment that Lord Hunt's not a  
 25 touchy-feely man but was taking a businesslike and

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1 logical look at the Trust."  
 2 Do you have any further recollection of that  
 3 particular meeting with Lord Hunt, Mr Stevens?  
 4 **A.** No. There is the suggestion there that I had two  
 5 meetings with him. I only remember one.  
 6 **Q.** Yes. I think --  
 7 **A.** I don't know any details of it, other than what's  
 8 expressed in there.  
 9 **Q.** No. We have only identified one meeting, I think,  
 10 Mr Stevens, in any event; the 18 April meeting.  
 11 The first paragraph under this heading had said  
 12 you described the meeting as positive but  
 13 inconclusive.  
 14 **A.** Yes.  
 15 **Q.** Do you recall whether you as Chair or the Trust as  
 16 a whole took any particular further steps following  
 17 this meeting to try and get a more conclusive response  
 18 from Government?  
 19 **A.** No. I don't remember what the next steps were, I'm  
 20 afraid.  
 21 **Q.** We will look at some documents and see what we've been  
 22 able to pick up from the documents as to some steps  
 23 that were taken. So that was April/May 2000.  
 24 If we next look, Soumik, at MACF0000004\_064,  
 25 please. This is a newsletter from the summer of 2001,

1 a good job. So I think we were happy that as a result  
 2 of what she'd done, she'd produced some favourable  
 3 conclusions. I don't think it led to any more money  
 4 particularly.  
 5 **Q.** We'll just have a quick look at that document. It's  
 6 MACF0000006\_010. And if we go to page 14 -- it's  
 7 probably page 15 electronically, Soumik.  
 8 I'm not going to go through the full details of  
 9 it, but if we look at paragraph 4.4 to start with,  
 10 under the heading "Conclusion", it asserts as follows:  
 11 "The Trust's current financial management  
 12 arrangements failed to provide adequate levels of  
 13 financial information on which to base strategic  
 14 decision-making. We accept that this is in part  
 15 a result of a lack of internal management resources to  
 16 carry out business planning and related activities.  
 17 However, we have recommended that the Trust should  
 18 provide a business case to the Department for the  
 19 review of its current staffing arrangements and  
 20 benefits that this would provide, including the  
 21 ability to report to the Department on its financial  
 22 status and its ability to fulfil its requirements set  
 23 out in the Trust deed."  
 24 Pausing there before we look at the  
 25 recommendations. Do you accept the correctness of the

1 so it's a year or more further on, and we can see from  
 2 the bottom left-hand column reference to the  
 3 Department having undertaken a comprehensive  
 4 management audit of the Trust. And then if we go to  
 5 the top of the page again and look at the right-hand  
 6 column, second paragraph:  
 7 "The trustees continue to press the Department  
 8 to raise the rate of funding so that we can continue  
 9 and develop the assurance we give to our registrants  
 10 and their families."  
 11 We'll look at the Department-commissioned  
 12 management audit in a moment, but in terms of the  
 13 Trust's own actions and continuing to press the  
 14 Department, can you recall what, if anything, the  
 15 Trust was doing to press the Department?  
 16 **A.** I can't recall anything in particular, other than just  
 17 continue meeting them with them and continue raising  
 18 more money.  
 19 I don't think -- I don't recall -- I don't  
 20 recall picketing Richmond House or anything like that.  
 21 Just more of the same. I think that audit referred to  
 22 in the bottom of the left-hand column there was  
 23 conducted by -- I think that was the one conducted by  
 24 a departmental trainee or something called Cat,  
 25 strangely enough, Macfarlane. I think she did quite

1 observation there that the Trust's then current (this  
 2 is probably around 2001) financial management  
 3 arrangements failed to provide adequate levels  
 4 of financial information on which to base strategic  
 5 decision-making?  
 6 **A.** I don't see any reason to argue with a report that's  
 7 produced by somebody who's qualified to do it. I'm  
 8 not sure that I would have drawn that conclusion  
 9 myself, but if this was the report that was done by  
 10 Cat, she is a very competent young lady, and I'm sure  
 11 that the conclusion is probably right.  
 12 **Q.** If we look then at the bottom of the page under the  
 13 heading "Recommendations". We pick it up at 4.5.2.  
 14 The recommendation there is:  
 15 "The trustees continue in their efforts to  
 16 establish a business plan incorporating or in addition  
 17 to a financial strategy to address the Trust's  
 18 underlying financial difficulties. In order to assist  
 19 the trustees, terms of reference should be agreed upon  
 20 by the Chairman, Treasurer and Chief Executive. The  
 21 planning should incorporate the following:  
 22 "(a) An assessment of current and future needs  
 23 of registrants over the next three financial years.  
 24 "(b) An assessment of the types of claims the  
 25 Trust can continue to provide in light of current

1 financial constraints."  
 2 And then over the page:  
 3 "(c) Cash flow forecasts for the next three  
 4 years based on a range of scenarios."  
 5 And so on.  
 6 So what appears to be recommended here is that  
 7 the Trust should be producing a business plan and  
 8 financial strategy.  
 9 Did the Trust, as far as you can recall, accept  
 10 that recommendation?  
 11 **A.** I think we probably accepted the recommendation.  
 12 Whether we carried it out as fully as the author would  
 13 suggest we did, I can't remember. But something was  
 14 certainly done and will have been done along those  
 15 lines.  
 16 **Q.** To what extent, if at all, did you consider whether  
 17 this exercise by the Department, of commissioning this  
 18 report and making these recommendations, was part and  
 19 parcel of an overall strategy or policy of pushing  
 20 funding decisions further along the line?  
 21 **A.** Sorry, I lost the question halfway through.  
 22 **Q.** I'll try and break it down. It was, as I understand  
 23 it, the Department's idea to undertake this management  
 24 audit.  
 25 **A.** Yes.

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1 years after that, 2003.  
 2 **A.** Yes.  
 3 **Q.** Can you recall what led to the commissioning of the  
 4 long-term review?  
 5 **A.** I would think probably -- no, I can't. I mustn't  
 6 speculate.  
 7 **Q.** Before we look at the review itself, if we just go to  
 8 a set of minutes from early 2003. It's  
 9 MACF0000009\_012. And this may assist in answering the  
 10 question I asked a moment ago, Mr Stevens.  
 11 So we can see "Macfarlane Trust meeting,  
 12 20 January 2003". And then if we go to page 5, we can  
 13 see under the heading "Long-term review":  
 14 "The Chairman reported that the long-term  
 15 review had arisen from a meeting with the Department  
 16 of Health at which Charles Lister had said it was time  
 17 for Government to make a new political commitment to  
 18 the Trust. It had been agreed that in order for this  
 19 to happen, the Trust should carry out a further review  
 20 to mark the 15th anniversary of the establishment of  
 21 the Macfarlane Trust in 1988."  
 22 Then there's reference to an external  
 23 consultant being appointed.  
 24 So by this time, we've had the strategic review  
 25 in 1999, the Department's own management audit in

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1 **Q.** We can see --  
 2 **A.** This is the Department's recommendation, set of  
 3 recommendations. As I can recall it, we thought,  
 4 "Yeah, they're fine. We'll do our best to carry them  
 5 out." Whether we did execute them fully or to the  
 6 standard required, I can't remember.  
 7 **Q.** Did you and your fellow trustees consider whether this  
 8 was really just another series of hoops that you were  
 9 going to be required to jump through before the  
 10 Department committed itself to any further funding?  
 11 In other words, was it of a piece with what you  
 12 described, the Government kicking the question of  
 13 funding further down the line?  
 14 **A.** I can't remember now what we thought, what we did.  
 15 This was done in 2000/2001.  
 16 **Q.** Yes. Certainly, the newsletter we looked at a few  
 17 moments ago --  
 18 **A.** It's not very long before we then moved into the  
 19 long-term plan produced by Hilary Barnard. There was  
 20 a succession, a steady succession of reports, reviews,  
 21 plans, and it's difficult now, 20 years on, to  
 22 remember what was going on.  
 23 **Q.** I understand that, Mr Stevens. The management audit,  
 24 as far as one can tell, had been completed by the  
 25 summer of 2001. The long-term review was some two

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1 2001, and now a decision to undertake or commission  
 2 a long-term review, but still, as I understand it,  
 3 over this period no significantly increased funding  
 4 from the Government. Is that right?  
 5 **A.** There may have been some short-term top-ups. I can't  
 6 remember.  
 7 **Q.** That's why I use the word "significantly", Mr Stevens.  
 8 If we look at the bottom of the page, we can  
 9 see you saying:  
 10 "The Chairman saw the review as a means to  
 11 establish new priorities for the Trust and look at  
 12 different ways to use limited funds, rather than seek  
 13 to increase funds made available by the Department."  
 14 So it rather looks like that as though you  
 15 might have -- and this may be unfair; please say so if  
 16 you think so -- given up a little on the attempt, at  
 17 this point in time, to persuade the Department to  
 18 cough up more and longer term funding?  
 19 **A.** Yes. I think we wanted to establish -- we probably  
 20 wanted to establish a firm basis on which the  
 21 Department would be unable to resist our pleas for  
 22 more money.  
 23 I should say at this point that the long-term  
 24 review was one of the things that I was asked about in  
 25 my written statement and had virtually no facts on

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1 which to base my statement. So I did it from memory,  
 2 governed by the fact it was completed 18 years ago.  
 3 So I wrote a fairly jaundiced view of the review.  
 4 I think used the term "woolly" at one stage.  
 5 After my written statement was completed, the  
 6 Inquiry produced all sorts of action plans that were  
 7 prepared by the new Chief Executive, Martin Harvey,  
 8 including the annual plan for 2005 which is quite  
 9 clear that the board took the long-term review very  
 10 seriously and undertook a lot of work, a lot of change  
 11 in the Trust so that my written statement is at odds  
 12 with what actually happened. I'm sure that what  
 13 actually happened is correct and my written statement  
 14 was done from memory, and my memory's not what it was.

15 **Q.** Understood Mr Stevens.  
 16 **A.** If it ever was.  
 17 **Q.** I just want to look at a couple of parts of the  
 18 long-term review with you. Soumik, it's  
 19 MACF0000172\_001. We can see there it was prepared by  
 20 an external consultant, Mr Barnard --  
 21 **A.** Who had previously been doing a review of the  
 22 Partnership Group, and I think we were sufficiently  
 23 impressed by his work on that and by his acceptability  
 24 to members of the Partnership Group that we thought he  
 25 would be a good author of this long-term review as

1 and should not be solely a grant-giving trust but has  
 2 equal and integral roles in providing non-financial  
 3 help to registrants, infected intimates widows and  
 4 dependants. Reflecting the enhanced role of the Trust  
 5 that there is a strong case for the Trust to receive  
 6 increased funding from Government in order that  
 7 beneficiaries of the Trust can receive an improved  
 8 financial deal to support lives, not just existence."  
 9 Then a number of other recommendations.  
 10 Then if we go to -- it's internal page 34,  
 11 Soumik. I think it's probably electronic page 35.  
 12 "Specific recommendations":  
 13 "This section sets out specific strategic  
 14 recommendations to the trustees to advance the  
 15 implementation of the long-term review."  
 16 7.1 says this:  
 17 "Claim on resources. The Trust should prepare  
 18 an overall case for presentation to Government,  
 19 drawing on the results of this review, the  
 20 questionnaire, the census and other available sources  
 21 of information. Allowing for effective consultation  
 22 with beneficiaries, the Trust should seek to make this  
 23 presentation to Government within the first six months  
 24 of 2004."  
 25 Then 7.2:

1 well.  
 2 **Q.** I'm just going to ask you to look at the executive  
 3 summary and then a couple of the specific  
 4 recommendations. So if you go to page 3 please, we  
 5 can see under the heading "Executive summary" in  
 6 italics quotations from a survey undertaken as part of  
 7 the review:  
 8 "Our world was turned upside down due to the  
 9 contaminated blood products. I expect the Trust to  
 10 change to our needs and give us more financial  
 11 independence and freedom. Now that we have a new  
 12 future to face. I do survive by existing not living."  
 13 And then the review sets out:  
 14 "These direct quotations from the survey of the  
 15 Macfarlane Trust's registrants and infected intimates  
 16 express the challenge to the Trust, its funder, and  
 17 its beneficiaries. This long-term review covers the  
 18 next three years, 2003-2006, in the life and work of  
 19 the Trust. This review establishes the direction and  
 20 baseline for planning and priorities within the Trust  
 21 and in its relations with external agencies."  
 22 Then if we go to the next page, paragraph 1.5  
 23 sets out a number of conclusions of the review:  
 24 "There is a strong and continuing role for the  
 25 Trust for the foreseeable future. The Trust is not

1 "Widows and dependants. Trustees should seek  
 2 a more generous system of support for widows and  
 3 dependants, recognising the significance of their  
 4 contribution and the hardships they face. The needs  
 5 of widows and dependants are intimately bound up with  
 6 those of registrants and infected intimates, and this  
 7 should form a significant element in presentation to  
 8 Government."  
 9 There are a number of other recommendations.  
 10 I won't go through them all, but we can see there the  
 11 core recommendation or a core recommendation is for  
 12 the Trust to put together a case to present to  
 13 Government within the first six months of 2004. I'm  
 14 not going to take you to the documents, Mr Stevens,  
 15 unless you want me to, but these recommendations were  
 16 accepted, were they not, by the Board of Trustees?  
 17 **A.** Yes, they were. That timescale was probably not met,  
 18 but there was something else going on around that time  
 19 called Skipton.  
 20 **Q.** Yes. I'll come on to that when we look at a couple of  
 21 documents.  
 22 **A.** So I think there was a slight diversion of resources  
 23 or certainly, as far as I can recall, the first half  
 24 of 2004 I was almost entirely focused on Skipton  
 25 preparation --

1 Q. Yes.

2 A. -- doing work that the Department should have done

3 rather than on this. I do recall in the list of

4 documents somewhere that Martin Harvey produced

5 I think about three sets of progress reports on the

6 implementation of these recommendations. I think he

7 identified as a particular objective each one of these

8 recommendations and just reported on progress more or

9 less quarterly through the year, leading into the

10 annual plan for 2005.

11 Q. Yes. I won't go through all the documents you have

12 referred to but I just want to establish some of the

13 key dates. So we've got the long-term review 2003,

14 recommending the production of a business case to

15 Government within the first six months of 2004. If we

16 can then go, Soumik, to MACF0000019\_126. These are

17 the minutes of a trustee meeting on 11 October 2004

18 and if we go to page 3, please, and we look at the

19 bottom of page 3, under the heading "V-CJD and impacts

20 in respect of MFT", it says this:

21 "The Chairman reported on the perceived impacts

22 the recent announcement would have on the MFT

23 registrant community. He also spoke about the

24 potential for reviving the business case that had been

25 set aside pending *ex gratia* payments received from the

1 it at all. So we had this sequence of planning

2 meetings at the Department, with various medical

3 specialists, representatives of each of the devolved

4 administrations, Charles Gore from the Hep C Trust,

5 Martin Harvey and myself and, as I said in my written

6 statement, I did the work for a team of civil

7 servants. After each meeting I went away and started

8 implementing what had been agreed in terms of the

9 scheme and how the scheme would operate, the

10 application forms. It was just -- there seemed to be

11 no planning had been undertaken before John Reid stood

12 up and made his statement, and there was certainly

13 none then that took place between August and the end

14 of the year in the Department.

15 Q. I'm going to come on tomorrow to look with you in more

16 detail at the work undertaken to establish the

17 Skipton Fund but, as Macfarlane Trust trustees, your

18 primary responsibility in that capacity would have

19 been to the beneficiaries of the Macfarlane Trust.

20 A. Yes.

21 Q. Did it --

22 A. From whom, as previous things that were put up on the

23 screen had shown, most of them were co-infected with

24 Hep C and there was considerable degree of support for

25 some sort of Hep C *ex gratia* payment scheme. So

1 Skipton Fund."

2 It would appear from this, Mr Stevens, that the

3 decision to pursue and develop a business case to

4 present to Government for further funding for the

5 Macfarlane Trust had effectively been set aside

6 because the focus was then upon the Skipton Fund, it's

7 establishment and the making of the first payments

8 from the Skipton Fund; is that correct?

9 A. I'm sure it is. It's certainly -- looking back now,

10 my expectation, my understanding, would be that one

11 couldn't do both jobs at the same time, not on the

12 amount of resources that we had.

13 Q. So it comes back, does it, again to the question of

14 resources that this important work of presenting

15 a case to Government for increased funding for the

16 Macfarlane Trust was not followed through as promptly

17 and efficiently as it should have been because of what

18 was regarded as the need to work on the Skipton Fund

19 scheme?

20 A. I think that's right, yes. I mean, remember that the

21 Secretary of State had made his statement in the House

22 in August 2003. It took most of the rest of the year

23 to work out who was going to do any of the work to

24 develop that scheme. It was quite plain that the

25 Department of Health hadn't even allocated anybody to

1 I don't think that by giving priority to the Skipton

2 work rather than long-term review or business case

3 I don't think that there would have been many people

4 in the community who would have objected to that.

5 Q. I'm not seeking to suggest in any sense whatsoever

6 that the Skipton work was not of enormous importance

7 and we will look at that, as I say, tomorrow. Do you

8 recall whether you and your colleagues in the

9 Macfarlane Trust said to the Department of Health

10 there is a pressing need here for two major exercises

11 to be undertaken, one is the formulation of a case for

12 funding of the Macfarlane Trust, the other is the

13 establishment of Skipton, we need more resources or

14 you need to get more people on board so that both can

15 be accomplished within a similar timescale?

16 A. No, I don't think that was said.

17 Q. If we look a document from November 2005 then next,

18 it's MACF0000177\_017. This is the business case that

19 was finally submitted. So we can see from the bottom

20 the date is November 2005, so it's some two years or

21 so on from the long-term review.

22 A. Yes.

23 Q. If we go to page 5, we can see under the heading

24 "Background":

25 "The purpose of this document is to present to

1 the Department of Health ... the case for giving  
 2 further financial support to the survivors of one of  
 3 the greatest medical disasters of modern times, that  
 4 of the infection with HIV of some 1,250 people with  
 5 haemophilia through treatment in the [NHS] using  
 6 contaminated blood products."  
 7 Then if we go to the third paragraph:  
 8 "The financial plight of the majority of the  
 9 surviving 30 per cent of the original registrants of  
 10 MFT is parlous. The capital payments, which were in  
 11 any case small, have long since been spent, often on  
 12 the advice of the recipients' medical consultants on  
 13 the basis of their likely imminent deaths. For  
 14 20 years or more they have had to live on benefits and  
 15 on the trickle of money available from MFT. During  
 16 that time their health has worsened, in terms of  
 17 haemophilia, HIV and hepatitis C ... with which  
 18 virtually all are co-infected; relationships have come  
 19 under intense strain and, frequently, broken under it;  
 20 housing stock has deteriorated; all the other physical  
 21 aspects of living ... have needed repair and  
 22 replacement."  
 23 If we go to the next paragraph:  
 24 "The physical and mental health of these people  
 25 has never been anything but precarious. They live

1 "Secondly, their life expectancy is not that of  
 2 people in good health."  
 3 That's paragraph 3.2. 3.3:  
 4 "... survival for so long has made it  
 5 impossible for MFT to provide any meaningful help to  
 6 the registrants' dependants ..."  
 7 Then if we look at the paragraph below that:  
 8 "It would, therefore, be wholly inappropriate  
 9 to regard survival to the present time as being the  
 10 precursor of any normal or even acceptable life in the  
 11 years ahead. The report of the Review was entitled  
 12 'A Life, not just an Existence'. The Trustees urge on  
 13 DoH the realisation, to which they themselves have  
 14 come, that, without a renewal of the original  
 15 financial commitment by HMG, these surviving  
 16 registrants have little chance of anything other than  
 17 an increasingly impoverished existence that will bring  
 18 them ever further behind the life of their  
 19 compatriots, let alone the sort of life they would  
 20 have expected had their treatment by the NHS not  
 21 infected them."  
 22 You are there setting out a powerful case for  
 23 increased funding. Can I just ask you about the terms  
 24 in which that last paragraph is expressed. It says:  
 25 "The trustees urge on DoH the realisation, to

1 with three life-threatening conditions."  
 2 Those are then set out. Then the position of  
 3 bereaved families in the next paragraph:  
 4 "MFT has never had the resources to give  
 5 adequate support to bereaved families, even though  
 6 that is clearly an objective set out in the Trust Deed  
 7 that governs it ... Some have been able to recover  
 8 their lives and establish independence; with some MFT  
 9 has lost all contact; many are known to MFT's Trustees  
 10 ... to be living in acute poverty which neither the  
 11 benefits system nor MFT as currently funded can  
 12 significantly alleviate.  
 13 "This business case examines the evidence and  
 14 shows that the assumptions behind the current funding  
 15 policy are out-of-date. The Trustees believe that, on  
 16 the basis of this evidence, new funding arrangements  
 17 are now unavoidable."  
 18 Then if we go to two pages further on, please,  
 19 Soumik, reference is made to the Long-Term Review.  
 20 Sorry, if we go -- next page. We can see reference is  
 21 made to the Long-Term Review and to three problems,  
 22 essentially, with the way in which the MFT had been  
 23 funded.  
 24 "3.1 ... survival so long since the original  
 25 capital payments has resulted in acute poverty ...

1 which they themselves have come ..."  
 2 Might suggest that this was something the  
 3 trustees also themselves had only realised belatedly.  
 4 Is that a fair reading or is that reading too much  
 5 into it?  
 6 **A.** I don't think belatedly is a necessary word there but  
 7 it did -- it took time to realise. I mean, when one  
 8 is doing a job like being a trustee, it is very  
 9 difficult to step away from that and say "Right, we  
 10 need a step change", and I think Hilary Barnard's  
 11 review, and maybe the work done before the strategic  
 12 review, had helped bring us to the realisation that we  
 13 needed a step change, that we couldn't just continue  
 14 tinkering with what we had inherited but we had to get  
 15 a new commitment from Government and a new scale of  
 16 funding.  
 17 **Q.** The next two pages set out a number of respects in  
 18 which this document identified a desire to be able to  
 19 assist registrants. I won't go through it paragraph  
 20 by paragraph but if we just look briefly at the next  
 21 page, it's headed "Need" and it covers adequate  
 22 housing, the need for proper financial support, needs  
 23 arising out of a particular health issue --  
 24 **A.** Can I just stop you? In the middle top paragraph it  
 25 says:

1 "This can be exemplified in terms of needs that  
2 were not foreseen when MFT was set up and which its  
3 funding base, annually incremented, cannot meet."

4 That's a key, that the Trust was started out  
5 with £10 million and expected to last five to seven  
6 years topped up, topped up, topped up, at some stage  
7 you actually had to say no, we started in the wrong  
8 place, we've got to start again at a much higher  
9 level. That's what all this is saying about, is  
10 talking about.

11 **Q.** If we go on to electronic page 11, Soumik, we can see,  
12 and the earlier pages have set out the various  
13 different respects in which the MFT felt that  
14 registrants required support and then under the  
15 heading "Proposals for additional funding", it says  
16 this:

17 "The foregoing sets out the evidence that  
18 justifies increased funding for MFT and its  
19 registrants; the Trustees believe that this case  
20 should have the highest possible priority. It will be  
21 appreciated that MFT, despite being a charity and of  
22 necessity operating independently of DoH, is in effect  
23 an agent of HMG in helping a unique group of people  
24 who suffered extraordinary damage through NHS  
25 treatment."

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1 Then this:

2 "To fulfil the quasi-agency function in a way  
3 that does credit to DoH and meets the needs of  
4 registrants and their families realistically and  
5 reasonably, and assuming that the capital payments  
6 referred to above are made, the Trustees request that  
7 the annual rate of funding be raised to £7 million for  
8 the next five years, with an indexed annual increment  
9 based on HMG's preferred cost of living indicator."

10 So that was, in hard financial terms, the  
11 figure that the Trust resolved to seek from  
12 Government?

13 **A.** Yes. I'm quite proud of that. If you had asked me  
14 without showing me "How much did you ask for?",  
15 I would not have said -- I would not have realised it  
16 was £7 million. I would not have put it as high as  
17 that. I think £7 million is a good figure, in a way,  
18 of saying there's a step change required. That -- at  
19 the end of the previous paragraph that £3 million  
20 annually, with an increment of 50,000 in the third  
21 year, as I recall, that undertaking was given by  
22 Hazel Blears when she was in the hot seat. I'm not  
23 sure that 50,000 ever came through.

24 **Q.** There was a reference, either in this document or in  
25 other document, to that £50,000 not having come

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1 Just pausing there, Mr Stevens, why was it that  
2 the Tribunal was describing itself as an agent of the  
3 Government?

4 **A.** Sorry, what was --

5 **Q.** Why was --

6 **A.** Could you repeat the question?

7 **Q.** Why was the Trust describing itself as, in effect,  
8 an agent of Government?

9 **A.** To try and make -- try and put the onus on the  
10 Department and officials and ministers to realise that  
11 we are doing their job for them. It is, in effect,  
12 an agent, unlike Skipton, which clearly was an agent  
13 covered by an agency agreement. Here we're saying  
14 "You set us up as a charity, threw us a few pennies,  
15 so we're doing your job for you, now recognise that  
16 fact and let us do the job properly".

17 **Q.** If we look further down that page to the last two  
18 paragraphs, it refers to the enhanced level of funding  
19 required to meet the needs detailed in the report. It  
20 refers to the funding that had been available, so  
21 2 million throughout the 1990s annually and then in  
22 2003:

23 "... a three-year undertaking to provide  
24 £3 million annually (with an increment of £50,000 in  
25 the third year)."

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1 through.

2 **A.** Yes, I remember the reference that it hadn't come  
3 through at one stage. I can't remember if it ever did  
4 come through.

5 **Q.** Now, if we look then next, please, at what then  
6 happened, once this case had been put together, we  
7 look, first of all, at EILN0000048\_142, it's an email  
8 from you 3 November 2005 and, picking it up in the  
9 second paragraph, you say this:

10 "The main thing I want to say at this stage is  
11 that the political process has to be handled  
12 carefully, since there is no point starting off  
13 appearing to bounce politicians or officials into  
14 things. We have a powerful case and I want to start  
15 by helping them understand the case and working out  
16 with them how they can best meet our requirements. We  
17 can play harder later on if they do not take the  
18 message, but at the moment I am sure it is right to  
19 start with careful persuasion.

20 "So, please, I think we must be patient and not  
21 get devolved assemblies or the press fired up until we  
22 have had time present to start the presentation and  
23 persuasion case quietly.

24 "This is not just the view of a political  
25 amateur like me, but is the careful advice of one of

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1 the trustees of both Trusts who was himself a senior  
 2 DoH official and knows how the process works."  
 3 Can I --  
 4 **A.** I know to whom this memo was addressed.  
 5 **Q.** Yes, please don't mention the name.  
 6 **A.** I'm not going to mention the name.  
 7 **Q.** Thank you.  
 8 **A.** This -- there is some sense in that memo that it is  
 9 written to a particular person, a very particular  
 10 personality and a particular style of central  
 11 behaviour that needed to be tempered. So he's  
 12 a lovely guy but he had to be calmed down  
 13 occasionally, and this, you know, was a way of trying  
 14 to calm him down while at the same time admitting that  
 15 we can play harder later on. You have to take these  
 16 things -- you have to get the context right.  
 17 **Q.** Is this, nonetheless, an accurate account of the way  
 18 in which the Trust proposed to approach Government?  
 19 **A.** He was, as you can see from the code number at the  
 20 top, he was an Eileen Trust registrant, he's now dead,  
 21 unfortunately. He was probably the only real activist  
 22 the Eileen Trust had. We did some things that he  
 23 recommended but we resisted for a long time, in the  
 24 end did them, and he was right, I was wrong. I had  
 25 a lot of time for him but he had to be -- he could

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1 have got this totally wrong. He could have set the  
 2 long-term survival case back for years.  
 3 **Q.** I understand that was your purpose in sending this  
 4 particular email but does what's set out here in any  
 5 event, broadly, accurately describe the Trust's  
 6 approach, which was, as it were, a more softly-softly  
 7 rather than playing harder, to use the phrase in this  
 8 approach?  
 9 **A.** You can't prove a negative. I have no idea whether  
 10 this particular approach or whether the approach we  
 11 took was right or not. We didn't get £7 million  
 12 a year. Whether we ever would have done, I don't  
 13 know. But we had to take serious cognisance of the  
 14 views of one of our trustees who was -- who had been  
 15 a senior official at the Department. So he did know  
 16 how the system worked and he advised not making too  
 17 much noise, not going to The Daily Mail, not going to  
 18 the television, working out our case, making a case  
 19 that was logical and making it quietly. I have no  
 20 idea whether he was right or not.  
 21 **Q.** Can we look at the minutes of a trustees' meeting from  
 22 January 2006, so early the following year,  
 23 HSOC0029628\_002. You can see the date there  
 24 23 January 2006. Could we go to page 4, please.  
 25 Under the heading "Department of Health" there's

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1 a discussion of what strategy to adopt. So there's  
 2 the pursuit of the possibility of a ministerial  
 3 meeting to discuss the business case, a couple of  
 4 lines further down, it says:  
 5 "The board were of the view that as many  
 6 contacts as possible should be exploited to further  
 7 the case for the increase in funding ..."  
 8 Reference is made to the All Party  
 9 Parliamentary Groups, reference to local MP,  
 10 possibility of a meeting with shadow Secretary of  
 11 State for Health. Then it says this:  
 12 "Mr Spellman urged that caution in respect of  
 13 overt lobbying should be followed for the following  
 14 reasons:  
 15 "(a) That the business case supported itself in  
 16 terms of the requirement.  
 17 "Overt lobbying might prove counter-productive.  
 18 "If the business case is declined, the full  
 19 board of trustees should be given the opportunity to  
 20 debate a 'next steps' programme.  
 21 "Further political activity might not help the  
 22 situation.  
 23 "The Chairman agreed that no political activity  
 24 should be undertaken which might impede a positive  
 25 response from the Department."

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1 Why was a policy pursued of avoiding overt  
 2 lodging and avoiding political activity?  
 3 **A.** Because that was the advice of one of our trustees who  
 4 knew how the system worked.  
 5 **Q.** Mr Spellman?  
 6 **A.** Yes.  
 7 **Q.** If we then go to MACF --  
 8 **A.** Sorry, can I just say that I did have a meeting with  
 9 Andrew Lansley. I mean, I don't think he knew what  
 10 I was talking about. So, you know, politicians they  
 11 have their own agendas. Alf Morris, mentioned there,  
 12 he tabled some questions. He was a good egg. At  
 13 another stage, I pulled every political string I had,  
 14 the number of members I knew or didn't know but had  
 15 connections with got absolutely nowhere -- absolutely  
 16 nowhere.  
 17 **Q.** If the Shadow Secretary of State for Health then,  
 18 Andrew Lansley, as you say, didn't know what you were  
 19 talking about, doesn't that rather suggest some kind  
 20 of overt programme of public education might have  
 21 pushed this business case further up the political  
 22 agenda?  
 23 **A.** Possibly.  
 24 **Q.** Let us look at some minutes of the Partnership Group  
 25 meeting in April of that year, MACF0000088\_005. We

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1 can see that it's 10 April 2006. You're not -- you  
2 are -- yes, you are not in attendance, Mr Harvey is  
3 there as Chief Executive. If we go on to the second  
4 page, we can see under the heading "The Business Case  
5 for Increased Funding", there's reference to the case  
6 having been formally submitted to ministers and  
7 officials, and then if we pick it up, third paragraph  
8 under that heading:

9 "Some members felt that the Trust should take  
10 a forthright approach to the funding question and  
11 exhaust the reserves to the point that the Department  
12 would be forced to recognise the predicament arising  
13 from that action."

14 Then we see the Chief Executive saying that  
15 that would be counter to current policy in respect of  
16 management of funds. Then there's reference at the  
17 bottom of the page to registrants wanting to take some  
18 form of affirmative action:

19 "... and some [if we go to the top of the next  
20 page] members present felt that trustees should  
21 present a more robust argument in support of the  
22 business case even to the point of resignation."

23 It's right, isn't it, that, as represented,  
24 I think, by the views of the Partnership Group on this  
25 occasion, there was frustration amongst some

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1 would very soon -- those who were living on benefits  
2 and the Macfarlane Trust income would have suddenly  
3 discovered they were running only on benefits. It  
4 would not have been a responsible attitude to do, just  
5 to run the Trust down to nothing and then say, "Sorry,  
6 Department, we need some more money".

7 **Q.** Now, a meeting with the Minister did finally take  
8 place in July of that year. If we look at  
9 DHSC0006259\_046. I'm not sure who took this note but  
10 it looks like it's probably an internal department  
11 note.

12 **A.** That's a departmental note, isn't it?

13 **Q.** I think so, and we'll look at another version we have  
14 or another account of the meeting, but we can see  
15 here --

16 **A.** I think that's the meeting with what's-her-name Flint.

17 **Q.** Caroline Flint.

18 **A.** Caroline Flint?

19 **Q.** Yes. So we can see --

20 **A.** I think she was MSPH at that time.

21 **Q.** We will see from subsequent correspondence that that's  
22 the minister you were dealing with. So under the  
23 heading "Discussion", there's reference to the current  
24 funding of both the Macfarlane Trust and the  
25 Eileen Trust and the fact that a considerably larger

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1 beneficiaries or registrants, at least, at what was  
2 seen as an overly tentative and insufficiently robust  
3 position on the part of the trustees?

4 **A.** Yes. I can understand that.

5 **Q.** Was formal consideration ever given by the trustees to  
6 the proposal here that the Trust should take  
7 a forthright approach to funding and exhaust reserves?

8 **A.** Sorry, the trustees should do what?

9 **Q.** It's the previous page sorry Soumik. Third paragraph  
10 from the bottom it says:

11 "Some members felt that the Trust should take  
12 a forthright approach to the funding question and  
13 exhaust the reserves to the point that the Department  
14 would be forced to recognise the predicament arising  
15 from that action."

16 Was that ever formally considered by the  
17 trustees, as far as you can recall?

18 **A.** No, because -- I think we did discuss it but because  
19 of our responsibilities to the Trust we couldn't  
20 simply run the Trust down to nothing and then walk  
21 into Richmond House and say, look, sorry our pockets  
22 are empty. That would have been irresponsible. So we  
23 had -- and also we had commitments to beneficiaries in  
24 terms of the short-term, the rate payment. If we  
25 couldn't meet the commitments we had taken on, they

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1 settlement was now sought. Then what's set out is the  
2 nub of the claim from the Trusts, I'm not going to go  
3 through them all but we can see reference there to  
4 what is said to be a moral obligation, promises from  
5 previous Department of Health ministers:

6 "The basis of the original settlement was that  
7 registrants were not expected to survive for long ..."  
8 and so on.

9 If we go over the page, picking up below the  
10 two bullet points, this note records:

11 "The Trust's representatives presented  
12 an emotive case, describing the impact of their  
13 infection on their lives and the need for adequate  
14 funding to maintain their dignity and independence."

15 Then we can see the response from the minister  
16 is recorded, she has listened carefully, she thanks  
17 them:

18 "She noted that the Trusts had been created  
19 originally to supplement the range of welfare benefits  
20 ... and not to provide an alternative source of  
21 funding for the same needs. It had been, and  
22 remained, the Department's intention in setting up the  
23 Trusts to recognise that harm had been caused which  
24 was not anyone's fault, but which nevertheless  
25 justified some ex gratia to those affected. She noted

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1 that the payments provided by the Macfarlane Trust had  
2 been able to increase substantially within the  
3 available funding due, sadly, to the smaller number of  
4 registrants still surviving. She said that she would  
5 write to Mr Stevens in the next week [or so] ..."

6 Now, you'll see there the reference halfway  
7 through that paragraph to harm having been caused  
8 which was not anyone's fault. Was that --

9 **A.** That's what the Inquiry's finding out.

10 **Q.** Yes, absolutely. To what extent, in your dealings  
11 with the Department, the denial of any fault, did that  
12 lie at the heart in your experience of the refusal to  
13 increase funding further? Was that something that  
14 came up in discussions with the Department on  
15 a regular basis?

16 **A.** I'm sorry, I'm going to have to say that's for the  
17 Inquiry to establish. I don't know what went through  
18 political -- politicians' minds and the minds of  
19 beneficiaries, in this respect. I do know that when  
20 Caroline Flint wrote to me with their offer, she said  
21 she was satisfied with something or other, and you've  
22 only seen my gentle rant so far, you haven't had  
23 a real rant. But when I talked about that letter to  
24 the Archer Inquiry, I had a real rant. I mean, it was  
25 absolutely outrageous. She had no right to say she

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1 the Trust and she confirmed there would be a further  
2 meeting with a decision, hopefully, before the  
3 recess."

4 First of all, do you know who produced this  
5 note?

6 **A.** Sorry?

7 **Q.** Is this your note of the meeting or --

8 **A.** No. There's more than one typo in that, I can see  
9 quite easily. So no I would not have written that.  
10 I don't know who did.

11 **Q.** Do you recall having the same view as is here set out,  
12 that the minister --

13 **A.** I don't think I would dispute what is being said  
14 there. I know that the senior civil servant who was  
15 present, whose name appeared on a previous page, he  
16 was the only senior civil servant at the Department of  
17 Health with whom we had dealings that I can recall  
18 being rude to -- I mean, rude enough that I had to  
19 apologise, not that he required me to but I felt  
20 I owed him an apology for saying things that should  
21 not, probably should not have been said.

22 **Q.** Was that Jonathan Stopes-Roe?

23 **A.** So he probably -- she probably was badly briefed.

24 **Q.** I'm sorry, are you referring there to Mr Stopes-Roe?

25 **A.** Possibly, yes.

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1 was satisfied. Apart from anything else, the figures  
2 that they presented, I think she was saying it was  
3 an 11 per cent increase. It wasn't an 11 per cent  
4 increase at all, it was a typical civil servant smokes  
5 and mirrors. I think it was an increase of three or  
6 four per cent. I was just -- I mean, it was  
7 outrageous and I'm afraid I said so.

8 **Q.** Let's just look, first of all, at the correspondence  
9 that followed immediately after this meeting. If we  
10 go to -- sorry, actually, if we go, first of all, to  
11 a different account of the meeting GLEW0000357. This  
12 is somebody else's account, I'm not quite sure whose,  
13 of the meeting on 12 July 2006. If we go to the third  
14 and final page, we can see this is, third paragraph  
15 down:

16 "It was clear from the ministerial response  
17 that the following was the case:

18 "1) That she had been badly briefed and was not  
19 prepared by for the strategy deployed by the Trust.

20 "2) That the attempt to go on brief ..."

21 Then a number of points set out:

22 "... were seized upon as being irrelevant."

23 Then next paragraph:

24 "... the minister then changed tack and said  
25 that this was a listening exercise, a chance to meet

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1 **Q.** You wrote a letter, I think pretty quickly after that  
2 meeting to the minister, DHSC0041159\_194. A letter of  
3 12 July, you emphasise, in particular in the third  
4 paragraph, the problems experienced by the registrants  
5 of the trusts, and then you say this in the final  
6 paragraph:

7 "It will not of course have escaped you that  
8 there could to some extent a trade-off between  
9 increased funding for the Trusts and renewed capital  
10 payments to the registrants. The initial aggregate  
11 cost of the latter could be significant but if it were  
12 the means among many other benefits of reducing or  
13 even eliminating continued financing of the Trusts far  
14 into the future, it might have some appeal to the  
15 Government."

16 What did you mean by a trade-off between  
17 increased funding and renewed capital payments?

18 **A.** We had done quite a lot of work, I think with the  
19 support of the Partnership Group, on buying people  
20 out. I know that one of the user trustees, one of the  
21 more helpful user trustees, of the Macfarlane Trust  
22 when he stepped down from the Trust he talked about  
23 this.

24 It was an idea that if the Government was  
25 prepared to put its hand fairly deeply into its pocket

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1 at one stage and buy people out of their future  
2 expectations from the Trust, then maybe they would  
3 have a smaller and more manageable annual bill to pay  
4 to the Trust. Nothing came of it because the numbers  
5 didn't work out. The sort of capital payment that  
6 would be required was prohibitive; so nothing came of  
7 it. But that's what we were floating there, that if  
8 there's something they wanted to look at, then we'd be  
9 happy to look at it for them with them. But they  
10 didn't take the bait.

11 **Q.** If we could look next at DHSC0006259\_044 -- this is  
12 a document that you obviously would not have seen at  
13 the time.

14 **A.** No, I was quite interested in this document --

15 **Q.** So it's from Caroline Flint to the Secretary of State  
16 referring to the meeting. So we can see she says in  
17 the first paragraph, fourth line:

18 "The present pressure on central budgets simply  
19 does not provide for that kind of increase and I am  
20 not convinced that their case is strong enough, but  
21 this is an emotive issue and I should be grateful for  
22 your views."

23 Then if we skip down towards the bottom of the  
24 page, this is the last paragraph:

25 "The Trusts were always intended to supplement

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1 unlikely?

2 **A.** I think -- yes, I think that's probably right. After  
3 all, one of the reasons for having relationships with  
4 the civil servants, even though I'm occasionally rude  
5 to them, is so that we do get an understanding of what  
6 they and their political masters are thinking and they  
7 understand what we're thinking. So yes, I mean that's  
8 probably right.

9 **Q.** If the Trust had been told all along that -- sorry.

10 **A.** To say that we -- that Martin and later (*unclear*) that  
11 we understood this does not mean to say that we agree  
12 with it.

13 **Q.** If the Trust had, as this says, all along been  
14 informally briefed that additional funding would be  
15 unlikely, why had the Trust persisted in its  
16 softly-softly persuasive approach rather than go all  
17 out for a harder, more robust attempt to persuade  
18 officials to change their mind?

19 **A.** I think the business case that we put forward -- we  
20 were dealing -- we were providing them with the  
21 argument why they should -- we'd run them with the  
22 reasons for giving us more money and the argument as  
23 to why, if they did, they were presented as being  
24 necessary. So we were giving them a political  
25 lifeline, safety belt, so that they had something. We

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1 statutory provision. They were not intended to make  
2 alternative provision, nor did they imply fault by the  
3 NHS. At the meeting, some concerns were raised about  
4 how registrants didn't always claim their rightful  
5 statutory entitlements because of fear of exposure to  
6 friends and neighbours. I am not convinced that some  
7 of the expenses mentioned in the meeting and in the  
8 business case were appropriate to the Trusts."

9 Now, in relation to that last sentence, did  
10 either the minister or any civil servant within the  
11 Department of Health ever respond to your business  
12 case identifying particular expenses which it was  
13 thought were not appropriate?

14 **A.** Not that I can recall, no.

15 **Q.** If we go over the page, third paragraph, it says this:  
16 "The Trusts describe their current claim [is]  
17 the first comprehensive review of what they are doing.  
18 That may be so but officials have all along informally  
19 briefed the Trusts that additional funding would be  
20 unlikely. In response, the Trust's Chief Executive  
21 has equally informally indicated to officials that  
22 they understood this at least at the senior level."

23 Is that correct as far as you can recall, that  
24 the Trust had been all along informally briefed by  
25 civil servants that additional funding would be

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1 had to do this because of the following reasons.

2 I think that our response to Caroline Flint was  
3 reasonably robust. I didn't jump on to her desk and  
4 trample all her papers about, but I think I expressed  
5 myself in terms that she wouldn't normally expect to  
6 hear outside the Houses of Parliament.

7 **MS RICHARDS:** Sir, I note time. There's still a small  
8 number of documents to look at on this issue. Shall  
9 we do that after the break?

10 **SIR BRIAN LANGSTAFF:** Yes. We'll take a break now until  
11 3.50. So 3.50.

12 (3.20 pm)

(A short break)

14 (3.54 pm)

15 **SIR BRIAN LANGSTAFF:** Yes.

16 **MS RICHARDS:** Mr Stevens, I want to look next with you at  
17 the response from the minister, HSOC0005411. It's  
18 a letter dated 28 July 2006. You have made reference  
19 to it already in your evidence but we can see, for the  
20 sake of completeness, the full letter here. She says  
21 in the third paragraph:

22 "I am satisfied that an increase of £400,000,  
23 approximately 11 per cent, to the Trusts' funding will  
24 maintain an appropriate level of support to their  
25 remaining registrants and is within the current level

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1 of Government funding that is available."  
 2 So that was the response that the Trust  
 3 received to its business case?  
 4 **A.** Sorry, that was?  
 5 **Q.** That was the response which the Trust received from  
 6 the minister to the business case which had been  
 7 presented.  
 8 **A.** Yes. I just notice the last sentence of that  
 9 paragraph:  
 10 "Both these figures include provision for  
 11 administration costs."  
 12 Which until then had been funded separately.  
 13 **SIR BRIAN LANGSTAFF:** Can I just stop you there because  
 14 I think we have lost a bit of the sound. Can I just  
 15 have that checked by the IT, please? Do you want to  
 16 start again?  
 17 **A.** The final sentence of that paragraph, both these  
 18 figures include provision for administration costs.  
 19 Before then, figures -- administration costs had been  
 20 funded separately. So it wasn't -- this increase of  
 21 11 per cent so-called is just totally -- totally  
 22 spurious.  
 23 **MS RICHARDS:** Mr Stevens, we're having some difficulty  
 24 hearing you. We can hear you but it's not as audible  
 25 as it was before the break. Are you able to move

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1 affecting a section of the Inquiry hearing room. So  
 2 it hasn't affected everyone who's listening online,  
 3 I'm pleased to say. And if the sound drops,  
 4 Ms Richards and I will put up with it. If she has to  
 5 ask you to repeat something, I hope you will forgive  
 6 her.  
 7 **A.** Of course.  
 8 **MS RICHARDS:** So that was the letter of response. I want  
 9 to look then at how the Trust responded to this. If  
 10 we go to HSOC0005412\_002. If we look at the first  
 11 half of the page. This is a document authored by you  
 12 on 11 August 2006 setting out, as I understand it,  
 13 your thoughts on the Minister's response. If we go to  
 14 the third page, we can see from the top of the page  
 15 you describe the amount offered as very disappointing.  
 16 You refer to thinking there may be a device to enlarge  
 17 the offer without breaching some internal DoH rules  
 18 and to a £1,000 goodwill element as being risible.  
 19 And then if we look further down the page under  
 20 the heading "Nature of the response to the business  
 21 case", you say:  
 22 "The business case was well researched, based  
 23 on the facts of our registrants' circumstances  
 24 endorsed by the trustees of both trusts. The  
 25 Minister's expressed satisfaction with her offer

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1 perhaps a little closer to the microphone?  
 2 **A.** Try that.  
 3 **Q.** Still not how it was prior to the break.  
 4 **SIR BRIAN LANGSTAFF:** No. Something has happened over the  
 5 break, I'm afraid.  
 6 **A.** Has it been okay until now?  
 7 **MS RICHARDS:** Yes.  
 8 **A.** I haven't touched anything during the break.  
 9 **SIR BRIAN LANGSTAFF:** No. Well, something's happened  
 10 somewhere in the system. I'm sorry. Shall we just  
 11 take a few minutes and see if we can get it sorted  
 12 because the people who are watching remotely have got  
 13 to be able to hear, and if we are having difficulty,  
 14 they will too, I think.  
 15 **A.** Yes.  
 16 **SIR BRIAN LANGSTAFF:** My very great apologies to you. I'm  
 17 sorry for this, but we'll just take a break for five  
 18 minutes and see if we can get it sorted.  
 19 **MS RICHARDS:** Thank you, sir.  
 20 **(3.57 pm)**  
 21 **(A short break)**  
 22 **SIR BRIAN LANGSTAFF:** You can hear us all right?  
 23 **A.** Yes.  
 24 **SIR BRIAN LANGSTAFF:** Good. I think the problem, I'm  
 25 told, was with some form of amplifier here which was

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1 appears to reject the considered judgment of  
 2 trustees."  
 3 Then if we go over the next page under the  
 4 heading "Evaluating the offer", if we look at the  
 5 bottom half of the page, we can see three paragraphs  
 6 from the bottom:  
 7 "It should be borne in mind that the MFT has  
 8 just come to the end of a three-year funding  
 9 arrangement consisting of £3 million annually (setting  
 10 aside the Department's failure to pay additional  
 11 £50,000 promised for the final year of that  
 12 arrangement). One of the registrants' main complaints  
 13 has been the lack of recognition of the rising annual  
 14 cost of living. The offer does nothing to help either  
 15 Trust increase support to take account of this. In  
 16 fact, an 11 per cent increase on Trust expenditure  
 17 would only provide an amount approximately equal in  
 18 real terms to MFT's £3 million received in the first  
 19 year of that arrangement."  
 20 Then, final page, you say:  
 21 "The lack of recognition in the offer of the  
 22 Trusts' needs as set out in the business case is  
 23 immensely frustrating. It is as if there's been no  
 24 business case submitted, and the Department had  
 25 announced a new funding arrangement without any

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1 reference to the trustees or to their considered  
2 assessment of the registrants' needs."

3 You refer to the nature of their calculation  
4 seemed to indicate a weakness and arithmetic errors.  
5 And then penultimate paragraph:

6 "On balance, the Department's response to the  
7 business case appears wholly unacceptable. It is not  
8 immediately clear how we might develop any option but  
9 to accept it, but at the moment, it would appear that  
10 a response to the Minister objecting to the  
11 offer ... is justified."

12 Now, I don't think we have, Mr Stevens, a copy  
13 of your letter in response to the Minister. Is it  
14 your recollection that you did write back to the  
15 Minister making these points?

16 **A.** It's not my recollection, but that's not to say it  
17 didn't happen. I just don't remember it.

18 **Q.** Okay. The view that you have set out in this document  
19 suggests frustration and disappointment, to say the  
20 least, on the part of the trustees or on your part  
21 that the Department had responded in this way to the  
22 business case; is that right?

23 **A.** Yes.

24 **Q.** If we look then at how the trustees decided to  
25 proceed, it's MACF0000020\_102. These are the minutes

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1 invitation to attend a further meeting and to seek at  
2 least a three-year continuation of funding at the  
3 level finally agreed.

4 "The amendment was accepted and carried."

5 So it would appear from this that you put  
6 forward a proposal which included the trustees being  
7 minded to resign but that that was rejected by  
8 trustees. Is that your recollection?

9 **A.** Yes.

10 **Q.** What was it that led you to think that a threat to  
11 resign was now the right response?

12 **A.** We were running out of options.

13 **Q.** That having been rejected by board, as a whole, it  
14 would appear that the response came down to wanting  
15 a further meeting to re-express key points in the  
16 business case; is that right?

17 **A.** Yes.

18 **Q.** Was a further meeting with the minister secured, as  
19 far as you can recall?

20 **A.** Was there a meeting with the minister?

21 **Q.** Was there a further meeting with ministers during the  
22 time that you were chair?

23 **A.** I don't recall a further meeting with Caroline Flint.  
24 They probably changed the minister and we had another  
25 one. I can't remember who the next one was. There

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1 of a meeting on 21 August 2006, and we can see from  
2 the bottom of that page that it's a consideration of  
3 the Minister's response. If we go over the page, it  
4 says there, fourth line down:

5 "There followed a wide-ranging debate. The  
6 following points are salient."

7 I'm not going to go through the all the points;  
8 we can read the minutes. But if we go to the next  
9 page, halfway down -- sorry, bottom half of the page,  
10 it says this:

11 "The Chairman asked members of the Board to  
12 adopt the following proposal:

13 "That after debating the response to the  
14 Minister's letter ... the invitation to attend  
15 a further meeting with officials should be accepted to  
16 re-express the key points in the business case and how  
17 they affect the community of care; that the letter  
18 from the Minister does not address the views of  
19 trustees and that they are minded to resign and that  
20 there is a will to discuss with officials what sum of  
21 money there is that accords with the business case,  
22 where that might be found and from where."

23 Then:

24 "An amendment was put ... to strike out any  
25 reference to resignation ... and to only accept the

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1 was a string of them, very few of them lasted very  
2 long. I don't think it was anything to do with us.

3 **Q.** That was August 2006 and, amongst other things, the  
4 Trust issued a statement to registrants updating them  
5 on the position and suggesting that a meeting would be  
6 sought. If we go, please, to DHSC0041155\_123, please,  
7 this is now a few months later, 1 December 2006. It  
8 would appear from the third paragraph that there's  
9 been at least a further meeting with officials and  
10 then, in the fourth paragraph, fourth line, it says:

11 "... I feel I must ask you to arrange for us to  
12 have another opportunity to present our arguments at  
13 Ministerial level again. If you and we can achieve  
14 this together soon, and ideally before programme  
15 budgets become too set in stone, I am hopeful that we  
16 can demonstrate that it is wrong that our  
17 beneficiaries, whose lives are continuing and will  
18 continue to be so blighted by errors within the NHS,  
19 should be further disadvantaged by financial  
20 stringency within the NHS."

21 So is it right to understand you'd managed to  
22 secure a further meeting with officials and I think  
23 probably one of your last acts as outgoing chair was  
24 to ask for a further ministerial meeting but there was  
25 no such meeting during your chairmanship?

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- 1 A. Correct. I can't remember who Elizabeth Woodeson was  
 2 actually. I can't remember where she -- how we got  
 3 her name. I think maybe she was Stopes-Roe's boss.  
 4 Q. Just looking, without going back to the documents, at  
 5 the sequence of events that we've explored over the  
 6 course of the afternoon, would you accept that the  
 7 Trust took too long to put together a business case to  
 8 Government for further funding?  
 9 A. No.  
 10 Q. Why?  
 11 A. Because we had many things to do. We could have put  
 12 a business case together or we could have got the  
 13 Skipton Fund going. Doing both at the same time was,  
 14 I think, beyond possibility.  
 15 Q. Leaving aside the difficulties of resourcing, to which  
 16 you have referred, and the competing demands of the  
 17 establishment of the Skipton Fund, if you had had  
 18 greater resources, do you accept it would have been  
 19 appropriate to put together a business case rather  
 20 earlier than we see from the chronology.  
 21 A. It might have been possible. Whether we would have  
 22 got a reception -- any better reception -- the same  
 23 people in Richmond House were dealing with both issues  
 24 as well, so I think running both projects  
 25 simultaneously, both from our point of view and from

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- 1 the Department of Health's point of view, would have  
 2 been difficult.  
 3 Q. Do you think it was a mistake to pursue the low-key  
 4 strategy of trying to persuade through the  
 5 presentation of a business case and meeting with  
 6 ministers, rather than a more overt or campaigning or  
 7 robust approach?  
 8 A. Personally I don't but maybe that just reflects my  
 9 personality. As we said right at the beginning, the  
 10 Macfarlane Trust -- by this stage it was dealing with  
 11 400 people. To get media interest, to be able to  
 12 mount an effective media campaign, I think was pie in  
 13 the sky. We'd never have achieved that, achieved  
 14 anything. Without that, I'm not sure that we could do  
 15 very much more than argue a well-presented business  
 16 case and deal with it as we did.  
 17 Q. You had amongst the beneficiary community individuals  
 18 living in desperate circumstances, as your own  
 19 long-term review had clearly acknowledged. You had  
 20 children who had been orphaned, you had widows in  
 21 poverty, you had haemophiliacs living with HIV in  
 22 a desperately ill and impoverished state. Do you  
 23 really not think that some media organisations might  
 24 have been interested if the Trust had made contact  
 25 with them and asked them to support a campaign?

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- 1 A. Such limited experience as I had with the media would  
 2 suggest that they would immediately go the other way  
 3 and start picking holes in the fact that the Trust was  
 4 dealing with very small number of people and had  
 5 an immense amount of money. Bear in mind at this  
 6 stage the outgoings to this community were probably in  
 7 excess of £200 million because by the time we got to  
 8 2006 Skipton had been running quite hard. So a huge  
 9 amount of money had gone to a very, very small  
 10 community, admittedly who had been damaged by the  
 11 National Health Service. I think it would have been  
 12 very difficult to have a reliable and consistent media  
 13 campaign. I fully accept I might be wrong but you  
 14 make a case, other people have made a case, the  
 15 trustees chose to do something different.  
 16 Q. Is this correct, as a matter of fact, that the  
 17 trustees did not make any attempt to contact media  
 18 organisations to see what their response might be?  
 19 A. Correct.  
 20 Q. Moving on from attempts to secure funding from  
 21 Government, I wanted to ask you a little more about  
 22 the Trust's relationship with its beneficiaries.  
 23 What steps were taken by the Trust to try and  
 24 ensure transparency and fairness in its  
 25 decision-making?

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- 1 A. We did what we could. I can't remember specific  
 2 steps. We simply tried our best to be objective and  
 3 to be fair and to have fairness actually quite high on  
 4 the agenda, which might not always have been  
 5 acceptable to the beneficiaries concerned. But there  
 6 was always a danger, which we were aware of, of people  
 7 with loud voices getting more, which we tried to  
 8 resist. We had users trustees on the board, I think  
 9 for most of, probably for all of the time I was  
 10 Chairman, who were able to or should have been able to  
 11 ensure that there was balance and fairness in the  
 12 decision-making. If they didn't do that, then there  
 13 is not much I can do about it.  
 14 Q. If we look back at the 1999 strategic review, Soumik,  
 15 which was MACF0000045\_019, and if we go to -- try  
 16 page 24 of the electronic pagination, Soumik. That's  
 17 it. So this is a recommendation to the Trust, as  
 18 opposed to an external recommendation to Government,  
 19 which we looked at earlier. If we just look down this  
 20 series of recommendations, bottom half of the page, to  
 21 (vii):  
 22 "To improve explanations to registrants and set  
 23 out clear grant giving policies."  
 24 That might suggest that, as at January 1999, it  
 25 had been identified that improvements were required,

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1 both in terms of the explanations given to registrants  
2 and in terms of the policies that were available to  
3 registrants.

4 Other than through the publication of the  
5 Macfarlane Trust handbook, how else did the Trust  
6 ensure that its grant-giving policies were known to  
7 and understood by registrants?

8 **A.** There was the handbook. You already made more than  
9 one reference to the newsletters. There was  
10 a website. So I think the explanations were there on  
11 what the policies were. But as far as explanations to  
12 individual registrants about particular grant  
13 requests, which maybe the first part of that sentence  
14 embraces, all we could do was to try to make sure that  
15 explanations were clear, full, and emphasise the  
16 considerations that were in the minds of the trustees  
17 or the staff when decisions were made about grant  
18 requests.

19 **Q.** I wanted to invite you to look at some observations  
20 made in the witness statement of Jude Cohen from whom  
21 the Inquiry will be hearing in a couple of weeks.  
22 Soumik, it's WITN4565001. If we could go -- So  
23 Jude Cohen was head of support services for the  
24 Macfarlane Trust for a period of time.

25 If we go to page 16, please, paragraph 54, the

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1 individual circumstances each time.

2 **Q.** Would you accept that if similar cases are not being  
3 treated in a similar way, that might give rise to an  
4 appearance of unfairness and inconsistency?

5 **A.** It might look that way. But, again, if we applied  
6 that to every particular -- every grant request, if we  
7 looked at the circumstances of the person making the  
8 request on every occasion, then we were being fair.

9 **Q.** If we could go on to paragraph -- sorry, page 18,  
10 please, Soumik. If we look at the bottom paragraph,  
11 paragraph 63, she refers there to a decision of the  
12 NSSC that grants not backed by receipts would be  
13 treated as loans which would then have an impact on  
14 registrants.

15 And over the page, paragraph 64, she records  
16 her view that that policy should have been made clear  
17 to registrants from the outset, but that was rejected  
18 by the Partnership Group which decided that  
19 registrants should only be informed in a follow-up  
20 letter.

21 Do you have any recollection of this issue?

22 **A.** No. But I would say that the Partnership Group were  
23 probably wrong there, that people should know right  
24 from the outset that receipts were necessary. If one  
25 didn't do that right from the beginning, then they

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1 statement there refers to the NSSC, which was the  
2 committee that by this time was the committee  
3 responsible for considering grant applications, and  
4 says this:

5 "... it seemed to me that the committee's  
6 decisions were often inconsistent and made on an  
7 *ad hoc* basis. When I questioned this *ad hoc* approach  
8 to grant making, I was informed by the Chair,  
9 Peter Stevens, that as charity trustees, they were  
10 expected to make *ad hoc* and discretionary payments and  
11 not have a blanket approach to similar applications."

12 Can you recall concern being raised with you  
13 about decisions being made on an inconsistent and *ad*  
14 *hoc* basis?

15 **A.** Sorry, what was the question?

16 **Q.** Can you recall concerns being expressed to you by  
17 Jude Cohen or, indeed, by others --

18 **A.** Oh, I can't recall that. I'm sure what she's saying  
19 there is correct, but I don't recall it.

20 **Q.** Was what's recorded here -- even if you can't remember  
21 the conversation, was this a correct reflection of  
22 your approach that the trustees' approach should be  
23 *ad hoc* and discretionary, rather than having a blanket  
24 approach to similar applications?

25 **A.** Yes, I think that's right. You have to consider the

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1 would be upset when they went had to go back and try  
2 and get hold of the receipt.

3 So I think I'm in agreement with Jude there  
4 when she finishes that paragraph saying, "I consider  
5 this inappropriate," because by the time the  
6 registrant received the follow-up letter, it may have  
7 been too late to request a receipt. I think she's  
8 absolutely right.

9 **Q.** And if we look further down the page at paragraphs 66  
10 and 67, she expresses a concern about a lack of  
11 guidelines and publication of guidelines. You may be  
12 aware that the office guidelines which set out maximum  
13 amounts that would be paid for certain items were not  
14 or had not at this stage I think been published to  
15 beneficiaries. Why was that? Why not ensure that  
16 they were aware of these guidelines?

17 **A.** I think we were damned if we did, and we were damned  
18 if we didn't on this occasion. When we did publish  
19 guidelines, they became shopping lists. When we  
20 didn't, we get criticism that they were opaque and  
21 lacking in clarity.

22 **Q.** Why would --

23 **A.** If we had had guidelines that didn't leave the office,  
24 then Jude's complaint would not have been -- could not  
25 have been made, and we would have avoided the shopping

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1 list danger. As it is, guidelines got out very, very  
 2 quickly, and so we -- so to avoid the shopping list,  
 3 we had to avoid having guidelines published.

4 **Q.** Why did you think that the publication of guidelines  
 5 would result in a shopping list, by which I assume you  
 6 mean applications being made that were unmeritorious?

7 **A.** That's what happened. We're dealing with people.

8 **Q.** Wouldn't --

9 **A.** If one sees that the Trusts had a guideline for  
 10 a particular form of mattress up to a certain maximum  
 11 amount of money, instantly there would be a lot of  
 12 requests for that sort of mattress spending that much  
 13 money. Why not? It would seem a perfectly reasonable  
 14 reaction to having that list of -- those guidelines.

15 **Q.** The consequence of the failure to publish guidelines  
 16 might be, however, that people weren't making  
 17 applications for things that they genuinely needed or  
 18 might genuinely enhance their lives.

19 **A.** Possibly. If we had been cleverer maybe and had  
 20 published guidelines or write a number by them without  
 21 a figure, maybe that would have helped, but then, of  
 22 course, we would have been damned for lack of clarity.  
 23 I don't think there's a single answer or a single  
 24 solution that satisfies all possible criticism.

25 **Q.** You see, the problem with not publishing the

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1 guidelines with figures might be that those who are  
 2 already struggling to manage their day-to-day lives  
 3 might obtain their three quotes for a washing machine  
 4 that was over £300 in vein because the Trust operated  
 5 an internal policy of only paying up to £250. Whereas  
 6 if they knew what the Trust's policy was, they could  
 7 make attempts to ensure that their applications were  
 8 within the policy. What would be wrong with that?

9 **A.** Yes, possibly.

10 **Q.** Why did --

11 **A.** I think you can specify hypotheses whatever. Whatever  
 12 line in the chalk you can dream up an example that  
 13 would show that it was inappropriate. So, as I say,  
 14 we're damned if we do, damned if we don't.

15 **Q.** Why did the Trust require applicants to obtain several  
 16 quotes for work or items when a grant application was  
 17 being made?

18 **A.** Why did we --

19 **Q.** Why did you require there to be more than one quote?  
 20 I think we've heard evidence that often three quotes  
 21 were required.

22 **A.** So that we could be certain that -- that we weren't  
 23 being used as the first source of funds but as the  
 24 last resort, which is a consequence of what -- of the  
 25 way we were set up.

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1 **Q.** Did you and your fellow trustees consider, however,  
 2 the difficulties that that might create for people  
 3 already in very poor health, struggling to manage  
 4 day-to-day --

5 **A.** Of course we did. Of course we did.

6 **Q.** That was regarded as --

7 **A.** That's one of the reasons -- one of the things that  
 8 user trustees were very good at was explaining this  
 9 problem.

10 **Q.** Did the Trust take any steps to amend its practice in  
 11 light of that explanation?

12 **A.** Did the Trust what?

13 **Q.** Take any steps to amend the practice of requiring  
 14 three quotes for all items or pieces of work?

15 **A.** I think we probably looked at every possible -- every  
 16 conceivable option of how grant applications should be  
 17 made, how many bids there should be, whether there  
 18 should be guidelines.

19 I mean, you know, I fully appreciate you have  
 20 a devil's advocate role. I was a trustee of that  
 21 trust for many years. I think I was totally aware of  
 22 the difficulties under which the beneficiaries were  
 23 living and of the difficulty that we were facing of  
 24 meeting their requirements with totally insufficient  
 25 funds. So we had to make the process work in such

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1 a way that people did not come direct to us, as far as  
 2 the first source of money, but only after they had  
 3 tried the social fund and anywhere else that might be  
 4 able to help them.

5 **Q.** Was the process made deliberately bureaucratic to  
 6 deter applications being made?

7 **A.** No.

8 **Q.** Were there --

9 **A.** It was -- the process was designed to make sure that  
 10 we didn't -- I am trying to find the right word. We  
 11 didn't spend money on some applications that would  
 12 have been better spent on others. So we had to make  
 13 sure that our resources were managed sensibly, were  
 14 husbanded carefully.

15 **Q.** Was practical support offered to registrants to assist  
 16 them in making their applications to the Trust?

17 **A.** They could speak to -- they could speak to members of  
 18 staff who -- each charity had a particular named  
 19 member of staff who would help them, talk them through  
 20 the process.

21 **Q.** In terms of the information that the Trust required  
 22 from its registrants on a regular basis, is it right  
 23 that there was a system of requiring census forms to  
 24 be completed?

25 **A.** Yes, there was. I believe it was annual, it was

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1 certainly a census form, so that we knew or had  
 2 a handle on income and expenditure, and so we had an  
 3 expenditure.  
 4 **Q.** The figure that was then used as a household figure  
 5 for the purpose of, as it were, any means testing of  
 6 applications would include, would it not, the income  
 7 of the spouse or partner or adult children?  
 8 **A.** Yes. You refer to means testing. We used the  
 9 benefits going into a household as a proxy for means  
 10 testing. So people who were receiving income support,  
 11 for example, or mobility allowance, or whatever,  
 12 I can't remember what they were called now, so we knew  
 13 what that meant in terms of their household income and  
 14 their expenditure.  
 15 **Q.** Some Macfarlane Trust registrants have described to  
 16 the Inquiry that the process they had to go through,  
 17 form-filling, multiple quotes, providing details on  
 18 a regular basis of household income, made them feel  
 19 that they were holding out a begging bowl. Do you  
 20 understand why they might have felt that way?  
 21 **A.** Of course.  
 22 **Q.** Was that unhappiness ever explicitly recognised and  
 23 addressed by trustees?  
 24 **A.** It was certainly recognised. We did our best to  
 25 address it by -- by ensuring there was sufficient

1 **Q.** Your statement suggests that for an appeal to succeed  
 2 there would either have to be new evidence or --  
 3 **A.** That applied to Caxton. I don't think that was an MFT  
 4 requirement.  
 5 **Q.** Was there any policy or any published criteria as to  
 6 how an appeal might proceed within the  
 7 Macfarlane Trust?  
 8 **A.** Was there?  
 9 **Q.** Was there any policy or any published criteria for  
 10 an appeal within the Macfarlane Trust?  
 11 **A.** Not that I can recall.  
 12 **Q.** I ask you to look at a couple of letters. The first  
 13 is dated when you were not a trustee in the mid-1990s  
 14 and the second is when you were a trustee. Soumik,  
 15 could we have please BHCT0000875. Do you have that?  
 16 BHCT0000 -- it might be 873, sorry, inability to read  
 17 my own handwriting.  
 18 So this is a letter 3 June 1996, so this is  
 19 from when you were not trustee, it's in that period  
 20 after your first period of trusteeship, but if we can  
 21 see it's a letter from the Macfarlane Trust. This is  
 22 a letter to Dr Mayne. It's asking for a medical  
 23 report in support of an application the patient has  
 24 made for assistance, and if we look at the fourth  
 25 paragraph it says this:

1 information, ensuring that the staff in the office  
 2 were sympathetic and helpful, by talking to  
 3 beneficiaries when we could through the Partnership  
 4 Group and at weekend events, as long as they went on.  
 5 So, yes, we did what we could.  
 6 It's quite significant that Eileen Trust didn't  
 7 have any of these problems because the Eileen Trust  
 8 was small and we had a case worker, Susan Daniels, who  
 9 knew everybody, they knew her, they could get in touch  
 10 with her and that was something that, if it had been  
 11 possible to implement that process in the  
 12 Macfarlane Trust we would have avoided a lot of the  
 13 problems, but we couldn't because there were too many  
 14 people.  
 15 **Q.** Is it right that, in terms of Macfarlane Trust  
 16 decision-making, there was no formal appeal process  
 17 in, the way that we'll explore with the Skipton Fund  
 18 tomorrow, there was a specific appeal process. If  
 19 a registrant wished to appeal against a refusal of  
 20 an application for assistance, they would -- that  
 21 would fall to be considered by you as chair or by you  
 22 in co-ordination with your fellow trustees; is that  
 23 correct?  
 24 **A.** I think it's the latter. I think it was done by the  
 25 board, including myself, yes.

1 "All information contained in the completed  
 2 report will be treated as given in confidence to the  
 3 Trust and will not be shared with the patient  
 4 concerned."  
 5 Then there's reference in the final paragraph  
 6 to a consent form, which I don't think we've been able  
 7 to find.  
 8 If we can then go to a document that dates from  
 9 your time as trustee, TREL0000316\_064, we can see this  
 10 is October 2002, so this is during your chairmanship.  
 11 Again, it's a request to a doctor for a report, and  
 12 the third paragraph tells us:  
 13 "All information on the completed report will  
 14 be treated in complete confidence and will not be  
 15 shared with the patient concerned."  
 16 The purpose of showing you both those letters  
 17 is to show this appears this is a practice that  
 18 continued for a number of years. Why was it that the  
 19 information being sought from the doctor would not be  
 20 shared with the patient?  
 21 **A.** It might be information that the clinician would give  
 22 the Trust that hadn't been shared with the patient.  
 23 **Q.** Wasn't it the patient's right to know what their  
 24 clinician was saying to the Trust in relation to their  
 25 application?

- 1 A. Probably would, but it's not our job to tell them.
- 2 Q. It's your policy, as in the Trust's policy, it would  
3 appear, that the information will not be shared with  
4 the patient.
- 5 A. That's correct. As long as the clinician knows that,  
6 then it's up to the clinician to decide whether or not  
7 to tell the patient what he or she is telling us.  
8 It's not for us to pass on in the information from the  
9 doctor to the doctor's patient.
- 10 Q. Why did the Trust think it proper to receive medical  
11 information about a patient that they wouldn't share  
12 with the patient?
- 13 A. We couldn't -- we are not in control of the  
14 information that the doctor is going to give us, so  
15 all we can do is just to assure the doctor that  
16 whatever he or she says, we will not share it with the  
17 patient because it's up to the doctor concerned to  
18 decide whether or not to do that. What's the problem?
- 19 Q. Information's being provided, information that's about  
20 the individual and their medical condition --
- 21 A. Yes.
- 22 Q. -- that they are not permitted to see that might lead  
23 to their application being rejected and they've no way  
24 of dealing with that.
- 25 A. Well, then they will talk to the doctor. If we say

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- 1 there is inconsistency in their application, they give  
2 only a crude measure of need, and so on."
- 3 This is July 2002. First of all, given that  
4 you have identified a complex, potentially  
5 inconsistent process that may only give a crude  
6 measure of need, why was that being identified for the  
7 first time in the middle of 2002?
- 8 A. I couldn't tell you. I mean, maybe I should have  
9 identified it earlier maybe if it had been identified  
10 earlier and nothing had been done about it. I don't  
11 know.
- 12 Q. Do you know whether --
- 13 A. I had only been Chairman a year and a half, so --  
14 well, no. In fact, a year and a quarter. So  
15 I possibly didn't come up to speed as fast as I might  
16 have done, but I've come up with something here.
- 17 Q. Do you know whether changes were made to the regpay  
18 system in response to the concerns that you were  
19 expressing?
- 20 A. Sorry, I didn't --
- 21 Q. Do you know whether changes were made to the regpay  
22 system in response to the concerns you were  
23 expressing?
- 24 A. I don't know. I can't remember whether -- if I go on  
25 through the paper to find out what I was proposing,

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1 it's been declined on medical grounds, they can talk  
2 to the doctor because they will know that we obtained  
3 the medical information from their doctor. We cannot  
4 possibly start giving information out to patients that  
5 the doctor tells us that they might not have told the  
6 patient. I mean, I don't -- I simply don't see the  
7 problem.

- 8 Q. I asked you the question and you have given your  
9 answer.
- 10 Can I ask you to look at MACF0000011\_072,  
11 please. This is a document authored by you in  
12 July 2002 and it's "Proposals for the revision of the  
13 structure of grant payments". If we go to the second  
14 page, top half of the page, you're referring, first of  
15 all, here to the system of "regpay", so regular pay  
16 and you have identified it as complex, 15 different  
17 rates applicable, complexity uses up office time and  
18 encourages inaccuracy, lowest band gives no incentive  
19 for people to be employed, nor does it recognise  
20 additional financial needs arising from families, and  
21 then your fourth point:
- 22 "... reliance on State ... benefits as the  
23 indicator of need has the advantages of being  
24 objective and, for the Trust, economical, but also  
25 some disadvantages: benefits might not be applied for,

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- 1 I might remember then, but I can't remember if this  
2 did lead to any changes.
- 3 **MS RICHARDS:** Sir, I haven't quite finished the  
4 Macfarlane Trust yet, but I note the time. I am in  
5 yours and Mr Stevens' hands as to whether we continue  
6 or pick up in the morning.
- 7 **SIR BRIAN LANGSTAFF:** Yes. Well, I think it's probably  
8 a good time for a break. My apologies, once again,  
9 Mr Stevens, for not having been able to start as  
10 promptly as we would have wished with the decent sound  
11 after the last break, but I hope that's --
- 12 A. Has it got better --
- 13 **SIR BRIAN LANGSTAFF:** I hope the problem doesn't recur.  
14 Tomorrow morning at 10.00, if you please, and of  
15 course, the usual rules apply overnight. But I look  
16 forward to seeing you then at 10 o'clock tomorrow.
- 17 A. I will wait here in case the technician wants to come  
18 and fiddle with the kit.
- 19 **SIR BRIAN LANGSTAFF:** Okay. Thank you very much. Very  
20 kind of you.

(4.50 pm)

(Adjourned until 10.00 am the following day)

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<p><b>MS RICHARDS: [19]</b> 2/4 12/17 28/14 43/8 45/20 46/7 47/14 48/13 64/16 72/16 75/18 88/16 140/7 140/16 141/23 142/7 142/19 143/8 168/3</p> <p><b>SIR BRIAN LANGSTAFF: [44]</b> 1/3 1/5 1/8 2/6 11/17 12/5 12/16 26/23 27/7 27/23 43/11 43/25 44/9 44/14 45/11 46/5 46/9 46/24 47/3 48/10 64/14 72/15 72/17 73/11 73/24 74/6 74/9 74/17 74/20 75/6 75/17 88/8 88/15 140/10 140/15 141/13 142/4 142/9 142/16 142/22 142/24 168/7 168/13 168/19</p> <p><b>THE WITNESS: [2]</b> 1/4 1/6</p> <hr/> <p>'80s [1] 84/13 '89 [1] 78/3 '90s [1] 84/14 'A [1] 119/12 'A Life [1] 119/12 'dependents' [1] 11/4 'discussing' [1] 19/15 'Means [1] 19/8 'next [1] 127/20 'Well [1] 77/7</p> <hr/> <p>... 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134/13 <b>12.45 [1]</b> 21/17 <b>123 [1]</b> 148/6 <b>126 [1]</b> 113/16 <b>127 [1]</b> 50/22 <b>13 [1]</b> 70/8 <b>13 December 1990 [1]</b> 48/9 <b>131 [2]</b> 52/9 57/13 <b>14 [2]</b> 89/6 103/6 <b>142 [1]</b> 124/7 <b>15 [2]</b> 103/7 166/16 <b>15th [1]</b> 107/20 <b>16 [2]</b> 34/6 153/25 <b>16 February 1989 [1]</b> 50/7 <b>18 [1]</b> 155/9</p>	<p><b>18 April [2]</b> 99/15 101/10 <b>18 years [1]</b> 109/2 <b>19 [3]</b> 25/16 72/7 72/19 <b>19 million [6]</b> 22/21 23/3 24/6 25/24 26/2 26/15 <b>194 [1]</b> 136/2 <b>1960 [1]</b> 37/18 <b>1968 [1]</b> 48/3 <b>1987 [1]</b> 93/18 <b>1988 [24]</b> 2/11 4/7 5/2 5/5 6/10 8/7 15/19 17/24 18/1 18/18 18/21 20/25 25/15 36/13 37/6 40/18 48/24 49/24 59/19 60/9 75/24 80/14 93/13 107/21 <b>1989 [14]</b> 6/2 10/14 21/13 25/12 42/3 49/25 50/7 50/24 53/12 54/2 58/8 64/17 77/25 80/4 <b>1990 [6]</b> 21/3 29/13 35/15 35/16 48/9 62/6 <b>1990/91 [1]</b> 63/21 <b>1990s [2]</b> 122/21 163/13 <b>1991 [6]</b> 33/9 62/20 69/2 69/5 70/12 71/14 <b>1992 [8]</b> 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