1 Tuesday, 27 July 2021 2 (10.00 am) 3 SIR BRIAN LANGSTAFF: Now, Lord Clarke, we'll ask you to take the oath. Mary will take you through the oath. 4 THE WITNESS: I gather you don't want me to stand for the 5 6 7 **SIR BRIAN LANGSTAFF:** You can stand or sit as you please. LORD KENNETH HARRY CLARKE (sworn) 8 9 Questions from MS RICHARDS 10 MS RICHARDS: Lord Clarke, I'm going to start by asking you a handful of questions about your Parliamentary 11 12 career. You became, I think, an MP in 1970 and 13 remained an MP until November 2019. A. Correct. 14 Q. Now, you've held a number of Government positions but 15 16 the two in which the Inquiry is interested are your 17 tenure in the Department of Health. You were Minister 18 of Health in the Department of Health and Social 19 Services, as it was then called from 5 March --20 A. Health and Social Security, it was called. Q. -- Social Security -- 5 March 1982 until 21 22 1 September 1985? 23 **A.** Yes, if you can look that up. 24 Then you were Secretary of State for Health in what 25 then became very rapidly the Department of Health, 1 Q. Does that restrict or inhibit or prevent you from 1 2 answering any of the Inquiry's questions? 3 A. Not on blood products, no. 4 Q. I'm going to concentrate today on the period of time 5 you spent as Minister for Health 1982 to 1985, and 6 just so we can understand who the ministers were in 7 the whole Department, as you've indicated the 8 Department at that time was responsible for both 9 health and social security and the Secretary of State, 10 the top of the ministerial hierarchy, was Norman 11 Fowler, now Lord Fowler? 12 A. Yeah, he was the only one who bridged the two. It was 13 a very odd combination. I think they were just regarded as part of the Welfare State but, actually, 14 the Health Ministers had nothing whatever to do with 15 pensions, benefits, and all the rest of it, and the 16 17 Social Security Ministers had nothing whatever to do 18 with the National Health Service, community care, and 19 all the rest of it. 20 Norman presided over both and was the cabinet 21 minister and the head of the whole thing, he had two 22 really quite separate chains and quite separate teams

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24 **Q**.

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of officials working below him.

Then, in terms of the health side, you were, as it

were, the next one down in the ministerial hierarchy 3

1 separate from Social Security. 2 A. Well, I was sent there when it became -- when the two 3 halves, guite distinct halves of the old DHSS were 4 separated and they really always had operated as two 5 separate departments, so I was the first Secretary of 6 State for Health at the Department of Health. 7 Q. That was from 25 July 1988 to 1 November 1990? 8 A. If you tell me so, it sounds right. 9 **Q.** Both those posts were in the Government of Margaret 10 Thatcher? 11 A. Yes. 12 Q. Now, you've held a number of other ministerial 13 positions, you've listed those in your statement and 14 I'm not going to go through those. 15 A. (Witness nodded) 16 Q. You became a peer in September 2020? A. Yes. 17 18 Q. Before I ask you about any of the substantive issues 19 can I ask you this: have you signed the Official 20 Secrets Act and, if so, does that inhibit or restrict 21 the answers you give today? 22 A. I think I have signed the Official Secrets Act many 23 years ago in one of my Government posts, yes, so 24 I probably have. I obey the Official Secrets Act 25 anyway. 2 1 -- (overspeaking) --2 A. I was -- there's three ranks of minister: Secretary of 3 State, usually cabinet level, top of the -- the head 4 man, with overall responsibility for everything; then 5 Minister of State, which is a kind of, you know, 6 sergeant major or something, you're the next rank up 7 but you have a kind of wide range -- wide range but 8 you have specific responsibilities; and then the 9 Parliamentary Under-Secretary of State is the most 10 junior rank, each of the three in practice tends to 11 concentrate, particularly the junior ministers -- and 12 the junior ministers are the Minister of State and the 13 Parly Sec, they tend to concentrate on particular 14 aspects of what is the most enormous activity, the NHS 15 and social care and Local Authority social care. You 16 have to -- you all have to concentrate on doing 17 particular bits. 18 Minister of State I -- I was used to having an 19 all-embracing thing because the health service is 20 permanently controversial, and there's always crises 21 over, you know, in my time, hospital closures, in 22 those days pay claims, all this kind of thing, and 23 even then, you in the Parly Sec -- the Parly Sec is 24 divided up and have your own bit.

4 (1) Pages 1 - 4

Q. Then the Parliamentary Under-Secretaries of State for

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- 1 Health during this period, there was one in the 2 Commons, who was Geoffrey Finsberg and then John 3 Patten, and then one in the House of Lords, and that 4 appears have to changed, I think, four times over the 5 period you were Minister, Lord Elton, Lord Trefgarne, 6 Lord Glenarthur --
- 7 **A.** Lord Trefgarne, he's called.
- Q. -- Lord Trefgarne, my apologies -- Lord Glenarthur and 8 9 Baroness Trumpington.
- **A.** Well, there were more -- and Gloria Hooper was there, 10 11 Baroness Hooper, because she took the -- Baroness 12 Hooper, from what I remember, basically she took the 13 very controversial health reforms, the legislation for 14 my health reforms, which was my main activity when 15 I was Secretary of State, through the House of Lords, 16 so don't leave out Gloria Hooper. But I don't think 17 Gloria Hooper had anything to do with blood products.
- 18 Q. I'm just concentrating for the moment on those who 19 occupied the positions in 1982 to 1985, we'll come on 20 tomorrow to look at --
- 21 A. Oh I'm sorry. Yes, I've got the wrong dates. My 22 apologies.
- 23 Q. You've explained in your statement the areas of 24 responsibility for which you had primary ministerial 25 responsibility did not include matters of blood

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were always opposed because planning and because the bus routes weren't right. The closure of any hospital, even a disgraceful Victorian ruin, was a matter of wild controversy.

The service was run or attempted to be run by a centralised bureaucracy in the health service with thousands of officials who couldn't actually get themselves involved in everything, from Wakefield to Truro, as controversy came up. We did have Health Authorities, and you had to try to work with them, 15 Regional Health Authorities, whom I met the chairs quite regularly. They were very helpful, actually. They were a good anyway of pulling it all together. Ooh, I can't remember how many district Health Authorities. They varied enormously in quality: some were very political, some were quite hopeless, some were extremely good and didn't trouble you at all. They always complained they were short of money.

The Health Service has complained it's short of money ever since 1948, although the budget of the National Health Service has never been cut in any year in real terms by any government since it was founded, it has always gone up but no one would ever know that because large parts of it run out of money, and I am giving you some idea.

policy, blood and blood products, and we've heard from 2 Lord Glenarthur that that was one of the areas 3 allocated to him.

## 4 A. (Witness nodded)

- Q. What were your areas of responsibility as Minister of State for Health?
- 7 A. They were overall the political role, vis à vis the 8 National Health Service as a whole. Now, the 1980s, 9 I mean, so that -- the National Health Service is the 10 biggest business-like activity in western Europe, the 11 biggest employer in Western Europe. It is the centre 12 always -- or has been, ever since it was founded -- of 13 political controversy, usually crisis. In the 1980s, 14 industrial relations played a huge part, if you were 15 a minister dealing with any public service or any 16 nationalised industry. So pay claims, strikes, the 17 threat of strikes, actually to an astonishing degree, 18 nominated not only, you know, the reporting of 19 politics but far too much time. And, of course, we 20 were having an extremely controversial battle as 21 a Government to try to sort that out, in the Thatcher 22 Government.

The other things that caused fantastic controversy, which were mine, were hospital closures, building of new hospitals. Building of new hospitals

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Now, I was involved in most of that, and that included a lot of politics because the only thing I have to -- then present that to the House of Commons, I spent half my life on the media because we were often in the middle of controversy, and both my stints at Health, I reckon I did the Today Programme on the radio about twice a week, and so on.

Now, that was -- I actually was more involved in all that, and I had policies I put into that. I made things -- the controversies worse, by -- I had a policy of getting rid of the old Victorian asylums and getting rid of the old geriatric hospitals, which was the name they had given to some of the old workhouses, which were a scandalous disgrace, in which people were kept in appalling conditions, but there was a tremendous fight about closing them down. They were centres of clinical excellence.

I won't carry on giving you any more details but that was my daily life in the Department of Health, and blood products was something that hardly ever came across my desk. I mean, I obviously -- as the problem -- the tragedy with the haemophiliacs began to develop, I was aware it was there and, as you know, from time to time, usually at my own instigation, I got on the edge of it.

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Q. We'll look at --

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- 2 A. But I never -- I didn't call meetings on -- I was
- 3 never the Minister directly responsible for blood
- 4 products. I was never asked to take a decision on
- 5 blood products, I never intervened to take a decision
- 6 on blood products, but I did intervene or get involved
- 7 in discussions a bit, when I got -- I wanted to be
- 8 reassured. I was a bit concerned, or Simon Glenarthur
- 9 wanted to touch base with me, as I was aware it was
- 10 going on. But, just to give an example, you know,
- 11 I was greeted when I arrived. When I arrived as
- 12 Minister of State, within four days the entire
- 13 National Health Service went on strike. It's the only
- 14 national strike the Health Service has ever had.
- 15 I mean, only militant areas did it have a big effect
- 16 because the staff of the Health Service won't go on
- 17 strike, so it was only in London and Liverpool that

18 things were quite grave.

It became the longest public sector strike since the war, I think, so we went on for several months until we eventually resolved it.

That was the principal fire fighter involved in that. You know, visiting hospitals I got caught up in picket lines sometimes, and that took quite a -- that was just a theme that, as I was getting used to the

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you're calling Norman -- ask Norman, whether -- but when I was Secretary of State -- because I eventually -- my second stint -- I know we're not talking about it now but just deal with this point -- the only thing that -- I didn't change any of the responsibilities. They were -- you know, as ministers change, they inherited what their predecessor had done, and I suspect that had gone on for a long time.

The only responsibility I got concerned about was who was going to do the legislation in the House of Lords, because I knew I was going to have a major and controversial piece of legislation and I wanted to have some feeling as to who was going to do that, hence I mention Baroness Hooper, who ...

- 15 Q. Did you as Minister of State have general
   16 responsibility for or some degree of oversight of the
   17 decisions taken or not taken by the more junior
   18 ministers?
- 19 A. No, not normally.
- Q. Do you know which minister, if any, was responsible
   for the work of the licensing functions carried out by
- the Medicines Division of the Department?
- A. No, but there -- I mean, ministerial responsibility
   doesn't amount to much. The one thing ministers do
   not -- I mean, ministers don't interfere with the

- office, ran across all my things.
- I give you all this long answer, I'll try to be shorter in future. Blood products, I was never directly responsible. Unless someone pointed out to me that something was going on, so far as the Blood Transfusion Service or blood products, I had nothing to do with it, and that was true for most of my time in the Department of Health. The campaigners attributed everything to me because I later became a well-known figure.
- 11 Q. Well, we'll come back to some of those issues12 Lord Clarke.
- 13 A. Yet I was not involved in it. Not directly.
- 14 Q. How -- as a matter of organisation or allocation, how
   15 was it decided that blood products would be the
   16 responsibility of, say, Lord Glenarthur rather
- 17 than -- (overspeaking) --
- 18 A. I imagine someone put a submission to some Secretary
   19 of State, I don't know. I didn't decide that anyway.
   20 That's before I arrived.
- Q. So would the allocation of responsibilities ultimately
  be a matter for the Secretary of State?
- A. He'd be the one who could change it and they probably
   might change it if the permanent secretary or somebody
   suggested it to him. I don't know, you must -- if

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regulation of medicines and the licensing of medicines, and the ministers are not clinicians. None of them -- in my day, none of us had any clinical qualifications at all. You're not expected to be an amateur doctor because you're a minister in the Department of Health. Those authorities are completely free of ministerial interference. So, apart from pay and rations, if there's some argument about their budget for the year, no minister would have anything to do with the decisions of the Safety of Medicines Committee or -- we -- or the licensing, and so on.

Of course we had a whole lot of medics. The Chief Medical Officer and his deputy medical officer and the medical officers, they were the Department's people -- or the Chief Medical Officer, really, was the person in charge of all the medical things. And when issues were clinical, or scientific, or they touched on the treatment of patients, they would be heavily involved, or -- the Chief Medical Officer would get -- was able to draw, of course, on the advice of the medical profession as a whole and became -- they always set up ad hoc committees of specialists in particular things to advise them.

Then they give advice to ministers, to make

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clear that the ministers understand the clinical and scientific position. Ministers don't second-guess the medical -- if you had some minister who had got some pet theories about health and started suggesting an alternative treatment, one would rapidly get him removed to another department, because that's not the job of a minister. And the medical profession would get very, very worked up. They did get worked up about clinical independence. In the end -- the doctor-patient relationship is such that, in the end, it is the doctor treating the patient who is entitled 12 to make his or her decision about the treatment of that pension with the consent of the patient.

> The idea that the minister has got anything to do with that, complete nonsense.

- Q. Well, we'll come back to some of those issues --16
- A. And the key people in all -- in the haemophilia thing 17 18 were obviously the haemophilia specialists, who were 19 a very specialist group of medicines themselves. The 20 average general medic would have been very cautious to 21 give a view about the treatment and care of
- 22 haemophilia.

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23 **Q.** We'll come back to some of those issues, Lord Clarke. 24 Again, just dealing with some matters of general

25 responsibility, as Minister of State for Health in the

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- 1 the devolution wasn't such a big issue then. I just 2 can't remember. I assume -- because we were all 3 members of the same government. I mean, the Scottish 4 office ministers and the Welsh office ministers were 5 colleagues of mine in the Government, but I think --6 I don't think we did wildly different things but we 7 were run separately.
- 8 **Q.** If we just look at one passage in your witness 9 statement. Lord Clarke.

10 Soumik, it's WITN0758001.

- 11 **A.** Do you know what page that is?
- 12 Q. Yes, I'll find the page, Lord Clarke. It's page 9, 13 paragraph 2.1.
- A. Thank you. Page 9, yes, I've found it. Paragraph 2? 14
- **Q.** 2.1. 15
- **A.** 2.1. 16

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17 **Q.** If you could forgive me for a moment, Lord Clarke, we don't seem to have it electronically available. It 18 19 doesn't matter, you've got it and there's only one 20 sentence I want to ask you about, so I'll read it out. 21 You say, in the third line, this:

> "The Inquiry will be aware that at the time, the DHSS was responsible (in England) for the administration of the National Health Service (NHS). In addition, it was responsible for the social

1 Department of Health and Social Security, what was the 2 geographical reach of the Department? Did it cover 3 just England? England and Wales?

- 4 A. England, yeah.
  - **Q.** Your recollection is just England?
- 6 A. My recollection is England. I mean, we didn't have --7 full devolution hadn't taken place but I think the 8 Health Service was always pretty devolved.
- 9 Q. Do you recall any particular interactions with or 10 measures for liaising with the Welsh office, Northern Ireland office or Scottish Office? 11
- 12 A. Well, I -- first time I mention it today, I may be --13 you're asking me about events almost 40 years ago, so 14 I may have forgotten some incident -- prompted me 15 about some contact I had with Scotland or Wales. 16 I don't actually remember at any stage having any dealings whatever, with the Welsh office, the Scottish 17 18 Office, or the Northern Ireland Government.
- 19 **Q**. Do you have any recollection of whether the general 20 understanding was that Scotland, Wales, Northern 21 Ireland, either cumulatively or individually would 22 follow England's line or was it -- was your
- 23 recollection -- (overspeaking) --24 **A.** I really don't know. As I say, I was never involved. 25 I never had any contact with them and I don't know --

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1 services provided by local authorities to the 2 vulnerable in society, and for some aspects of public 3 health."

> Can you recall what aspect of public health fell to the Department or what other bodies were involved with public health?

7 A. I can't remember. I mean, the Department of Health 8 always had a role in advising people, always 9 putting -- you know, putting out -- running campaigns 10 occasionally. Sir Donald Acheson, who became a Chief 11 Medical Officer for a high proportion of the time, he 12 was particularly keen -- before his time now, it's 13 much more popular now -- on disease prevention, health 14 education, as well as being highly conscientious man 15 on treatment. And so the Department ran -- did run 16 some campaigns, probably in those days trying to get 17 people to give up smoking, trying to get people to 18 take more exercise and so on.

> And so that's what I think is -- this is a description taken from, you know, some formal description of the role. That's the sort of thing the Department of Health does. Then, of course, there's constant interaction between the medical profession and the other -- the pharmacists and the dentists and the GPs and everything else, with the Department

because they have to interact all the time because we were administering them, and that included public health messages. The CMO would somehow -- I think, you know, it wouldn't be the ministers, nothing to do with ministers, but he would put out newsletters to doctors and so on and take part in the discussion, but -- wouldn't intervene in the treatment of patients but would take part. That is the kind of thing the Department of Health did.

In neither of my stints, the Department -- didn't have very much to do with that at all, certainly not as Minister of State. Secretary of State I did. We had a Health Education Authority by then and I usually deal with them in cases -- usually when they were coming -- trying to persuade me to allow them to run some fresh campaign. But the campaign would be their idea. And they had a case to try get the help that ...

**Q.** If you turn to page 14 of your statement -- Soumik, I don't know if we have that -- paragraph 2.22.

You've referred in paragraph 2.22 to the Griffiths Report, which was a report commissioned to, as I understand it, the management of the National Health Service in 1983. And you say this, in the third line:

made himself responsible every time someone dropped a bedpan in Rhondda -- I think -- he'd been Welsh, he gave a Welsh example -- he personally was held responsible. It ran in this rather chaotic way.

The other problem which I haven't -- I won't burden you with is the -- the bill -- an attempt to reform the management locally of the service by Keith Joseph in the early seventies, and we produced a form of management which was called collective management. There was no one in charge in any hospital. There were officers, all of whom were of equal ranking. It had been an idea of McKinsey's which Keith had taken up.

It did not work. Roy Griffiths in his report came out again with what became, at the time, a well-known quote that if Florence Nightingale came back today and went to various -- hospital and asked who was in charge, nobody would be able to give her an answer.

When you talk about the Griffiths reforms,
Margaret had got Roy Griffiths to come in to do this.
He came up with a very good analysis of the problem,
and we had these new institutions but they didn't
really make a difference. The reforms were what
I turned up to do when I went back as Secretary of

"The idea in relation to the latter [that was the establishment of a management board] was to remove the DSS from the more 'day to day' running of the [National Health Service] ..."

Then you go on to explain how the management board was established in April 1985, you refer also to the establishment of the Health Service's supervisory board.

Would it be right to understand in very broad terms that as at 1983, and before the reforms recommended by the Griffiths Report were implemented, that the Department did have quite an active role in the day-to-day running of the NHS?

A. Well, they tried to. What happened was, every time anything went wrong locally, the Department of Health was blamed and it was politicised. So the Department felt it had to get involved, and the Department of Health spent its time trying to sort them all out.

You may know it, there's a famous phrase from Nye Bevan -- because he was the first one who founded -- created a service, where he was the middle of constant controversy, as every Secretary of State for Health always is, always regarded as in crisis by the general public -- and he once made a remark, I can't remember the exact wording but he found he'd

State for Health, and they involved much more devolution of responsibility, so long as they're accountable upwards, much more competition and choice when spending the money where you spent it.

I was determined to concentrate on the outcome for patients, value for money, getting the biggest bang in terms of patients cured and treated for the ever increasing amounts of money we were putting in. I wished to get away from this bureaucratic shambles of squabbling all the time, the dominance of industrial relations and the politicisation of everything. But the day-to-day running I did try to stop it being done by the officials in the Department of Health in London because it was just -- it was a shambolic bureaucracy.

And the controversies about it in the 1980s had reached a new peak, which is why Margaret got Roy Griffiths in, why she eventually declared she was going to reform it, and why eventually I wind up -- wound up producing the reforms, because it could not have gone on as it was. It can only be described as -- I mean, the officials, some of them were very good, they did their best, but the whole set-up, the structure, was a completely shambolic bureaucracy.

Which is why blood products -- which was

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1 a comparatively calm area until it had this horrendous 2 problem that took us all by surprise when a new 3 disease, a new infection started emerging -- it was 4 a quiet little part of all this. It was -- but it was 5 very big because of the tragedy. Now big because of 6 this Inquiry. But the reason -- you know, when 7 I arrived in 1983, the idea that blood products was 8 a very, you know, big part of the Department's 9 activity, was simply not true. It was a very 10 specialist, usually quiet, harmless subject, one of 11 the few areas where we didn't have controversy and 12 there wasn't very much for the Department to do 13 because the Blood Transfusion Service ran itself. Q. Just, again, in general terms and looking at the first 14 15 half of the eighties, can I just explore with you 16 various ways in which the Department might exert some 17 degree of influence over decisions of Regional Health 18 Authorities, NHS bodies, clinicians in general. One 19 of the ways in which the Department could exert 20 influence presumably would be through its funding

22 A. Would be through what, sorry?

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Q. Through funding, the amount of money it made available
 to Regional Health Authorities.

decisions, the amount of money it made available?

25 A. Well, the allocation of the funding was one that

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every financial year, because we'd started enforcing budgets and cash limits, which had been even more chaotic before Margaret's day, the ones that had got spare money and found they hadn't spent their allocation would run around the hospitals asking, "Anybody want to buy any kit for next year? Anybody got anything they want to spend some money on?" And they get rid of it.

The ones that ran out of money at about Christmas and so on would go to the newspapers and say that the cuts were causing them terrible harm and they needed more money and so on, and they were the ones the minister usually that to deal with. Sometimes you did have to bail them out. But that is, you know -that is -- the relationship, I think, is about as clear a description I give. And if it sounds a little strange and shambolic, as I, you know, said before, if you want to go for a broader health policy, it was very shambolic in the eighties. Had it not been for HIV and hepatitis, the Blood Transfusion Service would have been an oasis of non-controversial calm, hence it was one of the ministerial duties, one of the Parliamentary under Secretary of States, usually in the Lords.

dominated our lives because -- it's still true, I mean it's true today. The health debate as far as the public are concerned is always about money. The party which is in opposition, their policy on health is always, "It's short of money and we'll spend more money". And the party of Government, their policy is always, "It's never had so much money as it's had before, we put more money in last year, we will carry on putting money in."

Of course, money is just the background. It's far more complicated than that in every area. What I -- what we tried to do was to allocate the money to the Health Authorities according to the needs, the respective needs. Again, I was more anxious in terms of patient care, and then trying to hold them to account for the outcomes. But the allocation of money was done -- therefore you'd get some sort of formula, you'd negotiate sometimes, the Department would negotiate, but we allocated money on what we thought was a fair distribution between the regions and, through them, to the district.

What happened was that the control of money in the whole service was pretty useless. They couldn't usually tell you how much anything cost they were spending money on. And as you approached the end of

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also influence Regional Health Authorities by,
I think, nominally in the name of the Secretary of
State, issuing directions or instructions, could it
not?

A. Yeah, I had regular meetings. I began to try to go
some order in it because I had to work out how I
quing to, you know, not just defend the Government

A. Yeah, I had regular meetings. I began to try to get some order in it because I had to work out how I was going to, you know, not just defend the Government, defend myself, but actually influence this in some way and make some sense of it. And I had regular meetings with the Regional Health Authority chairman, and they became guite crucial to my relationship. They gave me some order, and I actually, in appointments, tried to get some people in -- I intended to appoint local businessmen with some business experience, and not particularly political people; we didn't want local authority politicians or Trades Union people or chairmen of health authorities, what I wanted was someone who that the motivation of wanting to serve a great public service, also had some experience of the managerial decision making in a giant and complex organisation, or actually there was -- or sometimes medium-sized firms.

And I had regular meetings with them, got on very friendly terms with them. They were my best way of influencing the system, through them. I used to

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- 1 joke with them occasionally, several of them in later
- 2 years became personal friends, you know, they were my
- 3 cabinet. I could get some order, and stop dealing
- 4 with the District Health Authority in Wakefield
- 5 through the columns of The Guardian, if the actual
- 6 Yorkshire Regional Health Authority chairman also got
- 7 his hands on it and tried to find out what the devil
- 8 they were up in Wakefield, and why they had got
- 9 themselves into this mess.
- Q. So you could influence --10
- **A.** And so if my answer's a little, you know, chaotic in 11 12 oratory, it was a chaotic world, the NHS in those
- 13 days.
- Q. So you could influence potentially -- and I'm talking 14
- 15 in general terms here, I'm not talking currently,
- 16 specifically, about matters relating to blood
- 17 policy -- you could influence Regional Health
- 18 Authorities through the process of meeting,
- 19 collaboration and information sharing?
- 20 A. With the chairman.
- Q. Was it also open to the Department, if it thought it 21
- 22 appropriate to do so, to issue instructions or
- 23 directions?

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- 24 A. I don't think. I don't remember ever issuing
- 25 instructions or directions. Might have done some to

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the lay civil servants, didn't start wandering off doing odd things because they didn't understand the medicine and the science.

So there would be a medical officer at every meeting I ever had as Minister of State. And the medical officer would work to the Chief Medical Officer, they would do all this stuff about newsletters and making sure that doctors were up-to-date on what was happening.

Although doctors usually keep up-to-date through their own professional bodies and through the medical journals, which any responsible GP and surgeon does his best to keep up-to-date with the constantly changing pace of medical advance.

- Q. Then the Department could also put information into 15 16 the public domain, could it not, whether through press 17 releases or through the more formal process of 18 speaking in Parliament and answering Parliamentary 19 questions?
- 20 Well, you could make statements but they were usually
- 21 statements on Government policy. I mean, the
- 22 ministers are politicians and members of the
- 23 Government. So the ministry of a role is not medical,
- 24 clinical. It's not giving of a -- the Minister's job
- 25 is not to go around giving health advice to the public

- 1 a recalcitrant District Health Authority.
- 2 Q. It was also open, was it not, to the Department or 3 possibly here through the Chief Medical Officer, to 4 issue guidance to clinicians, "Dear Doctor" letters, 5 leaflets, and so on?
- A. I think the Chief Medical Officer, my recollection --7 mainly Donald Acheson, who was much more active than 8 his predecessor, but I think Chief Medical Officers 9 generally do issue guidance, and so on, but he'd do 10 that off his own bat, he wouldn't consult ministers 11 about that. And the Chief Medical Officer would be --12 you know, the medical scientific issues of the day, 13 and the advance -- scientific advance would, that 14 would be entirely the Chief Medical Officer and they'd 15 make sure that there was no gap.

There was a rule, a tradition, a convention in the Department of Health in those days, may still be, every time the Minister, including the Minister of State or the Secretary of State, had a meeting, by which what we call by a meeting, is a whole lot of half a dozen, maybe seven or eight, or maybe two or three, policy officials, where you're talking through and studying something and getting briefed, and all the rest of it, every meeting had to have a medical officer at it so the non-clinicians, the Ministers and

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1 at large. The Minister is the person responsible for 2 financing, you know, decision making, delivery of the 3 Health Service and its presentation in Parliament, 4 accountability to Parliament, and handling the wider 5 case of health, constant public controversy.

> Every Secretary of State for Health always finds that he or she is the most controversial member of the Government of the day. It's inevitable. I always warn my successors, for heaven's sake, don't think you're going to become popular when you're Secretary of State for Health, no Secretary of State ever has. You're in the middle of the constant presentation of your political role, your executive role, as the Government Minister in overall charge of it.

- Q. And --15
- 16 **A.** The CMO is in charge of all the medical scientific 17
- 18 Q. You have described in the Inquiry -- heard described 19 last week, a parallel hierarchy in the Department of 20 Health of the medical officers reporting ultimately to 21 the Chief Medical Officer and then the administrators 22 reporting ultimately to the highest -- the permanent 23
- secretary --24 A. The permanent secretary.
- 25 Q. -- within the Department.

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One of the medical officers from whom the Inquiry heard last week, a Dr Walford, who subsequently became a Deputy Chief Medical Officer later on, was critical of that division. She suggested to the Inquiry it was outdated. I think she used the phrase in her statement "The expert on tap but not on top".

8 A. The what, sorry?

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- 9 **Q.** "The expert on tap but not on top".
- 10 A. She thought the medical officers should have a bigger role?
- 12 Q. Well, I think she was critical of there being this
   13 parallel hierarchy, rather than there being, I think,
   14 more interwoven. Do you have any reflections on that?
  - A. I didn't -- I've not really addressed the issue before. I have a lot of time for Diana Walford.

    I mean I haven't met her since I left the Department, or I don't think, but I'm sure if you showed me a photograph I'd recognise her. The name is very familiar, and she was one of the medics who obviously advised me. But I can't remember what change she was proposing.

What you couldn't have was the bureaucracy of the lay Civil Service taking medical or scientific decisions, and the medical officers were -- on the

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servant or thing, the duty of a minister is to challenge people. I mean, if you -- if the advice surprised you, if any intervention of medical officer, you know, I certainly -- my side would be, you know -is it really the case, good grief, surely not? And so on. But if the -- the -- Diana Walford or Donald Acheson gave me an opinion, I would often debate it with them, and they would explain to me, if I got the wrong end of the stick, why they were giving that advice. But once we got Donald Acheson in, I thought in fact, as it happens, the medical officers were amongst the higher quality people in the place. And something you couldn't do was start sitting there --I don't personally sit there and argue with my GP and, you know, and treatment on medical -- you know, I don't start challenging his medical opinion.

You can't start challenging his medical opinion.
You can't start -- I have no clinical expertise
whatever. So you are relying on them, you have to
trust them. But it isn't just them, of course.
Because they have to relate with the medical
profession as a whole. So it's relevant to this
Inquiry, if you have a totally new disease, when
HIV/AIDS emerged, about which nobody knows everything,
and which causes panic because it appears to be fatal,
there's no cure, and so on. I mean, they're heavily

whole, we had a good lot. The first Chief Medical
Officer I had on record -- but Donald Acheson was
a splendid man, a Saint-like man but a very
hard-working man. And Diana Walford, I seem to
recall, was one of the ones I particularly trusted and
liked with her advice.

I mean they -- I didn't realise it was that strict, the division. I just -- we all worked together. I hadn't realised there was any tensions between them at the time. I am slightly muttering away but you're asking me a question of structure I had never even thought about before. I didn't know she was critical of it.

14 Q. You say in your statement that you didn't have -- you
15 and your colleagues, rather than you solely, didn't
16 have the requisite clinical expertise to go behind the
17 expert advice provided by the Chief Medical Officer
18 and his team.

## 19 A. (Witness nodded)

- Q. That reposes an awful lot of trust, does it not, in
   the reliability and comprehensiveness of the advice
   you're receiving.
- A. You did, which is why you had to have confidence in
   them. I mean, don't get me wrong, all the advice
   I have ever received from anybody, whether a civil

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reliant on all the contacts they've got for the
 Colleges of Medicine, the specialists on the ground,
 and they themselves draw in.

And what the CMO always does is -- anything like this, because it's -- at the moment, we've got Covid -- you set up all kinds of expert Advisory Committees from outside -- the CMO sets up all kinds of expert Advisory Committees of the people who are experts in this particular field, where the problem has now arisen, so that the -- his and his team's advice to ministers on the science is informed by getting all the experts.

- 13 Q. So, in general terms, you would expect, and indeed to
   some extent rely on this happening, you'd expect the
   medical officers to be drawing on the widest available
   relevant expertise --
- 17 A. I'm sure they did, yes.
- 18 Q. -- particularly in relation to something that's19 uncertain and new?
- A. Absolutely. And when the question arose of HIV and
   haemophiliacs, which is what we're actually dealing
   with here, I'm sure that -- I'd be amazed if -- Diana

23 Walford would have told you -- they would be in

24 contact with the people who knew most about it, which

25 was the haematology specialists, and the people who,

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- 1 you know, did specialise in the day-to-day treatment
- 2 of haemophilia, who had been, you know -- they're the
- 3 ones that have started using this amazing new
- 4 treatment, Factor VIII. And that was a decision by
- doctors who specialised in haemophilia. And then when 5
- 6 we started getting worried about the Factor VIII, I
- 7 imagine that our medical officers spent a great deal
- 8 of time dealing with them and I don't know. You would
- 9 know, I don't know but Donald probably did set up
- 10 a little committee, didn't he? Haemophilia expert --
- Well, we'll come on to the committees and expert 11
  - groups that were set up but, broadly speaking, if you
- 13 have something like a new virus, would you expect your
- 14 medical officers to be going, not just to haemophilia
- 15 clinicians to consider how it might impact haemophilia
- 16 treatment, but virologists, epidemiologists, public
- 17 health experts to draw on all different areas of
- 18 expertise?

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- 19 **A.** Well, the only way I'd look is easier to -- less
  - problems of memory. There are a lot of comparisons to
- 21 be drawn with Covid. We've got a -- we're in a major
- 22 national pandemic at the moment, all the same
- 23 parallels. Completely unknown new disease that nobody
- 24 knew anything about, and so all of us, everybody in
- 25 this room, is familiar with talking about committees

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- 1 You presumably asked Diana Walford.
- 2 Q. Indeed.
- 3 A. She told you what the set-up was. She, I think --
- 4 I discovered I think from the papers -- I didn't know
- 5 it before. She was a haematology specialist herself,
- 6 which was a bit of a good fortune that we got somebody
- 7 on our own -- in our own team who had in part of her
- 8 career been a specialist in haematology.
- 9 Q. But you've referred to Donald Acheson, who I think
- 10 became CMO in around October 1983, so for the first --
- 11 A. Sorry, who was this?
- 12 Q. Sir Donald Acheson. Dr Donald Acheson.
- 13 A. Yes, yes.
- **Q.** For the first 18 months or so then of your tenure as 14
- Minister, the Chief Medical Officer was 15
- Sir Henry Yellowlees. 16
- A. (Witness nodded) 17
- Q. Did you have any interactions or any system of 18
- 19 meetings with him?
- A. No -- Henry Yellowlees -- I -- not a lot. Henry 20
- 21 Yellowlees didn't immerse himself in these medical
- 22 things very much. Henry Yellowlees somehow -- perhaps
- 23 we just didn't hit it off but I don't want to say --
- 24 I would upset his family if I say unkind things about
- 25 Henry Yellowlees but he didn't actually give much

- like SAGE, which is in our newspapers every day.
- 2 Well, that is an expert group of, I think, that's been
- 3 brought together, several -- as I'm sure the lead has
- 4 been taken by the Chief Medical Officer of the day, in
- 5 doing that, and a range of virologists and experts.
  - and people with some, you know, and others, and there
    - are some psychiatrists and behavioural scientists and
- 8 all this sort of thing, a team of people. But drawn
- 9 particularly because they're leading specialists in
- 10 the relevant branches of medicine for finding out
- 11 something about this new disease and how we should
  - react to it.

Now, exactly the same thing would have been done in the case of HIV/AIDS. And then when we had a subplot for HIV/AIDS, because we had this particular problem with haemophilia, haematologists would be brought in, as well. I mean, I say this, I think it would be done, but I'd assume it was done, but it

- 18 19 would be the Chief Medical Officer who I would expect
  - do that.
- 21 **Q.** So you're describing what should have been done, in
- 22 any event?
- 23 A. Yeah, and I think was, wasn't it?
- 24 Q. Well, not for me to answer --
- 25 **A.** -- (overspeaking) -- I'm not the right person to ask.

- 1 clinical advice to me. He didn't immerse himself in
  - things. It was much better to deal with members of
- 3 this team. You know, I can't remember -- I've
- 4 obviously -- 40 years ago, I can't remember individual
- 5 meetings or events but had something come up about
- 6 haematology, I would have found myself dealing with
- 7 Diana Walford not with Henry Yellowlees, and it was
- 8 a huge, huge improvement when we got Donald Acheson 9
- 10 Donald Acheson was a conscientious, really 11 serious -- you know, serious committed figure who 12 immersed himself in what I think was the 13 responsibilities of a Chief Medical Officer and would
- 14 give me advice I'd expect from a Chief Medical
- 15 Officer, and it was advice in which I could have 16
  - confidence, I always thought.
- 17 Q. Again, in general terms, I want to get
- 18 an understanding of how information might reach you as
- 19 Minister. So the guardian, as it were, of the
- 20 Minister is the Minister's private office?
- 21 A. (Witness nodded)
- 22 Q. So information would be provided by administrators or
- 23 medical officers to your private office and then to 24 you?
- 25 Α. Every part of the Department would pour papers upwards

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into the ministerial team, usually, obviously, whichever minister was responsible for whatever they were doing. The Secretary of State's office got a very high proportion of the lot, because you were --I was Minister of State, I would only get the things I was doing. Vast amounts of paper would pour in. When you're talking about paper, bear in mind you've also got ministerial correspondence, which was building up in the 1980s. It's even more, I'm sure now. Thank God we didn't have emails.

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But you get -- hundreds of letters would come in every day from members of the public and various other things. You got all the Parliamentary questions, large numbers of written Parliamentary questions. So unbelievable quantities of paper would be pouring in to the private office of ministers, and when I was Minister of State, about an awful lot of health service paper would come in.

I had a private office of young, keen, rising civil servants, half a dozen of them. One of them, though, probably their full-time job was sorting all this paper out, and the key role that the private office had to play was deciding which of this should the Minister see, which must he see, because he ought to see it? What would he want to see, because it

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decision, but I personally would change my mind sometimes. I'd have some bee in my bonnet and it would quite rapidly be put right by some official who realised I'd got the wrong end of the stick, and so on. And that way you'd come to a settled, informed decision, the Minister of State would take a decision and if it involved initiating action, right. I would -- as Minister of State -- I wouldn't do it like this and use these words, but that was what the Minister had decided, that's what was decided was the conclusion of the meeting and then the "machine" was meant to go out and put that decision into practice.

- **Q.** We'll explore during the course of your evidence various matters that did get to you as Minister and others that did not. Was there any guidance or yardstick as to what kind of issue did have to go to the Minister and what kind of issue could be left to be resolved by --
- A. No really formal guidance. We had enough -- you know, for heaven's sake, we don't want more bureaucratic rules. In the end, it's a matter of judgment and common sense. It's usually fairly obvious that the Minister is going to be involved in this, you know, dealing with some -- I mean, some newspapers are coming in about a strike that had broken out

really is relevant to the things he, you know, would want to get engaged in, and so on.

And they would try to -- they would cope with all this paper, and get down to producing those papers which were going to be put in front of the Minister, either physically on his desk, or in the red boxes in the evening, for him to do when he got home, come back with in the morning, and scribble all over them and his response to it, in order to make it manageable.

And everything else would be dealt with, you know, officially, and that -- that was the main source of information.

Now, otherwise, you have -- what we would then do, I would respond with issues, you'd respond probably to the papers. I would ask for a meeting, and then the next Civil Service process would be the meeting, where a collection of officials would come in dealing with the thing the Minister now wanted to talk about. You start with the paper, the paperwork would be the basis you were working on. Then you'd have a general discussion.

I like general discussions. I like challenging views. So competing views, we'd talk it through, and nine times out of ten we'd come to a rough consensus at the end. The Minister would have to take the final

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1 somewhere, you know, you raise your eyebrows and say, 2 "Blimey, the Minister had better see this soon, at the 3 end of his next meeting, he'll want to know this has happened". 4

> Other things, you know, "We'd better get involved in this and find out what's going on, and the Minister might want to find out what's going on", and so on. It requires judgment and common sense.

- Q. In general, when a minister in a Department like the 10 Department of Health took up their new post, what was 11 the system for attempting to bring the Minister up to 12 speed with issues that fell within their areas of 13 responsibility?
- 14 **A.** You would be presented with huge piles of briefing. So you'd better settle down for a couple of days of intense reading, and then there would start to be some meetings so they could start briefing you. This would be your way of meeting the people you were going to work with, the senior officials, who were likely to be coming to you having meetings for different things, and you'd be immersed for the first week or two, a big Department like this, you'd -- briefings and paper, and so on, and try to get you up to speed. You had to be very cautious. It's a sort of a -- I-- In those days no one ever gave any training. Every minister

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taught himself how to be a minister, or herself how to be a minister. You just plunged in.

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First job I was ever given, you know, I didn't even know where the Department was. I had to find my way there and, as a -- someone who had never been involved in this kind of thing before, found I was being in immersed in this thing of, firstly, huge piles of paper I'd got to read on the subject, and then all these things, and then as I became a sort of old veteran -- I don't usually go round giving boring old veteran's advice, but I used to make a joke saying just be careful what you do in the first month or two, because you'll find your responsibilities are so massive that -- take a couple of months before you really take a key decision, because you may regret it, and certainly don't, if you think it's a department you know, don't sail in with pet ideas, instantly start implementing them. Try them out, test them, use the opportunity to get in-depth knowledge of the subject because politics is always conducted in terms of simple solutions, polarised opinions. Most Government decisions are complicated, multi-facetted, and you need to immerse yourself.

In fact, I used to say that until you've been there a couple of years, you won't really

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wouldn't always minute it. They were just a way of touching base and it was, you know -- they weren't formal. They were -- they'd ask you how you're getting on, are you having a bit of trouble, aren't you, you know, with old Petunia(?) with whatever it is, and you just kept in touch and then shared with your colleagues things which were causing you a particular problem. If you wanted to ask your colleagues "What do you think about all this? I'm having this particular row at the moment about this, what do you reckon I should do?"

They were that sort of meeting, just to make sure colleagues touch base with each other.

I suppose the Minister of State and the Parliamentary Under-Secretary of State for Health, but they'd see each other a bit, there would be quite often meetings where we'd hold joint meetings where we'd both be there, in subjects which really cut across both our desks.

- Q. In terms of documents, we'll see as we go through some of these specific issues in which you became involved, there are documents, sometimes briefings, sometimes other documents, that are no longer present -- have not been found.
- I'm sure there are. 25 Α.

understand it. Then you'll be an expert, you'll have real ideas of what you wish to do. Then you'll find the Prime Minister reshuffles you, and you have to start all over again.

Fortunately, one of the reasons I look back with pleasure on my time at Health was the two stints meant I was there for so long, by the time I left as Secretary of State, I was confident I knew exactly what I was doing and it was my agenda. I was putting 10 in place the things I thought were in the public 11 interest, I thought were going to strengthen the 12 Health Service, supported, fortified by all the 13 briefing, discussions, arguments, everything else, I'd 14 had with my officials.

- 15 Q. Was there any practice or system of regular 16 ministerial meetings? Would you -- (overspeaking) --
- A. We used to have a weekly meeting, I think. I liked 17 18 to, in all the Departments I was in when I was in 19 charge of them, the later ones, but you're all so 20 busy. Sometimes you see remarkably little of most of 21 your colleagues.
- 22 **Q.** But would those regular meetings be minuted?
- 23 A. I know that they were usually. I don't know. I mean, 24 a private secretary would -- a private secretary would 25 sit in practically any time you met anybody but

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- 1 Q. I understand in relation to your private office 2 papers, you had a particular way of marking the 3 material that came to you?
- 4 A. I had a habit of underlining key phrases. A thick 5 felt tip pen as I used to use. That was so, if I had 6 to look and consult the document again, that I could 7 skim read it and remind myself of what I'd thought 8 were the really key telling sentences. And it's just 9 the way I think a minister was expected to work. As I 10 say, I taught myself how to be a minister. There was 11 no introduction or management training of any kind was 12 ever given in my day, when I started.

So I'd do this thing of underlining, and I always scribbled on the top, practically everything in the box would have my underlining, so they'd realised I'd reached it. Sometimes if I hadn't finished the box they could tell which papers I'd not reached and they'd put them in the next night's box because there would be no markings on the ones I hadn't reached and they'd put the most important ones on the top. If I'd had a particularly busy day and was going to have only a few hours' sleep and sometimes you didn't always finish the box. You know, I did do my boxes properly.

And then I'd scribble at the top. Sometimes I'd

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just put "content, Ken", you know, and sometimes I'd put a short sentence, and sometimes I'd put "We must have a meeting" again, I mean, you know, or whatever it is. And that kind of comment, which would be seen by the relevant member of my private office, and would be there clue as to the next stop or if it was just a comment they might pass it back to the relevant things, saying "the Minister of State has read this, and his only comment is ... " And obviously they'd call the meeting if I was asking for a meeting, or if I gave some strong opinion, they'd report the opinion, and say changes -- "Perhaps you ought to come see him if you don't agree with him", that kind of thing.

But it was the private officer's job to filter the paper so it was manageable by one person, who had a very busy day every day in the office, and quite a busy day at the weekend usually, and then that was the way it went backwards and forwards. And particularly with me, they got used to dealing with me, because they all got used to my habit of underlining everything that I read it and key phrases and they knew they could expect my reactions on the top.

24 For the most part, those original documents with your 25 own markings on have not been -- (overspeaking) --

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- 1 high-priority part of the Department of Health's 2 responsibilities. Some poor soul drew the short straw 3 of having to organise the archive.
- 4 Q. In the course of your ministerial duties for the 5 period 1982 to 1985, as far as you can recall did you 6 ever visit a Regional Transfusion Centre?
- 7 A. I don't recall visiting one. I did used to do lots --8 obviously I did lots of visits. But, no, I don't 9 think I ever did visit a Regional Transfusion Centre.
- Q. Did you --10

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- 11 **A.** My only firsthand experience of the Blood Transfusion 12 Service was I was a blood donor -- I think I was 13 a blood donor in those days.
- Q. Did you ever visit a Haemophilia Centre in those days? 14
- A. A Haemophilia Centre? No, never. 15
- Q. Did you meet with clinicians -- generally, did you 16 17 have meetings with clinicians from time to time?
- A. Very occasionally. I mean, I would meet them because 18 19 they'd always get me along to dinners, so medical
- 20 dinners I would go to, but they were -- I mean, that's
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- how I'd meet a lot of the doctors because, not
- 22 surprisingly, if you get invited along to a dinner of
- 23 the Royal College of whatever it is, most of the
- 24 evening will be spent with various doctors lobbying
- 25 you or you're asking questions of doctors, it was --

- 1 A. So I discovered because you produced thousands of
  - documents, 90% of which I've never seen in my life,
- 3 the tribunal has, there's a huge archive somewhere in
  - the country -- God knows where -- but the Department
- 5 of Health does not appear to archive the documents.
- 6 the originals as they went to the Minister, as came
  - back from the Minister. They -- obviously I got the
- 8 same documents they were all pristine photocopies or
- 9 something of the documents we then had and then
- 10 there's a tiny number, I found about two or three
- 11 which -- they're still photocopies but they're
  - photocopies of the ones that have got my underlining
- 13 and writing on. But a red box in those days is when
- 14 I -- if you got a red box back in the morning, my
- 15 office would have expected every document in the thing
- 16 to have some underlining, a bit of scribble on from
- 17 me.

Q. You --

- 19 **A.** I mean, apart from the letters. All the letters I had 20 to sign and everything else would be in the red box.
- 21 **Q.** As I understand it, so that there's no mystery about 22 it, you don't know what the system was for retaining
- 23 those or why they were no longer available?
- 24 I had absolutely no involvement in keeping the 25 archive. I don't think it was a high-profile,

- 1 I mean, apart from the social side of it, that was the
  - main contact I had with practitioners. For groups of
- 3 practitioners to come in -- no, I don't know,
- 4 I mean -- unfortunately I don't think anybody has kept
- 5 my ministerial diaries. They've not made their way to
- 6 the archive. But I don't recall, you know, very often
- 7 meeting -- I mean, when I visited a hospital, of
- 8 course, you are spending your entire time in the
- 9 company of the doctors who worked in that hospital,
- 10 who would spent their time showing you what they were
- 11 doing, going round explaining things and lobbying you
- 12 sometimes or ...
- 13 Q. What about patient groups? Did you meet with
- 14 representative patient groups?
- A. We didn't have many patients groups. No, I didn't 15
- 16 meet with many patients groups, although -- despite
- 17 what I'm saying about it, I thought -- raising the --
- 18 getting the Service to concentrate on outcomes to
- 19 patients as its main objective, and not relationship
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- with its principal trade unions as its main concern,
- 21 was one of my major activities during the time I was 22
- 23 Q. Did you ever meet with people who had haemophilia who 24 suffered from bleeding disorders?
- 25 A. I don't recall ever meeting -- in fact I rarely in my

life met anybody with haemophilia, I think I have to
 admit.

Q. Can I just pick up on a phrase you used earlier in relation to doctors. You talked, I think, about "clinical independence", and I think either your statement or certainly the statements of others referred to the concept in terms of "clinical freedom".

What did you understand by that at the time?

A. Certainly the Government and politicians should not start interfering with the way they treated their patients, that they were their principal responsibility. They had a great role -- a doctor is to be quite independently responsible for giving what he or she thinks is the best treatment to the patient they're trying to help, and they should not be inhibited by anybody -- they shouldn't -- by lobbyists or anybody else, in using their best clinical judgment in the interests of the patient they're treating.

And so the medicines they prescribe, treatment they give, all that, is entirely at the discretion of the doctor.

I had disputes with them in a quite separate area, because I think the prescribing of medicines began to be abused with the prescribing of totally

National Health Service, which was the responsibility of the ministers, but that -- there would have been outrage if some minister had thought that meant you suddenly told doctors that "You give this treatment" and "You don't give that treatment", for a particular condition.

- Q. Would you accept that the Department and the ministers within the Department had a responsibility to ensure that the treatment being provided through the National Health Service to patients was safe?
- A. Yes, that's why we had this network of Safety of Medicines Committees, Licensing Authorities -- they have legal power. It's illegal for the doctors. That's the real control: to make sure you don't have some eccentric doctor who is prescribing things which are not actually clinically proven or, sort of, you know, recommended. But never does the minister personally start intervening and imposing a personal decision on what treatment the patient should involve.

I mean, the great borderlines to all this, just to give you an example of a problem which -- we haven't to go any further unless you particularly want to -- but, I mean, homeopathy, which is an alternative medicine regarded by the vast majority of the medical profession as crank nonsense. For historic reasons,

non-medical things by doctors, lobbied by their
patients. And I tried to -- and prescribing very
expensive versions of drugs which the Health Service
could obtain much more reasonably priced generic
alternatives to. That was the only issue I had, where
those who disagreed with me started hurling
allegations at me of interfering with their clinical
freedom.

- Q. I understand why the Department would not interfere
   with an individual clinician's dealings with an
   individual patient, but more broadly, would you accept
   that doctors were employed by the National Health
   Service for whom the ministers within the Department
   of Health were politically responsible? Politically
   accountable?
- A. Well, they were employed by -- some of them were employed by the Health Service. I mean, GPs have always been private sector, they're independent, self-employed people, or they're in partnerships, and they're in contract with ... always been a large private sector part of the Health Service. Like the -- community pharmacists, they're not employed by the Health Service.

The hospital staff are all employed by the Health Service, which means their employer is the

homeopathy was provided by part of the Health Service. We even had a homeopathic hospital, for reasons I won't go into, but dated back to the 1940s. I mean, so that was a fringe thing, because the overwhelming majority of medics -- I mean, I'm not entering into this dispute but a vast majority of medics would say that the treatment was useless, and indeed I've known medics get quite excited about homeopathy, but there are specialists in homeopathic medicine who insist that they're entitled to provide it, and I say we had all -- I think it's much diminished now, I think it's vanishing but I'm out of date -- you had fringes like that, but -- if that was ever resolved, it would only be resolved by medical opinion. You couldn't just

that, but -- if that was ever resolved, it would only be resolved by medical opinion. You couldn't just ever -- a minister could only intervene if medics had told him that it -- "They're killing people, you've

told him that it -- "got to stop them."

18 Q. If the Department, whether through the Chief Medical
 19 Officer or otherwise, were to publish and make
 20 available to Health Authorities, hospitals,
 21 clinicians, information about an emerging new virus,
 22 what was known to be the risks, what might be the pros

and cons of particular measures that could minimise
 that risk, that wouldn't be an interference with

25 clinical freedom --

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- A. Well, the CMO did that, didn't he? 1 Q. Not in 1982, '83 or '84, no. 2 A. No? I thought the CMO occasionally put out 3 4 newsletters and things. Q. The first newsletter that we'll look at, I think, in 5 6 relation to AIDS from the CMO is in 1985 7 -- (overspeaking) --8 A. Yeah, well, that was the decision of the CMO. The CMO 9 couldn't -- would -- they wouldn't do it much. I mean, the main source -- what the -- the doctors on 10 the ground were, obviously, frightfully worried. 11 12 I mean, at whatever stage you're talking about, time 13 went by, concern grew. So the people mainly involved 14 here -- most of the issues in all this, actually, 15 issues for specialists in homeopath -- in haemophilia
  - in the Health Service and specialists in AIDS in the Health Service. They would all be very concerned. Now their main source of information, apart from each other and their conferences, would be the medical journals, where all the latest research, information and so on is published. So if you're a worried doctor, wanting to know more about where on earth is this disease coming from, are there some terrible downsides to this treatment, it would go to The Lancet. And The Lancet is only one of a large numbers

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- 2 A. On what subject?
- 3 Q. In relation to AIDS and how to deal with the risk of 4
- 5 A. Well, if the Department -- if the medical officers had 6 got -- what did Diana Walford say?
- 7 Q. There's nothing -- my question to you, Lord Clarke, is 8 this: there was nothing to stop the Department, 9 whether through the Chief Medical Officer, or 10 otherwise, from providing information and guidance and 11 advice -- (overspeaking) --
- 12 A. No, I thought they did occasionally. But they had to be cautious. And (unclear) couldn't issue 13 14 instructions.
- MS RICHARDS: Sir, I note the time and I am going to move 15 on to a different topic so it might be time for 16 17 a first break.

SIR BRIAN LANGSTAFF: Yes. 18

I would like to say two things before we do break. The first is that, as people here will be aware, the media have a particular interest, no doubt because of the prominence of Lord Clarke, in the evidence that we're hearing this week, and I thought it was the right time to just remind the press -- who have been very, very good, I have to say, up until

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of journals of streams of research papers come out and any doctor wanting the most up-to-date knowledge relies on that and his colleagues, not the Department of Health, certainly not politicians in the Department of Health, to which, if any politician started giving an opinion, any sane doctor would say, "What the devil has it got to do with him?"

And the medical profession is a self-governing 9 profession. It's a very -- it's an outstanding 10 profession, and the process of constantly changing 11 clinical progress and medical advance, which makes the 12 Health Service now vastly better than it was in the 13 1980s, and I don't think -- there's a huge -- you 14 know, we're living in a far better world now than in 15 the 1980s because of all the fantastic clinical 16 advance. It's the professional organisations, it's 17 the journals, it's the dissemination of scientific 18 research. That's where you get your information from. 19 People don't look -- the doctors in the field don't 20 look to the Department of Health to tell them what to 21 do when it comes to treatment. 22

Q. There are specialist clinicians who have told this Inquiry that it would have been enormously helpful for them to have advice from the Department or Chief Medical Officer in this critical time in the early

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now -- that they should not, please, take any photographs either in or outside the building or the they're photographing wishes and is happy to be photographed, and taking care that others in the mistake.

> I've said this on a number of occasions, or words to this effect, and it's now, I think, an appropriate time to just remind those out there, on whose cooperation we do depend and which we do value.

Lord Clarke, what I say to all witnesses who are giving evidence at this stage in their evidence is that there will be a break. In that break -- it will be about half an hour on this occasion, there will be longer breaks later on, and of course you will be here for three days -- at any break you must not talk to anyone about the evidence you have given or the evidence which you expect you may be asked to give.

20 **A.** I quite understand.

21 SIR BRIAN LANGSTAFF: You can talk about anything else you 22 like. You'll know this sort of warning from the 23 days -- your days at the Bar.

(14) Pages 53 - 56

24 THE WITNESS: Precisely. I will -- I am familiar with that.

immediate vicinity without checking that the person background aren't simply identified or identifiable by

No, I'm not going to -- I assure you, until I've

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any briefing on these issues when I took office as

2		finished giving you my evidence, I'm not going to	2		they did not fall within my Ministerial areas of
3		discuss my evidence with anybody.	3		responsibility and there were so many issues that did
4	SIR	BRIAN LANGSTAFF: Thank you very much.	4		fall within my areas of responsibility that had to be
5		Well, we'll take a break now and come back at	5		covered."
6		ten to 12.	6		Pausing there, would you have expected that the
7	THE	E WITNESS: Can I safely leave these papers here?	7		Minister who did have that special responsibility,
8		RICHARDS: You can, yes.	8		whether at any point in time it was Lord Glenarthur or
9		BRIAN LANGSTAFF: They're safe.	9		somebody else, that they would have a briefing on
10		.20 am)	10		those issues on taking up their role?
11	`	(A short break)	11	Α.	Yes. When who did Lord Glenarthur succeed? Can't
12	(11.	.52 am)	12		remember. Anyway, whoever it was
13	-	RICHARDS: Lord Clarke, can I ask you to have a look at	13	SI	R BRIAN LANGSTAFF: Lord Trefgarne, I think.
14		your statement.	14		Lord?
15		Soumik, if we can have the statement on screen	15		R BRIAN LANGSTAFF: Trefgarne.
16		and go to page 18, paragraph 3.1.	16		Lord Trefgarne. When Simon succeeded David Trefgarne,
17	A.	Unfortunately I'm so short of digital skills I don't	17	٠	I imagine he was provided with, at some stage, with
18	Λ.	know how to get the pages	18		briefing on Blood Transfusion Service, yes.
19	Q.	You don't need to	19	М	S RICHARDS: Now, in broad terms, and I'm not looking
20	A.	Oh, you're putting it up for me. Right. Surely.	20		here at any particular point in time between 1982 and
21	Q.	You say in paragraph 3.1 you say:	21		1985, but in broad terms, you had an awareness that
22	Q.	"I have been asked about my knowledge of the	22		concentrates, Factor VIII concentrates were being
23		National Blood Transfusion Service, the safety of	23		imported from the United States.
24		blood and blood products and the risks of infection on	24	Α.	·
25		taking office. I do not think I would have received	25	Q.	
25		-	25	Q.	•
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1	Α.	I think, yeah. I mean I think we kind of picked	1		general a member of the public that there was
2		it up. I mean, you were aware of what was going on in	2		concern about this, so I did. I had followed it
3		conversation with colleagues and things, yes.	3		a bit. I had no detail or special knowledge of it.
4		I did yes, the answer is yes, I did know that	4	Q.	· · · · · · · · · · · · · · · · · · ·
5		and I knew only from the newspapers, that there was	5	α.	document will come up in front of you, Lord Clarke.
6		concern about the importation from the United States	6		You'll see, this is a written Parliamentary question
7		of blood products because that had got into the	7		and answer, 5 July 1983, and it's a Mr Hamilton asking
8		newspapers.	8		you two questions.
9	Q.	Now, although you, for the reasons you've set out in	9	Α.	
10	Q.	your statement, didn't have any specific briefing on	10	Q.	•
				Q.	
11		the issue when you took up your post, did you have any general knowledge, as far as you can recall, about	11 12		currently imported from the United States, what the
12		·			figure was in each of the last four years and if he'll
13		concerns about use of imported products? There'd been	13		take steps to reduce British dependence on a foreign
14		a high profile documentary, for example, in 1975 and	14		product. The second question is to ask the Secretary
15		another in 1980, is that something you think you'd	15		of State:
16		remember	16		" in view of the risk of hepatitis in United
17	Α.	I don't remember seeing a television documentary but	17		States Factor VIII, if he will take steps to enable
18		I had a kind of general I'm sure I had read in the	18		the British Blood Products Laboratory to produce all
19		newspapers this concern about because we had	19		United Kingdom requirements of this commodity."
20		discovered that the Americans were taking paid blood	20		If we then look at the answer before I ask you
21		donations and the paid blood donations, what was	21		a question about it, your answer, written answer:
22		always cited was prisoners, people in US prisons.	22		"Detailed statistics of imports of Factor VIII
23		Otherwise people who were just down and out were	23		are not collected centrally. However, approximately
24		getting money by selling blood to the transfusion	24		35 million units of imported Factor VIII were used in
25		service, and I had the general knowledge of the	25		1981 which is the latest year for which figures are

available."

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Then you go on to talk about the redevelopment of the Blood Products Laboratory, which I'll come on to at a later stage.

Can we just go back to the paragraph in the middle. So you will have seen. Lord Clarke, from that second question asked by Mr Hamilton, reference to the risk of hepatitis in American Factor VIII. Do you recall becoming aware or being aware that hepatitis was a particular --

A. I think I was aware of the hepatitis risk. For some reason, the impression I have, as someone who is by and large a spectator of -- for reasons I've already given, I was never a -- day-to-day directly responsible for the subject. I was aware of these concerns, because AIDS was such a dominant -- I mean, you forget now how AIDS really did grip the public and the media when it first -- not surprisingly, when it first burst upon us. Less attention was paid to hepatitis but I think I realised, you know, that AIDS wasn't the only infection you could get. Indeed, infected blood was, on the whole, a thoroughly bad idea. All kinds of things you could get from infected blood if you got very unlucky in your donors. So I was aware of it, yes.

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- 1 a haemophiliac in the United Kingdom was thought to be 2 suffering from AIDS. Would you have expected the 3 Department to find out as much as it could about that 4 case?
- 5 A. Yes, of course.
- 6 Q. There came a point a little later in 1983 when the 7 first haemophiliac infected with AIDS through their 8 treatment died. Again, would you have expected the 9 Department to try to find out as much as it could 10 about that case?
  - **A.** Well. I have seen, when doing my evidence, that they had discussions in which this came up. I mean, I became aware that people had died because I got involve -- I have to return to my evidence to remind me because it's only from the documents that I can remember how I got involved, but I was aware. What do you mean, the details? It depends what details you're talking about. The fact that we had, I think, two or three haemophiliacs die, and it was definitely a strong possibility that they had died as a result of taking infected, imported Factor VIII, I think we did know and I can see from the documents I was aware of that myself.

When you say "know the details", whether I actually knew the name and address of the victim and

Q. Do you recall whether you had any particular 1 2 understanding of how serious hepatitis could be in the

3 early 1980s?

- 4 A. Well, I say I'm a layman not a medic but, yeah, 5 I think so, yes. I mean, it can be fatal, certain 6 types of hepatitis.
- 7 **Q.** We can take that down, yes. Thank you.

8 Now, do you recall how you first learnt about 9 the possibility of a connection between AIDS and blood 10 or blood products.

- 11 Α. From the newspapers, I think, before I got to the 12 Department.
- 13 Q. So something you think you might have picked up from 14 the media generally?
- 15 A. I think so, I can't remember now where I first heard 16 it, but trying to recall where you first heard 17 something 40 years ago is tricky. I mean, I had not 18 closely followed the subject but I had the awareness 19 of someone who, whilst, you know, as most politicians 20
- do, regularly follow the media. 21 **Q.** Well, we'll look at various specific documents very shortly, but just again, just some general questions. 22 23 There came a point in 1983 when you would have found 24 out, the documents show this -- the precise date 25 doesn't matter for the purposes of my question -- that

- 1 interviewed, you know, the GP and all that, I have no idea. But I don't think that's quite so relevant but 2
- 3 I've no reason to think anybody in the Department
- 4 didn't know that we had this situation which had
- 5 arisen, where there was quite a strong possibility
- 6 that someone had died as a result of being infected by 7
  - Factor VIII, a blood product.
- 8 Q. Yes, just --
- 9 **A.** And at this distance I can't remember, you know, when 10 in 1983 all that emerged and became clear and all that 11 sort of thing.
- 12 **Q.** We can trace that through with the documents to the 13 extent that we need to. Just to be clear,
- 14 Lord Clarke, I wasn't suggesting that the Department 15 should find out the name, address, date of birth and
- 16 personal circumstances of the individual --
- 17 **A.** Absolutely and interview the relatives and all that.
- 18 Q. -- but would you expect the Department to want to find 19 out as much as it could about what blood products --
- 20 A. In broad terms. I don't know what you're getting at.
- 21 In broad terms, when you have a significant event of 22
- this kind, and obviously a cause of death which we had 23 not encountered before, I would expect the Department
- 24 to know about it and, if necessary, find out a bit
- 25 more about it. But I also expect perhaps that the

people, the specialist doctors who also had encountered this for the first time would get a hold of the Department and tell the Department that they'd got this -- was the Department aware they'd had this rather tragic and unexpected thing happen?

I mean, in broad terms, it all depends what do you mean about the need to know? But yes, of course it would have been rather bad if the Department apparently didn't even know that it had happened but I think they did know it had happened.

- 11 Q. Lord Clarke, I'm not suggesting that or trying to get12 at anything in particular --
- 13 A. What are you suggesting that they should have foundout that they didn't?
- 15 Q. No, I'm asking the question. What kind -- let me put
  16 it a different way, Lord Clarke. What kind of
  17 investigations or enquiries would you expect the
  18 Department to undertake?
- A. I'd expect them to get the medics concerned and get the medics to explain to them what had happened in this case but maybe -- again, I'm a layman so I don't know how -- you know, the medics in the Department should have set about finding out, you know, more about it. They would know. And you should ask the medics all that.

in before, but the purpose of the meeting which I do remember -- I vaguely remember -- I can't remember what each of us said or anything -- was I think Simon just wanted to explain what he was -- I know it was his subject, but what he was doing, how he was coping with it and just see what his colleagues -- because we're all friends, we were all on good friendly terms -- what -- did we have any suggestions, did we agree with his approach? What was our reaction? And we -- I don't know how long it took, an hour or so, I don't know, I can't remember, and we discussed it and it was -- anyway, we all came to the same conclusions.

I think it was also, you know, anything you think I should be doing about it, was what he wanted to know. And we all wound up in roughly the same place. He seemed to be doing sensible things. I can understand why he was concerned about it. If he found it reassuring that we saw no reason -- we didn't disagree with the views he was taking. I mean, Simon -- you've seen Simon. He's a good, intelligent conscientious -- very conscientious guy. And I trusted Simon's judgment. We -- no two people always agree. We might have come to different conclusions. We touched base.

Q. Lord Glenarthur told us that he recalled asking for a meeting with you and Mr Patten in around September -- well, in September 1983, because he wanted to raise some concerns about the way in which risk was being considered and the way in which the balance of risk was being struck and he couldn't remember the details of the meeting but came away feeling a degree reassured by the discussions that had taken place. Have you got any recollection about that?

A. I have. It's in my evidence as well. Indeed, my first -- because I don't remember -- I never held my own meetings, sort of thing. I was never directly involved with all this, but I do remember that, and I put it in my evidence, I didn't consult Simon doing my evidence. Simon -- it was when I really became --improved my awareness of what was going on. Simon asked for a meeting with me, which -- over the last few days I've read Simon Glenarthur's written evidence, when it was made public last week, so I now see he thinks John Patten was there as well, and who was also a junior minister. Anyway, I remember Simon asking to meet me in order to discuss AIDS, and so on, which was quite interesting, because, you know, it filled me in, in a way in which I had not been filled

From my point of view, I think it greatly improved my understanding of this issue which I was aware was going on, which I'd never really been directly involved in, apart from all kinds of slightly irrelevant things like discussions of the wording of AIDS leaflets and things, but I'd never been involved on the main policy on it. And we touched bases, and he found it reassuring and I found it reassuring in the sense that I would have intervened if -- in my role as Minister of State if I'd thought one of the Parly Secs was, in my opinion, screwing up on some rather important topic, then I would have told my office "We'd better get involved in all this and see quite what they're up to and get reassured".

Nothing had ever occurred to make me do that on blood products. So it was just a generally reassuring meeting because, you know, every now and again it does help. We have a good team of ministers, we have a good team, this really was a team, we are all on reasonable terms. I don't think anybody -- we didn't have a lightweight or a -- someone not really up to it and, every now and again, touching base with your colleagues and just making sure that they are reassuring you that, while they can't think that they are doing anything that you're not doing, and can't

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think of anything to do that you're not doing, talk it through, and just reassure each other that we're doing what we could. Simon was in charge.

I don't think -- that's why I don't know what the Inquiry is going to -- I don't think Simon did anything that anybody, you know -- there's nothing Simon could have done that he didn't do about the whole thing.

- Q. Well, we'll explore today and tomorrow, Lord Clarke, what was and wasn't done. I want to start next, then, with a topic that you did become involved in, you referred to it in passing a moment ago: the question of a leaflet to be provided to blood donors.
- 14 A. Yeah.

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- 15 Q. I am going to do that by reference to the document and
   I'm afraid we're going to need to go through them
   quite slowly so that everyone can follow the sequence
   of events.
- 19 **A.** Okay.
- Q. So if we start, Soumik, with DHSC0002309\_024.
   We'll see this is a minute dated 1 July 1983.
   It's from Mr Parker. It's addressed to Mr Joyce, who
   was in Lord Glenarthur's private office, but we see
   there it's copied to a number of people.

Mr Alcock was your private officer, I think?

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1 ministers. Meanwhile, in view of the public interest
2 in AIDS, the issue of the leaflet would be seen as
3 a positive step to minimise the risk of the
4 transmission of the disease through blood donation in
5 this country."

So --

- A. I've not seen this document before, I don't think.
   The point of the document was to try to discourage homosexuals from giving blood, wasn't it?
- 10 Q. Yes, those in high-risk groups --
- 11 A. So to get down to the point, that's what --
- 12 **Q.** Yes
- 13 A. -- significant step it represented.
- 14 Q. So if we just take it in stages. I'm just going to
  15 read out but not go to the references for the
  16 documents described as flag B and flag C, so that -17 I'm doing that, Lord Clarke, not because I'm going to
  18 ask you about those particular documents but so that
  19 the references are on the record and others can find
  20 them.
- 21 A. Okay.
- 22 Q. So the draft leaflet described as flag B -- and,
  23 Soumik, you don't need to put this up -- is

DHSC0002309\_122. And the background paper, referred to as flag C, from Dr Walford is DHSC0002309 124.

1 **A.** He was.

- Q. So a minute that was copied to you. If we go furtherup the page --
- A. But as I've said, every document in the Department was
   copied around all the ministers. It doesn't mean
   every minister saw it.
- Q. I'll ask you about that in a moment, Lord Clarke, but
   I think we can probably infer from subsequent events
   you did become involved in this issue?
- 10 A. I became involved, I got involved in the leaflet, that11 is true.
- 12 Q. Yes, and that's what this minute is about. So we can13 see Mr Parker says:

"I attach a paper (flag A) prepared by Dr Walford, which seeks Ministers agreement to the funding and publication by the Department of an information leaflet on AIDS (flag B) for distribution by the National Blood Transfusion Service.

Lord Glenarthur will be aware from Dr Walford's note of 22nd June (copy attached at flag C for ease of reference) of the steps being taken by the Department to prevent the spread of AIDS in the United Kingdom and a further submission covering the imports of blood products, developments in technology, research and UK production of Factor VIII will shortly be put to

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But I do want to go to the document referred to as flag A, so that's the submission to ministers about the leaflet.

Soumik, that's DHSC0002309\_121, please.

- 5 **A.** What is the date of all this?
- Q. This is sent under cover of a minute dated
   1 July 1983. And we'll see, Lord Clarke, you become
   involved in a discussion about this on 6 July. I'll
   take you to that but I just need to --
- 10 A. Yeah, I remember getting involved in it.
- 11 Q. I'm just going to read out certain parts of the
   12 submission. We can see the heading is "Acquired
   13 Immune Deficiency Syndrome: Issue of an information
   14 leaflet through the National Blood Transfusion
   15 Service":

"Purpose of [the] paper:

"An information leaflet on AIDS has been prepared by the Regional Blood Transfusion Directors ... Its main purpose is to discourage practising male homosexuals -- who as a group carry the highest risk of transmitting AIDS in their blood -- to refrain from donation. Funds are available for the Department to pay for the printing of the leaflet (estimated cost approximately £5,000), which would be distributed by the NBTS. In view of the sensitivity of the issue as

it relates to homosexuals, Ministers' agreement is sought to the funding and publication of the leaflet."

Then we don't need to read all of it but we can see under the heading "Background" it says:

"There is increasing evidence that AIDS may be transmitted by the transfusion of blood which is taken from a person who is either suffering from AIDS or who is in the incubation period of the disease. Blood products, such as Factor VIII for the treatment of haemophilia, may also transmit AIDS and haemophiliacs are at particular risk of contracting the disease because Factor VIII concentrates are made from the pooled plasma of up to 5,000 donors. In this country there have been 12 confirmed cases of AIDS, 11 of which have occurred in homosexuals and one in a haemophiliac. It is believed that there may be under-reporting of cases."

Then the next paragraph begins:

"Although there is no conclusive evidence, it seems very likely that AIDS is caught by an as yet unidentified virus. There's no laboratory or other test which can be used to detect AIDS in the blood of a potential donor. In the absence of such a test, Blood Transfusion Directors are anxious that information on AIDS should be made available to blood

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

"Ministers are asked if they will agree:

"To the funding and publication of the Department of the information leaflet, for distribution by the NBTS."

Is it right to understand from that,
Lord Clarke, that ministers -- and we know this came
to you, and you became involved as well as
Lord Glenarthur and, indeed, I think, Mr Patten -were being told that this was something that should be
done as soon as practicable. It was something that
officials wanted to get on with?

A. Oh, yes, yeah. I can't remember when I first became aware of it. I'm not sure I was shown this. Probably my office would have shown me this because it was a very big step. And, as you say, I got involved because it was -- you know, a problem -- the handling of it was quite important. To say that we were actually going to -- discouraging homosexuals -- concentrate on what it calls "promiscuous homosexuals" -- from donating blood because they might

donors and that promiscuous male homosexuals -- who as a group carry the highest risk of transmitting AIDS in their blood -- should be discouraged from donating. There is absolutely no intention, however, that donors should be questioned about their sexual habits or be required to undergo a routine physical examination."

There is then reference to the leaflet itself. If we go to the next paragraph, there is reference to a draft resolution of the Council of Europe, and I'll come back to that later, Lord Clarke.

Then the bottom of the page is headed "Sensitive issues":

"It is possible that a request to homosexual donors to refrain from donating could be interpreted by homosexual rights groups as a discriminatory move which would infringe their rights as individuals to donate their blood. Such a reaction would be more likely to arise if there were widespread misunderstanding of the nature of the problem posed by AIDS and Transfusion Directors are anxious to pre-empt such misunderstanding by publishing their information leaflet as quickly as possible."

Then there's reference to the cooperation of the Gay Medical Association. We can skip over that. And then if we go to the "Recommendation":

of major -- minor step, obviously. You know, no one tried to stop printing the leaflet, I don't think. It was plainly necessary to do it. But handling it was quite careful because the press were behaving appallingly over AIDS.

The background, I mean, as we all know, is homophobia was widespread and actually regarded as rather normal in the 1980s -- attitudes have changed enormously in the decades since -- and the press were quite homophobic. So "Queer blood kills people" was -- you know, the language wasn't very far removed from that in the reporting of it in the tabloid press. And there were various risks involved in how you handle this. You could have unintentional effects.

The most important was that you put -- what I was worried about was I didn't want it to be done in such a way that we stopped people volunteering to donate blood. We need blood donors. So just to make sure, to underline what's in this document, that -- people were not going to be told they were going to be quizzed about their sex lives when they turned up to donate blood and that we weren't, you know, just going to be homophobic for the sake of it when people gave blood, and so that was that, and I was really was very worried that we didn't want people put off from blood

be giving people AIDS, big stuff. And it wasn't sort 75

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transfusions. We didn't want the more normal patients to -- you know, patients of ordinary sensitivities and opinions, to suddenly think -- they were going to refuse to have a blood transfusion, they weren't going to have the operation because they were going to be killed by the blood that they were taking.

So you had to handle it carefully to avoid, mainly, changes in public attitudes, and needless fears. Very important step to make the service safer, but no need to panic. Certainly we don't want people to stop donating blood. Certainly we don't want patients to start refusing operations because they're worried, frightened of a blood transfusion. And I think -- that was what -- that was the only basis on which I intervened. I never got involved in the detailed drafting of it or anything like that.

17 **Q.** Let's follow that through, Lord Clarke, if we may.

> So that minute is dated 1 July. If we go next to DHSC0002309\_025, we will see there, 4 July, Lord Glenarthur indicated he was content with the --

- 21 **A.** Yes, well, it was for him to approve it and he took 22 three days.
- Q. If we look at DHSC0002309 027, we can see this is on 23 24 behalf of Mr Patten, this is 6 July. He says:

"In my view, public concern on this issue is

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1 and then ask you about it.

2 A. Yeah, sure.

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Q. "2. Officials felt that Ministers did not have the option of doing nothing. The main objective of the leaflet was to discourage those who were most at risk of AIDS from giving blood and thereby spreading the infection to patients who needed large amounts of blood, principally haemophiliacs. Similar guidance had been issued by the American Blood Transfusion Service and the Council of Europe had recommended that its Member States should put out a warning. Moreover. one of the Regional Transfusion Directors had let slip to the Press that a leaflet was in the offing and if nothing was done, speculation would be rife.

> "3. MS(H) [that's you] accepted the strength of these arguments. He thought the leaflet, as drafted, read well although he would like it to emphasise more strongly how few cases of AIDS there had been in the UK, perhaps by quoting numbers. It should also emphasise unequivocally that donors would not be questioned about sexual matters when giving blood. It was inevitable that the leaflet would attract wide publicity and a carefully drafted Press Notice and full question and answer briefing would be needed. To minimise the scaremongering, the PN should emphasise

mounting, and rightly.

"The earliest possible publication seems desirable ..."

Then a reference to the Gay Medical Association could perhaps deal with the issue of discrimination. So 4 and 6 July, Lord Glenarthur and Mr Patten indicating their approval. Can I then turn to how and when you became involved, if we look at DHSC0001511, please.

So you'll see, Lord Clarke, this is a minute dated -- if you just go to the bottom of the page --6 July. And it's authored by Stephen Alcock, in your private office.

If we go to the top of the page, we can see it's described "MS(H)" -- so that's you, Minister of State for Health -- "meeting note". The meeting date is 6 July and it's a meeting participated in by you, Lord Glenarthur, and then the three civil servants, including Dr Oliver who was a medical servant listed there.

- 21 A. Mm-hm.
- 22 Q. "1. MS(H) had two main concerns -- to establish the 23 necessity of a leaflet and to agree how the inevitable 24 publicity surrounding it should be handled."

I'm going to read out the minute, Lord Clarke

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how relatively few cases of AIDS had been reported and repeat that there was no question of donors being guizzed about their sexual habits. The main objective was to minimise any damage to the transfusion service. The announcement should be made at the same time as the leaflets were released.

"4. Lord Glenarthur would be answering an oral PQ [parliamentary question] from Baroness Dudley on 14 July. If she asked about Blood Transfusion Service, Lord Glenarthur should emphasise that the risk to haemophiliacs was very small."

If we go back to the top of the page at paragraph 1, it would appear, Lord Clarke, or it might be inferred from this document, that this was a meeting called at your instigation --

A. Yes, it possibly was. I'd forgotten I called a meeting. But my recollection is that I actually chose to intervene, for the reasons I have given. I was worried about the press creating an absolute panic. I was worried about our losing blood donors. I was worried about alarming recipients, both haemophiliacs 22 and more -- actually, blood transfusion people as well, which I thought I was also -- I think I was 24 concerned about but it doesn't appear from this. Just -- I mean, it was -- it didn't -- you know,

1 didn't take them long to persuade me we had to put out 2 a leaflet. It was a very important leaflet. But 3 that's what I intervened for, because if we'd not 4 handled it carefully, we could have created an 5 absolute mayhem. Somewhere in the documents I -- they 6 had had problems in New York when they did it there. 7 They had started losing blood donors, I think.

> So that was -- I wasn't intervening to try to alter the policy, just how do we handle it, but just don't start mad panic with -- I mean, if haemophiliacs had stopped taking their Factor VIII, you know, they would that have died, some of them. And so, you know, just the way you handle it.

**Q.** The answer you've give there is an important one but one I'm going to come back to later, what the impact would have been on haemophiliacs. I'll leave that to one side for now but I want to explore that with you at a later stage of your evidence.

Just dealing with this meeting, is it right, then, to understand from this, you instigated a meeting, you wanted to decide whether it was necessary that there should be a leaflet, and the consensus was, at the end of the meeting, it appears that you have accepted there should be.

25 That obviously -- yeah.

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1 Transfusion Service, Lord Glenarthur should emphasise 2 that the risk" --

- 3 A. That reads as though it was a conclusion we all came 4
- 5 Q. Yes, you may be right there. But, Lord Clarke, why 6 was it important to emphasise that the risk of 7 haemophiliacs was very small?
- 8 A. Because until we knew more about it, we didn't want to 9 cause mad panic. And there were sections of the media 10 on this subject perfectly capable of causing mad 11
- 12 Q. Having had that meeting on 6 July to discuss the need for, and content of the meeting, if we look next at 13 DHSC0002321\_026, please. 14

A. Going back to that, that seems all to have been agreed 15 in the end. I mean, I've always said, at all 16 17 meetings, if any of the other five people there disagreed with me, they could sit there and say they 18 19 disagreed with me and try to argue me out of it. 20 Obviously the conclusions we reached were the 21 conclusions we all reached in the end. In the real

world you can't get a dozen people together for

22 23 a meeting and sit them down and all 12 will agree

one hundred per cent -- you even get 12 medics, you

25 know, you wouldn't get a hundred per cent agreement

**Q.** But it would also appear from paragraph 3 that you 1 2 were expressing views about what should be in the

3 leaflet, in two respects: you wanted the emphasis on

4 how few cases of AIDS there'd been and an emphasis on

5 the lack of questioning of donors. Is that right?

6 A. Emphasis on -- what was the first one?

- 7 Q. How few cases of AIDS there had been in the UK.
- 8 A. Yeah.

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- **Q.** Why was it seen as important to you to emphasise that 10 fact?
- 11 A. Well, trying to minimise panic before we knew more 12 about it.
- 13 **Q.** And then the penultimate sentence of that paragraph:

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

16 Are you able to assist us with understanding 17 what you meant by that?

- 18 A. I didn't want to start putting donors off, or to 19 destroy public confidence in the blood they were given 20 by blood transfusions.
- 21 **Q.** Then if we look at paragraph 4, and this doesn't 22 attribute what's being said in paragraph 4 to any 23 particular individual, it says in the second sentence, 24 that:

"If she [Baroness Dudley] asked about the Blood

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1 between a group of medics, even specialists. So if 2 you start where you start from -- I had all these

concerns about, you know -- I didn't mind the leaflet 3

4 going out. I don't think that took very long, I just 5 wanted to check -- as I said, we were having

6 a meeting, as opposed to just reading about it. You

7 know, "We do need this leaflet, don't we?" Well, I --

8 the only reason I ever intervened. I wouldn't have

9 had anything to do with it otherwise. Whilst I just

10 wanted to make sure we didn't accidentally cause these 11 habits(?) to the Blood Transfusion Service.

> If the others had thought -- strongly disagreed with me, they would have sat there and strongly disagreed with me. And we appeared to have reached a conclusion. Simon Glenarthur would not -- not over -- you know, would make it clear we hadn't had many cases. You know, we had only had one case, I think it was said, of AIDS by -- possibly, based -you know, probably transmitted by blood product.

20 Q. If we then look at DHSC00 -- sorry, you've got it on 21 screen, thank you, Soumik.

> Lord Clarke, you'll see this is a minute dated 19 July 1983. It's from Mr Parker in the Health Services division, and if we go to the top of the page it's addressed to Dr Oliver in the Med SEB.

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Now, this not a document that you would have probably seen at the time. But it refers to --

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- A. But I've seen from the documents -- we had this discussion about should they be distributed with the call-up cards or not.
- **Q.** Yes, and that's what I wanted to ask you about next.

So having established the need for a leaflet on 6 July at that meeting, there then arose an issue about how they should be distributed, and if we just pick up here, it sets out Mr Parker's recollection of your position in paragraph 2:

"If my memory serves me correctly, I understood MS(H) [that's you, Lord Clarke] to say at the meeting we had with Lord Glenarthur that he would prefer some consistency of approach in relation to the distribution of the leaflet but did not want it to be distributed with call-up cards."

18 A. That was my view of this side of the discussion. 19 There were a whole lot of documents which I've now 20 seen -- I can't remember any of them, and I can't 21 remember the issue now, I have to rely on the 22 documents, as you do, but I took the view, as other 23 people did, that there was a division. I seem to 24 recall some of the regional transfusion officers 25 agreed with me. Some didn't. Virginia Bottomley,

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1 reasonable defence that the directors had different 2 views, so we began by letting them each do what they 3 wanted to do. It took about a week to decide, and 4 then -- took about a month to decide and off they went 5 and we distributed the damn things. And because we 6 hadn't reached consensus in the Department and because 7 the Regional Transfusion Directors hadn't reached 8 consensus, we decided to see how we got along with the 9 Regional Transfusion Directors having discretion to do 10 it whichever way they preferred, that's all there was 11

- 12 **Q.** You've accurately summarised the outcome, Lord Clarke, but I want to look at the decision-making process and 13 the time it took to reach that outcome, which 14 necessitates going through the documents, I'm afraid. 15
- A. Well, what for? 16
- 17 Q. Well, I don't really think that's something I'm --
- A. I gather you're doing that. 18
- 19 **Q.** -- required to answer, Lord Clarke.
- 20 A. Every policy decision I've ever been involved in has 21
  - involved some discussion and exchange of views. Once,
- 22 in the end, you've reached a decision, and ministers
- 23 and officials are content with this, and acting --
- 24 I mean, as a matter of history I suppose it's
- 25 fascinating to know who started the meeting saying

I think, agreed with me. Other ministers didn't. It was one of the things we were discussing. My view was that for the potential blood donors -- I was a bit worried that getting this leaflet with the call-up card -- because this -- it was -- I mean, I don't know how to explain, the leaflet is pretty startling, if you're putting out a leaflet telling gays not to give blood. I can't think of any equivalent of that for a long time. So no one can say we weren't taking the risk seriously. That's laughable. We were actually stopping gays giving blood.

Now, if you had got a call-up card and here with it is this leaflet, telling you if you're gay not to give blood, you know, you've got to be careful about that. Some people are saying, "What are you calling me gay for? I'm not gay". Some gays would say, "Good grief, what have they got against gays? The Department of Health is getting homophobic."

We were divided, but I always was one of the ones -- I -- my view -- I say I recall it, because I've seen the documents really -- I obviously took the view that I'd rather it didn't go out with call-up cards. The actual people who worked on the ground, the Regional Transfusion Directors, were divided.

So where we get to, just to get on a bit, the

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1 what, and before we all came around to the same view 2 in the end, what matters is what did you actually do. 3 So I've never been to a meeting, I've never been to a 4 meeting of the cabinet, where everybody is unanimous. 5 But if at the end you've reached a unanimous decision, 6 you've all agreed what you're going to do and what 7 you're collectively responsible for, why do we have to 8 go in such meticulous detail through who said what, 9 when, and when did he change his mind, and do you 10 remember what actually persuaded you -- you know? 11 It's just frightfully interesting, no doubt, but 12 pretty pointless.

- 13 Q. Dr Walford described the delay in producing the 14 leaflet in --
- 15 A. Said what?
- Q. Dr Walford described the delay, the time it took to 16 17 get to the stage of the leaflet being issued on 18 1 September, as I think the term she used was 19 "unconscionable" but certainly she described it in 20 serious terms. Lord Glenarthur also told this Inquiry 21 it took too long to get to the point of 1 September 22 and the leaflets being issued.
- 23 A. The second one took far too long.
- 24 Q. They described -- Dr Walford was concerned only with 25 the first and I'm going to ask you about each, Lord

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- Clarke. 1
- 2 A. Well, I was away in August. It was habit to take
- 3 August. As I say, wasn't in the Department in August.
- 4 So if Diana thinks we took too until September --
- 5 well, I mean, I don't know how long -- God knows how
- 6 long it took to print and distribute it. That's
- 7 beyond the reach of any of us.
- 8 Q. About three weeks.
- 9 A. Yeah. So, yeah, that was of --
- Q. Did you --10
- A. I certainly took no part in -- was this the cause of 11
- 12 the delay?
- Q. Did you understand, Lord Clarke, that one donation 13
- 14 from someone who had AIDS, could lead to the infection
- 15 with AIDS of large numbers of individuals?
- A. I realise it was a strong possibility. We didn't know 16
- 17 that then. But there was more and more concern that
- 18 it was very distinct possibility and it was, you know,
- 19 that it was not -- it did look as though there was
- 20 a serious risk that one person could, in effect --
- 21 yes, I did know that. Similarly, we could have killed
- 22 guite a lot of people if we'd suddenly caused
- 23 a tremendous shortage of blood donations.
- 24 Q. Well, again we'll come back to that second point --
- A. Well, you can only say -- all arguments are "on the

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- go out with call-up cards. The leaflet is an 1
  - information leaflet and cannot be seen as a leaflet
- 3 which you read and then change your mind about giving
- 4 blood."

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- 5 Just pausing there, Lord Clarke, and recognising
  - this isn't a document authored by you, wasn't that
  - exactly what the leaflet was for?
- 8 A. I think somebody pointed that out to me at some
- 9 subsequent meeting.
- Q. And then --10
- 11 A. -- (overspeaking).
- 12 SIR BRIAN LANGSTAFF: Indeed, you actually described it in
- those terms a moment or two ago? 13
- A. Absolutely. 14
- MS RICHARDS: Then the last paragraph: 15
- 16 "I think MS(H) will be very irritated if we are
- 17 not able to control distribution the way he wants it.
- 18 He reacted very unfavourably when this was suggested
- 19 at the meeting."
- 20 That would tend to suggest, I don't know if you
- 21 can recall this or not, that this was a topic upon
- 22 which you had fairly strong views.
- 23 A. Well, I rely, as you do, on the documents. I can
- 24 remember involving myself in it and I can remember why
- I was involved in it, not to stop the leaflet and not 25

- one hand this, on the one hand that". It's no good
- 2 saying on the other hand doesn't matter.
- 3 Q. We'll come back to that, Lord Clarke, I assure you.
- 4 Just sticking if we may with the chronology in
- 5 relation to the first leaflet and then, I'm afraid,
- 6 we're going to turn to the chronology in relation to
- 7 the second leaflet.
- 8 A. Yeah.
- **Q.** Is it right to understand from this that you didn't 9
- 10 want -- you were expressing a view about how the
- leaflet should be distributed and you didn't want it 11
  - to go with the call-up cards?
- 13 A. Yeah, that was quite obvious from this and other
- 14 documents.
- Q. If we --15
- 16 A. I only know it from the documents, I can't remember if
- 17 that was the view.
- 18 Q. If we look at DHSC0002321\_028, this is a minute of
- 19 21 July 1983, again not a minute that you would have
- 20 seen at the time, but referring to the recollection of
- 21 someone at the meeting as to how you reacted.
  - "At our meeting with MS(H) he was very keen to keep the leaflet operation very low key. Therefore
- 23
- 24 I must support John Parker's memory of the meeting 25
  - when he says that MS(H) does not want the leaflet to

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- 1 because I didn't realise it was extremely serious, as
  - soon as possible, we got rid of this strong
- 3 possibility that we were even going to kill people by
- 4 giving them blood which had been donated by
- 5 a homosexual. But because I'd -- as I keep saying,
- 6 I didn't want to accidentally to cause a public panic
- 7 which would damage the Blood Transfusion Service and
- 8 public confidence in it. And I wasn't the only one.
- 9 There were other people who agreed with me, including
- some of the Regional Transfusion Directors didn't
- 11 reach consensus either. They were equally divided.
- 12 And they knew more about the Blood Transfusion Service
- 13 than I did.
- 14 Q. If we come to then -- and I'm going to skip over
- 15 a couple of documents that we've looked at already
- 16 with Lord Glenarthur -- if we come to the submission
- 17 that's then sent to your private office on
- 18 29 July 1983, DHSC0002327\_016, please, Soumik.
- 19 A. This is all their reactions to the meeting. Oh, ha!
- 20 I obviously got quite destroyed. It was the Gillick
- 21 case that had obviously set me off. I can't remember
- 22 that.
- 23 Q. Can we go to the first page, Soumik?
- 24 A. It's amazing how easy it is, in the area of health to
- 25 set off sort of public panic and do unintentional

1		damage, if happens quite often, particularly with	1		"The two possible methods of distribution which
2		sections of the media.	2		were considered by [Regional Transfusion Directors]
3	Q.	We'll see this is Mr Parker to Mr Alcock, so your	3		are discussed below, in relation to these criteria.
4		private office, 29 July 1983, and it's attaching	4		"I. Issue of leaflet with donor call-up cards
5		a submission seeking ministers' agreement to the	5		
6		printing, distribution arrangements and publicity for	6		So that was the proposal you'd expressed concern
7		the proposed AIDS leaflet?	7		or irritation about:
8	A.	Yeah.	8		"This could be expected to reach about 80 per
9		So if we turn over the page to the submission, we can	9		cent of the total donor population. In addition,
10	-	see at the top of the first paragraph, reference to	10		leaflets could be sent in advance to donors booked on
11		the text of the leaflet having been revised to	11		factory sessions. Walk-in donors would not be
12		incorporate the points made by ministers, and then	12		covered."
13		there are various documents attached.	13		That's the first point. The top of the next
14	Α.	Yeah.	14		page:
15	Q.	We don't need to look at those.	15		A number of other advantages set out:
16	Q.	Distribution of leaflet is then described, and	16		"(b) Donors could read the leaflet in their own
					• •
17 10		if we go just below the paragraph	17		homes, thus avoiding any embarrassment.
18	Α.	Sorry, I wanted to say:	18		"(c) The supposition is that this method of
19		" method of distribution should be that which	19		distribution would be the most effective in keeping
20		is the most effective in reducing the number of	20		high-risk donors away from sessions, thus removing the
21		donations from high-risk donors."	21		temptation to proceed with donation in order to avoid
22	_	Excellent.	22		embarrassment"
23	Q.	•	23		Then paragraph (d) refers to there being certain
24	Α.		24		administrative and resource implications.
25	Q.	Then what's said is:	25		So you're being told, is this right,
		93			94
1		Lord Clarke, in this submission, that the most	1		the risk of AIDS, which lead to the donor being
2		effective method of distribution	2		rejected for donation on a particular occasion.
3	A.	Well, in the opinion of this that is what we were	3		Donors could be caused embarrassment if they felt
4		discussing, yes. Obviously, in the opinion of whoever	4		their fellow donors had wrongly suspected the reason
5		wrote that thing, but not everybody was agreed with	5		for their rejection.
6		that.	6		"(g) If a donor in a high risk group were to
7	Q.	That's what you were told	7		read the leaflet immediately prior to, or during,
8	Α.	By this person but I wasn't by other people, including	8		donation, he might well be tempted to proceed with the
9	<i>,</i>	Regional Transfusion Directors. There wasn't the	9		donation rather than to risk the embarrassment of
10		universal opinion in the Department.	10		withdrawing at that stage."
11	Q.	If we look at the second option, leaflet	11	Α.	Yes, they're all quite good arguments.
12	Α.	You're just selecting little extracts as though there	12	Q.	
13	Λ.	was one opinion, which I was holding out against.	13	Q.	administrative or resource implications. So before we
14		There were people who agreed with me.	14		look at the actual recommendation and, as you point
	^				• •
15	Q.	Well, don't worry, we'll be looking at as many of the	15		out, Lord Clarke, the actual recommendation was to
16		documents as we need to, Lord Clarke, rather than	16		leave it to the discretion of the directors, would it
17		selected extracts.	17		be right to understand from what's set out about the
18	Α.	Well, we can go through the lot if you want but I'm	18		two possible methods of distribution that what
19	_	not quite sure what the point of any of this is.	19		ministers were being told is that in no uncertain
20	Q.	The second option, "Leaflet to be made available at	20		terms, is that the most effective method of
21		donor sessions":	21		distribution would be the call-out card method?
22		"(e) It would be difficult to ensure all donors	22	A.	In the opinion of whoever wrote this submission. On
23		received a leaflet and there could be insufficient	23		the other hand, the problems that I've just said, that
24		time for to be read prior to donation.	24		if you received it with your call-up card, a rather
25		"(f) There are many other circumstances, besides	25		startling leaflet, when you were used to be being

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a blood donor, you would get the impression that when you went to the blood donation you were going to be quizzed about your sex life and, if you were -- you know, to quote the word that has been used in other leaflets -- remotely promiscuous you would be told you couldn't give blood and you would be put off continuing to volunteer. This just sets out the arguments on one side of the argument. Well, they are the arguments on that side of the argument.

On the other side of the argument are the arguments I've been putting which were agreed to by people in the Department and by people in the Regional Transfusion Service. We never react a consensus. You just found a document which the person -- the author of it is putting their strong -- they're perfectly --I'm not dismissing these arguments, they're all put perfectly rationally and clearly, but this happens all the time when you're taking tricky decisions.

19 SIR BRIAN LANGSTAFF: Could we just --

A. And, in this particular case, what we're talking about is the -- it is -- what is difficult to predict is the public reaction to the leaflet and the way you do it, you want the desirable objective, which is to remove the risk to haemophiliacs and receivers of blood transfusions, you don't want -- you want to avoid the

1 indicated, the actual decision ministers were asked to 2 make, or Lord Clarke was asked to make, was to leave 3 it to the discretion of directors.

4 A. Was what?

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- 5 Q. To leave it to the discretion of directors for a trial 6
- 7 A. That's what it all concludes at the end, does it?
- 8 Q. It does, yes.
- 9 **A.** So that was the recommendation?
- 10 Q. That was the recommendation. If we look it up --11 picking it up at the top of the page, where it says:

"Although it would be possible to achieve a near-uniformity of method of distribution amongst Directors, it is not immediately obvious which method is to be preferred. Indeed, it was evident that Directors' opinions were influenced by what they saw as being most appropriate in their Regions, bearing in mind the differing population characteristics, including the numbers of, and attitudes to, homosexuals. As Directors are responsible, under the Medicines Act, for the safety of the blood which they issue, due weight must, of course, be given to their clinical decisions in this matter. In addition, those

1 undesirable consequences, which are you've suddenly

2 started putting donors off and you've suddenly got

3 patients getting all excited about whether it's safe

4 to have an operation. So this is one side of the

5 argument, and the Department was divided.

6 SIR BRIAN LANGSTAFF: Could we go back to the very top of

the memo. It's on the page before, I think. Thank

8 you, and the page before that. What is said about the

9 leaflet, Lord Clarke, is it's been prepared in

10 consultation with colleagues in Med, Information

11 Division, and CH Division. So it looks, as far as

that's concerned, that this is, so far as the

13 Department is concerned, a combined submission, was it 14 not?

15 **A.** Err, those divisions, yes, sure.

16 SIR BRIAN LANGSTAFF: That's combined. There's no

17 division then, no difference of view, I think, in the

18 Department that I accept from the evidence we've

19 heard, the evidence you're giving, as well, that the

20 Regional Transfusion Directors on the ground may have

21 taken different views, did indeed take different

22 views.

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23 Have I understood it properly, Ms Richards?

24 MS RICHARDS: Sir, you have. Indeed, if we look at the 25

fourth page, we'll see that as Lord Clarke has

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1 the additional resources."

> Then the next paragraph -- we don't need to read the rest of it, but the next paragraph says:

4 "Officials would recommend, therefore, that RTDs [Regional Transfusion Directors] should be given the discretion to decide, for a trial 6 month period, the 7 most effective means of distribution for their own

8 Regions. Officials will be able to obtain regular

9 fee-back information from Directors during this trial

10 period."

11 A. That's agreed. That's what, in fact, was agreed, 12 wasn't it?

13 Q. It is, although I think it was a three-month trial 14 period that was ultimately --

15 A. It was what, sorry?

16 Q. It was a three-month trial period at Lord Glenarthur's 17 suggestion.

18 A. It was, yeah.

19 **Q.** If we just go back to the top of the first paragraph 20 on that page, is it right to understand, if we look at

21 the sentence beginning "As Directors are responsible

22 under the Medicines Act for the safety of the blood

23 which they issue, due weight must of course be given

24 to their clinical decisions" is that, as it were, the

25 principle of clinical freedom or clinical independence

implications might look to the Department to provide

Regions for whom the agreed method has resource

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in operation? 1

- 2 A. Well, it's obviously the legal duty of the Directors 3 to ensure the safety of the blood. That's kind of a legal obligation. You can't place them under a 4 legal obligation it's not clinical independence, no. 5
- 6 because the clinician, you know -- and I don't know
- 7 whether the directors were all clinicians. It may be,
- 8 but what it's actually -- it speaks for itself. As
- 9 they're under a legal duty, you can't just ignore
- their views on the best method of distribution. 10
- The top of that paragraph says it's not immediately 11 12 obvious which method is to be preferred. It might be 13 thought, looking at the pros and cons of the two 14 options that we looked at on the previous two pages, 15 that it was pretty obvious that the method of call-up 16 cards was thought to be the most --
- 17 Α. It was preferred by the people who'd done -- it's 18 pretty obvious if you take a sentence expressing the 19 opposite view. It comes to the same document, comes 20 to the conclusion, because it's obviously -- you know, 21 absolutely had -- I mean, none of this had taken very 22 long. We'd had one meeting, apparently, and had 23 a discussion of it and it comes to the conclusion it 24 is not immediately obvious which method is to be

preferred. That's the conclusion the author actually 101

- 1 not intervened when I heard about it, presumably the 2 copy -- probably my private office pointed out to me 3 "Have you seen this that's just been copied to us?" 4 I intervened because I just wanted to make sure that 5 we didn't start setting off some sort of mayhem that 6 damaged the Transfusion Service. Obviously, I made no
- 7 attempt whatever to stop it being printed. 8 Q. So the fact that you had this wider ministerial 9 responsibility and Lord Glenarthur was the Minister,
- 10 as you've emphasised, with special responsibility, 11 didn't preclude you from beginning involved in the
- 12 detail ---

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A. Oh no. 13

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- Q. -- of decisions such as this, did it? 14
- A. Well, yes, if I intervened they would start taking 15 notice of my views. But I -- and I did intervene on 16 17 this particular issue, as I now see, I'm reminded 18 by -- my actual personal recollection compared to 19 what's skate out in the documents is quite small.
- 20 **Q.** If we just look at the response to the submission, 21 because there are --
- 22 SIR BRIAN LANGSTAFF: Just before we do that, can I just 23 ask one question.
  - You've raised there in your answer, indeed it's raised in part by the document, the legal

- 1 eventually comes to. You're putting weight on one 2 sentence the author had written a few paragraphs
- 3 before.
- 4 Q. In fact I'm --
- 5 A. One sentence in thousands of documents of something 6 40 years ago.
- 7 **Q.** -- inviting your attention to an analysis over a page 8 and a half of pros and cons?
- 9 **A.** There's a page and a half of pros and cons, and it was 10 resolved by the methods described here. As you say,
- 11 Simon seems to have changed the six months to three
- 12 months, that we should leave it to the discretion of
- 13 the Regional Transfusion Directors who, as you pointed
- 14 out to me, I'd forgotten this, anyway had a legal
- 15 liability under the Medicines Act to be responsible 16 for the safety of blood which they issued.
- 17 Q. If we just go back to the previous -- sorry, to the 18 second page of the document, please, Soumik. We can 19 see at paragraph 2, where it says, what's attached, it 20 says:

"The submission seeks [your] approval ..." So it's not, in fact, seeking Lord Glenarthur's.

23 A. Well, that's because I'd been expressing -- because 24 I'd actually -- I had obviously intervened. I mean 25 I wouldn't have been involved in this at all if I had

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1 responsibilities of the local Regional Transfusion 2 Director, for the safety of the blood.

If a particular director in a region thought it was necessary to ensure the safety of the blood in that region, that he should alert those who might be donors to the idea, however expressed, that those who were active homosexuals would not be welcome to give blood, and put out a leaflet to that effect, what would the -- would they have been able to do that?

10 A. I don't know. It's an interesting question. I'd 11 assume they would, really. I don't know whether the 12 Department would have tried to stop them.

> Anyway, that's what we were doing. I mean, no one was ignoring the risk. A leaflet was being put out nationally telling homosexuals that we didn't want them to give blood. So, I mean, no one -- and no one was objecting to that.

- 18 SIR BRIAN LANGSTAFF: What I think I was exploring in that 19 question were the limits, albeit they were cultural, 20 rather than legal, on the way in which Regional
- 21 Transfusion Directors would actually exercise their 22 discretion. In this particular occasion --
- 23 A. I never had any direct dealings with the Blood 24 Transfusion Service. The answer is I don't know.
- 25 I cited it legally because it's cited here.

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1 I decided -- until I read it two minutes ago, I didn't 2 know -- I'd forgotten -- obviously I was once told but 3 I had forgotten that they had -- were under this legal 4 duty. Which appears, from this document, to be one of 5 the reasons cited by the author of the document for 6 leaving it to their discretion. I'd never had any 7 direct dealings. I don't remember ever meeting 8 a Regional Transfusion Director and I don't know what 9 in practice -- how in practice they exercised any 10 discretion they had for their local thing. Here, they 11 were being allowed a discretion. 12 Again, when I cited earlier on that some of the 13 Regional Transfusion Directors agreed with me, that 14 was because I'd known, looking at the documents 15 provided by this Inquiry, that -- that had first 16 reminded me that the Transfusion Directors were 17 divided as well. 18 I think I wasn't the only person in the 19 Department, and I think -- I'm not sure which side 20 John Patten was on. I have a faint recollection that 21 Virginia, on the whole, tended to agree with me, but 22 I can't remember -- not guite sure I remember that. 23 But there were -- actually, I'm not sure now -- this 24 was '83 -- I'm not sure Virginia was in the 25 Department, but there we are. Actually, I think she 105 1 story. Handle it in the DHSS through Press Office. 2 Regional Directors should not handle queries 3 themselves. Go ahead with the leaflet as drafted and 4 the press notice." 5 So that was your response on 2 August. 6 Lord Glenarthur and Mr Patten also indicated their 7

agreement. I'm not going to take you to those.

Could we then look at DHSC0002309 034. So, having on 2 August, said, "Go ahead", on 26 August, we have this minute, where it -- and it's a communication from Mr Navsmith, was that --

12 I obviously had a shorter holiday that year.

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Q. -- (overspeaking) -- in your private office to 13 Mr Winstanlev: 14

> "We spoke, MS(H) has now seen the Q&A briefing and Press Statement prepared, together with information provided by ID [that's the information division] on the rather alarmist press coverage this subject has so far attracted and has commented:

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

"The range of views from Directors is also

was

2 Anyway, that's why I mentioned it. But I had 3 no -- I'd never required at any stage -- I mean, in 4 fact, my entire career -- any day-to-day experience of 5 how the Regional Transfusion Directors worked. I'd 6 never had any direct dealings with the Blood 7 Transfusion Service, except I was a donor.

SIR BRIAN LANGSTAFF: Did it ever crop up in your conversations with the Regional Health Authority 10 chairman, that that was your --

11 A. I don't remember this coming up with the RHA chairman, 12

**SIR BRIAN LANGSTAFF:** Thank you very much. 13

MS RICHARDS: If we just follow through the decision, you responded with two minutes. The first is 2 August, DHSC0002327\_119. We can see on 2 August, you say, if we just go back to the -- thank you.

You say in response to the submission:

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

"I hope that this does not become a silly season

106

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

So you would appear to be saying on 26 August, Lord Clarke, the opposite of what you had said on 2 August. Are you able to assist us in understanding

10 A. Sorry, in what way?

11 Q. Well, if you want to go back to the minute on the 12

13 A. It confirms that I thought my fears had been justified 14 by -- I can't remember these stories but obviously we 15 had had silly season stuff about "Docs Ban Gays' 16 Blood".

Q. Soumik, could we put the two minutes side by side? 17 18 That might be easiest.

19 So DHSC0002327\_119 side by side with the one on 20 the screen.

21 So we'll see on 2 August, you're agreeing with 22 the --

23 A. So this business of -- I was agreeing in the first to 24 the discretion to the regional directors.

25 Q. Yes. And then on 26 July, so the one on the

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(28) Pages 109 - 112

right-hand side, we can look at that now, leave quickly -- if we just deal with the questions as they 2 aside --2 come, and leave the motive or the purpose of asking 3 SIR BRIAN LANGSTAFF: 26 August. 3 the guestions to counsel, and I will MS RICHARDS: 26 August, thank you, sir. 4 4 -- (overspeaking) --Leave aside your first paragraph, talking about 5 A. Anyway, the leaflet has been distributed and everybody 5 6 is aware of this and it's been given quite a lot of 6 7 7 A. "The range of views from Directors ..." publicity. 8 8 I obviously seem to have forgotten the range of MS RICHARDS: Just to complete the picture, and in 9 views from directors, yeah. 9 fairness to you, Lord Clarke, there's a third minute Q. Then you seem to be suggesting or asking if one method 10 I should just draw attention to, from your private 10 has been agreed and asking if you have an authority to 11 office. DHSC0002321\_034. 11 12 agree on one national method and what are the options. 12 A. I'd obviously, on my holiday, forgotten that we had 13 Are you able to explain why we see these 13 agreed on this discretion. 14 -- (overspeaking) --14 Q. Yes. but --A. I have no recollection of most of these. Indeed, I do 15 A. And no doubt I was quickly reminded and corrected. 15 16 seem to have changed my mind, yes. It didn't make any 16 Q. And that's why I'm taking you to this third document, difference, did it? What happened on the ground. 17 17 Lord Clarke, because you were reminded --18 Q. Not for me to answer questions, Lord Clarke. 18 **A.** Yeah, I'm just asking -- presumably it was rapidly 19 **A.** Well, it is. What's the relevance of all this? What 19 pointed out to me that I had agreed to it so I can't 20 difference did it make on the ground? 20 see that --Q. So, 31 August 1983 from Mr Naysmith to Mr Winstanley 21 **SIR BRIAN LANGSTAFF:** I think the relevance ultimately, 21 22 Lord Clarke, is for me to determine. If I think that 22 in the Health Services branch. 23 the questions are unhelpful, then I will indicate 23 "I have now spoken to [the Minister of State for 24 24 that, but in the moment it would be helpful to me, Health1 who has commented as follows:-25 25 I think -- and we may get on a little bit more "When I saw the first submission, I did not then 109 110 1 see the breakdown of the Directors' views which 1 distribution? 2 revealed how wide the division of opinion ..." 2 A. To avoid panic breaking out encouraged by silly season 3 A. I'd forgotten that I'd agreed, yes. I obviously had. 3 stories in the newspapers. The panic I was 4 Q. Then you say: 4 particularly concerned about was anything that put off 5 "Subject to any last minute views by 5 people volunteering to be blood donors, and anything 6 6 Lord Glenarthur, [you are] content to proceed on that caused patients to be reluctant to take blood 7 [that] basis." 7 transfusions. 8 Then third paragraph you say: 8 Also, as a secondary consideration, I didn't 9 "Let me know what day is chosen to launch this. 9 want to feed homophobia. So I was guite content -- we 10 Everyone will, I am sure, keep a close eye on the 10 obviously had to put out all this and we had tried to 11 'tone' of all our statements." 11 stop gavs, promiscuous gavs, as it puts it, in 12 12 Then you ask -particular, giving blood. I seem to have queried that 13 A. Sorry, where are we now? 13 right at the start but that seems to -- I imagine took Q. I'm so sorry, the second paragraph you see on the 14 about a couple of minutes to sort out. I'd never 14 screen: 15 been -- the meeting ended agreeing we had to do it. 15 16 "Let me know what day is being chosen to launch But that is the only reason I intervened. And 16 17 17 this. Everyone will, I am sure, keep a close eye on the reason I am making this fuss about how it's 18 the 'tone' of all our statements." 18 presented and handled is because the only way we 19 19 Then you ask for a background briefing on the could minimise the risk of a damaging panic that would 20 20 state of play on research into AIDS. have done harm to the service, harm to some patients, 21 Why is -- so I've just shown you that not 21 was to try to handle it as carefully as possible. 22 because I have a particular question but just to 22 That's why I intervened. That is quite obviously, 23 complete the picture. Why, as Minister of State for 23 from the documents, the point I was making whenever 24 Health, were you involving yourself in the detail not 24 there was a meeting. 25 just of the content of the leaflet but its method of 25 Q. Now, the issue of and the need for a leaflet had

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- actually been identified back in May, although you
   were not involved until the beginning of July.
- 3 A. I don't think I knew that, yeah.

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Q. So overall it took from May of 1983 to 1 September,
when the leaflets were distributed, began to be
available for distribution, to get the leaflet out
there.

Did that strike you as too long, Lord Clarke?

A. Well, the shorter the time the better, obviously.

I don't know anything about the actual mechanics of producing and distributing the leaflet. We had agreed to distribute it. I think at one of the meetings

I was at, it was -- there's nowhere where it is not agreed. It seemed to be agreed almost straight away that there should be distribution of the leaflet. And the meeting at the beginning of August, I had agreed to the distribution of the leaflet. What happened to cause delay between then and September, I don't know, but it's not -- I agree, every day was quite crucial but by the standards of producing a government

And this was important in two matters. The most important importance of this leaflet was it was going to make our supply of blood safer and reduce the risk to haemophiliacs and others. And the second most

113

publication, it's not that long.

thread of what happened in relation to the second AIDS leaflet. So you'll recall from the documents we've looked at and the discussion before lunch that the leaflet was issued on or around 1 September 1983 and the plan was a three-month trial which would take one to the end of November 1983.

Now, I'm going to ask you to look first at document that you would not have seen at the time, just to help fix what was going on. DHSC0002239\_015. This is a minute dated 14 February 1984 from Dr Alison Smithies who was a medical officer who had replaced Dr Walford, to Mr Williams, and it says, in the first paragraph:

"We have briefly discussed the need for the current AIDS leaflet, which is distributed by Regional Transfusion Centres to potential donors. In view of the published evidence of transmissibility of AIDS by blood transfusion, our current advice to donors could seem too lax. It may also be necessary to take up with the transfusion directors the need for more positive distribution rather than the negative approach that some of the Centres have used."

You'll see there, Lord Clarke, Dr Smithies raising issues both about the content of the leaflet, the advice it gave, and the method of distribution.

- 1 important thing is it should do so in a way which
- 2 didn't cause collateral damage to the Blood
- 3 Transfusion Service as a whole.
- 4 It's quite easy to set off very harmful
- 5 consequences if you clumsily announce things which are
- 6 of interest to the press. Which AIDS always was,
- 7 because it's a sexually transmitted, new, frightening
- 8 disease.
- 9  $\,$  Q. Do you think your intervention contributed to the
- 10 delay?
- 11 **A.** No.

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- 12 MS RICHARDS: Sir, I note the time --
- 13 A. It turns out the Regional Transfusion Directors --
- 14 well, obviously some of them very strongly -- I'd
  - forgotten that -- you'd reminded me that by showing me
- 16 the last documents, so there were divisions of
- 17 opinion.
- 18 MS RICHARDS: Sir, I'm going to move to the second leaflet
- issue in 1984, so perhaps it's best done after lunch.
- 20 **SIR BRIAN LANGSTAFF:** Yes. It is. So we'll take a break now until five past two.
- 22 (1.03 pm)
- 23 (The Luncheon Adjournment)
- 24 (2.05 pm)
- 25 MS RICHARDS: Lord Clarke, I'm now going to pick up the

114

- A. Yes, they wanted to toughen up the advice as knowledge
   all the time was steadily delivering and improving.
- Q. Toughen up the advice and revisit the question ofdistribution.
- 5 **A.** And revisit the distribution, yeah.
- 6 Q. As I say you wouldn't have seen that at the time.
- 7 A. And this was February 1984?
- 8 **Q.** February 1984. The first submission on this issue.
- 9 which appears to go to ministers, including yourself,
- is in August 1984, DHSC0002309. I'm so sorry, Soumik,
- 11 2309 044. Sorry, I can't read my own handwriting.
- 12 So you'll see the date on this, Lord Clarke, is
- 13 10 August 1984. It's addressed to Mr Joyce in
- 14 Lord Glenarthur's private office but if we look to see
  - who it is copied to, is it right to understand that
- 16 Miss Bateman was in your private office.
- 17 **A.** Certainly.

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- 18 Q. We can see, if we go back to the first paragraph --
- 19 A. That doesn't necessarily mean I saw it.
- 20 Q. No, but in terms of getting to your private office.
- 21 I'll read it and then we'll look at what's written in
- the handwriting at the top. Paragraph 1:
  - "I attach a submission from Mr Williams which
- 24 seeks Ministers' agreement to the revision of the
  - current AIDS leaflet. I agree with the action

recommended in paragraph 10.

"In addition, Ministers may wish to know that we are likely to require up to 1,500,000 leaflets which can be printed at a cost of approximately £15,000. This can be met from within Information Division's budget in the current financial year, although this is likely to lead to the postponement of more routine publicity in relation to the National Blood Transfusion Service. Officials believe, however, that it is vital that the AIDS leaflet should be reproduced and that it should be accorded this priority."

Would you agree that last sentence is stressing the importance and perhaps the urgency of --

- 14 A. Yes, it's taken from February, when she was
  15 recommending it, to August to get here. Does that
  16 mean they'd been drafting it?
- 17 Q. I'm afraid we don't yet fully know exactly what washappening.
- 19 A. Well, it's difficult to know anything about any of the20 things if there isn't a document.
- Q. No, and there's nothing to suggest that any material
   in the intervening period came to you or
   Lord Glenarthur, at least nothing of direct relevance.
   If we look at the handwriting at the top of the

If we look at the handwriting at the top of the page, however, you'll see it says, "MS(H) to see

- Q. So this may be an indication of one of those few
   documents -- (overspeaking) --
- 3 A. It's one I have seen. You can see the sentences that4 I've highlighted.
  - Q. Yes. Thank you. So you'll see there was "a need to strengthen its warning". So someone, it may be you, has underlined "out of date" and "strengthen its warning to high risk groups not to donate", and then reference is made to the redrafted leaflet. Then if we go to the next paragraph, "Results of review":

"Results ... from the monitoring exercise at paragraph 2 above [that was the trial period in relation to the Regional Transfusion Directors] indicate that the distribution of these leaflets has not caused any fall in the number of blood donors, and that there has been little if any adverse comment by donors. However there was, as anticipated, a wide variation in the manner in which the leaflet has been distributed by the Regional Transfusion Centres ... At some Centres, all donors were sent the leaflet individually" --

21 individually" - 22 A. Yes, and I have sidelined and put an arrow to the
 23 letter which showed that my fears had not been borne
 24 out. We hadn't seen a fall in the number of blood
 25 donors, "there has been little or no adverse comment",

1 [13 August]".

- A. Well, because of my interest in the previous oneI obviously thought I should be shown this one.
- **Q.** Yes, so that would suggest that someone in your private office has decided -- (overspeaking)
- 6 A. Knew I'd been interested in the subject before, yeah.
- **Q.** If we go over the page to the submission itself, 8 paragraph 1 explains that:

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

Then if we go to paragraph 3 -- paragraph 2 sets out the background which we covered before lunch. Paragraph 3 says:

"The current AIDS leaflet (flag A) is now out of date in certain detailed factual matters, and there is a need to strengthen" --

22 A. Just to interrupt you.

23 Q. Yes?

**A.** This underlining and all the rest of it, is in the sidelines. I think they're mine.

so I obviously felt that I was -- I was reassured by
 that and I put in that particular squiggle, arrow
 thing showing that was good news.

4 Q. Just continuing with that.

"At some Centres, all donors were sent the leaflet individually with their recall notifications.

Others offered donors the leaflets to read when they attended a donor session, whilst a few Centres pursued a policy of having them available for donors to pick up as they wished."

Paragraph 5 is headed "Continued need for a leaflet":

"The slow but steady increase in AIDS victims in the United Kingdom (51 cases with 28 deaths up to 30 June 1984) indicates that the disease is prevalent here. Haemophiliac patients are at greatest risk of contracting the disease since the clotting agents they need are produced from plasma pooled from a large number of donors. Fortunately, of the UK patients receiving treatment for haemophilia, only two have become victims of AIDS and both had received Factor VIII concentrates from United States sources, as well as the UK. It is known" --

A. And his donations were eliminated. So by this time in
 1984, we'd had two haemophiliacs become victims of

1		AIDS, and they'd both received American Factor VIII,	1		health.
2		and we only knew one blood donor who'd got AIDS, but	2	SI	IR BRIAN LANGSTAFF: I would be very happy to have drawn
3		his donations have been traced and eliminated. So	3		that conclusion but for one thing: this is looking at
4		that's where we were by then.	4		AIDS, it isn't looking at the infection
5	Q.	The submission continues:	5	A	. I quite agree hepatitis is more
6		"It is therefore clear that there continues to	6	SI	IR BRIAN LANGSTAFF: Well, not hepatitis. This is actual
7		be a need for positive action to ensure that donors	7		HIV infection because part of the evidence which the
8		who may be carrying the transmissible agent for AIDS	8		Inquiry has heard thus far is that there are these
9		are dissuaded from giving their blood until	9		stages, there is transmission to infect somebody, but
10		a screening test suitable for detecting possible	10		it may well be a matter of two to four years before
11		carriers has been developed"	11		the individual so infected shows clinical signs, which
12	Α.	So we know that any delay in issuing the first leaflet	12		are identified as AIDS, AIDS being a manifestation of
13		had had no effect on anybody's health at all.	13		the serious effects on the immune system caused by the
14	Q.	I don't know whether it can be said that that's	14		virus. So it's impossible to say how many people may
15	Α.	Yes, we do.	15		have been infected unknowingly by having had a blood
16	Q.	known more generally, Lord Clarke. But in terms of	16		transfusion, who might not have had, if somebody who
17	α.	the information	17		happened to be a practising homosexual didn't
18	Α.	We know that exactly because the earlier leaflets were	18		themselves know they were suffering from any
19	Λ.	not responsible for the only two that got AIDS because	19		infection, actually (overspeaking)
20		they both had American concentrates and now we can be	20	A	
		confident that that was the source, although then it	21	Α.	first leaflet being proposed and it going off to the
21		· · · · · · · · · · · · · · · · · · ·			
22		wasn't so sure. But we'd only had one obviously,	22		printers, it is conceivably faintly possible that such
23		the only one that was traced was a blood donor, and	23		a case had occurred.
24		he'd been eliminated. So we know that the first	24	IVI	IS RICHARDS: If we continue with paragraph 6:
25		leaflet had not caused any adverse effect to anybody's	25		"Officials consider that the Department would be
		121			122
4		and the solution of the H	4		Land Olegarithus was a bais a sale of the sauffers had
1		open to criticism if"	1		Lord Glenarthur were being asked to confirm both
2		Top of page 6:	2		amendments to the content of the leaflet and, now,
3		" it failed to take all reasonable	3		a consistent method of distribution in terms of going
4		practicable steps to discourage all high-risk donors	4	_	out with the calling cards
5		from giving their blood. It is suggested that all	5	A	. Yes, and this blood products leaflet has come to me
6		those RTCs who did not send out the leaflet	6		because I had involved myself in the discussions on
7		individually to their registered donors should now be	7		the previous one, and so it's a perfect
8		asked to do so at the next recall of those donors.	8		illustration, I personally which would make it much
9		This has relatively minor cost implications for some	9		easier for me if there were more unless I saw
10		RTCs"	10		hardly any of these documents that I obviously read
11		And those are then spelt out.	11		that and received that, because that's a classic.
12		If we go further down the page I don't need	12		That's exactly how I used to mark them up every time
13		to ask you to look at the reference to "Other	13		I got them.
14		developments" we go to "Recommended action":	14	Q	. And I don't think we need to go to it. But
15		"Officials recommend:-	15		Lord Glenarthur responded on 21 August, accepting the
16		"(a) the issue of the revised AIDS leaflet for	16		recommendation. In terms of your response, if we go
17		blood donors and,	17		to DHSC0002309_050. This is a minute dated
18		"(b) a more consistent method of	18		16 October 1984 from your private office, Mr Naysmith
19		distribution	19		to Mr Williams:
20		"Decision	20		"We spoke and I confirmed that MS(H) has now
21		"11. Ministers are asked to agree to:	21		seen your submission of 8 August (under cover of
22		"(i) the revision of the leaflet at Flag B.	22		Mr Parker's minute of 10 August) and is content for
23		"(ii) a more consistent and uniformly effective	23		the leaflet to be revised and distributed in the way

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in which you suggest.

You'll see, Lord Clarke, that you and 123

distribution system being adopted as per paragraph 6."

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25

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

1		At this distance of time, Lord Clarke, are you	1	MS	RICHARDS:	16 October is the document we just looked
2		able to assist with why it's	2		at, yes.	
3		taken (overspeaking)	3			umik, if we thank you.
4	A.	I have no idea. I'm sorry to see that because I have	4			ras Lord Glenarthur's confirmation of his
5		no idea.	5			recommendation in the submission,
6		August if it was sent on 8 August, because of	6			it if we just look at the handwriting at
7		my usual habits, it's a high it's a possibility it	7		the top of the	
8		was sent either when I was about to go on holiday or	8		"MS(H	
9		when I was on holiday. I used to go abroad on	9			e see the submission attached. Any
10		holiday, you see. The only way I could ever really	10			content for the leaflet to be revised as
11		see my family have any family life at all. I used	11		suggested?"	
12		to stop making jokes about my wife being a one-parent	12			en the date
13		family. I would with any luck I'd see something of	13	Α.	And that was	
14		my children at weekends, so I did used to try to	14	Q.	14 Septemb	oer.
15		vanish for most of August somewhere abroad and just	15		=	t to me on 14 September.
16		leave work behind.	16			happened between the middle of August
17		I really have no idea now. It's only the I	17		· ·	e of September I think remains a mystery
18		read it as you read it, and I can offer no	18		at present.	,
19		explanation. Don't know why it took until October	19	A.	I have no idea	a. This is all I would say I'm, just
20		before my office were able to send this.	20		like you, reliai	nt entirely on the documents.
21	Q.	And in fairness actually I think there's a handwritten	21	Q.	But this would	j
22		note I should show you. DHSC0002309_046.	22	A.	And I see on	the document first sent, on 21 August,
23	SIR	R BRIAN LANGSTAFF: Just before we go there, the [draft]	23		I've written "G	So ahead" (unclear), with a date next to
24		transcript has wrongly got the date of 16 August for	24		that below t	hat.
25		this. It was 16 October, wasn't it?	25	Q.	If we just go b	pack to
		125				126
1	A.	There we are. I obviously "O.K. Go ahead". You	1			matter of fact, the leaflet, the revised
2		see that at the bottom? That's my writing.	2			ultimately goes out under a press
3	Q.	(overspeaking)	3			r cover of 1 February '85, so we need to
4	A.		4			rough what happened subsequently.
5		I didn't seem to have cleared it until	5			tart with DHSC0002309_053. This is
6		14 August.	6			Dr Smithies dated 19 November 1984 to
7	Q.	14 October?	7			of State's private office, so Mr Fowler:
8	A.	14 October, mm.	8			etary of State has asked for a note
9	Q.	Do you accept that, given what was said to be the need	9		~	the current situation on AIDS. The
10		for this to be dealt with as a matter of priority	10			been prepared with the help of medical
11		I'm paraphrasing not quoting where that even if the	11		•	nd administrative colleagues in Med IMCD,
12		delay is from the middle of September until the middle	12		CHD, and HS	
13		of October, that is an unfortunately long period of	13			e can see who it is copied to. It includes
14		time?	14			from your private office.
15	A.	Well, the wisdom of hindsight, yes, it is unfortunate.	15		-	o over the page, there's a document
16		I have no idea what else was going on in September and	16		· · · · · · · · · · · · · · · · · · ·	ate on recent developments on AIDS", and
17		October, why yes, exactly a month, isn't it, from	17		you'll see amo	ongst other matters paragraph 1 refers
18		the	18		to:	
19	Q.	Yes.	19		"News	from Australia that 13 people including
20	A.	It was put to me on 14 September and then I cleared it	20		3 babies have	e died from AIDS after receiving a blood
21		on 14 October. And I don't know what was going on in	21			at has caused nationwide concern
22		that month. There may have been some wild excitement	22		in Australia."	
23		about something else, but even then I just can't	23			paragraph 2 refers to:
24		explain that. I don't know.	24		A haer	mophiliac patient in Newcastle who

25 **Q.** I just want to pick up with you what then happened,

1		Then if we go to the bottom of the page the	1		"I attach a revised version of the leaflet
2		question is posed:	2		drafted by my Publicity Branch. Also attached for
3		"What is being done to prevent AIDS being	3		purposes of comparison are the original leaflet and
4		transmitted by blood and blood products?"	4		the first revised version.
5		And reference is made to the leaflet. That's	5		"I endorse your view that the first revise had
6		obviously the first version of the leaflet.	6		to be looked at again in the light of recent
7		Bearing in mind this was a briefing note for the	7		developments and ministerial statements. The need is
8		Secretary of State, do you think it's likely that you	8		for a much more strongly worded leaflet and for urgent
		would have seen it?			
9			9		approval, production and distribution. I think our
10	Α.	It's perfectly I just don't know but it's perfectly	10		draft meets the first need, and should be grateful for
11		possible, yes. I think if it's sort of generally	11		your support in getting the quickest possible
12		over yes, it's very, very likely that I saw it, but	12		clearance."
13		I can't remember it.	13	Α.	And this is November?
14		I mean, again, I obviously haven't seen this	14	Q.	This is November.
15		copy of it, because this hasn't got my underlinings	15		Lord Clarke, I'm not going to ask you to look at
16		on. I just don't know whether I saw it or not. But	16		and compare the various draft versions of the
17		quite perfectly likely.	17		leaflets, but what you'll see, and it is just to help
18	Q.	Then if we go next, please, to a document that was	18		us understand the chronology of events, is that the
19		also copied to your office DHSC0002323_014. This is	19		previous leaflet, having been drafted, approved by
20		a minute dated 22 November 1984 and it's from	20		Lord Glenarthur, approved in August, approved by you
21		a Mrs Hewlett-Davies in the Information Division. We	21		in October, in November, a revised draft is put
22		can see that it is copied to, again, Ms Bateman, so	22		forward by the Information Division.
23		copied to your private office.	23		If we then go to DHSC0002309_058.
24		If we go back to the text, you'll see that she	24		I'm not looking at every single document on this
25		says:	25		path, but I think this helps us understand where we
		129			130
		129			130
1		get to by early December	1		volunteers. It was not thought necessary to adopt
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2		3 December 1984, from Dr Abrams in Med SEB to	2		a stronger line as has been suggested by Information
2		3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:	2		a stronger line as has been suggested by Information Division.
2 3 4		3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office: "MS(H) [that's you] cleared the revised leaflet	2 3 4		a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made
2 3 4 5		3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that	2 3 4 5		a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to
2 3 4 5 6		3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay	2 3 4 5 6		a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"
2 3 4 5 6 7		3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be	2 3 4 5 6 7	A.	a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving
2 3 4 5 6 7 8		3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be discussed at the meeting of the Working Group on AIDS	2 3 4 5 6 7 8	A.	a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving massive publicity, hadn't it? So there weren't
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2 3 4 5 6 7 8 9 10 11	Q.	3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be discussed at the meeting of the Working Group on AIDS on the 27" Obviously I was asked to do that so this Working Group on AIDS could see it.	2 3 4 5 6 7 8 9 10 11	A.	a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving massive publicity, hadn't it? So there weren't couldn't be many people with homosexuals or otherwise who had not read in the newspapers all this about the possibility that gay blood was killing
2 3 4 5 6 7 8 9 10 11 12	Q.	3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be discussed at the meeting of the Working Group on AIDS on the 27" Obviously I was asked to do that so this Working Group on AIDS could see it. Yes, I'm not going to take you to it unless	2 3 4 5 6 7 8 9 10 11 12		a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving massive publicity, hadn't it? So there weren't couldn't be many people with homosexuals or otherwise who had not read in the newspapers all this about the possibility that gay blood was killing people, as the newspapers were unhelpfully putting it.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. A.	3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be discussed at the meeting of the Working Group on AIDS on the 27"  Obviously I was asked to do that so this Working Group on AIDS could see it.  Yes, I'm not going to take you to it unless I don't know who the Working Group on AIDS were. But they're probably some expert group.  Yes. I mean, I can take you to it if need be but I think it's probably not necessary for the purposes	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16		a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving massive publicity, hadn't it? So there weren't couldn't be many people with homosexuals or otherwise who had not read in the newspapers all this about the possibility that gay blood was killing people, as the newspapers were unhelpfully putting it. You'll see from this, in any event, Lord Clarke, that by this point in time, 3 December, there are effectively these two competing drafts. The draft is originally sent in the summer and the Information
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q.	3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be discussed at the meeting of the Working Group on AIDS on the 27"  Obviously I was asked to do that so this Working Group on AIDS could see it.  Yes, I'm not going to take you to it unless I don't know who the Working Group on AIDS were. But they're probably some expert group.  Yes. I mean, I can take you to it if need be but I think it's probably not necessary for the purposes of I don't think I have any	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q.	a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving massive publicity, hadn't it? So there weren't couldn't be many people with homosexuals or otherwise who had not read in the newspapers all this about the possibility that gay blood was killing people, as the newspapers were unhelpfully putting it. You'll see from this, in any event, Lord Clarke, that by this point in time, 3 December, there are effectively these two competing drafts. The draft is originally sent in the summer and the Information Division's draft.  (Witness nodded)
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q.	3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be discussed at the meeting of the Working Group on AIDS on the 27"  Obviously I was asked to do that so this Working Group on AIDS could see it.  Yes, I'm not going to take you to it unless I don't know who the Working Group on AIDS were. But they're probably some expert group.  Yes. I mean, I can take you to it if need be but I think it's probably not necessary for the purposes of I don't think I have any the questions I need to ask you.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. A. Q.	a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving massive publicity, hadn't it? So there weren't couldn't be many people with homosexuals or otherwise who had not read in the newspapers all this about the possibility that gay blood was killing people, as the newspapers were unhelpfully putting it. You'll see from this, in any event, Lord Clarke, that by this point in time, 3 December, there are effectively these two competing drafts. The draft is originally sent in the summer and the Information Division's draft.  (Witness nodded)  And that will become apparent in a moment.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. A. Q.	3 December 1984, from Dr Abrams in Med SEB to Mr Naysmith, so your private office:  "MS(H) [that's you] cleared the revised leaflet for Blood Donors on 16 October [we looked at that a few moments ago] and subsequently agreed to delay the printing of the revised leaflet until it could be discussed at the meeting of the Working Group on AIDS on the 27" Obviously I was asked to do that so this Working Group on AIDS could see it. Yes, I'm not going to take you to it unless I don't know who the Working Group on AIDS were. But they're probably some expert group. Yes. I mean, I can take you to it if need be but I think it's probably not necessary for the purposes of I don't think I have any the questions I need to ask you.  Then you will see in the next paragraph:  "At that meeting members had only minor comments to make on the current draft which are appended. They	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. A. Q. A.	a stronger line as has been suggested by Information Division.  "If MS(H) is content arrangements can be made for printing the leaflet and for distributing it to Regional Transfusion Centres"  Well, the whole thing by this time had been receiving massive publicity, hadn't it? So there weren't couldn't be many people with homosexuals or otherwise who had not read in the newspapers all this about the possibility that gay blood was killing people, as the newspapers were unhelpfully putting it. You'll see from this, in any event, Lord Clarke, that by this point in time, 3 December, there are effectively these two competing drafts. The draft is originally sent in the summer and the Information Division's draft.  (Witness nodded)  And that will become apparent in a moment. Right.  But that's you're being asked on 3 December if you're content to proceed, essentially, with the draft
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1		Health Services Division to Ms Bateman, so to your	1		urgent clearance of the revised text of the leaflet
2		private office.	2		'AIDS and how it concerns blood donors'."
3		"1. I believe Mr Alun Williams has already	3	A.	Mm.
4		spoken to you about the above.	4	Q.	Paragraph 2 then refers to a Guardian report
5		"2. A revision of the present leaflet approved	5		describing cases where blood donation had resulted in
6		by the Department's expert advisory committee was sent	6		a 78-year old man and a mother/baby becoming
7		to MS(H) under cover of Dr Abram's [sic] minute of	7		seropositive to HTLV-III.
8		3 December."	8		Then there's a suggestion in paragraph 3 that
9		That's what we just looked at.	9		there were factual inaccuracies in that which had been
10		"3. A revised leaflet for blood donors is one	10		corrected by the Chief Medical Officer.
11		of the Government's announced responses to the AIDS	11		Then 4:
12		problem. It is therefore highly desirable that action	12		"These developments re-emphasise the need for
13		on this is taken forward in the near future."	13		the Department to produce the revised version of the
					leaflet The National Blood Transfusion Service
14		Is that effectively the civil servant chasing	14		
15		your private office for a response?	15		cannot be asked to effect a more positive distribution
16	Α.	Yes, it is.	16		of these leaflets until Ministers have approved the
17	Q.	Then if we go to DHSC0002327_127.	17		text. MS(H)'s approval of the revised text (as set
18	Α.	Chasing up again.	18		out in Dr Abrams' minute of 3 December 1984) is sought
19	Q.	I don't think that's it's the first page, please,	19		urgently."
20		Soumik. The page before that. Thank you.	20		So you're being chased again effectively, is
21		So this is a minute of 20 December 1984. Refers	21		that correct?
22		in paragraph 1 to a note giving:	22		Yeah, they're chasing me up again.
23		" information about recent publicity on AIDS	23	Q.	Then, as it happens, that may have crossed with
24		admission in the press today, CMO's interviews with	24		a document at DHSC0002309_062. So this is the same
25		the media and his press statement, and seeks MS(H)'s	25		date, 20 December, to your private office, to
		133			134
4		Do Aborono and Maranana to Do Aboronol oriente of	4		
1		Dr Abrams, and it's a response to Dr Abrams' minute of	1		revised leaflet as soon as possible, however,
2		3 December:	2		I understand that the forthcoming Christmas break will
3		"MS(H) has now seen your revised version of the	3		inevitably delay printing until the New Year. That
4		leaflet 'AIDS and how it concerns blood donors',	4		being so, I should be grateful if you could ensure
5		together with the Information Division version".	5		that MS(H) has an opportunity to comment of [that
6		So you'd looked at both drafts, essentially.	6		should probably be 'on'] the agreed version before
7		"His initial reaction to both was that we may	7		printing and distribution goes ahead."
8		need to look at some of the assurances again in the	8		So you have, it would appear, responded by
9		light of the publicity surrounding the two cases	9		having looked at both, asking the various branches
10		involving blood transfusions.	10		involved to put their heads together and produce
11		"On presentation, MS(H) saw nothing wrong with	11		a third and final version?
12		your revised text but felt that the language of the ID	12	A.	I actually when I responded, I thought there was
13			13		nothing wrong with the revised text but preferred the
14		That's the Information Division	14		stronger one, and would like to just the
15	A.	That was the stronger one of the two, wasn't it?	15		opportunity to comment before printing and
16	Q.	Yes.	16		distribution goes ahead.
17	Α.	" version conveyed the message more effectively.	17	Q.	Then if we look at DHSC0002309 063, this is a minute
18		I should be grateful therefore if you and your medical	18		dated 21 December 1984 so it's the following day, from
19		policy division colleagues would co-operate with	19		the Information Division, R Windsor, to your private
20		Information Division in producing a third (and	20		office, Mr Naysmith. It says:
21		hopefully final) version of the leaflet based upon the	21		"In light of MS(H)'s comments we have
22		ID text to take account of any recent significant	22		reconsidered the text of this leaflet with colleagues
23		developments, and amended as necessary to ensure	23		from Medical and Health Service Divisions.
23 24		medical accuracy.	24		"The further revised text is attached."
2 <del>4</del> 25		"4. I appreciate the need to produce the	25		Again, I'm not going to look at the detail of
		T. 1 ADDITIONALE ATE TICEU AUDITUALE ATE	20		rigani, i in not gonig to look at the uctal of

1		the changes.	1		Then you set out a quote:
2	Α.	No, they've made some more changes as well.	2		"Otherwise OK."
3		Yes, if we just go back and look, first of all, at the	3		So that was your response to
4	۷.	top of the page, the handwriting, this is someone, it	4	Α.	That was obviously my response, yeah.
5		would appear, bringing it to your attention on	5		Then we can there is, as a matter of fact, I don't
6		21 December:	6	۷.	think we need to go to it on 3 January, there is
7		"MS(H)	7		a minute that goes back to your private office
8		"An 'agreed' version is now attached.	8		addressing each of those points.
9		"Content for this to be printed asap?"	9	Δ	What do they say?
10		That's the question, I think, being posed to	10		It is at let's just have a look. DHSC0002323_088.
11		you. Is that your handwriting at the bottom of the	11		I mean, the first is a factual question, and then the
12		page?	12		second
13	Α.	That's not. This is.	13	Q.	So, happy to look at this for the sake of
14	Q.	Yes.	14	~.	completeness. It's from Health Services branch
15	Α.	That's my writing.	15		(overspeaking)
16	Q.	So you say:	16	Δ	(overspeaking)
17	۷.	"Is it still true to say that there is only	17		Paragraph 2:
18		a remote chance of anyone getting AIDS from an	18	۷.	"MS(H)'s first query about the 'remote chance of
19		ordinary blood transfusion as it says at the top of	19		getting AIDS et cetera' this statement is medically
20		page 2?"	20		correct, [and] has been left unchanged."
21		I think it is.	21	Α.	
22	Α.	That's saying is it still factually accurate, yes.	22	Q.	
23	Q.	"I remain wary of appearing to promise blood screening	23	۷.	"MS(H) asked for [paragraph] 'What is being
24	۷.	tests and heat treatment. I would therefore like to	24		done' to be omitted. The substantive issues on blood
25		leave out the paragraph at the bottom of page 3"	25		screening tests [and] heat treatment will be
		137	20		138
		137			130
1		considered in the near future, but not quickly enough	1		this minute, which we see at paragraph 2:
1 2		considered in the near future, but not quickly enough for conclusions to be put into the leaflet as soon as	1 2		this minute, which we see at paragraph 2: "I should be grateful for Ministers' agreement
2		for conclusions to be put into the leaflet as soon as	2		"I should be grateful for Ministers' agreement
	Α.	for conclusions to be put into the leaflet as soon as it is needed."	2		"I should be grateful for Ministers' agreement to the issue of the attached draft Health Circular
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1 February 1985:

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- 2 "Kenneth Clarke, Minister for Health, today 3 announced" --
- 4 A. -- (overspeaking) --
  - Q. -- "publication of the revised leaflet, 'AIDS --Important New Advice for Blood Donors' and has asked

7 Regional Health Authorities to ensure that it is 8

distributed individually to all blood donors. 9 "Mr Clarke said: 'The new leaflet is more

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

"The leaflet also reassures donors that they cannot contract AIDS or any other disease from giving blood because all the materials used for collecting blood are sterile and are only used once. So donors not in the risk groups can safely, and should, go on giving their blood'."

23 A. Yes, that sounds as though it is the original -- and 24 the press office version because that's very plain and 25 explicit, isn't, all that?

141

- Q. That's February '84 --1
- 2 A. That's February, is it, when Dr Smithies first starts 3 saying, "We need a new leaflet".
- 4 Q. Yes.
- 5 A. So there we are. I'm sorry, that's -- so it's from --6 it is -- it's taken the best part of a year, I agree, 7 which is too long. Too long.
- 8 Q. In terms of your own involvement, which began -- your 9 direct involvement effectively began through the 10 submission going to your private office in August 1984, we've seen a delay of a month between the
- 11 12 middle of September --
- 13 A. A month does seem to be -- either my private office not putting it to me properly or me delaying dealing 14
- with it. But presumably I thought I needed more time 15
- 16 to read it or something, or it may be, for some
- 17 reason, there was some all hell let loose somewhere
- 18 else and the private office kept saying they couldn't 19 put it -- you know, they've got other things that I've
- 20 got to deal with and have got to be dealt with
- 21 tomorrow. But that month does seem to me, I agree, to
- 22 be me and my private office.
- 23 Q. Indeed you had to then be chased in December although 24 the period of being chased is a shorter one, on two
- 25 occasions, for a response.

- 1 Q. Again, we've got copies of the leaflet as published
  - and I'm not going to ask you about the differences in
- 3 text. But you'll have seen from the documents we've
  - looked at, Lord Clarke, and again you refer to them in
- 5 your statement, but it's effectively taken from the
- 6 end of the three-month trial, which would have ended
- 7 at the end of November 1983, it's taken until
- 8 1 February 1985 for the revised leaflet --
- 9 **A.** Sorry, what's the three-month trial?
- 10 Q. In relation to the first leaflet, you'll recall there
- 11 was a trial of how it would be distributed. left to
  - the discretion of Regional Transfusion Directors.
- 13 A. -- (overspeaking) --
- 14 **Q.** That three-month trial would have ended approximately
  - the end of 1983 or the very beginning of December
- 16 1983. It's not until 1 February 1985, as you'll see
- 17 from the document --
- 18 A. Yes, but the first suggestion that factual knowledge
- 19 has moved on and the first suggestion that we were
  - actually identifying cases which looked as though they
- 21 were catching it is much later than the trial. That
- 22 doesn't arise until sometime in 1984. It is taking
  - too long. I think from -- just listening to you now,
- 24 I think it's from something like July 1984 to this
- 25 date -- going back to that Dr Smithies --

- 1 A. Yes, so me -- other people as well as me were 2
- suggesting last minute changes --
- 3 Q. Yes.
- 4 A. -- but otherwise we were --
- 5 Q. So would you accept a share of personal responsibility 6 for the delay?
- 7 A. Err, yes. Yes, I think -- I'd been -- what I've just
- 8 commented on. I mean only -- I can only go on the
- 9 documents as you can and, at this distance of time,
- 10 almost 40 years later, I can't remember, and don't
- 11 know, why it was a month between it going to my
- 12 private office and being told it was urgent, and me
- 13 replying. I hope that didn't happen very often. The
- 14 full delay from February to January next year, I don't
- 15 take responsibility for all that, because -- and
- 16 I have looked at documents before, and I don't
- 17 remember all these. But, I mean, practically
- 18 everybody had a view on it. There were all kinds of
- 19 parts of the Department and other groups that were
- 20 putting in views, I seem to recall, and somehow we
- 21 took on board too much discussion.
- 22 **Q.** Given that this was one of the few measures open to 23 the Department to protect the safety of the domestic
- 24 blood supply, that year was far too long, was it not?
- 25 A. Well, the -- the main problem we had was the American

- blood supply. We -- I don't know, have we ever found
   any evidence that anybody got AIDS from the British
   bloods supply?
- 4 Q. Yes.
- A. We have, have we? And I quite agree as the chairman
   has said -- I mean, hepatitis is probably difficult to
   get more exact figures because people get hepatitis
   still, so -- (unclear) but --
- 9 Q. If we leave aside --
- 10 A. It's a pity it took so long. I have already agreed it should have taken a shorter time, but again we had --11 12 I don't think we'd yet reached the full extent of the 13 tragedy, which no one foresaw. The real numbers 14 started coming later. We're now getting -- we're 15 getting small but serious numbers of people getting 16 infected and it's too long, and if I contributed to 17 it, and I can't now, all these years later, explain 18 why it was a month between submission to me and 19 returning it, well, there we are. I accept my share 20 of that.
- Q. I want to move now to some of the other decisions that
  were being taken in the course of 1983 or views that
  were being expressed in the course of 1983. So if we
  look, first of all, please, Soumik at CBLA0000043\_040.
  Now, this is a document, which there's no evidence to

1 donated in the USA after 1978 should be withdrawn from 2 use until the risk of AIDS transmission by these 3 products has been clarified. Appended is a paper in 4 which I set out my reasons for making this proposal. 5 Perhaps the subject could be discussed at an early 6 meeting with haematologists, virologist and other 7 concerned so that a decision may be made as soon as 8 possible."

If we go over the page, we'll see the paper that Dr Spence Galbraith referred under the heading "Action on AIDS", he says that this is --

- 12 A. What date is this?
- 13 **Q.** 9 May 1983.
- 14 A. '83?

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15 **Q.** '83, and he says this:

"The temporary withdrawal of all blood products imported from the United States of America made from blood donated after 1978 is proposed, until the risk of transmission of [AIDS] becomes clarified."

Then he sets out number of reasons, and I'm not going to read all of them aloud.

- 22 A. No, you've read -- no, no, I see that.
- 23 Q. For the benefit of those watching --
- 24 A. So he was suggesting the end of Factor VIII?
- 25 Q. He was suggesting a temporary suspension of

1 suggest it came to you, Lord Clarke, it's dated

9 May 1983. It's addressed to Dr Ian Field in theDHSS?

- 4 A. And it's from the Public Health Laboratory Service.
- 5 Q. It is. It's from the Communicable Disease

6 Surveillance Centre and if we look to the bottom of 7 the page, it's there signed NS Galbraith. That's

8 Dr Nicol Spence Galbraith, who was a leading public

9 health doctor in the Communicable Disease Surveillance

10 Centre in Colindale, and you'll see in the text of his 11 letter:

12 "Last week while you were away in Geneva a case 13 of Acquired Immune Deficiency Syndrome in haemophiliac 14 in Cardiff who had received USA Factor VIII 15 concentrate was reported. The case fits the 16 recognised criteria for the diagnosis of AIDS. In the 17 Lancet of 30th April three cases of haemophiliacs in 18 Spain are reported; I have confirmed that they have 19 received USA Factor VIII concentrate. In the same 20 issue of the Lancet the tally of 11 reported cases in 21 haemophiliacs in the USA is recorded and a paper 22 describes a case in a multiply-transfused child in the 23 USA.

"I have reviewed the literature and come to the conclusion that all blood products made from blood

146

1 Factor VIII?

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- 2 A. Stop treating patients with Factor VIII from America.
- 3 Q. He was suggesting American concentrate should no4 longer be used for a period of time.
- 5 A. Yeah, but that would have been a very high proportion6 of our cases.
- 7 **Q.** Yes. So if we just look very briefly at his reasoning:
  - "1. The AIDS epidemic in the USA is probably due to a transmissible agent.
- "2. The agent is probably transmitted by bloodand blood products."

He goes on to give further detail in relation to that.

- 15 A. He turns out to have been quite correct.
- 16 Q. He does:

"3. Although this number of cases of AIDS associated with the administration of factor VIII concentrate is very small in relation to the number of individuals receiving the product, this may NOT indicate that the risk is small ..." and he goes on to explain why.

Then if we go over the page, you'll see at the top of the page one of the reasons is the incubation period between potential infection and the symptoms

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- 1 manifested -- (overspeaking) --
- A. I hadn't realised incubation period was that long. 2
- 3 SIR BRIAN LANGSTAFF: That was the point I put to you just 4
- A. Yeah, I hadn't previously known that. I had no idea 5 6 it could take four years before it turned up. No. 7 I don't think I've ever heard that before.
- SIR BRIAN LANGSTAFF: Well, you --8
- 9 A. And this is some chap in the Public Health Laboratory Service? 10
- MS RICHARDS: This is Dr Spence Galbraith. He was 11 12 a leading figure in the Communicable Disease Surveillance Centre. 13
- A. Mm-hm. 14

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Q. Paragraph 4: 15

> "Factor VIII concentrate (and pooled products) would appear to have a high risk of being contaminated with AIDS agent because homosexuals [this is now referring to America] and drug abusers are known to be frequent blood donors and each plasma pool from which it is manufactured is collected from as many as 1,000 donors."

That is probably, in fact, an underestimate: "Furthermore, it is possible that the AIDS agent may be present in blood of healthy persons for several

149

- 1 Q. Dr Field in the Department. There are memos between 2 Dr Field and Dr Walford but in terms of the broader
- 3 discussion contemplated by Dr Spence Galbraith that 4
  - does not appear -- (overspeaking) --
- 5 A. So what did Field and Walford decide to do with it?
- 6 Q. I'm afraid. Lord Clarke --
- 7 A. Sorry, you're going to find out. It's probably more
- 8 for the chair --
- 9 Q. Yes, exactly.
- 10 A. -- for the chairman to find that out than it is for
- 11 me. I'm just intriqued because it is pretty start
- 12 startling stuff. Of course, we're sitting here with
- the benefit of hindsight. We happen to know that this 13
- opinion produced by somebody from the '83 from the 14
- Public Health Laboratory Service, we can now say was 15
- spot on. I mean, 110 per cent on. This is the kind 16
- of thing, if only we'd all known that in early 1983, 17
- 18 we'd have saved thousands of lives. So I'm just
- 19 amazed to read a document which is so perspicacious.
- 20 He had spotted all this, as we can see from the other
- 21 documents, long before other people had picked it up
- 22 or were taking this line. It's a very strong document
- 23 and, again, as it happens, we now know he was spot on.
- 24 Q. Would you agree that this is material that should have 25 been seen by ministers?

- months before onset of symptoms." 1
- 2 **A.** That's all interesting.
  - Q. "5. There is apparently no known means of ensuring that blood or blood products are free of the AIDS agent."

Then 6:

"The mortality rate of AIDS exceeds 60 per cent one year after diagnosis and I see expected to reach 70 per cent."

Those were his reasons for the step which he recommended.

12 Now, Lord Clarke, there was no evidence to 13 suggest that this was drawn to the attention of any 14 minister --

- A. Well, I don't think I've ever seen -- well, I can't --15 16 I don't think I've ever seen that in my life before. 17 He turns out to be a very perspicacious man. So he 18 quite rightly suggests that this would be 19 distributed(?) by virologists and haematologists, so 20 what was the outcome of the discussions with the other 21 people with different disciplines who had a look at 22
- 23 Q. Lord Clarke, there is no particular evidence of his 24 paper actually being discussed by anybody.
- 25 **A.** Really? Who was it -- who was it sent to?

- 1 A. Well, I -- I'm surprised that it never got to me, yes.
- 2 I mean this is -- I mean given that all these
- 3 arguments going on about how strong the warning should
- 4 be, I mean this guy's opinion is certainly superior to
- 5 that of mine or the press office or people like that,
- 6 which I have always said -- well, my clinical
- 7 judgments are valueless. I mean they -- but yes, it
- 8 is -- to me, it is quite startling to read that
- 9 somebody in the Department somewhere had got -- unless
- 10 he -- I don't know who he is -- unless, for some
- 11 reason, they dismissed him and thought he was
- 12 a strange outlier --
- 13 Q. No, he was a very reputable and very well-respected 14 doctor.
- 15 A. Yeah -- well, there we are. No, it's surprising --16 did Simon see it?
- 17 **Q.** No, no evidence it went to Lord Glenarthur?
- 18 A. So Simon didn't see it either? I find that
- 19 surprising. I, you know, I'm sure I would have read
- 20 it, you know, with some startled, you know -- I mean,
- 21 you can't read it without being rather startled by it.
- 22 Q. I'm asking a hypothetical question here, I appreciate
- 23 many years after the event, but had you or one of your
- 24 ministerial colleagues have seen it, you would, at the
- 25 very least, have wanted to consider its content and

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explore whether this was a step or whether there wereother steps -- (overspeaking) --

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A. Well, if I saw that, my reaction -- I'm sitting here now with the wisdom of hindsight and, you know, appearing as a witness, so it's quite easy -- I would have reacted to that, I think. I would have said definitely agree with this. So what is the opinion of our -- are you getting, you know, expert comment on this, and so on? Because it is basically stark -- and startling. Once they had reassured me this bloke isn't some crank, that he is -- again, I've got to be careful, subliminally, no doubt, I'm influenced by the fact that I see what a complete warning it -- if it had been acted on, you know, it's difficult, so -- I don't know why that went into nowhere.

So I think -- I mean being polite, I am surprised that -- certainly surprised it never got to Simon. But I'd strongly suspect that if it got to Simon Glenarthur, he'd have made sure his office copied it to me in pretty quick time, and then we could -- if the medical team had said, "Well, he's of that view, the laboratory service" but the virologist in the others say X, Y, Z, you know, we can't just get -- and the other thing of course, which at some stage, that we were all considering, is what he is

153

1 this wonder treatment was devised.

- Q. Well, we'll need to unpick quite a lot of what you've described there, Lord Clarke, but I just want to deal with things in a chronological fashion, at the moment
- 6 A. Well, I'm trying to get to the point.
- 7 Q. I hope the next question will take you to the point,8 Lord Clarke.
- 9 The Committee on the Safety of Medicines 10 Biological Sub-Committee --
- 11 A. Committee on the Safety of Medicines Biological12 Sub-Committee?
- 13 Q. Yes, so it's a snappy name, the Biological
   14 Sub-Committee of the Committee on Safety of
   15 Medicines --
- 16 A. Yes, I didn't know they had one.
- 17 **Q.** -- did consider the question of whether they should18 take action to --
- 19 A. So they considered this bloke's suggestion?
- 20 **SIR BRIAN LANGSTAFF:** He was at the meeting.
- 21 MS RICHARDS: Well, he was at the meeting but the evidence
- the Inquiry has received from the chair of that
  - committee suggests that his paper was not the subject
- 24 matter of discussion at the meeting.
- 25 A. Right, and what did this sub committee advise?

suggesting, that's even more dramatic than stopping blood donations by homosexuals, he is suggesting stop treating haemophiliacs with Factor VIII.

We do have to remember, when we look at the doctors' decisions on that when they started weighing the balance of risk, if you'd -- once you stopped giving Factor VIII, you were killing some haemophiliacs. You were reducing their life expectancy, and their quality of life was dramatically reduced.

10 11 Now, had we known that almost 3,000 12 haemophiliacs were going to die from the Factor VIII, 13 that should have been taken. But had the decision 14 been taken to stop Factor VIII, we'd have faced rage 15 and fury from the haemophiliac community, who would 16 have known that their quality of life was being 17 damaged, that they were being killed, and we would 18 have been -- some of the campaigners would have 19 accused us of overacting and getting panicked to 20 American rumours, and so on. Had it worked, we'd 21 probably have continued to be cursed because no one --22 you know, had we done it, then 2,800 people, whatever 23 it is, would not have died. So we'd have continued to 24 this day to be reviled for condemning haemophiliacs to 25 going back to the kind of life they'd enjoyed before

154

- Q. Well, I'm going to ask you to look at their
   conclusions now.
- 3 A. I don't think I was ever aware of their existence.
- 4 Q. You didn't, and that's really the purpose of the next5 line of questions, Lord Clarke.

6 DHSC0001208, please, Soumik. So this is called 7 "Summary of main points" --

- 8 A. Yeah, I'm just trying to read it, yes.
- 9 Q. "... from a consideration of AIDS and licensed blood10 products by CSM(B) ..."

That's the acronym for the Biological Sub-Committee of the Committee on Safety of Medicines.

"... 13 July 1983."

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If we look -- it says:

"The followed conclusions were reached ..."

- 16 A. Hold on. Let me read it.
- 17 Q. Yes, of course. It was sent to you in advance of your18 evidence.
- A. So you've got a professor of haematology, chairman of
   the Haemophilia Centre, a virologist, Mr Galbraith,
- 21 who had -- one of the participants -- who was the man
- 22 who had raised this percipient minute, the Director of
- 23 Regional Blood -- yes, okay, so it's an expert
- 24 sub committee group.
- 25 Q. They are, in fact, not the members of the

1		sub committee; they made addresses to the	1		IV drug abusers resident" et cetera.
2		sub committee well, sorry, they were invited to	2		Ah. So this yes. I finish here:
3		attend (overspeaking)	3		"The possibility was considered not
4	A.	Oh, they were the outside expert group advising the	4		feasible"
5		sub committee. My apologies. Quite right.	5		Seem to think you could use something called
6	Q.	And then you'll see it says:	6		cryoprecipitate, of which I've never heard. That's
7		"The following conclusions were reached"	7		not feasible.
8		Again, I'm not going to read all of it but if	8		Now what else did they look at? I've finished
9	Α.	No, I'd quite like to read it actually. You keep	9		subparagraph 3.
10		dotting about and putting selective bits up.	10	MS	GRICHARDS: Thank you, Soumik.
11	O.	Yes, of course. You'll find, Lord Clarke, it's	11	Α.	
12	Ψ.	material	12		preparations from the United Kingdom. Now, actually,
13	SIR	R BRIAN LANGSTAFF: Shall we then remove the selected	13		with hindsight, we know if we'd known what we know
14	0	bits and just allow you, Lord Clarke, to get to the	14		now, that's what should have been done and would have
15		bottom of the page. Just tell Soumik	15		saved lives.
16		(overspeaking)	16		"It was concluded that this is not at present
17	A.	l'd be very grateful if you could do that, chairman,	17		feasible on grounds of supply."
18	Λ.	thank you. I don't like this snatching out sentences.	18		Meaning there was no alternative source. Not
19	CID	R BRIAN LANGSTAFF: Well, just take your time and let us	19		enough alternative source.
20	SIN		20		•
		know when you're ready to move on to the next bit.			"Moreover, the perceived level of risk does not
21	Α.	I'm taking a little time because, again, I'm not	21		at present justify serious consideration of such
22		a clinician, so I have to re-read some of this.	22		a solution. Efforts are however being made"
23		So, yes, I've reached the bit:	23		This goes on to the attempts we were making to
24		"The risk appears to be greatest in the case of	24		make ourselves self-sufficient.
25		products derived from the blood of homosexuals and	25		Right, there we are. Paragraph 4 seems to me
		157			158
1		the key paragraph. They actually did consider to stop	1		anybody before that, presumably, had weighed up the
2		using imports from the US. All of them, including	2		competing arguments whether we should stop using
3		Mr Galbraith, came down against it.	3		American Factor VIII.
4	SIR	R BRIAN LANGSTAFF: No, he wasn't a voting member.	4	MS	RICHARDS: Well, that's really one of the questions
5	A.	Wasn't a committee member. Well, he must have sat	5		I have for you, Lord Clarke.
6		there well, we don't know what he argued.	6		There are questions, Lord Clarke, as to what
7		Mr Galbraith may have been dissenting as an expert	7		information this sub committee were provided with, but
8		witness.	8		that's not and whether it was
9	SIR	R BRIAN LANGSTAFF: We have no information that he was,	9		comprehensive (overspeaking)
10		but we have no information that	10	A.	
11	A.	Well, I imagine that half the members of the meeting	11		And that's not a matter you can help us with.
12		won't now remember what was said there, who said what.	12		I should just say, if you look at your witness
13		So we don't know. Mr Galbraith, who was this great	13		statement, Lord Clarke, at page 86, you did comment on
14		and wise man, who had, you know the first man to	14		this document in the statement.
15		have spot-on insight of what we'd all liked to have,	15	A.	
16		you know, seen happen, if we now we know what we	16	Q.	
17		know, he was there, and they listened to him	17	A.	
18		presumably, and all the other experts, and that's the	18	Λ.	read it?
19		conclusion they came to, which again, I'm not being	19	Q.	That's all right
20		critical, I am not remotely critical of in the	20	Q. A.	
21		light of knowledge at the time, we can only sit here	21	Q.	
22		and say, "Well, how sad. It's a pity they reached	22	₩.	that you were being taken by surprise in
23		that conclusion", but I mean, you know, there we are.	23		the (overspeaking)
23 24		This little sub committee nearly really	23 24	٨	86, you say?
		considered well, the first I've I don't think	24 25		Page 86, paragraph 7.103, you say this thank you,
25		Considered Well, the IIISt I VE I CONT (IIIIIK	20	ų.	i aye oo, parayrapir 1.100, you say lilis lilalik you,

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"I have been asked whether 'the decision of the Biological Sub-Committee of the Committee on the Safety of Medicines', taken on 13 July 1983, was brought to my attention. I have been shown, in particular, a summary of the main points considered at this meeting [that's the document you were just reading] which shows detailed consideration of and decisions on a range of issues. I cannot remember involvement in decision-making on this issue, but I may have been aware from conversations with others in the DHSS, possibly the CMO ..."

Just pausing there, that would still have been Sir Henry Yellowlees.

"... that such issues were being considered by the experts. This would have been a general understanding however and I do not think I was aware at the time that this particular group of experts were considering these matters."

That's what you said in your statement, Lord Clarke.

A. Well, that's actually been drafted by the very good, very helpful Department of Health lawyers who, you know, produced a draft, which I went -- it is my evidence. I mean, I'm not getting out of saying that.

161

1 concentrates, would you have expected that to at least 2 come to the attention of ministers for information 3 -- (overspeaking) --

A. Well, it's not a decision -- I don't think the sub committee would make the decision, would they? They're not a licensing authority. The conclusion of this group not to recommend it -- I suppose what they didn't recommend didn't go to anybody. But it's the original paper, the one put forward by the Laboratory Service asserting this -- I am a little surprised that that was just left to the sub committee of the other committee to decide whether to take this up.

And, you know, if Mr Galbraith was to disagree, if he wasn't persuaded at the meeting of the sub committee, you know, he might well have decided, well, this was hopeless and he was going to try to get someone else to listen to him and go on to one of the medical officers or something. So I'm a little surprised.

I'm not criticising -- I'm amazed by
Mr Galbraith's insight, but it is -- I suppose what
the -- it's not for me to depend on this
sub committee, which I'd not heard -- although I was
possibly shown it before but I'd forgotten that's what
it was called, and I don't think I'd ever heard of

1 It's a rather -- it comes to the same conclusion.

I don't recall ever having seen it or heard it before.

But -- as I say, my reaction, having seen it -- again,

4 probably because of the context and the fact we've

5 already been over such things -- is a little startled

6 that I hadn't seen it. But yeah, it comes to the same

7 conclusion. I don't think --

8 Q. I should say, Lord Clarke, that there's no documentary
 9 trail that has been uncovered to suggest that it was
 10 brought to either your attention or Lord Glenarthur's.

A. No, well, normally the Biological Sub-Committee of the
 Committee on Safety of Medicines, they wouldn't submit

13 things to ministers. Those sort of committees exist

14 that where they do report to is the Chief Medical

Officer sometimes. He -- but -- and if he wanted to

16 challenge their conclusion, he might have taken it up,

17 but there, again, he probably would accept that they

were all more expert than he was, and accepted their

conclusion which they reached, that they weren't recommending any change. Well, I -- this is

21 a slightly more long-winded way of saying I don't

22 think any of us knew about this.

Q. Would you have expected that a decision of this
 magnitude, one of the most significant decisions taken
 in 1983, not to restrict or ban the import of American

162

this sub committee, but I'm surprised they decide not to act on it, not to recommend it, and not to tell

3 anybody about it, and just drop it.

SIR BRIAN LANGSTAFF: If I can just help on this, my
 understanding, derived from documents which I've seen,
 is that the sub committee, as you would expect,
 reported to the committee which met a week later,

8 I think it was 20 July, and they normally acted on the

9 recommendations of the Biological Sub-Committee --

10 A. -- (overspeaking) -- recommendations --

11 **SIR BRIAN LANGSTAFF:** -- and they gave it a tick.

12 A. Yes. Well, you, of course, heard more evidence than
 13 me, and my opinion on this doesn't matter tuppence,
 14 but yes, that's how it was dealt with.

15 SIR BRIAN LANGSTAFF: So it --

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A. But those expert committees, it was only when they required action that they would go I think first to - 1 think they would go first to the CMO, to give him
 their expert advice and leave him to work with the
 world of Whitehall, to make sure that that
 recommendation was acted on. But it obviously died in
 the sub committee.

And then the committee accepted the recommendation of the sub committee, which is -- (overspeaking)

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1 SIR BRIAN LANGSTAFF: Yes, I gathered that was their usual 2 style --3 A. And that was the end of it. SIR BRIAN LANGSTAFF: -- but it was still the committee's decision? 5 A. Yeah, yeah. But that committee would never report 6 7 directly to ministers. 8 SIR BRIAN LANGSTAFF: Yes. 9 MS RICHARDS: Would you, however, have expected that what you described -- and I'm paraphrasing not quoting your 10 evidence here, Lord Clarke, about the need to weigh 11 12 matters up, consider pros and cons of whether to act 13 or not act -- are you surprised that that's a matter 14 that didn't come to ministers at this critical time? A. A little surprised. I am. I mean, the people it did 15 16 go to, with all these other expert advisers, assembled 17 for the purpose, you know, were in a better position 18 to appraise this advice. I don't think a minister 19 would have been. But, yeah, I'm a little surprised 20 that certainly Simon, as the minister responsible for

> the public. But, you know, it might have come to me 165

> presented the change in policy in collecting blood to

I'd -- the main thing I've got involved in, as you've

blood products, never even was shown it. And because

rightly been questioning me about already, was how we

A. Anyway, it died in the Biological Sub-Committee of the 1 2 Committee on Safety of Medicines.

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**Q.** There's then a slightly separate issue about American imports that I want to ask you about, but can do so most easily from the Biological Sub-Committee's conclusion.

So if we go back to DHSC0001208, please, Soumik. Can we go to the second page. Can we look at paragraph 5.

I'm just going to read this out, Lord Clarke, but you might want to read it while I do:

"It is advisable that all clotting-factor concentrates derived from US plasma sources and intended for use in the UK be prepared only from material manufactured from plasma collected after new regulations were introduced by the FDA on March 23rd, 1983."

That's a reference to the Food and Drug Administration in the States.

"These regulations were introduced specifically to minimise the likelihood of collecting blood from affected donors. This step is recommended notwithstanding the possibility that its practical value may be relatively small. It cannot, however, be taken until supplies of post-March 23rd material can

1 as well. I suspect Simon would have come wandering 2 into the office saying, "Crikey, have you seen this, 3 Ken?" You know? But then we might well have been 4 reassured, "Well, other people who do understand this 5 better than you, Minister, have all been over it, 6 there's been a whole meeting of the sub committee, and 7 they decided that, you know, there's no need to act on 8 what he's saving about ..." I mean, so it might still 9 have died.

> Given where I am now, what I know now, given I find myself before this Inquiry 40 years later, it would be interesting to know what -- what would have happened if I'd seen it. Would I have taken off and said, you know -- I certainly would have asked, "What the hell are we doing about this?" But they might have reassured me, "No, no, no, don't worry the experts have all looked at this and it was decided that Mr Galbraith takes it too far."

Galbraith may even himself have been persuaded, although, as it has been pointed out to me, he was not a member of the sub committee so he was no part of their decision.

23 Q. Yes.

24 A. But he was at their meeting.

25 Q. And sadly deceased, I'm afraid --

166

1 be assured. It is recommended that close contact is 2 maintained between the Licensing Authority and 3 Supplies Division with the aim of introducing this 4 step immediately it becomes feasible." 5

Lord Clarke, the issue to which that paragraph is alluding reflects the fact that in late March 1983 the Food and Drug Administration in the States introduced recommendations about how blood should be collected after that date.

10 A. Yeah, well, the Americans were as concerned as we were 11 being to get -- and were trying to improve the quality 12 safety of their Factor VIII.

13 **Q.** And a concern arose as to whether factor concentrates 14 made from pre-March 1983 plasma, in other words 15 potentially --

16 A. -- (overspeaking) --

17 Q. -- collected in a way that was less safe than 18 post-March plasma -- or "less safe" may be putting it 19 too high, but, in any event, collected without the 20 adherence to the post-March regulations, would be 21 dumped on the UK. So the Americans wouldn't want to 22 use it; they'd dump it on the UK. So a question

arose --24 **A.** Were they doing that?

Q. Well, there is some evidence to suggest that that --

there was a concern about that within the Department.

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So a question arose: even if the UK was not going to ban all imports, should steps be taken to restrict pre-March imports? That, again, does not appear, as far as the documents show, to be a matter that came before Lord Glenarthur or you. Does that surprise you, that this narrower question of the pre and post-March concentrates didn't get anywhere near a minister?

10 A. Well, again, Simon might have been advised -- not to the same extent it doesn't, because this isn't 11 12 suggesting that you should stop using the pre-March 13 stuff; it just points out that it is advisable --14 I mean, highly advisable, from what you're telling me, 15 I'd have thought -- that you can start using this 16 post-March stuff. But it says, it's recommended we do 17 that once it becomes feasible. And they weren't 18 suggesting stopping anything. They just meant, 19 obviously: as quickly as possible we should make sure 20 we're only using the post-March stuff.

> I'm not quite sure what the minister would have done if it had been sent to. What could he do? Go along with it.

- 24 Again, there may be questions --
- 25 Unless you were going to stop treating people with

169

- 1 A. No, but why should it go to Simon particularly?
  - I mean, an awful lot was going to Simon. Simon was
- 3 the one in day-to-day -- in touch with these things.
- 4 But I -- and I only -- I don't know that it went to
- 5 Simon. Probably nobody knows or remembers whether it
- 6 went to Simon or not. It doesn't actually recommend
- 7 any action.
- 8 Q. I'm really asking about the underlying issue.
- 9 Lord Clarke, not the particular formulation that the
- 10 Biological Sub-Committee came up with, although they
- 11 wanted the change to be implemented as soon as
- 12 possible.
- 13 **A.** Well, they're saying it is advisable that we stop
- using this stuff, so it's recommended that we do so 14
- once it becomes feasible. So I'm not sure what Simon 15
- would have done with it, if it had got to him. 16
- 17 Q. Maybe --
- I'm sure it was stopped as soon as it became feasible. 18
- Q. I'm not sure whether there's any evidence to that --19
- 20 Well, there we are.
- Is that what your expectation would have been? That 21
- 22 steps would have been taken to monitor its
- 23 feasibility?
- 24 A. Well, I don't know. Yes, obviously until you've got
- some way of being able to identify what was 25

- 1 Factor VIII.
- 2 Q. Yes.

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- 3 A. Which, as we -- certainly nobody came to the 4 conclusion we should do that.
- 5 **Q.** Again, there may be questions as to the basis upon 6 which this sub committee formed the views it set out
- 7 in paragraph 5 --
- 8 A. No, I'm not -- I would -- there would -- I mean,
- 9 this -- talking about myself -- I don't know what
- 10 Simon said, whether he thinks that -- wishes he'd seen
- 11 it -- I'd have been rather surprised if something like
  - this got to me. This is getting down to real detail.
- 13 Q. But would you have expected this question of
- 14 whether -- this concern about the possibility of less
- 15 safe products being dumped on the UK market and 16
  - whether any steps should be taken, would you expect
- 17 that to have been at least notified to the minister
- 18 with special responsibility, so that he could
- 19 consider, if necessary with the advice of the CMO,
- 20 whether there were any steps he wished to take?
- 21 A. Well, what is saying -- he -- should be done? It
- 22 isn't -- the paragraph, as far as I can see, isn't
- 23 suggesting anybody does anything.
- 24 Q. Well, I'm not really asking you, Lord Clarke, to
- 25 construe --

- 1 pre-March 23 and what was post-March, it was not
- 2 feasible to do anything about it. And I accept that's
- 3 what happened. I'm sure that is what happened.
- 4 That's what it's been recommended here.
- 5 Q. Just, Lord Clarke, so that you understand, I'm not
- 6 trying to debate with you the merits or otherwise of
- 7 this -- either the step recommended here on what was
- 8 or wasn't done, it's more the decision-making process,
- 9 as to whether decisions --
- 10 A. There's no decision involved.
- 11 **Q.** As to whether ministers should have been alerted to
- 12 the possibility of pre-March plasma being dumped in
- 13 the UK so that they could consider if there were steps
- 14 they wished to take.
- A. The paragraph says nothing whatever about the 15
- 16 pre-March plasma being dumped in the UK.
- Q. No, there are other materials which do --17
- 18 A. Well, there we are.
- 19 Q. -- which --
- 20 A. I haven't seen that.
- 21 Q. Yes, I think some of them were shown to you for the
- 22 purposes of -- (overspeaking) --
- A. This paragraph is not recommending any action and 23
- 24 I can't quite see that any action would have been
- taken if it had been -- those had been given to 25

1	ministers or not.	1	means
2	SIR BRIAN LANGSTAFF: I think actually it is making	2	A. As soon as you've got adequate supplies, then you
3	a recommendation, if you look at the last sentence.	3	should introduce that step as soon as it's feasible,
4	A. It's recommended when it becomes feasible.	4	which means as soon as you can get adequate quantities
5	SIR BRIAN LANGSTAFF: Yes, but "close contact is	5	of the that's my understanding of it. I mean,
6	maintained" (overspeaking)	6	I don't want to debate it because it says what it
7	A (overspeaking)	7	says. The paragraph is perfectly clear. It reads for
8	SIR BRIAN LANGSTAFF: the aim is to introduce "this	8	itself.
9	step". It doesn't say what this step is, but I think	9	SIR BRIAN LANGSTAFF: No, I
10	the implicit step may be, unless someone else has	10	A. It's not suggesting that anybody takes any step apart
	a better interpretation of this in due course, may be	11	from as soon as it is recommended that as soon as
11	•		
12	a step to stop taking pre-March 23, 1983 plasma. That	12	we can be certain we've got enough post-March 23
13	would need to imply	13	stuff, only use the post-March 23. And it makes no
14	A. But it says you can't do that	14	suggestion that anybody that the manufacturers were
15	SIR BRIAN LANGSTAFF: On grounds of feasibility. The	15	deliberately dumping stuff on us.
16	feasibility, as I understand it at the moment but,	16	<b>SIR BRIAN LANGSTAFF:</b> The word "dumping" is not used.
17	again, this is subject to further argument and	17	What is suggested, I think, is keeping a close eye on
18	evidence is that post-March 23 plasma was labelled	18	to it to see
19	as such in the United States.	19	A. Oh, yes. As soon as we can make sure that we've got
20	A. But what it says is you couldn't stop taking the	20	enough post-March stuff, use that and stop using the
21	March pre-March 23 plasma	21	old stuff.
22	SIR BRIAN LANGSTAFF: Until it was feasible.	22	SIR BRIAN LANGSTAFF: Yes.
23	A until you'd got adequate supplies of the post	23	A. Yes, that's very good. That's what it said that's
24	stuff.	24	really what it means.
25	SIR BRIAN LANGSTAFF: That's probably what feasibility	25	MS RICHARDS: Sir, I note the time. Perhaps a good moment
	173		174
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1	for a break.	1	action to be taken if and when they are adopted.
2	for a break.  SIR BRIAN LANGSTAFF: Yes, it would. Shall we take	2	action to be taken if and when they are adopted. "However, recommendations or undertakings in
2	for a break.  SIR BRIAN LANGSTAFF: Yes, it would. Shall we take a break, then, until quarter to four.	2	action to be taken if and when they are adopted.  "However, recommendations or undertakings in international agreements are often of interest to
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"5. The Recommendation does not prevent the

**Q.** No, I'm sorry, this is a different Recommendation.

2 United Kingdom from continuing to import factor VIII 2 **A.** Ah. 3 concentrate from the USA on whom we currently rely for 3 **Q.** I'm going to come on to the text of it in a moment. 4 about 50% of our supply." 4 I just want to show the dates and who saw it and then 5 Then 6 attaches a copy of the Recommendation. 5 we will look at the text. 6 I'm going to ask you to look at the 6 **A.** Sorry, sorry. 7 recommendation --7 Q. No, no. So DHSC0002309 031 is the response from your A. This is July '83? 8 private office, if we look at the dates, of 26 July: 8 9 9 Q. This July 1983, I don't think we have a precise date, "MS(H) has seen your minute of 22 July attaching but if we look at DHSC0002309\_029, we can see a minute 10 Mr Cumming's submission and agrees that our own Aids 10 dated 22 July on behalf of Lord Glenarthur to your 11 leaflet should refer to the European advice." 11 12 private office saying: 12 So it would appear that you saw the minutes 13 13 "Lord Glenarthur has seen Mr Cumming's minute of and --14 undated July and thinks we should accept the 14 A. I agreed. 15 Recommendation. He also feels that there might be 15 Q. -- you're responding to what Lord Glenarthur had to 16 merit in referring to the 'European' advice when MS(H) 16 say. 17 announces the publication of our own leaflet to 17 If we then go to the text of the Recommendation 18 potential blood donors. Does MS(H) agree?" 18 itself it's MACK0000307, please, Soumik. If we go to 19 A. Is that to me? 19 the next page, we'll see the Council of Europe 20 Q. Yes, that --20 committee of ministers recommendation number R(83)8. A. Is there any evidence that any minister participated 21 A. Do I agree? 21 22 Q. You do, effectively. That's the minute to your 22 in the committee of ministers? 23 private office, and then the response --23 Q. No. A. Because Britain was and still is a member of the 24 Sorry, wasn't the recommendation that we stop using 24 25 American supplies? 25 Council of Europe. 177 178 1 Q. There wasn't a -- there was a British delegate who 1 with the respect to the Acquired Immune Deficiency 2 2 was, in fact, Dr Gunson, who was the consultant Syndrome and in particular ..." 3 adviser, Regional Transfusion Director and consultant 3 Then you'll see, Lord Clarke, there are three 4 adviser to the CMO. 4 recommendations set out. The first is: 5 A. Yeah, the -- (unclear). 5 "-- to avoid wherever possible the use of 6 6 **SIR BRIAN LANGSTAFF:** He was acting rapporteur, wasn't he? coagulation factor products prepared from large plasma MS RICHARDS: Yes, you're, sir, he was. 7 pools; this is especially important for those 7 A. And he was a Department of Health guy, was he? 8 countries where self-sufficiency in the production of 8 9 MS RICHARDS: No, he was a Regional Transfusion Director 9 such products has not yet been achieved ..." 10 but he also had the status of consultant adviser of 10 Then the second recommendation is to: 11 blood transfusion to the Chief Medical Officer. 11 "-- to inform attending physicians and selected 12 A. He was representing Britain on the Committee of 12 recipients, such as haemophiliacs, of the potential 13 Ministers? health hazards of haemotherapy and possibilities of 13 **Q.** Well, I don't -- he was present at their deliberations 14 minimising these risks ..." 14 and reported back. He wasn't, I think, on the 15 Then the third is: 15 16 "-- to provide all blood donors with information Committee itself. I don't think we have to hand 16 17 on the Acquired Immune Deficiency Syndrome so that 17 information about who was on the committee. 18 In any event, there's the title of it. If we 18 those in risk groups will refrain from donating (an 19 example of an information leaflet for donors is 19 just go further down the page, you'll see the date it 20 was adopted, on 23 June 1983. There are a number of 20 appended) ..." 21 preambles about AIDS set out, which I'm not going to 21 I'm not going to ask you any more, Lord Clarke, 22 ask you about. If we go to the next page. We'll see 22 about the third recommendation because I've already 23 the recommendations. So: 23 asked you about the AIDS leaflets in 1983, '84, '85.

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"Recommends the governments of member states:

"I. To take all necessary steps and measures

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What I want to ask you about is the second

recommendation. So you'll see there it's:

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

First of all, Lord Clarke, before we look at the topic of the recommendation, in light of the minutes that we looked at and the fact that this was sent to you, do you think you would have read the recommendations themselves?

- A. Yes, I wouldn't have -- yes, I wouldn't have said we
   accepted -- adopted the recommendations without
   reading them, yes, certainly.
- Q. Broadly speaking, at that time, what kind of
   importance would the Department have attached, or you
   yourself have attached, to recommendations of the
   Committee of Ministers?
- 17 A. The Council of Ministers, well, although I have every respect for the body I was a Parliamentary -- for
  19 a very brief time, I used to go to the Council of
  20 Europe but it's a rather obscure body and the
  21 political deliberations and the committees of the
- 22 Council of Europe, you know, don't have any binding 23 effect, so it's not a high-profile thing. It can be

very useful sometimes, it's a good job we're still

25 members of it but it's not mainstream politics, unless

181

1 recommendations?

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- 2 A. Yes, and Simon and I seem to have thought: well, okay.
- Q. So if we then look at the second recommendation "to
  inform attending physicians", you'll see from that,
  Lord Clarke, and let me know if you disagree, it's
  a recommendation to governments to take all necessary
  steps and measures to inform two cohorts of people,
  doctors and patients.
- 9 A. Well, we're obviously here -- doctors and
   10 haemophiliacs.
- 11 Q. Yes, and it's to inform them of two categories of
   12 information, the potential health hazards of treatment
   13 and the possibilities of minimising the risks of AIDS.

Now, would you have essentially just assumed, do you think, that that was being done because you weren't being asked to take -- (overspeaking) --

A. Well, were there any doctors and haemophiliacs who
 didn't know there was all this concern about American
 Factor VIII? And, minimising the risks, there wasn't
 much we could do unless you stop taking Factor VIII.

21 Q. Well, I'm going to explore with you some --

22 A. What --

23 Q. This is --

A. I mean, you know, there's nothing wrong with the
 recommendation but it's difficult quite what more one

you get into it. So this isn't a major international decision-making body, not -- the Parliamentary assembly or the ministers committee. The fact that at the time we seem to have been sending one of our advisers, obscure medical advisers to actually act as our representative, shows that the title Council of Ministers was a bit high flung.

8 But I personally regarded it as a useful 9 international forum, but I did it -- I was in the 10 Whips Office, as well, as it happens, I was a member 11 of the Government at the same time as being an MP when 12 I went to the Parliamentary Assembly. I used to find 13 it interesting and a very useful way of developing 14 more international contacts and a better way of 15 understanding the politics of other countries and 16 exchanging ideas with people I wouldn't normally work with. That's what the council -- I mean there are 17 18 important aspects to the Council of Europe, mainly the 19 European Court of Human Rights, which is a Council of 20 Europe institution. That issues binding judgments. 21 But this kind of advisory recommendary stuff, it's all 22 right. It does exist, it's a bit fringe.

Q. It would appear from the exchange of minutes that we
 looked at, however, that the response within the
 Department of Health was essentially to accept these

182

1 could have done on either of them.

Q. Should the Department not have taken at least some
 steps, having accepted the recommendation, to satisfy
 itself that physicians and haemophiliacs -- two
 distinct cohorts there -- were aware of both the risks
 and ways in which those risks could be minimised?

7 A. Well, what the difficulty was, as we've seen from our 8 earlier discussions, that we didn't -- couldn't find 9 any way of minimising the risks, short of stopping 10 using American Factor VIII. What possibilities of 11 minimising risks could we have possibly told the 12 haemophiliacs about, apart from if they were 13 homosexual haemophiliacs, which is I'm sure somewhere, 14 do we, you know, try and stick to one partner?

Actually, if they're heterosexual, because actually heterosexuals get AIDS as well, which we were always anxious to point out in the 1980s, to counter the dreadful homophobia that surrounded all this, but I'm not quite sure what possibility of minimising risks we could have put to the haemophiliacs. And I don't think many -- because we didn't know the scale of the infection of imported product, I don't think any haemophiliac would have stopped taking Factor VIII.

25 Q. Let's just look at it in stages.

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- 1 A. What are the possibilities of minimising the risks we 2 should have put out?
- 3 Q. I'll explore that with you in a moment, Lord Clarke.
  - Let's just start with the first part of the

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- recommendation, which is to provide information about 5 6 potential health aspects.
- 7 **A.** Well, they were all over the newspapers.
- 8 Q. The Inquiry has heard evidence from both family --
- 9 families, patients, clinicians, which it might be said
- paint a fairly overwhelming picture, of people not 10
- having risks drawn to their attention. 11
- 12 A. Well, they must have been fairly switched off.
- 13 I mean, you're asking them what they knew 40 years ago
- 14 on a particular date in 1983 but, as you've seen from
- 15 the early discussions, one of the things that was
- 16 concerning -- Norman, not just me -- was the
- 17 outrageous presentation of these problems, as far as
- 18 the general public was concerned. I mean, we haven't
- 19 got all the -- and I don't recommend you get all the
- 20 press cuttings but I mainly remembered one today
- 21 because I cited one, you know: "Gay blood kills
- 22 donors", and -- whilst we still weren't certain, there
- 23 was no conclusive proof that it did, there was
- 24 a tremendous mayhem being kicked up.
  - That's why we were anxious to present these

185

doctors who were treating them. They didn't just give themselves Factor VIII. I don't think, I don't know. Personally, I have to admit I don't know how you take Factor VIII. So I'm -- I apologise if you're given a pill which you take home, but they all had highly specialised physicians treating them. And physicians, unless they were getting woefully out of date, must have been fully informed, better informed than I am, about what they thought the risks were. And some of them may have shared this with the patients. But,

again, the physicians would take the view what is the point of scaring the patient if one doesn't quite know what you're suggesting to the patient they should do?

You're saying, well, they should choose whether to take the treatment or not, but the Factor VIII made such a difference to the quality of life and the life expectancy of haemophiliacs, I can't -- and they would

have, you know, the consequences of stopping taking Factor VIII were very serious for them.

I find it difficult to imagine anybody did -when the suggestion came up The Haemophilia Society was ferociously against any idea that you stopped people taking imported Factor VIII, and had we banned taking imported Factor VIII, we'd have been faced with campaigns as vehement as the ones we do now but on the 1 things carefully and to avoid causing an absolute

- panic. And there's no point in raising awareness of
- 3 health hazards any higher unless you also are going to
- 4 suggest what people do about it.
- 5 Q. Isn't --
- 6 A. So it's no good going out there -- I've said -
  - throughout this tragedy it's just appalling what
- 8 actually happened, but what should we have done? Just
- 9 gone out and said, "We think it's important in the
- 10 public interest that we tell you that you're going to
- 11 die?" And then they say, "What am I meant to do about
  - it?" And we say, "I'm afraid we don't think there's
- 13 anything you can do unless you want to stop taking
- 14 Factor VIII".
- 15 Q. Isn't the point about ensuring that this cohort of
- 16 patients were informed of the risks of their NHS
- 17 treatment to enable them to take an informed
- 18 decision --
- 19 **A.** About whether to stop taking Factor VIII?
- 20 Q. -- as to whether to take less or take none --
- 21 A. Taking less wouldn't do any good.
- 22 **Q.** -- or whether to give it to their child or not.
- 23 A. Well, the physicians, if they were remotely keeping up
- 24 to date with things, must have been aware that there
- 25 was this mounting concern. So they all had specialist

186

- 1 other side saying what were we doing destroying the
  - life expectancy and the quality of life of
- haemophiliacs? Because, at that stage, there were 3
  - very, very few cases of anybody actually dying.
- 5 Q. Would you accept, as a matter of principle and as this
- 6 recommendation appears to suggest, the patient
- 7 deciding whether to treat themselves or treat their
- 8 child?

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- 9 **A.** Yes, you should tell the patients of the risks of 10
  - treatment.
- 11 **Q.** They should be told the risks of treatment?
- 12 A. And that was true then. It's got better -- it's the
- 13 best practice of medicine, it's much stronger now.
- 14 When you're having treatment now, you get carefully
- 15 told -- the patient consent involves carefully
- 16 explaining all the risks. That was a very good
- 17 principle in the 1980s, it wasn't always followed.
- 18 So -- and they'd often operate on the patient without
- 19 bothering to tell the patient what the risks were of
- 20 the operation and nowadays, if you ever are unlucky
- 21 enough to need an operation you'll find that you're
- 22 carefully taken through it and asked to consent. But
- 23 the way in which you tell the patient of the risk, you
- 24 know, you have to be -- there's no point in just
- 25 terrifying them without being able to suggest anything

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- you can do. So, yes, it would -- in principle, the physician should have been discussing with the patients "you know, there's a risk, there appears to
  - be some concern that it's possible you might be
- 5 infected, we just don't know".
- Q. You indicated in an earlier answer that there was
   material out there in the media, and I think you used
- 8 the phrase about being "switched on", apologies if
- 9 I haven't quite accurately repeated what you said.
- Would you accept that it shouldn't be for patients
- 11 taking decisions about their own treatments or taking
- 12 decisions about the treatment of their children to
- 13 learn about risks from The Mail on Sunday, rather than
- 14 look to either their clinician --
- 15 A. No, no --
- 16 Q. -- sorry, can I just finish the question --
- 17 A. Sure.

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- 18 **Q.** -- to either their clinician or to the Department and
- 19 the Chief Medical Officer for information?
- 20 A. Well, it's the clinician. The person who is
- 21 responsible -- the Department has no say in the
- 22 treatment that the clinician gives to his or her
- 23 patient. Similarly, it is -- the duty of informing
- the patient of any risk falls on the clinician.
- 25 That is true today, and clinicians take it more

189

- 1 A. I don't think the doctors treating haemophiliacs would
  - need that guidance. Bizarre if a haemophiliac
- 3 specialist -- I mean, you've taken me through all
- 4 these sub committees of experts, and all the rest
- 5 of it. There was a perfectly live debate, as it
- 6 happens it got into the general newspapers.
- 7 Q. Does the --

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- 8 A. And the haemophiliac patients, well, what do you --
- 9 sort of post a leaflet to them all?
- 10 **Q.** Does it not trouble you, then, that the Department
- 11 took apparently no action to comply with this
- 12 recommendation?
- 13 A. Well, obviously Simon and I signed up because we were
- 14 trying to avoid the use of these -- the first one, we
- 15 were trying to get self-sufficiency in production, and
- the third one, we were trying to stop at-risk groups
- 17 donating. The second one is harmless but now --
- 18 I think that -- when we got a message and just said,
- 19 "Yes, we're agreeing the recommendations", we were not
- agreeing it in detail, and in detail, of course when
- 21 you say, "Well, what's the Department to do?" It is
- 22 difficult to say, well, quite -- what should the
- 23 Department have done?
- 24 **Q.** Let's look at the second aspect of it, then, which
- 25 is --

- 1 seriously. One reason is because we've got ever more
- 2 litigious in the previous years. So warnings about
- 3 risks now become copious because the lawyers will
- 4 advise the doctors that the way of making sure they're
- 5 not held legally liable if the treatment doesn't work
  - is to explain these risks carefully before you do it
    - and get genuine fully informed consent. In the 1980s
- 8 it wasn't quite like that, but the duty is on the
- 9 physician, firstly to decide what treatment, secondly
- 10 to all of the risks.

You know, I'm not saying this, shove it all on to doctors, that is part of the -- I have the highest regard for doctors and that is one of their very, very

- 14 heavy burdens of responsibility that they carry, as
- 15 they act in the best interests of their patients
- 16 giving treatment.
- 17  $\,$  **Q**. This was a recommendation accepted by the Department
- that governments of Member States should inform
- 19 haemophiliacs of the potential health hazards of
- 20 haemotherapy. The Department should have done 21 something, should it not --
- 22 A. What should the Department have done?
- 23 Q. Issue guidance, issue information, ascertain what
- 24 information was being provided by haemophilia
- 25 clinicians through the UKHCDO to patients.

190

- 1 A. Not least because there was no certainty about what
- 2 the full potential health hazards were.
- 3 Q. If we look at the second limb of the information to be
- 4 provided under this recommendation, information about
- 5 the possibilities of minimising these risks.
- 6 A. I'm not guite sure what they were.
- 8 Clarke.

- 9 A. Did the Council of Europe have any suggestions as to10 what they might be?
- 11 **Q.** Not to my knowledge, no.
- i Q. Not to my knowledge, no
- 12 **A.** No. I don't think anybody did.
- 13 **Q.** Well, what did you think at the time, Lord Clarke,
- 14 were the risks to haemophiliacs if imported
- 15 concentrates were not available or were -- or reduced
  - supplies were available?
- 17 **A.** Well, I -- you ask me at the time, I do my best at the
- 18 time. None of us can avoid the wisdom of hindsight,
- and actually preparing for this committee, once you
- 20 start bombarding with thousands of documents, then
- 21 I start with the help of DH lawyers working through
- 22 the answers to all your questions, so being shown
- 23 masses of documents -- a great majority of which I've
- 24 not seen before, a certain amount of amateur -- you
- 25 know, not expertise, but my knowledge of the whole

subject is hugely improved and, of course, hindsight, I have knowledge of the terrible tragedy that eventually occurred when people started dying in significant -- in large numbers from taking -- from polluted -- AIDS.

Looking back, the issues were it did seem to be -- it was worrying from the word go that we were so dependent on imported blood products from America. And we quite earlier discovered that there was no alternative supply that could provide us with sufficient quantity. So the decision had been taken, I don't know if it was finally taken, I think, just after I arrived at the Department, to go for self-sufficiency which involved rebuilding or doing major work at the Blood Products Laboratory at Elstree.

So we wanted to be self-sufficient to produce our own.

But it was worrying, there was a risk. And then we started having these quite few cases -- they were disturbing because haemophiliacs, who had taken American Factor VIII, were indeed getting AIDS, maybe, you know, just two or three of them. Now, of course, we had no idea to what extent our American supplies were polluted, were contaminated. Were we just every

this country from homosexuals, because --

2 Q. Lord Clarke --

- 3 A. -- it's heat treated and can't infect anybody.
- Q. My question was not what would happen to haemophiliacs
   if they carried on taking imported concentrates --
- 6 A. But at this time there was nothing really you could
- say to anybody.Q. My question is this: what did you think the risks were
- to haemophiliacs if they didn't have access to
  Factor VIII concentrates?
  - A. Well, you'd better ask a doctor what the risks are.
    You've had a lot of medical -- my lay understanding, and I don't know whether I had it at the time or whether I acquired it now -- I think I did have it at the time, it was explained to me because, you know, what's the Factor VIII for? I'd be amazed if that didn't come up at some stage. My understanding, although I wasn't remotely involved in the seventies, I've no idea what went on in the seventies, the impression I think I had at the time, the impression I have now, is that it was a kind of wonder treatment that had emerged in the late 1970s for haemophiliacs.

Before that, the life expectancy of haemophiliacs was very poor. A lot of them died off in their twenties. The ability of a haemophiliac to

now and again, every six months, the odd batch would turn up which, you know, shouldn't really be given because it's contaminated? Or was a lot of it contaminated? No one had a clue. Was it the case that this was causing the disease?

Well, it did look -- certainly, it was a possibility. It did look as though it might be quite probable but, no doubt we will get on later, but there was no conclusive evidence that it was causing it, and it may be, you know -- that's always the problem with new devices, the research presumably was going on to actually try and see what it was.

So it was difficult to inform the world of this because there was no certainty about it and also there was no ready solution. The only solution that we were aware of, that certainly I was aware of, was to just go for self-sufficiency and that involved improving our British blood donations, although ours -- we didn't have the same problem.

The solution, eventually, was heat treatment. That's what solved it all. But I knew nothing about heat treatment. That was a matter for -- some brilliant scientist somewhere discovered that heat treatment stopped anybody being infected with hepatitis or HIV, and we now take blood donations in

lead an ordinary life was very, very limited because they had to avoid risk of bleeding incidents.

Now Factor VIII was a kind of wonder product, particularly once it started being used, way before -- in the late question 1970s, again, as a prophylactic, preventative medicine. If you took it regularly as a prophylactic, haemophiliacs lived longer, they could lead an ordinary life, if they were schoolboys they could play football, more importantly if they were adults, they could start having a job and a career, and leading -- as long as they were careful, and unfortunately it's a terrible, terrible condition. Of course, the lives of haemophiliacs all blighted by this condition, but they lived were much nearer a normal life and a much improved quality of life and, on average, live very much longer if they took Factor VIII.

That is what I think Factor VIII was. And -- but unfortunately, when these doubts arose, when people discovered the American practice of taking blood donations, there was no alternative source of supply that can meet the demand we now had for Factor VIII once the doctors were starting to prescribe it as a prophylactic.

25 Q. You had said, I think, on a number of occasions --

- 1 A. But anyway, I'm going round a much bigger -- wider
- 2 subjects, which I think are the point of this Inquiry
- 3 and which the Inquiry will go into and form its views
- 4 on, but that -- you did ask me what's the background
- 5 to why -- what could we actually have done by way of
- 6 informing people with haemophilia of the possibility
- 7 of minimising risks.
- 8 Q. You have referred on I think more than one occasion in
- 9 the course of your evidence to your understanding that
- 10 without concentrates, haemophiliacs would have died.
- 11 Is that right? That was your --
- 12 A. Their life expectancy is greatly improved. I mean
- they don't just drop dead through not taking it, but
- 14 I think -- I tell you, I'm not a clinician, so if I'm
- wrong, I'm wrong. I mean, I'm sorry -- I'm sure
- 16 nobody is going to take any notice of my clinical
- opinions, if I'm unwise enough to express any. I'm
- 18 saying my understanding was that life expectancy of
- 19 haemophiliacs greatly improved, once -- it was
- 20 believed at the time, I think -- I've no reason to
- 21 doubt it but I think it's still true now -- their life
- 22 expectancy was improved if they were given
- 23 Factor VIII, as both the treatment, but -- by the
- early eighties, it started being used as
- 25 a prophylactic.

- 1 recall being discussed debt, Lord Clarke.
- 2 So one was reversion to use of cryoprecipitate 3 to a greater extent.
- 4 A. I have no recollection of that ever being put to me.
  - As I say, I don't know what that treatment is. I've
- 6 only heard of it being referred here.
- 7 **Q.** Reducing the amount of concentrates which were
- 8 provided to an individual patient by, for example, not
- 9 treating them prophylactically, not having home
- 10 treatment, but treating the severe bleeds --
- 11 **A.** Treating bleeding incidents, yes.
- 12 Q. Yes, or treating life-threatening bleeding incidents,
- 13 for example, but not treating all --
- 14 A. Yes.

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- 15 Q. So that's another measure.
- 16 A. That's the equivalent of stopping taking it except
- when you have a severe life-threatening situation.
- 18 Q. Postponing elective surgery so as to reduce the need
- 19 to have concentrates, at least temporarily. That's
- another measure that could have been taken.
- 21 A. Sorry, this for haemophiliacs --
- 22 Q. Yes.
- 23 A. -- that need elective surgery? I don't remember that.
- 24 I suppose that is right.
- 25 Q. Reserving -- limiting exposure to multiple batches of

- 1 Q. And do we correctly understand from something you said
- 2 earlier that you were not aware of a treatment called
- 3 cryoprecipitate?
- 4 A. Never heard of it. Is that the treatment that
- 5 preceded Factor VIII?
- 6 **Q.** Preceded and continued.
- 7 A. Sorry?

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- 8 Q. Preceded but also continued to be used to some extent.
- 9 A. Continued to be used today, is it?
- 10 Q. No, continued to be used during the period of time
- 11 with which we're concerned. Continued to be used
  - during the period of time which I'm asking you about.
- 13 A. I don't think I've ever heard of it. I mean, I've --
- 14 I think -- I think I saw written, looking in the
- 15 documents yesterday, reference to it, but I've no idea
- 16 what this is.
- 17 Q. Were you aware that haemophiliacs could not all simply
- 18 be lumped together as suffering an identical
- 19 condition, but there were ranges of severity: mild,
  - moderate and severe, with
- 21 different -- (overspeaking) --
- 22 A. I was vaguely aware of that, yeah.
- 23 Q. There are potentially a number of measures which might
- 24 have been taken. I'm just going to list a handful of
- 25 them and see whether any of them are ones which you

- 1 concentrates by keeping haemophiliacs on -- an
  - individual patient on only one batch or one type of
- 3 concentrate. That's a measure that might reduce risk,
- 4 not eliminate it. Was that something that was ever
- 5 ventilated?
- 6 A. No.
- 7 Q. Do you recall any discussion of a use of a treatment
- 8 called DDAVP or desmopressin?
- 9 A. Called what?
- 10 Q. DDAVP. It was a treatment that could be used for mild
- 11 haemophiliacs from the late seventies onwards.
- 12 A. No.
- 13 Q. Did you or, to your knowledge, the Department ever ask
- 14 officials to investigate what other steps could
- 15 possibly be taken short of the radical step of
- stopping the importation of concentrates?
- 17 **A.** Well, I think we were told that was the only thing
- that you could do. That's why everybody had gone so
- 19 big on self-sufficiency. Their solution was to stop
- 20 needing American Factor VIII. I don't remember
- 21 anybody ever raising anything other than that, or stop 22 using it, fully or partially, as you say. No. I don't
- using it, fully or partially, as you say. No, I don't
   remember any halfway houses. It would have been
- 24 interesting but I don't remember -- I was certainly --
- 25 again, because, bear in mind, I was not directly

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responsible anyway. I don't know whether Simon was ever taken through possible alternatives or what the doctors have said when you put the possible alternatives to them. But my understanding was there was this mounting concern about the possibility, even becoming the probability, it was causing these problems for a few haemophiliacs, and the only solution was to stop using Factor VIII, but you couldn't do that because of the drastic effect it would have on the quality of life of haemophiliacs. And that, you know, just get on quickly as we can in minimising our reliance on the important product.

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I don't -- these other things you're suggesting, certainly I didn't have any discussion of that kind, but I didn't have meetings on blood products and haemophiliacs and -- it wasn't my subject. They wouldn't have come to me anyway in the first place.

- 18 Q. Leaving aside the question of who should have asked 19 the question, do you accept that the Department should 20 have investigated whether there were alternative 21 measures -- (overspeaking) --
- 22 A. Well, I think it's better -- these are clinical 23 issues, and the clinical solutions to the problems 24 we're concerned -- as I say, the one thing about 25 ministers in the Department of Health is they're not

201

1 up with these clinical answers to things.

- 2 Q. My question was not whether you as a minister should 3 have investigated whether there were alternative 4 measures, other ways of reducing risk short of the 5 radical solution or the more radical solution of 6 banning imported concentrates, my question is 7 whether -- (overspeaking) --8
  - A. Well, I'm surprised if -- what did Diana Walford say?
- Q. You're very welcome to read the transcript of her 10 evidence, Lord Clarke. It's published on the 11 Inquiry's website. My question to you is one of 12 principle.

Do you think, as someone who has led many Government departments over the years, including the Department of Health, do you accept that the Department, through whatever means, the Chief Medical Officer, medical officers, health services branch, whoever, junior ministers, whoever it might be, should have enquired into the question of whether there were measures that could be taken short of banning imports

21 to reduce the risk -- (overspeaking) --22 **A.** No, I'm sure they did. I mean, the impression 23 I received as a minister -- admittedly a peripheral 24 minister who was only getting involved when he chose to get involved, with things like leaflets -- an 25

meant to play amateur doctors. So the Sub Committee of the Biological whatever it was, you know, that's the sort of place where you look at those things. And if they can come up with recommendations, eventually, you know, you go up to some minister to get it signed off, but the chances are the minister is not going to argue with the expert clinical advice.

That's the way these things are handled. And the medical officers in the Department, their life is devoted to these things. If they have bright ideas about how to deal with some clinical problem, yes, they discuss it and see if they all agree, and whether they should put out some information letter or something suggesting this. But that's the way it's all handled.

The idea that ministers are meant to sit down thinking of all the -- or would think to sit down and start devising alternative ways of dealing with it is unlikely.

- 20 Q. That wasn't my question, Lord Clarke --
- 21 **A.** What you're asking me is was it was ever raised. No, 22 it wasn't raised. But you may be going on to ask me 23 am I surprised it wasn't raised with me. Not greatly, 24 because it's not something that essentially is within 25 the expertise or responsibility of ministers to come

202

- 1 impression I had was that the only way of guarding 2 against this mounting concern about possible risk was 3 to stop using Factor VIII. And that would involve 4 stopping giving it, because we had no alternative 5 supply for about half our supplies, to American 6 imports. And I was not -- but, I mean, somewhere in 7 the Department they must have considered whether there 8 was some halfway house, I'd have thought. I don't 9 know. And no doubt you will ask to -- have asked the 10 medics whether they did, and what happened to it.
- 11 **Q.** Just two documents before we finish for the day, 12 Lord Clarke.
- 13 **A.** Are we finishing for the day?
- Q. Before we finish for the day, two documents I want to 14 15 ask you to look at. The first is at ITVN0000041.
- 16 This is an exchange of communications between you and 17 the British --
- 18 A. I've seen this yesterday, yes.

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- 19 **Q.** The producers of a documentary. And if we could go to 20 the third page, I just wanted to ask you for present 21 purposes about one of the things you said in your 22 response to the producer. So page 3 of this -- ah,
- 23
- we've only got two pages. Oh, sorry. It's -- it'll 24 be a separate number. ITVN0000045, sorry.
  - So this was your response, and I just want to

ask you about the third paragraph which begins "I did not ever attend". So you say this:

"I did not ever attend any full policy discussions on the question of blood products for the treatment of Haemophilia, although I was aware that there was a discussion going on on the subject."

And then you say:

"These events are over 30 years ago, and I have no recollection of ever being shown or told of the opinion of the Communicable Disease Surveillance Centre."

I think that's a reference to the letter from Dr Spence Galbraith.

14 A. Oh, that's Dr Galbraith's letter, is it?

15 Q. It is.

"In clinical issues of this kind, all Ministers rely heavily on the advice of the Chief Medical Officer and the Medical and Scientific experts in the Department."

So that was what you said there.

21 A. That's what I've been saying all day.

Q. I wanted to ask you about what you mean in the first sentence where you say, "I did not ever attend any full policy discussions", although you were "aware that there was a discussion going on on the subject".

should we start -- stop importing it so that the doctors have to stop prescribing -- using it, or anything of that kind. What are the consequences of doing that?

Although, as we've seen in various parts of the Department, medics and specialists were considering that. I just wasn't the blood products minister. So that -- that's what I told them. And that's what I still say.

This was in 2020. What I've had to put up with, and it exasperates me at times, is, purely by chance. I have remained the best-known person of all those people involved. I'm the kind of aging, fading B-list celebrity now. The only people that the general public have heard of who were involved are Norman Fowler and myself. So there's a tendency for the campaigners and for the press to try to want to attach everything to do with this to me as though, because I was in the Department at the time, I took all the decisions. If not me, Norman will have to do, you know. And that the people tried to influence inquiries -- are always trying to steer them to try to find some celebrity whose fault it was. So this was the latest attempt -- as you saw, the detailed things they wanted me to answer questions about. That was my What do you mean by "full policy discussions on the question of" -- (overspeaking) --

A. The kind of policy discussions I had on other subjects, pay claims, strikes, hospital closures, whatever. I would call a meeting, relevant officials would come in after -- putting papers to me, making recommendations, of action, and we'd discuss it and form a consensus solution. I was -- never did that.

As we've been discussing all day, I choose to get involved when it was -- so my office pointed out that they did show me one of the documents copied to me because they thought I'd be interested. We spent very high proportions of the day going on the fact that I did actually get myself involved on the question of the handling, not the content, particularly, of the leaflet that we were putting out, to prevent -- to try and stop gays giving blood.

I don't recall any policy meeting, me as a minister -- I don't recall anybody ever asking me to take a decision on blood products. I don't think I ever took a decision on blood products, apart from clearing the issue in the leaflets when those came along. I don't remember attending a formal policy discussion in which we discussed what do we do about these mounting concerns, we have American stuff.

response. Perfectly accurate response. The role
l played all those years before, it -- blood products
took a tiny, tiny proportion of my total time in

4 the -- when I was in the office, as it were, in DHSS.

Q. Irrespective of the question of whether you would or
 would not have attended such full policy discussions,
 would you have expected there to have been such
 discussions involving perhaps the minister with
 special responsibility?

A. Well, again, I'm not asking -- I don't know what Simon said. I have read his written evidence, but whether Simon ever had that direct discussion, do we stop using imported Factor VIII, sitting here now, I can't quite -- I should remember from what his evidence -- but I'm not sure whether he ever had that, but he might have had -- indeed, whether he ever had a meeting where they considered was there any alternative to -- yes or no, use the imported stuff or not? I don't know whether he had such discussions. But I never had them. Not proper ones.

The nearest I ever had was what we were talking about earlier on, which was Simon sharing what he was doing, and what he wasn't doing with me and apparently with John Patten as well, but that was in general terms, you know: ministers talking as friends and

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colleagues, "What do you think?" And, "I'm having to face this problem". And I don't know whether Simon can remember what we actually said. You don't remember conversations, even interesting ones like that, from 40 years ago. But that was the nearest I ever got to being involved. And it was the most all-around view I ever got of everything going on in the whole subject, I think. But I can't remember now what anybody actually said.

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Anyway, this -- sorry to give such a long answer again, as I -- probably irritating you by giving long answers to many of your questions. That statement that I gave to the TV channel trying to produce a sensationalised investigative journalism thing involving me in 2020 is totally accurate.

- 16 **Q.** If things were done by the Department that either should not have been done or could have been done 18 better, or things not done, matters not considered by the Department, does the Minister of State or the 20 Secretary of State not bear some responsibility for the actions or -- (overspeaking) --
- 22 **A.** Well, we're a team, yes -- so yes, I mean, greatly 23 regrettable that the Department doesn't -- I'm not 24 saying -- don't get me wrong. I'm just explaining 25 what the factual situation is. I'm not trying to

209

five years, spend tens of millions of pounds, and the media will be urging it on to get Boris Johnson hung from the yard arm, and to give compensation to everybody who ever had Covid.

That's the way of the world. In the real world, the calmness of this Inquiry, that was my involvement. If anybody failed to do anything, yes, I was a member of the Department of Health, I was part of the team. The Secretary of State when you come on to me being my Secretary of State, overall responsibility, in the end the buck stops with you, you're not only the head of everything, you're the last resort, you are the person overall responsible. And in a big department like the Department of Health, one of it -- some of your juniors, some of your officials are going to make a mistake. They're going to make a pig's ear of something, you probably won't have a clue what it was until you're told when you walk into the office one morning and you have to start trying to sort it out and you're responsible -- you can't get away from the fact that you're the last resort, Secretary of State is overall responsibility.

As Minister of State, as a middle-ranking minister, I don't seek to escape any responsibility, and if something went wrong, then I, you know -- I'm

escape saying, "It wasn't me, guv". I don't think the Department did anything wrong. I've never heard anybody suggest anything that in the real world a minister or a civil servant might have done that would have prevented it. I've already said, had we taken the step we now know would have saved lives. we'd have been treated with outrage by the Haemophilia Society and most haemophiliacs by denying them their Factor VIII. There just wasn't the evidence to 10 suggest that.

> I don't think the Department did anything wrong, I don't think there was anything the Department could have done that it didn't do. It's the current way of the life now. It's part of the current political scene, that somebody has got to be summonsed, to use the old saying. Someone has got to be found to be blamed for this, and it's all the fault of the Government, really. Or sometimes it's all the fault of the Tory party; it depends who is in power at the time. I don't think we did anything really wrong. We all now, with the benefit of hindsight, know what happened.

I hope the ministers in the present Government know they're going to be put through all this on Covid. There will be a public Inquiry, it'll take

210

1 implicated. I share the blame. But my actual 2 personal role is the one that's described, and 3

I never -- I wasn't the one holding policy discussions and taking decisions about whether we import or not.

4 5 I was aware this discussion was going on, that's all.

6 MS RICHARDS: Sir, given the time, and I've got a slightly 7 different topic to move on to and some documents to

8 look at, it might be the right moment at which to

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SIR BRIAN LANGSTAFF: Yes. Just one thing, if I may, Lord Clarke, just ask you.

As best you can -- it's very difficult with hindsight to put yourself back into the position in which you were in, in the middle 1983, but you've already expressed a very great deal of surprise at the communication from the Public Health Laboratory Service by Dr Galbraith. Indeed, I think your surprise went so far as to wonder why it had never come to light through Lord Glenarthur or, for that matter, to yourself. The question I want to ask you against that background and against the background of the concern that there was at the time about AIDS, is this: that you've asked -- you're not shy of asking quite a lot of questions. You've asked quite a lot to counsel as she's been questioning you.

1	A. I'm sorry about that.	1	me, and Simon as well, for all I know, but I mean
2	SIR BRIAN LANGSTAFF: No, don't worry, it's just what you	2	I say I always ran my departments as a debating
3	are. It's that, really, that just intrigues me.	3	society and I'm quite garrulous and quite combative,
4	Suppose that this document, which rather shocked you	4	that I'd have wanted them to persuade me that they
5	when you looked at it, had come to you, do you think	5	were correct in answering. Because what he said
6	you would have said to your departmental officials or,	6	probably would have been the first intimation I'd have
7	for that matter, had a meeting at which Galbraith	7	had of the scale of the possible risk we were running.
8	attended I rather doubt that would have happened,	8	Obviously, we'd have behaved totally differently
9	but do you think you would have said, "What's the	9	in 1980 if anybody had told us "You do realise
10	alternative?" You'd have asked questions, perhaps,	10	2,800 people are going to die because they're being
11	would you?	11	given this product", of course, the behaviour of
12	A. Well, I ask questions I think you have a duty with	12	everybody in the Department would have been
13	all officials one of the duties as the Minister	13	dramatically different. That's the wisdom of
14	when you are doing things when you're responsible is	14	hindsight. But, I mean, in the balance of risk, which
15	to challenge. So you ask questions, for instance the	15	is, you know, what they're having to make decisions on
16	questions I've been asked here, just me, you know, do	16	today on Covid, let alone this new disease then, that
17	we need screening and heat treatment? That's	17	would have totally transformed what we did.
18	a question. And if that's explained clearly, right,	18	If you'd told anybody, you know, in the
19	fine, I understand that.	19	Department there wasn't an official or a minister who
20	So had I seen that, yes, I think if anybody had		wouldn't have, you know, sort of just taken off, if
21	seen that, you know, but they'd have said, "Good		you'd said, "If you don't do anything, 2,800 people
22	brief, you know, this all rather serious. What do we		are going to die" of course you would. There's nobody
23	make of this?" And, no doubt, had I been shown it,		who would have wanted anybody to die, but all that
24	had I asked that, I'd have been told it had all been		Galbraith gets nearest to giving an intimation, he
25	serious any considered by the sub committee, but being		thought that was likely to happen. And,
	213		214
1	unfortunately, I don't think that ever reached me,	1 <b>MS</b> F	RICHARDS: Yes, sir.
2	I don't think it ever reached apparently it didn't	2 <b>(4.42</b>	? pm)
3	reach Simon. And it was dealt with by the	3 <b>(Th</b>	e hearing adjourned until 10.00 am the following day)
4	sub committee of the biological whatsit, who do	4	
5	include extremely distinguished health experts, and	5	
6	Mr Galbraith appears to have gone along with it.	6	
7	SIR BRIAN LANGSTAFF: I think you've confirmed the	7	
8	question that I asked, that being who you are	8	
9	A. Sorry, I'll try and give you a short answer.	9	
10	SIR BRIAN LANGSTAFF: No, don't worry about that. Being	10	
11	who you are, you would have asked questions	11	
12	certainly	12	
13	A. Oh, I would have asked serious questions, that was	13	
14	alarming stuff.	14	
15	SIR BRIAN LANGSTAFF: to see what the alternative was	15	
16	and you wouldn't have been satisfied necessarily with	16	
17	the first answer because	17	
18	A. No, no, I never am.	18	
19	SIR BRIAN LANGSTAFF: That's all I asked, and you	19	
20	(overspeaking)	20	
21	A. I'm sorry.	21	
22	SIR BRIAN LANGSTAFF: No, that's absolutely fine.	22	

215 216 (54) Pages 213 - 216

23

24

25

23

24

25

Ten o'clock.

Well, we'll take a break there and come back at

ten o'clock tomorrow. Ten o'clock, please.

1	INDEX	
2	LORD KENNETH HARRY CLARKE (sworn)	1
3	Questions from MS RICHARDS	1
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

WIS KICHARDS: [21]	<b>015</b> [1] 115/9	<b>13 August [1]</b> 118/1	<b>1985 [11]</b> 1/22 3/5	3	able [12] 12/21 19/18
	<b>016 [1]</b> 92/18	13 July 1983 [1]	5/19 18/6 47/5 53/6	3 babies [1] 128/20	82/16 91/17 100/8
1/10 55/15 57/0 57/10 1	<b>024 [1]</b> 69/20	161/4	58/21 140/11 141/1	3 December [4]	104/9 108/8 109/13
1/10 55/15 57/8 57/13	<b>025 [1]</b> 77/19	<b>14 [1]</b> 17/19	142/8 142/16		125/2 125/20 171/25
30/19 91/13 90/24	<b>026 [1]</b> 83/14	14 August [1] 127/6	1988 [1] 2/7	132/14 132/21 133/8	188/25
100/14 109/4 110/6	<b>027 [1]</b> 77/23	14 December [1]	1990 [1] 2/7	135/2	about [190] 1/11 2/1
114/12 114/10 114/23	<b>028 [1]</b> 90/18	132/25		3 December 1984 [1]	8/7 8/16 11/4 11/9
122/24 120/1 149/11	<b>029 [1]</b> 177/10	14 February 1984 [1]	2	131/2	12/9 13/4 13/9 13/12
			2 August [6] 106/15	<b>3 January [4]</b> 138/6	
	031 [1] 178/7	115/10		139/16 139/18 140/16	13/21 14/13 14/15
175/9 179/7 179/9	<b>034 [2]</b> 107/8 110/11	<b>14 July [1]</b> 80/9	106/16 107/5 107/9	3 January '85 [1]	15/20 19/20 20/16
212/6 216/1	<b>040 [1]</b> 145/24	<b>14 October [3]</b> 127/7	108/8 108/21	139/22	22/3 23/9 23/15 25/1
SIR BRIAN	<b>044 [1]</b> 116/11	127/8 127/21	<b>2 July [1]</b> 175/14	<b>3,000 [1]</b> 154/11	26/11 27/7 30/12
LANGSTAFF: [54]	<b>046 [1]</b> 125/22	14 September [3]	<b>2,800 [2]</b> 214/10	<b>3.1 [2]</b> 57/16 57/21	31/23 32/24 33/6
	<b>050 [1]</b> 124/17	126/14 126/15 127/20	214/21		33/24 33/25 34/11
1/3 1// 33/10 30/21	<b>053 [1]</b> 128/5	15 Regional [1] 7/11	2,800 people [1]	<b>3.16 [1]</b> 175/6	35/24 36/5 37/7 37/1
3//4 3//9 30/13 30/13	<b>058</b> [1] 130/23	<b>15,000 [1]</b> 117/4	154/22	<b>3.48 [1]</b> 175/8	38/19 39/25 43/9
91/12 91/19 90/0	<b>060 [1]</b> 132/24	16 August [1] 125/24	<b>2.05 [1]</b> 114/24	30 June 1984 [1]	43/10 46/10 46/21
	<b>062</b> [1] 134/24	16 October [3] 125/25		120/15	48/13 48/17 49/4 52/
			15/16	<b>30 years [1]</b> 205/8	
	<b>063</b> [1] 136/17	126/1 131/5		<b>30th [1]</b> 146/17	52/21 53/12 53/22
122/6 125/23 1/0/3	<b>065 [1]</b> 139/17	16 October 1984 [1]	<b>2.22 [2]</b> 17/20 17/21	31 August [1] 110/21	56/15 56/18 56/21
149/8 155/20 157/13	<b>086 [1]</b> 175/12	124/18	20 December [1]	35 million [1] 60/24	57/22 59/6 59/12
157/19 159/4 159/9	<b>088 [1]</b> 138/10	<b>18 [2]</b> 35/14 57/16	134/25		59/13 59/19 60/2
164/4 164/11 164/15	4	19 July 1983 [1]	20 December 1984 [1]	4	60/10 60/21 61/2 62
165/1 165/1 165/0	1	84/23	133/21	4 and [41 70/6	63/3 63/10 63/18
165/1 165/4 165/8	1 February '85 [1]	19 November 1984 [1]	<b>20 July [1]</b> 164/8	4 and [1] 78/6	64/19 64/24 64/25
1/3/2 1/3/5 1/3/8	128/3	128/6	<b>2019 [1]</b> 1/13	<b>4 July [1]</b> 77/19	65/7 65/23 65/24 66
173/15 173/22 173/25	1 February 1985 [3]	1940s [1] 52/3	<b>2020 [3]</b> 2/16 207/10	<b>4.42 [1]</b> 216/2	66/9 67/15 67/18 69/
174/9 174/16 174/22	141/1 142/8 142/16	<b>1948 [1]</b> 7/20	209/15	<b>40 years [8]</b> 14/13	70/7 70/12 71/18 72
175/2 175/5 179/6				36/4 62/17 102/6	
212/10 213/2 215/7	1 July [1] 77/18	1970 [1] 1/12	2021 [1] 1/1	144/10 166/11 185/13	72/8 74/5 76/16 76/2
215/10 215/15 215/19	1 July 1983 [2] 69/21	<b>1970s [2]</b> 195/22	<b>21</b> [1] 126/22	209/5	79/1 79/21 80/3 80/9
215/22	72/7	196/5	<b>21 August [2]</b> 124/15		80/19 80/20 80/21
THE WITNESS: [3]	1 November 1990 [1]	<b>1975 [1]</b> 59/14	126/6	5	80/24 82/2 82/12
	2/7	<b>1978 [2]</b> 147/1 147/18	21 December [1]	5 July 1983 [1] 60/7	82/25 83/8 84/3 84/6
1/5 56/24 57/7	1 September [2]	<b>1980 [2]</b> 59/15 214/9	137/6		85/4 85/6 85/9 86/15
,	88/18 113/4	<b>1980s [11]</b> 6/8 6/13	21 December 1984 [1]	5 March [1] 1/19	87/3 87/4 88/25 89/8
	1 September 1983 [1]	20/16 37/9 54/13	136/18	<b>5,000 [2]</b> 72/24 73/13	90/10 91/3 92/12 94/
<b>'83 [6]</b> 53/2 105/24	115/4	54/15 62/3 76/8	21 July 1983 [1]	<b>50 [1]</b> 177/4	94/8 96/12 96/17 97
147/14 147/15 151/14	1 September 1985 [1]		90/19	<b>51 [1]</b> 120/14	
177/8		184/17 188/17 190/7		<u> </u>	97/20 98/3 98/8 103/
<b>'84 [3]</b> 53/2 143/1	1/22	<b>1981</b> [1] 60/25	22 July [2] 177/11	6	108/15 109/5 112/4
180/23	<b>1,000 [1]</b> 149/21	<b>1982 [6]</b> 1/21 3/5 5/19	1/8/9	6 July [6] 72/8 77/24	112/14 112/17 113/1
<b>95 [3]</b> 128/3 139/22	<b>1,500,000 [1]</b> 117/3	47/5 53/2 58/20	22 November 1984 [1]	78/6 78/12 78/17 85/8	115/24 117/19 125/8
180/23	<b>1.03 [1]</b> 114/22	<b>1983 [41]</b> 17/24 18/10	129/20	<b>60 [1]</b> 150/7	125/12 127/23 132/1
	<b>10 [1]</b> 117/1	21/7 35/10 60/7 62/23	22nd June [1] 70/20		133/4 133/23 138/18
agreed [1] 13776	10 August [1] 124/22	63/6 64/10 66/3 69/21	<b>23 [7]</b> 172/1 173/12	7	140/24 142/2 152/3
'AIDS [4] 118/11	10 August 1984 [1]	72/7 84/23 90/19	173/18 173/21 174/12	·	157/10 162/22 164/3
134/2 135/4 141/5	116/13	92/18 93/4 110/21	174/13 176/7	<b>7.103</b> [1] 160/25	165/11 165/23 166/8
'day [1] 18/3	<b>10.00 [2]</b> 1/2 216/3		23 June 1983 [1]	<b>70 per cent [1]</b> 150/9	166/15 167/3 167/4
'European' [1] 177/16	<b>11 [3]</b> 73/14 123/21	113/4 115/4 115/6		8	
'on' [1] 136/6		142/7 142/15 142/16	179/20		168/8 169/1 170/9
remote [1] 138/18	146/20	145/22 145/23 146/2	<b>2309 [1]</b> 116/11	8 August [2] 124/21	170/14 171/8 172/2
'e [4] 133/25 134/17	<b>11.20 [1]</b> 57/10	147/13 151/17 156/13	<b>23rd [2]</b> 167/16	125/6	172/15 175/9 177/4
136/21 138/18	<b>11.52 [1]</b> 57/12	161/4 162/25 167/17	167/25	<b>80 [1]</b> 94/8	179/17 179/21 179/2
	110 per cent [1]	168/6 168/14 173/12	<b>25 July 1988 [1]</b> 2/7	<b>83 [2]</b> 176/5 178/20	180/22 180/23 180/2
'The [3] 141/9 141/17	151/16	175/11 176/7 177/9	<b>26 August [4]</b> 107/9	<b>86 [3]</b> 160/13 160/24	183/18 184/12 185/5
161/2	<b>111 [1]</b> 140/25	179/20 180/23 185/14	108/6 109/3 109/4	160/25	186/4 186/11 186/15
tone [2]	<b>119 [2]</b> 106/16 108/19	212/14	<b>26 July [2]</b> 108/25	100/23	186/19 187/9 189/8
111/18	<b>12 [4]</b> 57/6 73/14	<b>1984 [18]</b> 114/19	178/8	9	189/11 189/12 189/1
'What [1] 138/23					
	83/23 83/24	115/10 116/7 116/8	<b>27 [2]</b> 1/1 131/9	<b>9 May 1983 [2]</b> 146/2	190/2 192/1 192/4
	<b>121</b> [1] 72/4	116/10 116/13 120/15	<b>28 [1]</b> 120/14	147/13	194/14 194/21 198/
	<b>122 [1]</b> 71/24	120/25 124/18 128/6	<b>29</b> [1] 93/4	<b>90 [1]</b> 46/2	201/5 201/24 202/1
- and [1] 162/15		400/00 404/0 400/04	29 July 1983 [1]		204/2 204/5 204/21
and [1] 162/15	<b>124 [1]</b> 71/25	129/20 131/2 133/21	20 0diy 1000 [1]		207/2 207/3 207/21
and [1] 162/15	<b>124 [1]</b> 71/25 <b>127 [1]</b> 133/17	134/18 136/18 142/22	92/18	Α	
				A ability [1] 195/25	205/1 205/22 206/24 207/25 208/22 212/4

(56) MS RICHARDS: - about

Α	
about [3] 2 213/1 215/10	12/22
about it [1] 8	2/12
<b>above [2]</b> 119 133/4	9/12
Abram's [1]	133/7
<b>Abrams [2]</b> 1 135/1	31/2
Abrams' [2]	134/18
135/1 abroad [2] 12	25/0
125/15	
absence [1] absolute [3]	73/23 80/19
81/5 186/1	
absolutely [7] 46/24 64/17 7	
91/14 101/21	215/22
abused [1] 4 abusers [3]	9/25 141/12
149/19 158/1	
accept [14] 5 51/7 98/18 12	
144/5 145/19 172/2 177/14	162/17
188/5 189/10	
203/15	70/15
accepted [7] 81/24 162/18	
181/11 184/3 accepted the	
81/24	
accepting [2] 126/5	124/15
access [1] 19	
accidentally   92/6	[ <b>2</b> ] 84/10
accorded [1]	117/11
according [1] accordingly [	
176/20	_
account [2] 2 135/22	22/10
accountabilit 28/4	y [1]
accountable	<b>[2]</b> 20/3
50/15 accuracy [1]	135/24
accurate [3]	137/22
208/1 209/15 accurately [2	
189/9	
accused [1] Acheson [10]	154/19   16/10
26/7 30/2 31/	7 31/10
35/9 35/12 35 36/10	0/12 36/8
achieve [1] 9	9/12

146/13 180/1 180/17 195/14 acronym [1] 156/11 across [3] 8/21 10/1 43/19 act [12] 2/20 2/22 2/24 99/21 100/22 102/15 164/2 165/12 165/13 166/7 182/5 190/15 acted [4] 139/4 153/14 164/8 164/21 acting [2] 87/23 179/6 action [15] 39/7 107/23 116/25 121/7 123/14 133/12 147/10 155/18 164/17 171/7 172/23 172/24 176/1 191/11 206/7 actions [1] 209/21 active [3] 18/12 26/7 104/7 activities [1] 48/21 activity [4] 4/14 5/14 6/10 21/9 actual [9] 25/5 86/23 96/14 96/15 99/1 103/18 113/10 122/6 212/1 actually [51] 3/14 6/17 7/7 7/12 8/8 14/16 24/8 24/12 24/21 32/21 35/25 51/16 53/14 63/25 75/22 76/7 80/17 80/22 86/10 88/2 88/10 91/12 101/8 101/25 102/24 104/21 105/23 105/25 113/1 122/19 125/21 136/12 142/20 150/24 157/9 158/12 159/1 161/22 171/6 173/2 182/5 184/15 184/16 186/8 188/4 192/19 194/12 197/5 206/14 209/3 209/9 ad [1] 12/23 ad hoc [1] 12/23 addition [4] 15/25 94/9 99/23 117/2 additional [1] 100/1 address [2] 63/25 64/15 addressed [5] 29/15 69/22 84/25 116/13 146/2 addresses [1] 157/1 addressing [1] 138/8 adequate [4] 131/24 173/23 174/2 174/4

adequate warning [1]

131/24 adherence [1] 168/20 adjourned [1] 216/3 Adjournment [1] 114/23 administering [1] 17/2 administration [4] 15/24 148/18 167/19 168/7 administrative [3] 94/24 96/13 128/11 administrators [2] 28/21 36/22 admission [1] 133/24 admission in [1] 133/24 admit [2] 49/2 187/3 admittedly [1] 203/23 adopt [1] 132/1 adopted [6] 118/14 123/24 176/1 176/6 179/20 181/11 adults [1] 196/10 advance [7] 26/13 26/13 27/14 54/11 54/16 94/10 156/17 advantages [1] 94/15 adverse [3] 119/16 119/25 121/25 advice [28] 12/22 12/25 27/25 30/6 30/17 30/21 30/24 31/2 31/10 32/11 36/1 36/14 36/15 41/11 54/24 55/11 115/18 115/25 116/1 116/3 141/6 164/19 165/18 170/19 177/16 178/11 202/7 205/17 advisable [4] 167/12 169/13 169/14 171/13 advise [3] 12/24 155/25 190/4 advised [2] 29/21 169/10 adviser [3] 179/3 179/4 179/10 advisers [3] 165/16 182/5 182/5 advising [2] 16/8 157/4 advisory [4] 32/6 32/8 agreement [9] 70/15 133/6 182/21 affected [2] 167/22 176/10 afraid [7] 69/16 87/15 90/5 117/17 151/6 166/25 186/12 after [10] 114/19 128/20 147/1 147/18 150/8 152/23 167/15 126/23 127/1 127/4

168/9 193/13 206/6 again [46] 13/24 19/15 21/14 22/14 36/17 42/4 44/6 45/3 62/22 63/8 65/21 68/17 68/22 89/24 90/19 105/12 106/23 129/14 129/22 130/6 133/18 134/20 134/22 135/8 136/25 142/1 142/4 145/11 151/23 153/11 157/8 157/21 159/19 162/3 162/17 169/4 169/10 169/24 170/5 173/17 187/11 194/1 196/5 200/25 208/10 209/11 against [7] 86/17 95/13 159/3 187/22 204/2 212/21 212/21 agenda [1] 42/9 agent [6] 121/8 148/10 148/11 149/18 149/24 150/5 agents [1] 120/17 aging [1] 207/13 ago [12] 2/23 14/13 36/4 62/17 69/12 91/13 102/6 105/1 131/6 185/13 205/8 209/5 agree [21] 45/13 67/9 67/24 75/5 78/23 83/23 105/21 109/12 113/19 116/25 117/12 122/5 123/21 143/6 143/21 145/5 151/24 153/7 177/18 177/21 202/12 agreed [29] 83/15 85/25 86/1 88/6 92/9 95/5 95/14 97/11 99/24 100/11 100/11 105/13 108/1 109/11 110/13 110/19 111/3 113/11 113/14 113/14 113/16 131/6 136/6 139/19 140/11 140/14 140/16 145/10 178/14 agreeing [5] 108/21 108/23 112/15 191/19 191/20 73/1 83/25 93/5 107/7 116/24 139/22 140/2 140/19 agreements [1] 176/3 agrees [1] 178/10 ah [3] 158/2 178/2 204/22 ahead [7] 107/3 107/9

136/7 136/16 AIDS [97] 31/23 34/14 34/15 53/6 53/16 55/3 55/4 61/16 61/17 61/20 62/9 63/2 63/7 66/23 68/6 70/17 70/22 71/2 72/17 72/21 73/5 73/7 73/10 73/14 73/20 73/22 73/25 74/2 74/20 75/25 76/5 79/6 79/18 80/1 82/4 82/7 84/18 89/14 89/15 93/7 96/1 111/20 114/6 115/1 115/15 115/17 116/25 117/10 118/19 120/13 120/21 121/1 121/2 121/8 121/19 122/4 122/12 122/12 123/16 128/9 128/16 128/20 128/25 129/3 131/8 131/11 131/13 131/25 133/11 133/23 137/18 138/19 141/11 141/16 141/18 145/2 146/16 147/2 147/11 147/19 148/9 148/17 149/18 149/24 150/4 150/7 156/9 176/10 176/13 178/10 179/21 180/23 183/13 184/16 193/5 193/22 212/22 aim [2] 168/3 173/8 aims [1] 176/14 alarming [3] 80/21 108/1 215/14 alarmist [2] 107/18 107/23 albeit [1] 104/19 Alcock [4] 69/25 78/12 93/3 175/16 alert [1] 104/5 alerted [1] 172/11 **Alison [1]** 115/10 all [184] 3/16 3/19 4/16 4/19 4/22 7/13 7/17 8/9 10/1 10/2 12/4 12/17 13/17 15/2 17/1 17/11 18/18 19/11 20/10 21/2 21/4 26/23 27/7 28/16 30/8 30/24 32/1 32/6 32/7 32/12 33/17 33/22 33/24 34/8 37/13 37/21 38/4 38/8 41/9 42/4 42/12 42/18 42/19 43/9 45/20 46/8 46/19 49/21 50/24 51/20 52/11 53/14 53/17 53/20 54/15 56/12 60/18 61/23 64/1 64/10 64/10

64/17 65/6 65/25 66/14 67/7 67/7 67/12 67/16 68/4 68/13 68/19 70/5 72/5 73/3 76/6 83/3 83/15 83/16 83/21 83/23 84/2 87/10 88/1 88/6 89/25 92/19 95/22 96/11 97/16 97/17 98/3 99/7 101/7 102/25 109/19 111/11 111/18 112/10 116/2 118/24 119/20 120/5 121/13 123/3 123/4 123/5 125/11 126/19 132/10 137/3 140/13 141/8 141/19 141/25 143/17 144/15 144/17 144/18 145/17 145/24 146/25 147/16 147/21 150/2 151/17 151/20 152/2 153/25 157/8 159/2 159/15 159/18 160/19 162/18 165/16 166/5 166/17 167/12 169/3 179/25 180/16 181/5 182/21 183/6 183/18 184/18 185/7 185/19 185/19 186/25 187/5 188/16 190/10 190/11 191/3 191/4 191/9 192/22 194/21 196/13 198/17 199/13 202/12 202/15 202/17 205/16 205/21 206/9 207/12 207/19 208/2 209/7 210/17 210/18 210/21 210/24 212/5 213/13 213/22 213/24 214/1 214/23 215/19 all-around [1] 209/7 all-embracing [1] 4/19 allegations [1] 50/7 allocate [1] 22/12 allocated [2] 6/3 22/19 **allocation [5]** 10/14 10/21 21/25 22/16 23/5 allow [3] 17/16 106/20 157/14 allowed [1] 105/11 alluding [1] 168/6 almost [4] 14/13 113/14 144/10 154/11 alone [1] 214/16 along [6] 47/19 47/22 87/8 169/23 206/23 215/6 aloud [1] 147/21 already [9] 61/13

(57) about... - already

achieved [1] 180/9

acquired [5] 72/12

Α	124/2	answers [4] 2/21	56/21 65/12 67/3	60/23 72/24 117/4	arguments [11] 42/13
already [8] 92/15	America [4] 147/17	192/22 203/1 209/12	67/14 68/25 69/1 69/6	142/14	79/16 89/25 96/11
133/3 145/10 162/5	148/2 149/19 193/8	anticipated [1] 119/17	77/16 84/9 112/4	April [2] 18/6 146/17	97/8 97/9 97/11 97/16
165/23 180/22 210/5	American [20] 61/8	anxious [5] 22/14	112/5 113/10 117/19	April 1985 [1] 18/6	106/22 152/3 160/2
212/15	79/9 121/1 121/20	73/24 74/20 184/17	169/18 170/23 172/2	April three [1] 146/17	arise [2] 74/18 142/22
also [30] 18/6 24/1	144/25 148/3 154/20	185/25	186/13 188/25 200/21	archive [5] 46/3 46/5	arisen [2] 32/10 64/5
24/19 25/6 25/21 26/2	160/3 162/25 167/3 176/22 177/25 183/18	<b>any [116]</b> 2/18 3/2 6/15 6/15 7/2 7/21	207/3 210/2 210/3 210/11 210/12 210/20	46/25 47/3 48/6	arm [1] 211/3
27/15 37/8 64/25 65/1	184/10 193/22 193/24	7/22 8/18 11/5 11/20	211/7 214/21	are [130] 1/16 4/12 12/2 12/6 22/3 27/22	<b>arose [6]</b> 32/20 85/8 168/13 168/23 169/2
66/22 67/14 73/10	196/20 200/20 204/5	12/3 14/9 14/16 14/16			196/19
79/19 80/23 82/1	206/25	14/19 14/25 19/10	anyway [15] 2/25 7/13 10/19 58/12 66/22	39/24 41/13 41/22	around [8] 23/5 27/25
88/20 107/6 107/25	Americans [3] 59/20	23/6 27/12 29/14 30/9	67/12 102/14 104/13	43/4 43/22 43/23	35/10 66/2 70/5 88/1
112/8 115/19 118/13	168/10 168/21	31/3 34/22 35/18	106/2 110/5 167/1	43/25 48/8 50/24	115/4 209/7
129/19 130/2 141/17	amongst [3] 31/12	35/18 39/15 40/25	197/1 201/1 201/17	51/16 52/9 53/23	arrangements [2]
177/15 179/10 186/3	99/13 128/17	42/15 42/25 44/11	209/10	54/22 56/12 60/23	93/6 132/4
194/14 198/8	amount [5] 11/24	51/22 54/2 54/5 54/6	anywhere [1] 169/8	60/25 65/13 68/19	arrived [5] 9/11 9/11
alter [1] 81/9	21/21 21/23 192/24	56/1 56/17 58/1 58/8	apart [8] 12/8 46/19	68/23 68/25 71/19	10/20 21/7 193/13
alternative [13] 13/5	199/7	58/20 59/10 59/11	48/1 53/18 68/4	72/22 73/11 73/12	arrow [2] 119/22
51/23 158/18 158/19	amounts [3] 20/8 37/6		174/10 184/12 206/21	73/24 74/20 75/2 75/5	120/2
193/10 196/21 201/20	79/7	82/14 82/22 83/17	apologies [4] 5/8 5/22		as [295]
202/18 203/3 204/4	an analysis [1] 102/7	85/20 86/8 89/7 94/17	157/5 189/8	87/23 89/25 91/16	asap [1] 137/9
208/18 213/10 215/15	an awareness [1]	95/19 104/23 105/6	apologise [1] 187/4	93/13 94/3 95/25 97/8	ascertain [1] 190/23
alternatives [3] 50/5	58/21	105/9 106/3 106/4	appalling [2] 8/15	97/10 98/1 99/20	aside [4] 109/2 109/5
201/2 201/4 although [22] 7/20	an awful [1] 30/20	106/6 109/16 111/5	186/7	100/21 103/21 105/25	145/9 201/18
<b>-</b>	an earlier [1] 189/6	117/19 117/21 119/15	appallingly [1] 76/5	106/22 108/3 108/5	ask [48] 1/3 2/18 2/19
27/10 48/16 59/9	an extremely [1] 6/20	119/16 121/12 121/25	apparent [1] 132/19	108/8 109/12 109/13	11/1 15/20 34/25
73/19 79/17 99/12 100/13 113/1 117/6	an hour [1] 67/10	122/18 124/10 125/11	apparently [6] 65/9	109/23 111/6 111/13	38/15 43/3 43/8 57/13
121/21 143/23 148/17	an indication [1]	125/13 126/9 131/18	101/22 150/3 191/11	114/5 117/3 120/16	60/14 60/20 65/24
163/23 166/20 171/10	119/1	132/13 135/22 140/15	208/23 215/2	120/18 121/9 122/8	70/7 71/18 79/1 85/6
181/17 194/18 195/18	an information [1]	140/23 140/25 141/18	appear [12] 46/5	122/12 123/11 123/21	88/25 103/23 111/12
205/5 205/24 207/5	180/19	145/2 150/13 162/20	80/13 80/24 82/1	125/1 127/1 130/3	111/19 115/7 123/13
Alun [1] 133/3	an informed [1]	162/22 168/19 170/16	108/6 136/8 137/5	131/22 132/14 139/11	130/15 131/19 140/8
always [37] 2/4 4/20	186/17	170/20 171/7 171/19	149/17 151/4 169/5	141/20 141/20 143/5	142/2 156/1 167/4
6/12 7/1 7/18 7/23	an operation [1]	172/23 172/24 174/10	178/12 182/23	145/19 146/18 149/19	175/9 177/6 179/22
12/23 14/8 16/8 16/8	188/21	178/21 178/21 179/18	appeared [1] 84/14	150/4 151/1 152/7	180/21 180/24 192/17
18/23 18/23 22/3 22/5	an ordinary [2] 196/1 196/8	180/21 181/22 183/17 184/9 184/23 186/3	appearing [2] 137/23 153/5	152/15 153/8 156/25	195/11 197/4 200/13 202/22 204/9 204/15
22/7 28/6 28/8 32/4	an understanding [1]	186/21 187/22 189/24	appears [9] 5/4 31/24	158/22 158/25 159/23 160/6 165/13 166/15	204/20 205/1 205/22
36/16 41/20 43/1	36/18	192/9 197/16 197/17	81/23 105/4 116/9	171/20 172/17 172/18	212/11 212/20 213/12
44/14 44/23 47/19	an unfortunately [1]	198/25 200/7 200/23	157/24 188/6 189/3	176/1 176/3 176/15	213/15
50/18 50/20 59/22	127/13	201/14 205/3 205/23	215/6	176/20 179/20 180/3	asked [38] 9/4 19/17
67/24 83/16 86/19	analysis [2] 19/22	206/18 208/17 211/24	appended [4] 131/22	182/17 185/1 186/3	35/1 56/19 57/22 61/7
114/6 152/6 184/17	102/7	213/25	147/3 176/23 180/20	188/20 195/11 197/2	66/18 75/5 80/9 82/25
188/17 194/10 207/22	announce [1] 114/5	anybody [35] 23/6	appoint [1] 24/13	198/23 198/25 201/22	99/1 99/2 123/8
214/2	announced [2] 133/11	23/6 30/25 42/25 48/4	appointments [1]	202/6 202/8 202/16	123/21 124/1 128/8
am [25] 1/2 7/24	141/3	49/1 49/17 49/18 57/3	24/12	204/13 205/8 207/3	131/10 132/21 134/15
30/10 55/15 56/24	announcement [1]	64/3 68/20 69/6 145/2	appraise [1] 165/18	207/15 207/22 211/12	138/23 140/6 141/6
57/10 57/12 69/15	80/5	150/24 160/1 163/8	appreciate [2] 135/25		161/2 166/14 180/23
106/20 106/20 107/22 111/10 111/17 112/17	announces [1] 177/17	164/3 170/23 174/10	152/22	214/10 214/22 215/8	183/16 188/22 201/18
124/25 153/16 159/20	annoying [1] 107/20	174/14 187/20 188/4	approach [3] 67/9	215/11	204/9 212/23 212/24
163/10 165/15 166/10	another [5] 13/6 59/15	192/12 194/24 195/3	85/15 115/22	area [4] 21/1 22/11	213/10 213/16 213/24
186/11 187/8 202/23	139/7 199/15 199/20	195/7 200/21 206/19	approached [1] 22/25		215/8 215/11 215/13
215/18 216/3	answer [19] 10/2	209/9 210/3 211/7	appropriate [4] 25/22		215/19
amateur [3] 12/5	19/19 34/24 59/4 60/7	213/20 214/9 214/18	56/10 99/17 176/14	9/15 21/11 33/17	asking [25] 1/10
192/24 202/1	60/20 60/21 60/21	214/23	approval [4] 78/7	40/12 58/2 58/4	14/13 23/5 30/11
amazed [4] 32/22	79/24 81/14 87/19	anybody's [2] 121/13	102/21 130/9 134/17	aren't [2] 43/4 56/6	45/10 47/25 60/7
151/19 163/20 195/16	103/24 104/24 109/18	121/25	approve [2] 77/21	argue [3] 31/14 83/19	65/15 66/1 66/23
amazing [2] 33/3	189/6 207/25 209/10	anyone [2] 56/18	140/6	202/7	109/10 109/11 110/2
92/24	215/9 215/17	137/18	approved [6] 130/19	argued [1] 159/6	110/18 136/9 152/22
amended [1] 135/23	answer's [1] 25/11	anything [35] 5/17	130/20 130/20 132/23		160/17 170/24 171/8
amendments [1]	answering [4] 3/2	12/10 13/14 18/15	133/5 134/16	97/8 97/9 97/10 98/5	185/13 198/12 202/21
	27/18 80/7 214/5	22/24 23/7 32/4 33/24	approximately [4]	173/17	206/19 208/10 212/23
	I		I		(58) already asking

(58) already... - asking

Α	117/15 118/1 124/15	38/7 42/5 45/7 46/7
	124/21 124/22 125/6	46/14 52/3 57/5 61/5
asks [1] 140/4	125/6 125/15 125/24	74/10 80/12 81/15
aspect [2] 16/4		
191/24	126/6 126/16 126/22	83/15 89/24 90/3 98/
	127/6 130/20 143/11	100/9 100/19 102/17
aspects [4] 4/14 16/2	August 1984 [1]	106/17 108/11 113/1
182/18 185/6		
assembled [1] 165/16	143/11	116/18 126/25 129/2
assembly [2] 182/3	Australia [2] 128/19	137/3 138/7 142/25
,	128/22	154/25 167/7 179/15
182/12		
asserting [1] 163/10	author [4] 97/14	193/6 212/13 215/23
assist [3] 82/16 108/8	101/25 102/2 105/5	background [10]
	authored [2] 78/12	22/10 56/6 71/24 73/
125/2	91/6	76/6 111/19 118/17
associated [1] 148/18		
Association [2] 74/24	authorities [16] 7/10	197/4 212/21 212/21
	7/11 7/15 12/6 16/1	backwards [1] 45/18
78/4	21/18 21/24 22/13	bad [2] 61/22 65/8
assume [3] 15/2		
34/18 104/11	24/1 24/17 25/18	bail [1] 23/14
	51/12 52/20 140/4	balance [3] 66/6
assumed [2] 176/13	140/8 141/7	154/6 214/14
183/14		
assurances [1] 135/8	authority [12] 4/15	balanced [1] 106/22
	17/13 24/10 24/16	ban [4] 107/21 108/1
assure [2] 57/1 90/3	25/4 25/6 26/1 106/9	162/25 169/3
assured [1] 168/1		
astonishing [1] 6/17	108/4 109/11 163/6	bang [1] 20/7
	168/2	banned [1] 187/23
<b>asylums [1]</b> 8/11	available [14] 15/18	banning [2] 203/6
attach [4] 70/14		
116/23 130/1 207/17	21/21 21/23 32/15	203/20
	46/23 52/20 61/1	Bar [1] 56/23
attached [11] 70/20	72/22 73/25 95/20	Baroness [6] 5/9 5/1
93/13 102/19 126/9		
128/10 130/2 136/24	113/6 120/9 192/15	5/11 11/14 80/8 82/2
	192/16	Baroness Dudley [2]
137/8 140/3 181/14	average [2] 13/20	80/8 82/25
181/15		
attaches [1] 177/5	196/16	base [5] 9/9 43/2
	avoid [9] 77/7 94/21	43/13 67/25 68/22
attaching [2] 93/4	97/25 112/2 180/5	based [2] 84/18
178/9	186/1 191/14 192/18	135/21
attempt [3] 19/6 103/7		
207/24	196/2	bases [1] 68/7
	avoiding [1] 94/17	basically [2] 5/12
attempted [1] 7/5	aware [32] 8/23 9/9	153/9
attempting [1] 40/11		
attempts [1] 158/23	15/22 55/21 59/2 61/9	basis [5] 38/20 77/1
	61/9 61/11 61/15	111/7 170/5 176/12
attend [4] 157/3 205/2	61/25 63/13 63/16	bat [1] 26/10
205/3 205/23		
attended [3] 120/8	63/22 65/4 68/3 70/19	batch [2] 194/1 200/
	75/17 110/6 156/3	batches [1] 199/25
208/6 213/8	161/11 161/17 176/5	Bateman [4] 116/16
attending [4] 180/11		
181/1 183/4 206/23	184/5 186/24 194/16	128/14 129/22 133/1
	194/16 198/2 198/17	battle [1] 6/20
attention [9] 61/19	198/22 205/5 205/24	be [285]
102/7 110/10 137/5		
102/1 110/10 101/0		be a [1] 122/17
	212/5	
150/13 161/5 162/10	212/5 awareness [4] 58/21	bear [3] 37/7 200/25
150/13 161/5 162/10 163/2 185/11	awareness [4] 58/21	
150/13 161/5 162/10	<b>awareness [4]</b> 58/21 62/18 66/17 186/2	209/20
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11	209/20 bearing [2] 99/17
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19	<b>awareness [4]</b> 58/21 62/18 66/17 186/2	209/20
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20	209/20 bearing [2] 99/17 129/7
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20	209/20 bearing [2] 99/17 129/7 became [23] 1/12
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20	209/20 bearing [2] 99/17 129/7 became [23] 1/12
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22 attributed [1] 10/9	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17 171/2	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10 19/15 24/11 25/2 29/
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22 attributed [1] 10/9 August [32] 89/2 89/3	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17 171/2	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10 19/15 24/11 25/2 29/ 35/10 41/9 43/21
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22 attributed [1] 10/9 August [32] 89/2 89/3 89/3 106/15 106/16	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17 171/2  B B-list [1] 207/13	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10 19/15 24/11 25/2 29/
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22 attributed [1] 10/9 August [32] 89/2 89/3 89/3 106/15 106/16 107/5 107/9 107/9	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17 171/2  B B-list [1] 207/13	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10 19/15 24/11 25/2 29/ 35/10 41/9 43/21 63/13 64/10 66/16
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22 attributed [1] 10/9 August [32] 89/2 89/3 89/3 106/15 106/16 107/5 107/9 107/9 108/6 108/8 108/21	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17 171/2  B B-list [1] 207/13 babies [1] 128/20	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10 19/15 24/11 25/2 29/ 35/10 41/9 43/21 63/13 64/10 66/16 70/10 75/11 75/16
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22 attributed [1] 10/9 August [32] 89/2 89/3 89/3 106/15 106/16 107/5 107/9 107/9 108/6 108/8 108/21	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17 171/2  B B-list [1] 207/13 babies [1] 128/20 baby [1] 134/6	209/20 bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10 19/15 24/11 25/2 29/ 35/10 41/9 43/21 63/13 64/10 66/16 70/10 75/11 75/16 78/8 171/18
150/13 161/5 162/10 163/2 185/11 attitudes [3] 76/8 77/8 99/19 attract [1] 79/22 attracted [1] 107/19 attribute [1] 82/22 attributed [1] 10/9 August [32] 89/2 89/3 89/3 106/15 106/16 107/5 107/9 107/9	awareness [4] 58/21 62/18 66/17 186/2 away [8] 20/9 30/11 66/7 89/2 94/20 113/14 146/12 211/20 awful [3] 30/20 37/17 171/2  B B-list [1] 207/13 babies [1] 128/20	bearing [2] 99/17 129/7 became [23] 1/12 1/25 2/2 2/16 9/19 10/9 12/23 16/10 19/15 24/11 25/2 29/ 35/10 41/9 43/21 63/13 64/10 66/16 70/10 75/11 75/16

8/5 9/16 10/9 11/2 11/11 12/5 13/6 15/2 17/1 17/1 18/20 20/14 20/20 21/5 21/5 21/13 22/1 23/1 24/6 27/2 31/20 31/24 32/5 34/9 34/15 37/4 37/24 37/25 41/13 41/15 41/20 44/19 45/20 46/1 47/18 47/21 49/24 52/4 54/15 55/22 59/7 59/19 61/16 63/13 63/15 66/3 66/12 66/24 67/6 68/17 71/17 73/12 75/18 75/20 75/24 76/4 77/5 77/12 81/3 83/8 86/5 86/20 87/5 87/6 92/1 92/5 101/6 101/20 102/23 102/23 103/4 103/21 104/25 105/14 107/20 110/17 111/22 112/18 114/7 118/2 121/18 121/19 122/7 124/6 124/11 125/4 125/6 128/1 129/15 141/19 141/24 144/15 145/7 149/18 151/11 153/9 154/21 157/21 160/20 162/4 165/21 169/11 174/6 178/24 180/22 183/15 184/15 184/21 185/21 188/3 190/1 190/3 191/13 192/1 193/21 194/3 194/14 195/1 195/15 196/1 200/25 201/9 202/24 204/4 206/12 207/18 214/5 214/10 215/17 become [9] 28/10 69/11 70/9 72/7 106/25 120/21 120/25 132/19 190/3 becomes [5] 147/19 168/4 169/17 171/15 173/4 becoming [3] 61/9 134/6 201/6 bedpan [1] 19/2 bee [1] 39/2 been [135] 6/12 7/21 13/20 19/2 19/12 23/2 23/19 23/21 33/2 34/2 34/4 34/13 34/21 35/8 41/5 41/24 43/24 45/25 50/18 50/20 51/2 54/23 55/25 57/22 59/13 65/8 66/25 68/3 68/6 72/17 73/14 79/9 79/18 80/1 81/16 82/4 82/7 83/15 behaving [1] 76/4

87/20 88/3 88/3 92/4 93/11 97/4 97/11 98/9 102/23 102/25 103/3 104/9 108/13 109/11 110/5 110/6 112/15 113/1 117/16 118/6 119/16 119/18 119/23 119/25 121/3 121/11 121/24 122/15 127/22 128/10 130/19 132/2 132/7 134/9 138/20 144/7 147/3 148/5 148/15 151/25 153/14 154/13 154/14 154/18 158/14 159/7 161/2 161/5 161/11 161/13 161/16 161/22 162/5 162/9 165/19 165/23 166/3 166/5 166/6 166/19 166/20 169/10 169/22 170/11 170/17 171/21 171/22 172/4 172/11 172/24 172/25 172/25 180/9 182/4 185/12 186/24 187/8 187/24 189/2 193/11 198/24 199/20 200/23 205/21 206/9 208/7 209/17 209/17 210/7 212/25 213/16 213/23 213/24 213/24 214/6 214/12 215/16 before [55] 2/18 10/20 16/12 18/10 22/8 23/3 23/17 29/16 30/12 35/5 41/6 41/14 55/19 60/20 62/11 64/23 67/1 71/7 82/11 88/1 96/13 98/7 98/8 102/3 103/22 115/3 118/6 118/17 122/10 125/20 125/23 133/20 136/6 136/15 144/16 149/4 149/6 149/7 150/1 150/16 151/21 154/25 160/1 162/2 163/24 166/11 169/6 181/5 190/6 192/24 195/23 196/4 204/11 204/14 208/2 began [7] 8/22 24/5 49/25 87/2 113/5 143/8 143/9 beginning [6] 100/21 103/11 113/2 113/16 128/25 142/15 begins [2] 73/18 205/1 behalf [2] 77/24 177/11 behaved [1] 214/8

behaviour [1] 214/11 behavioural [1] 34/7 behind [2] 30/16 125/16 being [81] 16/14 20/13 29/12 29/13 41/7 51/9 58/22 61/9 64/6 66/5 66/6 70/21 75/13 80/2 82/22 88/17 88/22 94/23 94/25 96/1 96/19 96/25 99/17 103/7 104/14 105/11 111/16 122/12 122/21 123/24 124/1 125/12 129/3 129/3 132/21 134/20 136/4 137/10 138/23 139/10 140/6 143/24 144/12 145/22 145/23 149/17 150/24 152/21 153/16 154/16 154/17 158/22 159/19 160/22 161/15 168/11 170/15 171/25 172/12 172/16 182/11 183/15 183/16 185/24 188/25 189/8 190/24 192/22 194/24 196/4 197/24 199/1 199/4 199/6 205/9 209/6 211/9 213/25 214/10 215/8 215/10 **believe [2]** 117/9 133/3 **believed** [2] 73/16 197/20 below [4] 3/23 93/17 94/3 126/24 benefit [3] 147/23 151/13 210/21 benefits [1] 3/16 besides [1] 95/25 best [14] 20/23 24/24 27/13 49/15 49/18 75/3 101/10 114/19 143/6 188/13 190/15 192/17 207/12 212/12 best-known [1] 207/12 better [17] 36/2 40/2 40/5 40/15 54/12 54/14 68/13 113/9 165/17 166/5 173/11 182/14 187/8 188/12 195/11 201/22 209/18 between [16] 16/23 22/20 30/10 58/20 62/9 84/1 113/18 122/20 126/16 143/11 144/11 145/18 148/25 151/1 168/2 204/16 Bevan [1] 18/20 beyond [2] 89/7

(59) asks - beyond

В	91/4 92/4 92/7 92/12
beyond [1] 160/10	97/1 97/2 97/6 97/24
big [10] 9/15 15/1	99/21 100/22 101/3
21/5 21/5 21/8 40/21	102/16 104/2 104/4
75/19 75/25 200/19	104/8 104/16 104/23
211/13	106/6 107/23 108/16
bigger [2] 29/10 197/1	112/5 112/6 112/12
biggest [3] 6/10 6/11	113/24 114/2 115/18
20/6	117/8 118/11 119/15
bill [1] 19/6	119/24 121/2 121/9
binding [2] 181/22	121/23 122/15 123/5
182/20	123/17 124/5 128/20 129/4 129/4 131/5
<b>biological [12]</b> 155/10	132/11 133/10 134/2
155/11 155/13 156/11	134/5 134/14 135/4
161/3 162/11 164/9	135/10 137/19 137/2
167/1 167/5 171/10	138/24 141/6 141/8
202/2 215/4	141/15 141/19 141/2
birth [1] 64/15	144/24 145/1 146/25
bisexual [1] 141/11	146/25 147/16 147/1
bit [16] 4/24 9/7 9/8	148/11 148/12 149/2
35/6 43/4 43/16 46/16	149/25 150/4 150/4
60/3 64/24 86/3 86/25 109/25 157/20 157/23	154/2 156/9 156/23
182/7 182/22	157/25 165/21 165/2
bits [3] 4/17 157/10	167/21 168/8 176/11
157/14	176/11 176/11 176/1
<b>Bizarre [1]</b> 191/2	176/16 176/24 177/1
blame [1] 212/1	179/11 180/16 185/2
blamed [2] 18/16	193/8 193/15 194/18
210/17	194/25 196/21 201/1
bleeding [4] 48/24	205/4 206/17 206/20
196/2 199/11 199/12	206/21 207/7 208/2 <b>blood' [2]</b> 107/22
bleeds [1] 199/10	141/22
blighted [1] 196/13	bloods [1] 145/3
Blimey [1] 40/2	board [4] 18/2 18/6
bloke [1] 153/10	18/8 144/21
bloke's [1] 155/19	bodies [3] 16/5 21/1
blood [180] 3/3 5/17	27/11
5/25 6/1 6/1 8/20 9/3	body [3] 181/18
9/5 9/6 10/3 10/5 10/6 10/15 20/25 21/7	181/20 182/2
21/13 23/20 25/16	bombarding [1]
47/11 47/12 47/13	192/20
57/23 57/24 57/24	bonnet [1] 39/2
58/18 59/7 59/20	booked [1] 94/10
59/21 59/24 60/18	borderlines [1] 51/2
61/3 61/22 61/24 62/9	boring [1] 41/10
62/10 64/7 64/19	Boris [1] 211/2
68/16 69/13 70/18	borne [1] 119/23
70/23 71/4 71/9 72/14	both [19] 2/9 3/8 3/2
72/18 72/21 73/6 73/8	8/6 43/18 43/19 80/2
73/22 73/24 73/25	115/24 120/21 121/1 121/20 124/1 135/6
74/3 74/17 75/24	135/7 136/9 141/12
76/10 76/18 76/18	184/5 185/8 197/23
76/22 76/24 76/25	bothering [1] 188/19
77/4 77/6 77/11 77/13	bottom [8] 74/11
79/6 79/8 79/9 79/21	78/11 127/2 129/1
80/9 80/20 80/22 81/7	137/11 137/25 146/6
82/19 82/20 82/25	157/11 137/23 140/0
84/11 84/19 86/3 86/8	Bottomley [1] 85/25
86/11 86/14 89/23	box [7] 44/15 44/17
	••

91/4 92/4 92/7 92/12 97/1 97/2 97/6 97/24 99/21 100/22 101/3 102/16 104/2 104/4 104/8 104/16 104/23 106/6 107/23 108/16 112/5 112/6 112/12 113/24 114/2 115/18 117/8 118/11 119/15 119/24 121/2 121/9 121/23 122/15 123/5 123/17 124/5 128/20 129/4 129/4 131/5 132/11 133/10 134/2 134/5 134/14 135/4 135/10 137/19 137/23 138/24 141/6 141/8 141/15 141/19 141/20 144/24 145/1 146/25 146/25 147/16 147/18 148/11 148/12 149/20 149/25 150/4 150/4 154/2 156/9 156/23 157/25 165/21 165/24 167/21 168/8 176/11 176/11 176/11 176/13 176/16 176/24 177/18 179/11 180/16 185/21 193/8 193/15 194/18 194/25 196/21 201/15 205/4 206/17 206/20 206/21 207/7 208/2 **blood' [2]** 107/22 141/22 **bloods [1]** 145/3 board [4] 18/2 18/6 18/8 144/21 **bodies [3]** 16/5 21/18 27/11 body [3] 181/18 181/20 182/2 bombarding [1] 192/20 bonnet [1] 39/2 booked [1] 94/10 **borderlines [1]** 51/20 boring [1] 41/10 **Boris** [1] 211/2 borne [1] 119/23 **both [19]** 2/9 3/8 3/20 8/6 43/18 43/19 80/21 115/24 120/21 121/1 121/20 124/1 135/6 135/7 136/9 141/12 184/5 185/8 197/23 **bothering [1]** 188/19 bottom [8] 74/11 78/11 127/2 129/1 137/11 137/25 146/6 157/15 Bottomley [1] 85/25

44/18 44/23 46/13 46/14 46/20 boxes [2] 38/6 44/24 branch [4] 110/22 130/2 138/14 203/17 branches [2] 34/10 136/9 break [14] 55/17 55/20 56/14 56/14 56/17 57/5 57/11 114/20 136/2 175/1 175/3 175/7 212/9 215/23 breakdown [1] 111/1 breaking [1] 112/2 breaks [1] 56/16 bridged [1] 3/12 brief [2] 181/19 213/22 briefed [1] 26/23 briefing [11] 40/14 40/17 42/13 58/1 58/9 58/18 59/10 79/24 107/15 111/19 129/7 briefings [2] 40/22 43/22 briefly [2] 115/14 148/7 bright [1] 202/10 brilliant [1] 194/23 **bring [1]** 40/11 **bringing [1]** 137/5 brings [1] 140/25 **Britain [2]** 178/24 179/12 British [6] 60/13 60/18 145/2 179/1 194/18 204/17 broad [6] 18/9 58/19 58/21 64/20 64/21 65/6 broader [2] 23/18 151/2 **broadly [3]** 33/12 50/11 181/13 broken [1] 39/25 brought [4] 34/3 34/17 161/5 162/10 buck [1] 211/11 budget [3] 7/20 12/9 117/6 budgets [1] 23/2 building [4] 6/25 6/25 37/9 56/2 burden [1] 19/6 burdens [1] 190/14 bureaucracy [4] 7/6 20/15 20/24 29/23 bureaucratic [2] 20/9 39/20 **burst [1]** 61/19

business [3] 6/10 24/14 108/23 business-like [1] 6/10 businessmen [1] 24/14 busy [4] 42/20 44/21 45/16 45/17 but [290] **buy [1]** 23/6 **by [157]** 1/10 7/5 7/22 8/10 11/17 11/21 16/1 17/13 18/11 18/23 19/7 20/13 21/2 24/1 26/19 26/20 30/17 32/11 33/4 34/4 36/22 39/3 39/18 42/7 42/12 45/5 45/15 49/9 49/17 49/17 50/1 50/1 50/12 50/16 50/17 50/22 50/24 51/24 52/1 52/14 53/13 56/6 59/24 60/4 61/7 61/12 64/6 66/8 69/15 70/14 70/16 70/18 70/21 72/18 72/24 73/6 73/20 74/15 74/19 74/21 75/8 77/6 78/12 78/17 79/9 79/19 82/17 82/20 84/18 84/19 87/2 91/6 92/3 92/4 93/12 94/2 95/8 95/8 97/11 97/12 99/16 101/17 102/10 103/18 103/25 105/5 105/15 107/17 107/22 108/14 108/17 108/19 111/5 112/2 113/20 114/15 115/15 115/17 118/14 119/16 119/19 120/1 120/24 121/4 122/13 122/15 129/4 130/2 130/19 130/20 130/22 131/1 132/2 132/7 132/14 133/6 134/10 136/8 140/16 147/2 148/11 150/19 150/24 151/3 151/14 151/25 152/21 153/12 154/2 156/10 160/22 161/15 161/22 163/9 163/20 167/16 175/12 176/6 176/13 176/22 190/17 190/24 196/13 197/5 197/23 199/8 200/1 206/1 207/11 209/11 209/16 209/18 210/7 210/8 212/17 213/25 215/3 cabinet [4] 3/20 4/3

25/3 88/4

bus [1] 7/2

call [15] 9/2 26/20 45/10 85/5 85/17 86/4 86/12 86/22 90/12 91/1 94/4 96/21 96/24 101/15 206/5 call-out [1] 96/21 call-up [9] 85/5 85/17 86/4 86/22 90/12 91/1 94/4 96/24 101/15 called [12] 1/19 1/20 5/7 19/9 80/15 80/16 156/6 158/5 163/25 198/2 200/8 200/9 calling [3] 11/1 86/16 124/4 calls [1] 75/23 calm [2] 21/1 23/21 calmness [1] 211/6 came [24] 7/9 8/20 19/15 19/16 19/22 44/3 46/6 62/23 63/6 63/12 66/7 67/12 75/10 83/3 88/1 117/22 146/1 159/3 159/19 169/6 170/3 171/10 187/21 206/22 campaign [2] 17/16 17/17 campaigners [3] 10/8 154/18 207/17 **campaigns [3]** 16/9 16/16 187/25 can [89] 1/7 1/23 2/19 3/6 16/4 20/21 21/15 47/5 49/3 56/21 57/7 57/8 57/13 57/15 59/12 61/5 62/5 62/7 63/15 63/22 64/12 67/17 69/17 70/8 70/12 71/19 72/12 73/3 73/22 74/24 77/23 78/7 78/14 86/9 89/25 91/21 91/23 91/24 92/23 93/9 95/18 102/18 103/22 106/16 109/1 116/18 117/4 117/5 119/3 121/14 121/20 125/18 128/13 129/22 131/15 132/4 138/5 139/16 140/8 141/21 144/8 144/9 151/15 151/20 159/21 160/11 160/17 164/4 167/4 167/8 167/8 167/25 169/15 170/22 174/4 174/12 174/19 175/16 177/10 181/23 186/13 189/1 189/16 192/18 196/22 201/11 202/4 209/3 212/12

can't [42] 7/14 15/2

16/7 18/25 29/21 31/17 36/3 36/4 58/11 62/15 64/9 67/2 67/11 68/24 68/25 75/16 83/22 85/20 85/20 86/8 90/16 92/21 101/4 101/9 105/22 108/14 110/19 116/11 127/23 129/13 144/10 145/17 150/15 152/21 153/23 172/24 173/14 187/17 195/3 208/13 209/8 211/20 cannot [5] 91/2 134/15 141/18 161/9 167/24 capable [1] 83/10 card [4] 86/5 86/12 96/21 96/24 Cardiff [1] 146/14 cards [8] 85/5 85/17 86/23 90/12 91/1 94/4 101/16 124/4 care [6] 3/18 4/15 4/15 13/21 22/15 56/5 career [4] 1/12 35/8 106/4 196/10 careful [5] 41/12 76/4 86/14 153/12 196/11 carefully [9] 77/7 79/23 81/4 112/21 186/1 188/14 188/15 188/22 190/6 carried [2] 11/21 195/5 carriers [2] 121/11 141/16 carry [5] 8/18 22/8 72/20 74/2 190/14 carrying [1] 121/8 case [16] 17/17 28/5 31/5 34/14 63/4 63/10 65/21 84/17 92/21 97/20 122/23 146/12 146/15 146/22 157/24 194/4 cases [18] 17/14 73/14 73/17 79/18 80/1 82/4 82/7 84/17 120/14 134/5 135/9 142/20 146/17 146/20 148/6 148/17 188/4 193/20 cash [1] 23/2 catching [1] 142/21 categories [1] 183/11 caught [2] 9/23 73/20 cause [7] 64/22 83/9 84/10 89/11 92/6 113/18 114/2 caused [9] 6/23 89/22 96/3 107/23 112/6

(60) beyond... - caused

C	changed [4] 5/4 76/8	147/19
caused [4] 119/15	102/11 109/16	Clarke [95] 1/3 1/8
	changes [5] 45/12	1/10 10/12 13/23 15/9
121/25 122/13 128/21	77/8 137/1 137/2	15/12 15/17 55/7
causes [1] 31/24	144/2	55/22 56/12 57/13
causing [7] 23/11	—	
43/7 83/10 186/1	changing [2] 27/14	60/5 61/6 64/14 65/11
194/5 194/9 201/6	54/10	65/16 69/9 70/7 71/17
cautious [3] 13/20	channel [1] 209/13	72/7 74/10 75/10
	chaotic [4] 19/4 23/3	77/17 78/10 78/25
40/24 55/13	25/11 25/12	80/13 83/5 84/22
CBLA0000043 [1]	chap [1] 149/9	85/13 87/12 87/19
145/24		
celebrity [2] 207/14	characteristics [1]	89/1 89/13 90/3 91/5
207/23	99/18	95/1 95/16 96/15 98/9
cent [6] 83/24 83/25	charge [7] 12/17	98/25 99/2 108/7
• •	19/10 19/18 28/14	109/18 109/22 110/9
94/9 150/7 150/9	28/16 42/19 69/3	110/17 113/8 114/25
151/16	chased [3] 134/20	115/23 116/12 121/16
centralised [1] 7/6		
centrally [1] 60/23	143/23 143/24	123/25 125/1 130/15
centre [10] 6/11 47/6	chasing [3] 133/14	132/13 140/17 141/2
	133/18 134/22	141/9 142/4 146/1
47/9 47/14 47/15	CHD [1] 128/12	150/12 150/23 151/6
146/6 146/10 149/13	check [2] 84/5 140/14	155/3 155/8 156/5
156/20 205/11	checking [1] 56/3	157/11 157/14 160/5
centres [9] 8/17		
115/16 115/22 118/15	Chief [28] 12/14 12/16	160/6 160/13 161/21
119/19 119/20 120/5	12/20 16/10 26/3 26/6	162/8 165/11 167/10
	26/8 26/11 26/14 27/6	168/5 170/24 171/9
120/8 132/6	28/21 29/3 30/1 30/17	172/5 175/9 180/3
certain [8] 62/5 72/11	34/4 34/19 35/15	180/21 181/5 183/5
94/23 118/20 174/12	36/13 36/14 52/18	185/3 192/8 192/13
176/15 185/22 192/24		
certainly [22] 17/12	54/24 55/9 134/10	195/2 199/1 202/20
31/4 41/16 49/6 49/10	162/14 179/11 189/19	203/10 204/12 212/11
54/4 77/10 77/11	203/16 205/17	217/2
	child [3] 146/22	classic [1] 124/11
88/19 89/11 116/17	186/22 188/8	clear [8] 13/1 23/16
152/4 153/17 165/20	children [2] 125/14	64/10 64/13 84/16
166/14 170/3 181/12	189/12	121/6 124/25 174/7
194/6 194/16 200/24		
201/14 215/12	<b>choice [1]</b> 20/3	<b>clearance [2]</b> 130/12
certainty [2] 192/1	choose [2] 187/14	134/1
194/14	206/9	cleared [3] 127/5
	chose [2] 80/17	127/20 131/4
cetera [1] 158/1	203/24	clearer [1] 140/18
cetera' [1] 138/19	chosen [2] 111/9	
CH [1] 98/11		clearing [1] 206/22
chains [1] 3/22	111/16	clearly [2] 97/17
chair [2] 151/8 155/22	<b>Christmas [2]</b> 23/10	213/18
chairman [9] 24/10	136/2	clinical [30] 8/17 12/3
	chronological [1]	12/18 13/1 13/9 27/24
25/6 25/20 106/10	155/4	30/16 31/17 36/1 49/5
106/11 145/5 151/10	chronology [3] 90/4	49/7 49/18 50/7 52/25
156/19 157/17		
chairmen [1] 24/17	90/6 130/18	54/11 54/15 99/23
chairs [1] 7/11	circular [4] 140/3	100/24 100/25 100/25
challenge [3] 31/2	140/7 140/20 140/21	101/5 122/11 152/6
	circumstances [2]	197/16 201/22 201/23
162/16 213/15	64/16 95/25	202/7 202/11 203/1
challenging [2] 31/16	cited [6] 59/22 104/25	205/16
38/22		
chance [3] 137/18	104/25 105/5 105/12	clinically [1] 51/16
	185/21	clinician [8] 101/6
	civil [8] 27/1 29/24	157/22 189/14 189/18
138/18 207/11		100/00 100/00 100/0
138/18 207/11 chances [1] 202/6	30/25 37/20 38/16	189/20 189/22 189/24
138/18 207/11 chances [1] 202/6 change [11] 10/23		
138/18 207/11 chances [1] 202/6	78/18 133/14 210/4	197/14
138/18 207/11 chances [1] 202/6 change [11] 10/23	78/18 133/14 210/4 claims [3] 4/22 6/16	197/14 <b>clinician's [1]</b> 50/10
138/18 207/11 chances [1] 202/6 change [11] 10/23 10/24 11/5 11/7 29/21	78/18 133/14 210/4	

33/15 47/16 47/17 52/21 54/22 101/7 185/9 189/25 190/25 close [5] 111/10 111/17 168/1 173/5 174/17 closely [1] 62/18 closing [1] 8/16 closure [1] 7/2 closures [3] 4/21 6/24 206/4 clotting [2] 120/17 167/12 clotting-factor [1] 167/12 clue [3] 45/6 194/4 211/17 **clumsily [1]** 114/5 **CMO [14]** 17/3 28/16 32/4 32/7 35/10 53/1 53/3 53/6 53/8 53/8 161/12 164/18 170/19 179/4 CMO's [1] 133/24 **co [1]** 135/19 co-operate [1] 135/19 coagulation [1] 180/6 **cohort** [1] 186/15 cohorts [2] 183/7 184/5 **Colindale [1]** 146/10 collaboration [1] 25/19 **collateral** [1] 114/2 **colleagues [17]** 15/5 30/15 42/21 43/7 43/9 43/13 54/3 59/3 67/6 68/23 98/10 128/11 128/11 135/19 136/22 152/24 209/1 collected [6] 60/23 149/21 167/15 168/9 168/17 168/19 collecting [3] 141/19 165/24 167/21 collection [1] 38/17 collective [1] 19/9 collectively [1] 88/7 College [1] 47/23 Colleges [1] 32/2 columns [1] 25/5 **combative** [1] 214/3 combination [1] 3/13 combined [2] 98/13 98/16 come [43] 5/19 10/11 13/16 13/23 19/21 33/11 36/5 37/11 37/18 38/7 38/17 38/24 39/5 45/12 48/3 54/1 57/5 60/5 61/3 67/24 74/10 81/15

89/24 90/3 92/14 92/16 110/2 124/5 146/24 163/2 165/14 165/25 166/1 178/3 195/17 201/17 202/4 202/25 206/6 211/9 212/19 213/5 215/23 comes [7] 54/21 101/19 101/19 101/23 102/1 162/1 162/6 coming [6] 17/15 39/25 40/20 53/23 106/11 145/14 comment [9] 45/4 45/7 45/9 119/16 119/25 136/5 136/15 153/8 160/13 commented [3] 107/19 110/24 144/8 comments [3] 126/10 131/21 136/21 commissioned [1] 17/22 committed [2] 36/11 175/24 committee [56] 12/11 33/10 133/6 155/9 155/10 155/11 155/12 155/14 155/14 155/23 155/25 156/12 156/12 156/24 157/1 157/2 157/5 159/5 159/24 160/7 161/3 161/3 162/11 162/12 163/5 163/11 163/12 163/15 163/23 164/1 164/6 164/7 164/9 164/22 164/23 164/24 165/6 166/6 166/21 167/1 167/2 170/6 171/10 175/11 176/6 178/20 178/22 179/12 179/16 179/17 181/16 182/3 192/19 202/1 213/25 215/4 **committee's [2]** 165/4 167/5 committees [10] 12/23 32/7 32/8 33/11 33/25 51/12 162/13 164/16 181/21 191/4 commodity [1] 60/19 common [3] 39/22 40/8 93/24 Commons [2] 5/2 8/4 Communicable [4] 146/5 146/9 149/12 205/10 communication [2] 107/10 212/16 communications [1] 204/16

**community [3]** 3/18 50/22 154/15 company [1] 48/9 comparatively [1] 21/1 compare [1] 130/16 compared [1] 103/18 comparison [1] 130/3 comparisons [1] 33/20 compensation [1] 211/3 **competing [3]** 38/23 132/15 160/2 competition [1] 20/3 complained [2] 7/18 7/19 **complete [4]** 13/15 110/8 111/23 153/13 completely [3] 12/7 20/24 33/23 completeness [1] 138/14 complex [1] 24/20 complicated [2] 22/11 41/22 comply [1] 191/11 comprehensive [1] 160/9 comprehensiveness **[1]** 30/21 concede [1] 122/20 conceivably [1] 122/22 concentrate [14] 3/4 4/11 4/13 4/16 20/5 48/18 75/23 146/15 146/19 148/3 148/19 149/16 177/3 200/3 concentrates [18] 58/22 58/22 73/12 120/22 121/20 163/1 167/13 168/13 169/8 192/15 195/5 195/10 197/10 199/7 199/19 200/1 200/16 203/6 concentrating [1] 5/18 concept [1] 49/7 concern [18] 48/20 53/13 59/6 59/19 60/2 77/25 89/17 94/6 128/21 168/13 169/1 170/14 183/18 186/25 189/4 201/5 204/2 212/22 concerned [18] 9/8 11/9 22/3 53/17 65/19 67/18 80/24 88/24 98/12 98/13 107/22 112/4 139/8 147/7 168/10 185/18 198/11

(61) caused... - concerned

Concerning [1]   18925 1616 163174   2047 20817 20918   15519 1882 18821   158918 18821   158925 1616 163174   2047 20817 20918   159125 1617 19 2076   20622   20622   20622   20622   20622   20622   20622   20623   20625   2062	С	161/8	controversies [2]	197/5 198/17 199/20	Cross [1] 176/22	136/18 154/24 171/3
20124	concerned [1]	considered [14] 66/5	8/10 20/16	200/10 200/14 200/18	crossed [2] 134/23	171/3 204/11 204/13
18/16   19/17   19/1						
185/16   2007   2007   2008   2007   2008   2007   2008   2008   2007   2008						
1806   1907   2007						
convention     26/16   22/23   22/23   23/13   13/23   15/23	concerns [9] 59/13					
1987   1987						
Concluded [1] 9876 concluded [1] 9879 concluded [1] 9879 and some details [1] 9879 and some deta						
concludes [1] 997 conclusion [17] 997 conclusion [17] 997 conclusion [17] 997 conclusion [17] 998 constant [4] 18123 12323 1243 constant [4] 18123 12323 1243 constant [4] 18123 1242 constant [7] 27131 consultari [7] 17025 consultari [7] 17025 consultari [8] 2717 17026 consultari [8] 2717 17026 consultari [8] 2717 17026 consultari [9] 2717 17026 consultar						
conclusion [1] 39/14   32/18   123/23   124/25   136/25						
constant						
101/23 101/25 122/3 162/1 162/		constant [4] 16/23		79/10 175/10 176/6	cumulatively [1]	56/23 56/23 66/19
146625 159/19 159/23   647/15   747/24   747/25   747/25   748/27						
162/1 162/7 162/16   162/7 162/16   162/7 162/16   162/7 162/16   162/7 162/16   162/7 162/16   162/7 162/						
162/19   163/6 167/6						
17074   17075   17076   1707						
conclusions [6] of John Mark 1987   20611   20	170/4	• •				
139/21   1	conclusions [8] 67/13					
139/2 190/2 190/2 190/2   13						
08/10   0000000000000000000000000000000000						
condeming [1] 185/23 194/9   14/25 32/24 48/2   158/23 194/9   154/24 20   154/25 18/14   154/24   154/25 18/14   154/24   154/24   154/25 18/14   154/24   154/25 18/14   154/24   154/25 18/14   154/24   154/25 18/14   154/24   154/25 18/14   154/24   154/25 18/14   154/24   154/25 18/14   154/24   154/25 18/14   154/24   154/25 18/24   154/24   154/25 18/24   154						
13/13/13/13/13/13/13/13/13/13/13/13/13/1		contact [6] 14/15				
154/24 condition [4] 51/6 conditions [1] 8/15 conditions [1] 8/15 conducted [1] 41/20 confirmences [1] 53/19 confidence [4] 30/23 68/64 28/19 92/8 confident [2] 42/8 72/12 24/15 24/24 24/2 26/10 113/64 112/2 14/20 24/2 13/64 28/19 24/2 13/64 24/2 13/64 28/19 24/2 13/64			129/15 175/16 177/5	couple [5] 40/15		45/19 81/19 143/14
condition [4] 51/6 196/12 196/14 198/19 conditions [1] 8/15 conducted [7] 41/20 conferences [1] 53/19 confidence [4] 30/23 36/16 82/19 92/8 36/16 82/8 36/16 82/19 92/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/16 82/8 36/					cuttings [1] 185/20	
196/12 196/14 198/19 conditions [1] 8/15 conducted [1] 4/120 conferences [1] 53/19 confident [2] 42/8 confident [2] 42/8 121/21 confirmation [1] 124/1 confirmation [1] 124/1 confirmation [1] 126/4 confirms [1] 108/13 confirms [1] 108/13 confirms [1] 108/13 102/8 102/9 165/12 conscientious [4] 16/14 36/10 67/22 consecution [1] 62/9 conscientious [4] 18/13 13 102/8 102/9 165/12 conscent [4] 13/13 102/8 102/9 165/12 consecution [1] 13/13 102/8 102/9 165/12 consecution [1] 13/13 102/8 102/9 165/12 consecution [1] 13/13 102/8 102/9 165/12 consecution [2] 12/15 consecution [2] 12/15 consecution [3] 38/14 13/13 13/13 16/14 36/10 67/22 consecution [4] 13/13 18/15 188/12 190/7 consider [8] 33/15 12/22 5 155/15 contact [1] 128/15 contact [1] 128/15 contact [2] 114/9 continues [2] 12/15 consider [8] 33/15 12/22 5 155/15 contact [1] 128/15 contact [2] 114/9 15/16 12/17/9 contractic [2] 114/9 15/13 6/20 114/17 contributed [2] 114/9 15/13 6/20 114/7 17/17 contributed [2] 114/9 15/13 6/20 114/7 17/17 controversial [6] 4/20 5/13 6/20 114/12 23/21 14/17 14/20 18/				·	ח	
conferences [1] 64/9						
confidence [4] 30/23 a6/16 82/19 92/8 confidence [4] 30/23 a6/16 82/19 92/8 confidence [4] 30/23 a6/16 82/19 92/8 confidence [4] 45/13 t51/3 contemplated [1] t51/3 confidence [4] 30/23 a6/16 82/19 92/8 confidence [4] 45/13 t51/3 confiden	conditions [1] 8/15					
confidence [1] 33/19 confidence [4] 30/23 36/16 82/19 92/8 confident [2] 42/8 121/21 20nfirm [1] 124/1 confirmation [1] 126/4 confirmation [1] 126/4 124/22 126/10 132/4 124/22 124/22 137/9 152/25 124/22 137/9 152/25 126/12 126/22 137/9 152/25 126/12 126/22 137/9 134/25 138/12 126/10 126/2 126/24 126/23 134/25 138/12 126/10 126/24 126/24 126/24 126/24 124/22 124/22 126/10 126/24 124/24 124/24 126/24 124/22 124/22 126/10 126/24 124/	conducted [1] 41/20	10/1//				
1500molente [4] 33/15   150/17   150/17   150/15   150/17   150/17   150/15   150/17   150/17   150/15   150/17   150/						
confident [2] 42/8 121/21 confirm [1] 124/1 confirmation [1] 126/1 confirmation [1] 126/1 127/20 83/13 87/23 106/20 111/6 111/25 1126/2 126/10 132/4 128/20 146/18 215/7 confirms [1] 108/13 connection [1] 102/8 102/9 165/12 16/14 36/10 67/22 67/22 consent [4] 13/13 188/15 188/22 190/73 consent [4] 13/13 188/15 188/22 190/73 consent [4] 13/13 188/15 188/22 190/73 consideration [4] 121/16 165/12 170/19 172/13 consideration [4] 17/16 18/17 17/20 83/13 87/23 106/15 127/17 11/2 13/17 159/11 165/12 170/19 172/13 consideration [4] 17/20 83/13 87/23 175/25 cost [4] 22/24 72/23 175/25 cost [6] 22/25 12/25 13/25 175/25 cost [						
121/21 confirm [1] 124/1 confirmation [1] 124/1 126/14 124/2 126/10 132/4 124/2 126/10 124/2 126/2 126/2 134/12 126/2 126/2 134/12 126/2 126/2 134/12 126/2 126/2 134/2 126/2 1					damaging [1] 112/19	
confirmation [1] 124/1				164/12 173/11 191/20	damn [1] 87/5	
confirmation [1] 126/4 126/16 3215/7 confirmed [4] 73/14 124/22 137/9 152/25 206/15 confirms [1] 108/13 connection [1] 62/9 continued [8] 120/11 102/8 102/9 165/12 conscientious [4] 16/14 36/10 67/22 67/22 67/22 67/22 67/22 67/22 67/23 67/22 67/23 67/24 81/23 81/6 87/8 92/11 98/11 14/5 187/18 207/3 consequences [4] 98/1 114/5 187/18 207/3 consideration [8] 207/3 consideration [4] 112/9 156/12 170/19 172/13 consideration [4] 112/9 156/12 187/13 12/9 156/12 188/12 112/9 156/12 188/12 112/9 156/12 188/12 112/9 156/12 188/12 112/9 156/12 188/12 112/9 156/12 188/12 112/9 156/12 188/12 112/9 156/14 18/14 112/9 156/14 18/14 112/9 15						
126/4 confirmed [4] 73/14 124/20 146/18 215/7 confirms [1] 108/13 connection [1] 62/9 cons [5] 52/23 101/13 102/8 102/9 165/12 conscientious [4] 154/21 154/23 198/6 107/8 108/13 206/8 consensus [7] 38/24 81/23 87/6 87/8 92/11 98/1 114/5 187/18 207/3 consequences [4] 98/1 114/5 187/18 207/3 consequences [4] 98/1 114/5 187/18 207/3 consideration [8] 33/15 122/25 155/17 159/1 165/12 70/19 172/13 consideration [4] 11/18 consideration [4] 11/18 consideration [4] 11/18 consideration [4] 11/18 consideration [4] 15/19 158/01 158/						
confirmed [4] 73/4 124/20 146/18 215/7 confirms [1] 108/13 connection [1] 62/9 cons [5] 52/23 101/13 102/8 102/9 165/12 conscientious [4] 16/14 36/10 67/22 67/22 consensus [7] 38/24 81/23 87/6 87/8 92/11 97/13 206/8 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 111/8 156/9 158/21 111/9 172/24 206/15 continue [1] 102/4 continue [1] 122/24 continue [1] 122/25 25/14 25/17 27/15 25/14 25/17 27/15 25/14 25/17 27/15 25/14 25/17 27/15 25/14 25/17 27/15 27/16 27/20 36/15 27/16 27/2						
124/20 146/18 215/7 confirms [1] 108/13 connection [1] 62/9 cons [5] 52/23 101/13 102/8 102/9 165/12 conscientious [4] 16/14 36/10 67/22 67/22 67/22 consensus [7] 38/24 81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 11/2/8 156/9 158/21  124/20 146/18 215/7 confirms [1] 102/3 15/17 20/20 21/19 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/25 24/3 25/3 25/10 23/27 27/15 20/26 15/27 27/15 20/	confirmed [4] 73/14					
connection [1] 62/9 cons [5] 52/23 101/13 102/8 102/9 165/12 conscientious [4] 16/14 36/10 67/22 67/22 consensus [7] 38/24 81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 11/2/8 156/9 158/21 11/2 8/16 11/2 8/16/14 11/2 8/16/9 158/21 8/17 8/18 13/2 11/2 8/18 13/2 11/2 11/2 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/2 8/16/9 158/21 11/						
consideration [1] 62/9 continued [8] 120/11 154/23 198/6 27/16 27/20 36/15 102/8 102/9 165/12 conscientious [4] 16/14 36/10 67/22 67/22 consensus [7] 38/24 81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 206/8 consent [4] 13/13 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 11/8 156/9 158/21 11/8 156/9 158/21 11/8 156/9 158/21 11/8 156/9 158/21 11/8 156/9 158/21 11/18						
102/8 102/9 105/12 conscientious [4] 154/21 154/23 198/6 198/9 198/10 198/11 154/21 154/23 198/6 198/9 198/10 198/11 154/21 154/22 50/4 267/22						
102/8 102/9 105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/12   105/13   105/12						
198/11   1						
consensus [7] 38/24 81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 112/8 156/9 158/21  continues [2] 121/5 61/23 62/2 63/3 63/9 64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 contracted [2] 18/21 81/4 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 Contracted [1] 128/25 contracted [1] 128/25 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 112/8 156/9 158/21  121/6 61/23 62/2 63/3 63/9 64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 Crank [2] 51/25 153/11 created [2] 18/21 81/4 175/14 177/11 dates [3] 5/21 178/4 decide [9] 10/19 175/14 177/11 120/4 177/1 120/4 177/1 120/4 177/1 120/9 64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 Crikey [1] 166/2 Crises [1] 4/20 Crises [1] 4/20 Crises [1] 4/20 Critical [7] 29/4 29/12 30/13 54/25 159/20 159/20 165/14 Criticising [1] 163/20 Criticism [1] 123/1 64/10 61/2 132/10 64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 88/12 187/3 87/4 100/6 151/5 163/12 164/1 175/14 177/11 decide [9] 10/19 181/2 184/1 177/11 120/9 128/6 129/20 132/25 153/11 175/14 177/11 120/9 145/16 Contracted [1] 128/25 175/17 131/11 136/4 146/16 Criceted [2] 18/21 81/4 175/14 177/11 175/14 177/1			44/17 45/22 50/4		72/6 77/18 78/11	143/23
consensus [7] 38/24 81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 112/8 156/9 158/21 13/13 13/14 13/14 146/16 12/8 156/9 158/21 13/6 12/9 158/15 13/6 12/9 158/15 13/6 12/9 158/15 13/6 13/9 14/9 13/6 13/9 15/9 15/9 15/9 15/9 15/9 15/9 15/9 15			52/15 52/23 61/21			
81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 112/8 156/9 158/21 172/8 158/18 172/8 158/18 172/9 158/9 172/9 158/9 172/9 17		121/6	61/23 62/2 63/3 63/9			
97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4] 11/8 187/8 11/8 156/9 158/21 12/8 15/8 15/19 12/8 15/8 15/19 12/8 15/19 166/2 13/8 15/19 166/2 13/8 15/19 166/2 13/8 15/19 166/2 13/8 15/9 1/9 16/6 13/8 17/9 1/9 16/6 13/8 16/6 13/8 17/9 1/9 16/6 13/8 16/6 13/8 17/9 1/9 1/9 14/8 9/410 9/416 17/8 16/2 17/8 18/19 16/8 17/9 1/9 18/8 15/8 18/9 16/2 18/9 16/2 18/9 16/9 18/9	consensus [7] 38/24					
consent [4] 13/13         188/15 188/22 190/7       141/18       94/8 94/10 94/16       Grikey [1] 166/2       178/8       David [1] 58/16       39/10 39/10 87/8         207/3       consider [8] 33/15       120/17       120/17       112/19 115/18 125/10       criteria [3] 93/23 94/3       146/16       Davies [1] 129/21       13/15 18/3       166/17 18/5 139/12         122/25 152/25 155/17 159/1 165/12 170/19 172/13       145/16       145/16       157/17 158/5 169/22       157/17 158/5 169/22       157/17 158/5 169/22       157/17 158/5 169/22       159/20 165/14       20/13 24/20 28/2 33/4       28/7       44/12 44/21 45/16       45/16 45/17 61/14       45/16 45/17 61/14       39/1 39/6 39/6 39/12         12//8 156/9 158/20       13/18 23/20       11/19 23/2       15/13 6/20 11/12 23/21       184/1 184/6 184/11       184/20 193/10 195/6       159/20 165/14       16/14 106/4 106/4       45/16 45/17 61/14       39/1 39/6 39/6 39/12         12//8 156/9 158/20       13/12 23/21       184/20 193/10 195/6       184/20 193/10 195/6       18/20       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 20/12 20/12       18/13 2		continuing [3] 97/7	64/19 69/3 69/7 74/14			
contracted [1] 128/25   95/23 96/3 97/19 98/6   107/8 108/2 108/17   129/21	81/23 87/6 87/8 92/11	continuing [3] 97/7 120/4 177/2	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18	created [2] 18/21 81/4	175/14 177/11	190/9
consequences [4]         contracting [2]         73/11         107/8 108/2 108/17         crisis [2]         6/13 18/23         Davies [1]         129/21         105/1 118/5 139/12           207/3         consider [8]         33/15         120/17         121/19 115/18 125/10         criteria [3]         93/23 94/3         146/16         18/13 20/12 20/12         163/15 166/7 166/17         166/17 166/17         deciding [2]         37/23           122/25 152/25 155/17         159/1 165/12 170/19         145/16         157/17 158/5 169/22         157/17 158/5 169/22         30/13 54/25 159/20         23/3 26/12 28/8 33/1         33/1 34/1 34/4 37/12         188/7         46cision [37]         9/4 9/5           172/13         consideration [4]         112/8 156/9 158/21         184/1 184/6 184/11         184/2 193/10 195/6         184/1 184/6 184/11         184/2 193/10 195/6         45/16 45/17 61/14         45/16 45/17 61/14         39/1 39/6 39/6 39/12           12/8 156/9 158/21         13/18 23/10         13/18 23/10         13/18 23/10         13/18 23/10         13/18 23/10         13/18 23/10         13/18 23/10         13/18 32/10         13/18 32/10         13/18 32/10         13/18 32/10         13/18 32/10         13/18 32/10         13/18 32/10         13/18 32/10         13/18 23/10         13/18 32/10         13/18 32/10         13/18 32/10         13/1	81/23 87/6 87/8 92/11	continuing [3] 97/7 120/4 177/2 contract [2] 50/20	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21	created [2] 18/21 81/4 creating [1] 80/19	175/14 177/11 dates [3] 5/21 178/4	190/9 decide not [1] 164/1
207/3  consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13  consideration [4] 112/9 115/18 125/10 120/17  120/18  120/17  120/17  120/17  120/18  120/17  120/18  120/17  120/18  120/17  120/18  120/17  120/18  120/17  120/18  120/17  120/18  120/17  120/18  120/1	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2	175/14 177/11 dates [3] 5/21 178/4 178/8	190/9 decide not [1] 164/1 decided [10] 10/15
consider [8] 33/15         contributed [2] 114/9         131/7 131/11 136/4         146/16         146/16         145/16         147/5 149/6 153/21         146/16         147/5 149/6 153/21         147/5 149/6 153/	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4]	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8
consider [8] 33/15         122/25 152/25 155/17       145/16       147/5 149/6 153/21       critical [7] 29/4 29/12       23/3 26/12 28/8 33/1       188/7         159/1 165/12 170/19 172/13       51/14 91/17       170/18 172/13 183/20       30/13 54/25 159/20       33/1 34/1 34/4 37/12       44/12 44/21 45/16       13/12 24/20 28/2 33/4         consideration [4] 112/8 156/9 158/21       156/9 158/21       188/7       188/7       44/12 44/21 45/16       45/16 45/17 61/14       39/1 39/6 39/6 39/12         112/8 156/9 158/21       158/20 11/12 23/21       188/20 193/10 195/6       188/20 193/10 195/6       123/12 24/20 28/2 33/4       188/2       188/2	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12
152/25 153/17 159/1 165/12 170/19 172/13     control [3] 22/22 51/14 91/17     157/17 158/5 169/22 170/18 172/13 183/20 170/18 172/13 183/20 184/1 184/6 184/11 184/20 193/10 195/6     30/13 54/25 159/20 159/20 165/14 44/12 44/21 45/16 45/16 45/17 61/14 61/14 106/4     33/1 34/1 34/4 37/12 44/12 44/21 45/16 45/16 45/17 61/14 61/14 106/4     decision [37] 9/4 9/5 13/12 24/20 28/2 33/4 39/1 39/6 39/6 39/12 41/15 51/19 53/8	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11 120/17	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17 112/19 115/18 125/10	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23 criteria [3] 93/23 94/3	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21 day [36] 12/3 18/13	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12 163/15 166/7 166/17
172/13   51/14 91/17   170/18 172/13 183/20   159/20 165/14   44/12 44/21 45/16   45/16 45/17 61/14   13/12 24/20 28/2 33/4   12/8 156/9 158/21   51/13 6/20 11/12 23/21   184/20 193/10 195/6   criticismg [1] 123/1   61/14 106/4 106/4   13/12 24/20 28/2 33/4   45/16 45/17 61/14   61/14 106/4 106/4   61/14 106/	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11 120/17 contributed [2] 114/9	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17 112/19 115/18 125/10 131/7 131/11 136/4	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23 criteria [3] 93/23 94/3 146/16	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21 day [36] 12/3 18/13 18/13 20/12 20/12	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12 163/15 166/7 166/17 deciding [2] 37/23
consideration [4] 5/13 6/20 11/12 23/21 184/20 193/10 195/6 criticism [1] 123/1 61/14 106/4 106/4 139/6 39/6 39/6 39/72	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11 120/17 contributed [2] 114/9 145/16	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17 112/19 115/18 125/10 131/7 131/11 136/4 147/5 149/6 153/21	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23 criteria [3] 93/23 94/3 146/16 critical [7] 29/4 29/12	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21 day [36] 12/3 18/13 18/13 20/12 20/12 23/3 26/12 28/8 33/1	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12 163/15 166/7 166/17 deciding [2] 37/23 188/7
112/8 156/0 158/21   3/13 6/20 11/12 23/21   104/20 193/10 193/6   Criticism [1] 123/1   01/14 100/4 100/4   41/13 31/19 33/6	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11 120/17 contributed [2] 114/9 145/16 control [3] 22/22 51/14 91/17	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17 112/19 115/18 125/10 131/7 131/11 136/4 147/5 149/6 153/21 157/17 158/5 169/22 170/18 172/13 183/20	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23 criteria [3] 93/23 94/3 146/16 critical [7] 29/4 29/12 30/13 54/25 159/20 159/20 165/14	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21 day [36] 12/3 18/13 18/13 20/12 20/12 23/3 26/12 28/8 33/1 33/1 34/1 34/4 37/12 44/12 44/21 45/16	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12 163/15 166/7 166/17 deciding [2] 37/23 188/7 decision [37] 9/4 9/5 13/12 24/20 28/2 33/4
28/7   196/9 196/10   crop [1] 106/8   111/9 111/16 113/19   87/13 87/20 87/22	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11 120/17 contributed [2] 114/9 145/16 control [3] 22/22 51/14 91/17 controversial [6] 4/20	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17 112/19 115/18 125/10 131/7 131/11 136/4 147/5 149/6 153/21 157/17 158/5 169/22 170/18 172/13 183/20 184/1 184/6 184/11	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23 criteria [3] 93/23 94/3 146/16 critical [7] 29/4 29/12 30/13 54/25 159/20 159/20 165/14 criticising [1] 163/20	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21 day [36] 12/3 18/13 18/13 20/12 20/12 23/3 26/12 28/8 33/1 33/1 34/1 34/4 37/12 44/12 44/21 45/16 45/16 45/17 61/14	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12 163/15 166/7 166/17 deciding [2] 37/23 188/7 decision [37] 9/4 9/5 13/12 24/20 28/2 33/4 39/1 39/6 39/6 39/12
	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4]	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11 120/17 contributed [2] 114/9 145/16 control [3] 22/22 51/14 91/17 controversial [6] 4/20 5/13 6/20 11/12 23/21	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17 112/19 115/18 125/10 131/7 131/11 136/4 147/5 149/6 153/21 157/17 158/5 169/22 170/18 172/13 183/20 184/1 184/6 184/11 184/20 193/10 195/6	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23 criteria [3] 93/23 94/3 146/16 critical [7] 29/4 29/12 30/13 54/25 159/20 159/20 165/14 criticising [1] 163/20 criticism [1] 123/1	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21 day [36] 12/3 18/13 18/13 20/12 20/12 23/3 26/12 28/8 33/1 33/1 34/1 34/4 37/12 44/12 44/21 45/16 45/16 45/17 61/14 61/14 106/4 106/4	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12 163/15 166/7 166/17 deciding [2] 37/23 188/7 decision [37] 9/4 9/5 13/12 24/20 28/2 33/4 39/1 39/6 39/6 39/12 41/15 51/19 53/8
	81/23 87/6 87/8 92/11 97/13 206/8 consent [4] 13/13 188/15 188/22 190/7 consequences [4] 98/1 114/5 187/18 207/3 consider [8] 33/15 122/25 152/25 155/17 159/1 165/12 170/19 172/13 consideration [4]	continuing [3] 97/7 120/4 177/2 contract [2] 50/20 141/18 contracted [1] 128/25 contracting [2] 73/11 120/17 contributed [2] 114/9 145/16 control [3] 22/22 51/14 91/17 controversial [6] 4/20 5/13 6/20 11/12 23/21	64/19 69/3 69/7 74/14 76/14 78/5 81/4 83/18 89/14 89/20 89/21 94/8 94/10 94/16 95/23 96/3 97/19 98/6 107/8 108/2 108/17 112/19 115/18 125/10 131/7 131/11 136/4 147/5 149/6 153/21 157/17 158/5 169/22 170/18 172/13 183/20 184/1 184/6 184/11 184/20 193/10 195/6	created [2] 18/21 81/4 creating [1] 80/19 Crikey [1] 166/2 crises [1] 4/20 crisis [2] 6/13 18/23 criteria [3] 93/23 94/3 146/16 critical [7] 29/4 29/12 30/13 54/25 159/20 159/20 165/14 criticising [1] 163/20 criticism [1] 123/1	175/14 177/11 dates [3] 5/21 178/4 178/8 David [1] 58/16 Davies [1] 129/21 day [36] 12/3 18/13 18/13 20/12 20/12 23/3 26/12 28/8 33/1 33/1 34/1 34/4 37/12 44/12 44/21 45/16 45/16 45/17 61/14 61/14 106/4 106/4	190/9 decide not [1] 164/1 decided [10] 10/15 39/10 39/10 87/8 105/1 118/5 139/12 163/15 166/7 166/17 deciding [2] 37/23 188/7 decision [37] 9/4 9/5 13/12 24/20 28/2 33/4 39/1 39/6 39/6 39/12 41/15 51/19 53/8

(62) concerned... - decision

84/14 54/3 54/4 54/20 54/24 detail [9] 60/3 88/8 55/6 89/4 203/8 194/19 195/9 195/17 55/5 55/8 62/12 63/3 103/12 111/24 136/25 Diana Walford [1] 201/14 201/15 210/13 disciplines [1] 150/21 decision... [21] 88/5 63/9 64/3 64/14 64/18 148/13 170/12 191/20 203/8 215/2 discourage [4] 71/8 99/1 106/14 123/20 64/23 65/3 65/3 65/4 191/20 diaries [1] 48/5 die [6] 63/19 154/12 72/19 79/5 123/4 140/5 147/7 154/13 65/8 65/18 65/22 70/4 detailed [5] 60/22 186/11 214/10 214/22 discouraged [1] 74/3 did [112] 5/25 7/9 8/6 161/2 161/10 162/23 70/16 70/21 72/22 77/16 118/20 161/8 9/6 9/15 11/15 13/8 214/23 discouraging [1] 163/4 163/5 165/5 75/7 86/18 87/6 89/3 207/24 died [13] 63/8 63/13 14/2 15/6 16/15 17/9 75/22 166/22 172/8 172/10 95/10 97/12 98/5 details [5] 8/18 63/17 17/13 18/12 19/14 63/20 64/6 81/12 discovered [6] 35/4 182/2 186/18 193/11 98/13 98/18 99/25 63/17 63/24 66/7 20/12 20/23 23/14 128/20 128/25 154/23 46/1 59/20 193/9 206/20 206/21 104/12 105/19 105/25 detect [1] 73/22 30/23 32/17 33/1 33/9 164/21 166/9 167/1 194/23 196/20 decision-making [4] 122/25 134/13 144/19 35/18 39/14 39/15 **detecting [1]** 121/10 195/24 197/10 discretion [15] 49/21 87/13 161/10 172/8 144/23 151/1 152/9 deter [1] 131/25 39/16 44/24 47/5 47/7 difference [5] 19/24 87/9 96/16 99/3 99/5 182/2 161/23 169/1 179/8 determine [1] 109/22 47/8 47/9 47/10 47/14 98/17 109/17 109/20 100/6 102/12 104/22 decisions [20] 11/17 181/14 182/25 184/2 determined [1] 20/5 47/16 47/16 48/13 105/6 105/10 105/11 187/16 12/10 21/17 21/21 189/18 189/21 190/17 develop [1] 8/23 48/23 49/9 53/1 55/6 differences [1] 142/2 106/21 108/24 110/13 29/25 41/22 97/18 190/20 190/22 191/10 developed [1] 121/11 55/12 58/2 58/3 58/7 different [16] 15/6 142/12 99/23 100/24 103/14 33/17 40/20 55/16 191/21 191/23 193/13 developing [1] 182/13 58/11 59/4 59/4 59/11 discrimination [1] 145/21 154/5 161/9 200/13 201/19 201/25 developments [6] 60/2 61/17 63/21 65/16 67/24 87/1 78/5 162/24 172/9 189/11 202/9 203/15 203/16 70/24 123/14 128/16 65/10 67/8 67/8 69/5 98/21 98/21 108/3 discriminatory [1] 189/12 207/20 212/4 204/7 205/19 207/6 130/7 134/12 135/23 69/11 70/9 79/3 81/6 108/3 150/21 178/1 74/15 214/15 207/19 209/16 209/19 devices [1] 194/11 85/16 85/23 88/2 88/9 198/21 212/7 214/13 discuss [5] 57/3 declared [1] 20/18 209/23 210/2 210/11 devil [2] 25/7 54/6 89/10 89/13 89/19 differently [1] 214/8 66/23 83/12 202/12 defence [1] 87/1 210/12 211/8 211/13 devised [1] 155/1 89/21 92/13 98/21 differing [1] 99/18 206/7 defend [2] 24/7 24/8 211/14 214/12 214/19 devising [1] 202/18 103/14 103/16 106/8 difficult [10] 95/22 discussed [8] 67/11 **Deficiency [4]** 72/13 devolution [3] 14/7 109/17 109/20 110/25 97/21 117/19 145/6 94/3 115/14 131/8 Department's [3] 146/13 180/1 180/17 147/5 150/24 199/1 12/15 21/8 133/6 15/1 20/2 113/8 123/6 125/14 153/14 183/25 187/20 **definitely [2]** 63/19 191/22 194/13 212/12 206/24 departmental [1] devolved [1] 14/8 151/5 152/16 155/17 153/7 devoted [1] 202/10 155/25 158/8 159/1 difficulty [1] 184/7 discussing [4] 86/2 213/6 degree [4] 6/17 11/16 departments [4] 2/5 **DH** [1] 192/21 160/13 160/15 165/15 95/4 189/2 206/9 digital [1] 57/17 21/17 66/8 42/18 203/14 214/2 DHSC00 [1] 84/20 182/9 185/23 187/20 diminished [1] 52/11 discussion [18] 17/6 delay [12] 88/13 DHSC0000188 [1] 192/9 192/12 192/13 dinner [1] 47/22 38/21 72/8 85/4 85/18 depend [2] 56/11 88/16 89/12 113/18 60/4 dinners [2] 47/19 163/22 193/6 194/6 194/7 87/21 101/23 115/3 114/10 121/12 127/12 dependence [1] 60/13 DHSC0001208 [2] 195/8 195/14 197/4 47/20 144/21 151/3 155/24 131/6 136/3 143/11 dependent [1] 193/8 156/6 167/7 200/13 203/8 203/22 direct [6] 104/23 200/7 201/14 205/6 144/6 144/14 depends [3] 63/17 DHSC0001511 [1] 204/10 205/1 205/3 105/7 106/6 117/23 205/25 206/24 208/12 delaying [1] 143/14 65/6 210/19 205/23 206/8 206/11 143/9 208/12 78/8 212/5 delegate [1] 179/1 depth [1] 41/19 DHSC0002239 [1] 206/14 210/2 210/11 directions [3] 24/3 discussions [18] 9/7 deleted [1] 139/5 deputy [2] 12/14 29/3 210/20 214/17 38/22 42/13 63/12 115/9 25/23 25/25 deliberately [1] derived [3] 157/25 DHSC0002309 [19] didn't [85] 7/17 9/2 directly [8] 9/3 10/4 66/8 68/5 124/6 174/15 69/20 71/24 71/25 10/19 11/5 14/6 17/11 10/13 61/14 66/13 150/20 184/8 185/15 164/5 167/13 deliberations [2] described [17] 20/21 72/4 77/19 77/23 68/4 165/7 200/25 205/4 205/24 206/1 19/23 21/11 24/15 179/14 181/21 28/18 28/18 71/16 107/8 116/10 124/17 27/1 27/2 29/15 30/7 director [6] 104/2 206/3 208/6 208/8 delivering [1] 116/2 71/22 78/15 88/13 125/22 128/5 130/23 30/12 30/14 30/15 104/3 105/8 156/22 208/19 212/3 delivery [1] 28/2 88/16 88/19 88/24 132/24 134/24 136/17 33/10 35/4 35/21 179/3 179/9 disease [19] 16/13 demand [1] 196/22 91/12 93/16 102/10 139/17 175/12 177/10 35/23 35/25 36/1 directors [37] 72/18 21/3 31/22 33/23 dentists [1] 16/24 73/24 74/20 79/12 139/25 155/3 165/10 178/7 37/10 41/3 44/23 34/11 53/23 71/4 73/8 denying [1] 210/8 212/2 DHSC0002321 [3] 48/15 48/15 53/1 86/24 87/1 87/7 87/9 73/11 114/8 120/15 department [128] 92/10 94/2 95/9 96/16 describes [1] 146/22 83/14 90/18 110/11 59/10 64/4 65/9 65/14 120/17 141/18 146/5 1/17 1/18 1/25 2/6 3/7 describing [2] 34/21 DHSC0002323 [2] 66/15 67/19 68/20 98/20 99/3 99/5 99/14 146/9 149/12 194/5 3/8 8/19 10/8 11/22 134/5 129/19 138/10 69/7 76/16 76/25 77/1 99/20 100/5 100/9 205/10 214/16 12/6 13/6 14/1 14/2 description [3] 16/20 DHSC0002327 [4] 80/25 81/1 82/18 83/8 100/21 101/2 101/7 disgrace [1] 8/14 16/5 16/7 16/15 16/22 16/21 23/16 92/18 106/16 108/19 84/3 84/10 85/25 86/1 102/13 104/21 105/13 disgraceful [1] 7/3 16/25 17/9 17/10 **desirable [3]** 78/3 86/22 89/16 90/9 105/16 106/5 106/21 dismissed [1] 152/11 133/17 18/12 18/15 18/16 97/23 133/12 DHSC0004764 [1] 90/11 92/1 92/6 92/10 107/2 107/25 108/24 dismissing [1] 97/16 18/17 20/13 21/12 disorders [1] 48/24 desk [2] 8/21 38/6 140/25 103/5 103/11 104/15 109/7 109/9 114/13 21/16 21/19 22/18 desks [1] 43/19 DHSS [7] 2/3 15/23 105/1 109/16 112/8 115/20 119/13 142/12 dispute [1] 52/6 23/25 25/21 26/2 desmopressin [1] 107/1 146/3 161/12 114/2 122/17 127/5 Directors' [2] 99/16 disputes [1] 49/23 26/17 27/15 28/19 175/21 208/4 144/13 152/18 155/16 111/1 dissemination [1] 200/8 28/25 29/17 36/25 despite [1] 48/16 diagnosis [2] 146/16 156/4 160/16 160/20 disagree [3] 67/20 54/17 40/9 40/10 40/22 41/4 destroy [1] 82/19 150/8 160/21 163/8 163/8 163/13 183/5 dissenting [1] 159/7 41/16 46/4 47/1 50/9 destroyed [1] 92/20 Diana [9] 29/16 30/4 165/14 169/8 183/18 disagreed [5] 50/6 dissuaded [1] 121/9 50/13 51/7 51/8 52/18 83/18 83/19 84/12 destroying [1] 188/1 31/6 32/22 35/1 36/7 184/8 184/21 187/1 distance [3] 64/9

(63) decision... - distance

	T
D	
distance [2] 125/1	
144/9 distinct [3] 2/3 89/18	
184/5	
distinguished [1] 215/5	
distribute [3] 89/6	
106/21 113/12 distributed [14] 72/24	
85/4 85/9 85/17 87/5	
90/11 110/5 113/5 115/15 119/19 124/23	
141/8 142/11 150/19	
distributing [2]	
113/11 132/5 distribution [33]	
22/20 70/17 75/8	
85/16 91/17 93/6 93/16 93/19 94/1	
94/19 95/2 96/18	
96/21 99/13 100/7 101/10 112/1 113/6	
113/15 113/17 115/21	
115/25 116/4 116/5 118/14 119/14 123/19	
123/24 124/3 130/9	
134/15 136/7 136/16	
district [4] 7/14 22/21 25/4 26/1	
disturbing [1] 193/21	
<b>divided [6]</b> 4/24 86/19 86/24 92/11 98/5	
105/17	
<b>division [20]</b> 11/22 29/4 30/8 84/24 85/23	
98/11 98/11 98/17	
107/18 111/2 129/21 130/22 132/3 133/1	
135/5 135/14 135/19	
135/20 136/19 168/3	
<b>Division's [2]</b> 117/5 132/17	
divisions [3] 98/15	
114/16 136/23 <b>do [141]</b> 3/15 3/17	
5/17 10/7 11/10 11/13	
11/20 11/24 12/10 13/15 14/9 14/19	
15/11 17/4 17/11	
19/21 19/25 21/12 22/12 25/22 26/9 26/9	
27/7 29/14 31/13	
34/20 38/7 38/14 39/8 41/12 42/2 43/9 43/11	
43/11 44/13 44/24	
47/7 53/9 54/7 54/21	
55/19 56/11 56/11 57/25 61/8 62/1 62/8	
62/20 63/16 65/6	
66/14 67/1 68/15 69/1	
	١

69/7 69/15 72/1 76/3 81/9 84/7 84/9 85/22 87/2 87/3 87/9 88/2 88/6 88/7 88/9 91/23 92/25 97/22 103/22 104/9 107/21 108/4 109/15 112/15 114/1 114/9 121/15 123/8 127/9 129/8 131/10 138/9 151/5 154/4 157/17 161/17 162/14 166/4 167/4 167/11 169/16 169/22 170/4 171/14 172/2 172/17 173/14 177/21 177/22 181/8 183/14 183/20 184/14 186/4 186/11 186/13 186/21 187/13 187/25 189/1 190/6 191/8 191/21 192/17 198/1 200/7 200/18 201/9 201/19 203/13 203/15 206/1 206/24 206/24 207/18 207/20 208/12 209/1 210/13 211/7 213/5 213/9 213/16 213/22 214/9 214/21 215/4 **Docs** [1] 108/15 doctor [13] 12/5 13/10 doesn't [16] 11/24 13/11 26/4 49/13 49/22 51/15 53/22 54/2 54/6 146/9 152/14 195/11 doctor-patient [1] 13/10 doctors [28] 17/6 27/8 27/10 33/5 47/21 47/24 47/25 48/9 49/4 50/1 50/12 51/4 51/13 53/10 54/19 65/1 183/8 183/9 183/17 187/1 190/4 190/12 190/13 191/1 196/23 201/3 202/1 207/2 doctors' [1] 154/5 document [35] 44/6 46/15 60/5 69/15 70/4 dominant [1] 61/16 71/7 71/8 72/1 76/19 dominated [1] 22/1 80/14 85/1 91/6 97/14 don't [168] 1/5 5/16 101/19 102/18 103/25 105/4 105/5 110/16 115/8 117/20 126/1 126/22 128/15 129/18 130/24 134/24 140/18 142/17 145/25 151/19 151/22 160/14 161/7 213/4 document in [1] 160/14 documentary [4]

59/14 59/17 162/8

204/19

43/22 43/23 45/24

46/2 46/5 46/8 46/9

62/21 62/24 63/15

63/22 64/12 71/16

85/22 86/21 87/15

90/14 90/16 91/23

92/15 93/13 95/16

102/5 103/19 105/14

112/23 114/16 115/2

119/2 124/10 126/20

142/3 144/9 144/16

151/21 164/5 169/5

206/11 212/7

does [28] 2/20 3/1

16/22 27/12 30/20

90/25 99/7 99/8

175/23 192/20 192/23

198/15 204/11 204/14

32/4 46/5 51/17 68/17

106/25 117/15 143/13

143/21 148/16 151/4

158/20 169/4 169/6

170/23 177/1 177/18

182/22 191/7 191/10

**Does it [1]** 191/10

15/19 62/25 70/5

80/24 82/21 90/2

116/19 142/22 164/13

169/11 171/6 173/9

187/12 190/5 209/23

doing [28] 4/16 27/2

34/5 37/3 37/6 42/9

48/11 63/11 66/15

68/25 68/25 69/1 69/2

104/13 166/15 168/24

208/23 208/23 213/14

domestic [1] 144/23

dominance [1] 20/10

188/1 193/14 207/4

domain [1] 27/16

5/16 10/19 10/25

11/25 13/2 14/16

14/24 14/25 15/6

25/24 28/9 29/18

30/24 31/14 31/16

41/10 41/16 41/17

42/23 45/13 46/22

46/25 47/7 47/8 48/3

48/4 48/6 48/25 51/5

51/14 54/13 54/19

33/8 33/9 35/23 39/20

15/18 17/20 25/24

67/5 67/15 67/17

71/17 79/4 87/18

209/19

71/18 81/5 85/3 85/19

54/19 57/17 57/19 documents [50] 43/20 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 69/5 71/7 71/23 73/3 76/2 77/10 77/11 81/10 84/4 84/7 86/5 87/17 89/5 91/20 93/15 95/15 97/25 100/2 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/3 113/10 113/18 117/17 121/14 123/12 124/14 125/19 127/21 127/24 129/10 129/16 131/13 131/18 133/19 138/5 140/14 140/18 144/10 144/14 144/16 145/1 145/12 149/7 150/15 150/16 152/10 153/15 156/3 157/18 159/6 159/13 159/25 162/2 162/7 162/21 163/4 163/25 165/18 166/16 170/9 171/4 171/24 174/6 177/9 179/14 179/16 181/22 184/21 184/22 185/19 186/12 187/2 187/2 187/3 189/5 191/1 192/12 193/12 195/13 197/13 198/13 199/5 199/23 200/20 200/22 200/24 201/1 201/13 204/8 206/18 206/19 206/20 206/23 208/10 208/19 209/2 209/3 209/24 210/1 210/11 210/12 210/20 211/24 213/2 214/21 215/1 215/2 215/10 **Donald [11]** 16/10 26/7 30/2 31/6 31/10 33/9 35/9 35/12 35/12 36/8 36/10 donate [4] 74/17 76/18 76/22 119/8 donated [3] 92/4 147/1 147/18 donating [6] 74/3 74/14 75/24 77/11 180/18 191/17 donation [10] 71/4 72/22 89/13 94/21 95/24 96/2 96/8 96/9 97/2 134/5 donations [10] 59/21 59/21 89/23 93/21 120/24 121/3 154/2 194/18 194/25 196/21 done [36] 11/8 20/13

22/17 25/25 34/13 34/18 34/18 34/21 69/7 69/10 75/14 76/16 79/14 101/17 112/20 114/19 129/3 154/22 158/14 169/22 170/21 171/16 172/8 183/15 184/1 186/8 190/20 190/22 191/23 197/5 209/16 209/17 209/17 209/18 210/4 210/13 done' [1] 138/24 donor [13] 47/12 47/13 73/23 94/4 94/9 95/21 96/1 96/6 97/1 106/7 120/8 121/2 121/23 donors [55] 61/24 69/13 73/13 74/1 74/4 74/14 76/18 79/20 80/2 80/20 81/7 82/5 82/18 86/3 93/21 94/10 94/11 94/16 94/20 95/22 96/3 96/4 98/2 104/6 112/5 115/16 115/18 119/15 119/17 119/20 119/25 120/5 120/7 120/9 120/19 121/7 123/4 123/7 123/8 123/17 131/5 131/24 133/10 141/8 141/14 141/17 141/20 149/20 149/22 167/22 176/11 177/18 180/16 180/19 185/22 donors' [4] 118/11 134/2 135/4 141/6 dotting [1] 157/10 doubt [9] 55/21 88/11 110/15 153/12 194/8 197/21 204/9 213/8 213/23 doubts [1] 196/19 down [14] 3/25 8/16 38/4 40/15 59/23 62/7 71/11 83/23 123/12 159/3 170/12 179/19 202/16 202/17 downsides [1] 53/24 dozen [3] 26/21 37/20 83/22 Dr [33] 29/2 35/12 70/15 70/19 71/25 78/19 84/25 88/13 88/16 88/24 115/10 115/12 115/23 128/6 131/2 133/7 134/18 135/1 135/1 142/25 143/2 146/2 146/8 147/10 149/11 151/1 151/2 151/2 151/3

179/2 205/13 205/14 212/17 Dr Abram's [1] 133/7 **Dr Abrams [2]** 131/2 135/1 **Dr Abrams' [2]** 134/18 135/1 **Dr Alison [1]** 115/10 **Dr Donald [1]** 35/12 **Dr Field [2]** 151/1 151/2 Dr Galbraith [1] 212/17 Dr Galbraith's [1] 205/14 **Dr Gunson [1]** 179/2 **Dr lan [1]** 146/2 **Dr Nicol [1]** 146/8 **Dr Oliver [2]** 78/19 84/25 **Dr Smithies [3]** 128/6 142/25 143/2 **Dr Spence [1]** 147/10 Dr Spence Galbraith **[3]** 149/11 151/3 205/13 Dr Walford [7] 70/15 71/25 88/13 88/16 88/24 115/12 151/2 Dr Walford's [1] 70/19 draft [12] 71/22 74/9 125/23 130/10 130/16 130/21 131/22 132/15 132/17 132/22 140/3 161/24 drafted [6] 79/16 79/23 107/3 130/2 130/19 161/22 drafting [2] 77/16 117/16 drafts [2] 132/15 135/6 dramatic [1] 154/1 dramatically [2] 154/9 214/13 drastic [1] 201/9 draw [5] 12/21 32/3 33/17 110/10 176/25 drawing [1] 32/15 drawn [5] 33/21 34/8 122/2 150/13 185/11 dreadful [1] 184/18 drew [1] 47/2 drop [2] 164/3 197/13 dropped [1] 19/1 drug [5] 141/12 149/19 158/1 167/18 drugs [2] 50/3 141/13 **DSS [1]** 18/3 **Dudley [2]** 80/8 82/25 due [4] 99/22 100/23

(64) distance... - due

-					
D	125/8 143/13 152/18	enormously [3] 7/15	47/24	171/19 173/18 178/21	162/18 164/16 164/19
	162/10 172/7 184/1	54/23 76/9	event [9] 34/22 64/21	185/8 194/9 197/9	165/16 202/7
due [2] 148/10	189/14 189/18 209/16	enough [7] 39/19	132/13 140/15 140/23	203/10 208/11 208/14	expertise [6] 30/16
173/11	elective [2] 199/18	139/1 158/19 174/12	140/25 152/23 168/19	210/9	31/17 32/16 33/18
dump [1] 168/22	199/23	174/20 188/21 197/17	179/18	evident [1] 99/15	192/25 202/25
dumped [4] 168/21	electronically [1]	enough you [1]	events [6] 14/13 36/5	exact [2] 18/25 145/7	experts [11] 32/9
170/15 172/12 172/16	15/18	39/19	69/18 70/8 130/18	exactly [11] 34/13	32/12 33/17 34/5
dumping [2] 174/15	eliminate [1] 200/4	enquired [1] 203/19	205/8	42/8 91/7 117/17	159/18 161/16 161/18
174/16   during [8] 5/1 39/13	eliminated [3] 120/24	enquiries [1] 65/17	eventually [8] 9/21	121/18 124/12 127/17	166/17 191/4 205/18
48/21 96/7 100/9	121/3 121/24	ensure [10] 51/8	11/3 20/18 20/19	139/14 140/14 151/9	215/5
175/22 198/10 198/12	else [13] 16/25 38/10	95/22 101/3 104/4	102/1 193/3 194/20	192/7	explain [11] 18/5 31/8
duties [3] 23/22 47/4	42/13 46/20 49/18	121/7 135/23 136/4	202/4	examination [1] 74/6	65/20 67/4 86/6
213/13	56/21 58/9 127/16	141/7 175/23 176/14	ever [57] 6/12 7/20	<b>example [8]</b> 9/10 19/3	109/13 127/24 145/17
duty [7] 31/1 101/2	127/23 143/18 158/8	ensuring [2] 150/3	7/23 8/20 9/14 20/8	51/21 59/14 60/4	148/22 190/6 192/7
101/9 105/4 189/23	163/17 173/10	186/15	25/24 27/5 28/11	180/19 199/8 199/13	<b>explained [3]</b> 5/23
190/8 213/12	<b>Elstree [1]</b> 193/16	<b>entering [1]</b> 52/5	30/25 40/25 41/3	exasperates [1]	195/15 213/18
dying [2] 188/4 193/3	Elton [1] 5/5	entire [3] 9/12 48/8	44/12 47/6 47/9 47/14	207/11	explaining [3] 48/11
	emails [1] 37/10	106/4	48/23 48/25 52/13	exceeds [1] 150/7	188/16 209/24
E	emanating [1] 175/10	entirely [3] 26/14	52/15 68/15 84/8	excellence [1] 8/17	explains [1] 118/8
each [11] 4/10 43/13	embarrassment [4]	49/21 126/20	87/20 105/7 106/8	Excellent [1] 93/22	explanation [1]
43/16 53/19 60/12	94/17 94/22 96/3 96/9	entitled [3] 13/11	125/10 145/1 149/7	except [2] 106/7	125/19
67/3 69/2 87/2 88/25	embracing [1] 4/19	52/10 128/16	150/15 150/16 156/3	199/16	explicit [2] 141/10
138/8 149/20	emerged [3] 31/23	epidemic [1] 148/9	162/2 163/25 188/20	exchange [3] 87/21	141/25
ear [1] 211/16	64/10 195/22	epidemiologists [1]	190/1 198/13 199/4 200/4 200/13 200/21	182/23 204/16	explore [7] 21/15
earlier [8] 49/3 105/12	emerging [2] 21/3 52/21	33/16 equal [1] 19/12	201/2 202/21 205/2	exchanging [1] 182/16	39/13 69/9 81/17 153/1 183/21 185/3
121/18 184/8 189/6	emphasis [3] 82/3	equally [1] 92/11	205/3 205/9 205/23	excited [3] 52/8 98/3	exploring [1] 104/18
193/9 198/2 208/22	82/4 82/6	equivalent [2] 86/8	206/19 206/21 208/12	140/24	exposure [1] 199/25
earliest [1] 78/2	emphasise [8] 79/17	199/16	208/15 208/16 208/21	excitement [1] 127/22	express [1] 197/17
early [9] 19/8 54/25	79/20 79/25 80/10	Err [2] 98/15 144/7	209/6 209/7 211/4	executive [1] 28/13	expressed [4] 94/6
62/3 75/2 131/1 147/5	82/9 83/1 83/6 134/12	escape [2] 210/1	215/1 215/2	exercise [3] 16/18	104/6 145/23 212/15
151/17 185/15 197/24	emphasised [1]	211/24	every [26] 18/14	104/21 119/11	expressing [4] 82/2
earth [1] 53/22	103/10	especially [1] 180/7	18/22 19/1 22/11 23/1	exercised [1] 105/9	90/10 101/18 102/23
ease [1] 70/20	employed [6] 50/12	essentially [5] 132/22		exert [2] 21/16 21/19	extent [7] 32/14 64/13
easier [2] 33/19 124/9	50/16 50/17 50/19	135/6 182/25 183/14	34/1 36/25 37/12	exist [2] 162/13	145/12 169/11 193/24
easier to [1] 33/19	50/22 50/24	202/24	40/25 45/16 46/15	182/22	198/8 199/3
easiest [1] 108/18 easily [1] 167/5	employer [2] 6/11	establish [1] 78/22	68/17 68/22 70/4 70/6	<b>existence</b> [1] 156/3	extracts [2] 95/12
easy [3] 92/24 114/4	50/25	established [2] 18/6	87/20 113/19 124/12	expect [14] 32/13	95/17
153/5	empt [1] 74/20	85/7	130/24 181/17 193/25	32/14 33/13 34/19	extremely [4] 6/20
eccentric [1] 51/15	enable [2] 60/17	establishment [2]	194/1	36/14 45/22 56/19	7/17 92/1 215/5
edge [1] 8/25	186/17	18/2 18/7	everybody [8] 33/24	64/18 64/23 64/25	eye [3] 111/10 111/17
education [2] 16/14	encountered [2]	estimated [1] 72/23	88/4 95/5 110/5	65/17 65/19 164/6	174/17
17/13	64/23 65/2	et [2] 138/19 158/1	144/18 200/18 211/4	170/16	<b>eyebrows [1]</b> 40/1
effect [9] 9/15 56/9	encouraged [1] 112/2		214/12	expectancy [7] 154/9	F
89/20 104/8 121/13	end [22] 13/9 13/10	et cetera' [1] 138/19	everyone [3] 69/17	187/17 188/2 195/23	
121/25 134/15 181/23	22/25 31/9 38/25 39/4	etc [1] 107/22	111/10 111/17	197/12 197/18 197/22	face [1] 209/2 faced [2] 154/14
201/9	39/21 40/3 81/23	Europe [12] 6/10 6/11		expectation [1]	187/24
effective [6] 93/20	83/16 83/21 87/22	74/9 79/10 176/7 178/19 178/25 181/20	7/8 10/9 16/25 20/12	171/21 expected [13] 12/4	facetted [1] 41/22
94/19 95/2 96/20	88/2 88/5 99/7 115/6 142/6 142/7 142/15	181/22 182/18 182/20		44/9 46/15 58/6 63/2	fact [22] 31/11 41/24
100/7 123/23	147/24 165/3 211/10	192/9	207/18 209/7 211/12	63/8 94/8 150/8	48/25 63/18 82/10
effectively [7] 132/15	ended [3] 112/15	Europe's [1] 175/11	evidence [42] 39/13	162/23 163/1 165/9	100/11 102/4 102/22
133/14 134/20 135/17	142/6 142/14	European [2] 178/11	55/23 56/13 56/13	170/13 208/7	103/8 106/4 128/1
142/5 143/9 177/22	endorse [1] 130/5	182/19	56/18 56/19 57/2 57/3		138/5 149/23 153/13
effects [2] 76/14	enforcing [1] 23/1	even [20] 4/23 7/3	63/11 63/14 66/11	experience [6] 24/14	156/25 162/4 168/6
122/13	engaged [1] 38/2	23/2 30/12 37/9 41/4	66/15 66/16 66/20	24/19 47/11 106/4	179/2 181/7 182/3
Efforts [1] 158/22	England [7] 14/3 14/3	52/2 65/9 83/24 84/1	73/5 73/19 81/18	106/24 118/10	206/13 211/21
eight [1] 26/21	14/4 14/5 14/6 15/23	92/3 106/20 127/11	98/18 98/19 115/17	expert [20] 29/6 29/9	factor [60] 33/4 33/6
eighties [3] 21/15 23/19 197/24	118/15	127/23 154/1 165/21	122/7 145/2 145/25	30/17 32/6 32/8 33/10	58/22 60/10 60/17
either [15] 14/21 38/6	England's [1] 14/22	166/19 169/2 201/5	150/12 150/23 152/17	33/11 34/2 42/1	60/22 60/24 61/8
49/5 56/2 73/7 92/11	enjoyed [1] 154/25	209/4	155/21 156/18 161/25	131/14 133/6 153/8	63/21 64/7 70/25 73/9
.0,0 00/2 10/1 02/11	enormous [1] 4/14	evening [2] 38/7	164/12 165/11 168/25	156/23 157/4 159/7	73/12 81/11 120/22

(65) due... - factor

F	54/15	finally [1] 193/12	flung [1] 182/7	frightfully [2] 53/11	front [2] 38/5 60/5
<del></del>	far [19] 6/19 10/5 22/2		follow [6] 14/22 62/20	88/11	full [10] 14/7 37/21
factor [45] 121/1	22/11 47/5 54/14	117/6	69/17 77/17 106/14	fringe [2] 52/4 182/22	79/24 144/14 145/12
146/14 146/19 147/24	59/12 76/11 88/23	financing [1] 28/2	128/4	fringes [1] 52/12	192/2 205/3 205/24
148/1 148/2 148/18	98/11 98/12 107/19	find [23] 15/12 25/7	followed [5] 60/2	from [186] 1/9 1/19	206/1 208/6
149/16 154/3 154/7 154/12 154/14 160/3	122/8 144/24 166/18	40/6 40/7 41/4 41/13	62/18 156/15 175/25	2/1 2/7 3/1 5/12 6/1	full-time [1] 37/21
167/12 168/12 168/13	169/5 170/22 185/17	42/2 63/3 63/9 64/15	188/17	7/8 8/24 12/8 16/20	fully [4] 117/17 187/8
170/1 177/2 180/6	212/18	64/18 64/24 71/19	following [3] 136/18	18/3 18/19 20/9 29/1	190/7 200/22
183/19 183/20 184/10	fascinating [1] 87/25	151/7 151/10 152/18	157/7 216/3	30/25 32/7 35/4 36/14	functions [1] 11/21
184/24 186/14 186/19	fashion [1] 155/4	157/11 166/11 182/12	follows [1] 110/24	37/12 46/7 46/16	funding [7] 21/20
187/2 187/4 187/15	fatal [2] 31/24 62/5	184/8 187/20 188/21	Food [2] 167/18 168/7	46/19 47/17 48/1	21/23 21/25 23/25
187/19 187/23 187/24	fault [3] 207/23	207/23	football [1] 196/9	48/24 53/6 53/18	70/16 73/2 75/6
193/22 195/10 195/16	210/17 210/18	finding [2] 34/10	foreign [1] 60/13	53/23 54/18 54/24	Funds [1] 72/22
196/3 196/17 196/18	FDA [1] 167/16	65/23	foresaw [1] 145/13	55/10 56/22 58/23	further [9] 51/22 70/2
196/22 197/23 198/5	feared [1] 107/21	finds [1] 28/6	forget [1] 61/17	59/5 59/6 60/11 61/6	70/23 123/12 136/24
200/20 201/8 204/3	fears [3] 77/9 108/13	fine [3] 140/13 213/19	140/17	61/23 62/11 62/13	139/25 148/13 173/17
208/13 210/9	119/23 feasibility [4] 171/23	215/22 finely [1] 106/22	forgotten [10] 14/14	63/2 63/15 63/22 68/1 68/4 69/22 70/8 70/19	179/19 Furthermore [1]
factor VIII [56] 33/4	173/15 173/16 173/25	finish [5] 44/23 158/2	80/16 102/14 105/2	71/9 71/25 72/21 73/7	149/24
33/6 58/22 60/10	feasible [11] 158/4	189/16 204/11 204/14	105/3 109/8 110/12	73/7 73/12 74/3 74/14	fury [1] 154/15
60/17 60/22 60/24	158/7 158/17 168/4	finished [3] 44/17	111/3 114/15 163/24	75/9 75/24 76/12	fuss [2] 108/2 112/17
61/8 63/21 64/7 70/25	169/17 171/15 171/18	57/2 158/8	form [3] 19/9 197/3	76/25 79/6 80/8 80/14	
73/9 73/12 81/11	172/2 173/4 173/22	finishing [1] 204/13	206/8	80/24 81/20 82/1 84/2	139/1
120/22 121/1 146/14	174/3	Finsberg [1] 5/2	formal [5] 16/20 27/17	84/23 85/3 89/14 90/9	-
146/19 147/24 148/1	February [11] 115/10	fire [1] 9/22	39/19 43/3 206/23	90/13 90/16 93/21	G
148/2 148/18 149/16	116/7 116/8 117/14	firms [1] 24/22	formed [1] 170/6	94/20 96/17 98/18	Galbraith [17] 146/7
154/3 154/7 154/12	128/3 141/1 142/8	first [69] 2/5 14/12	formula [1] 22/17	100/9 103/11 105/4	146/8 147/10 149/11
154/14 160/3 168/12 170/1 177/2 183/19	142/16 143/1 143/2	18/20 21/14 30/1	formulation [1] 171/9	107/11 107/25 109/7	151/3 156/20 159/3
183/20 184/10 184/24	144/14	35/10 35/14 40/21	forthcoming [1] 136/2	109/9 110/10 110/21	159/7 159/13 163/13
186/14 186/19 187/2	February '84 [1] 143/1	41/3 41/12 53/5 55/17	fortified [1] 42/12	112/23 113/4 115/2	166/18 166/19 205/13
187/4 187/15 187/19	February 1984 [2]	55/20 60/10 61/18	Fortunately [2] 42/5	115/10 116/23 117/5	212/17 213/7 214/24
187/23 187/24 193/22	116/7 116/8	61/19 62/8 62/15	120/19	117/14 119/11 120/18	215/6
195/10 195/16 196/3	fee [1] 100/9	62/16 63/7 65/2 66/12	fortune [1] 35/6	120/18 120/22 121/9	Galbraith's [2] 163/21
196/17 196/18 197/23	fee-back [1] 100/9	75/16 82/6 88/25 90/5	forum [1] 182/9	122/18 123/5 124/18	205/14
198/5 200/20 201/8	feed [1] 112/9	92/23 93/10 94/13	forward [3] 130/22	127/12 127/17 128/6	gap [1] 26/15 garrulous [1] 214/3
204/3 208/13 210/9	feeling [2] 11/13 66/8 feels [1] 177/15	100/19 105/15 106/15 108/23 109/5 110/25	133/13 163/9 forwards [1] 45/18	128/14 128/19 128/20 129/20 131/2 132/13	gather [2] 1/5 87/18
factory [1] 94/11	fell [2] 16/4 40/12	115/7 115/12 116/8	found [15] 15/14	132/25 136/18 136/23	gathered [1] 165/1
factual [5] 118/20	fellow [1] 96/4	116/18 121/12 121/24	18/25 23/4 36/6 41/6	137/18 138/14 141/11	gave [9] 19/3 24/11
134/9 138/11 142/18	felt [6] 18/17 44/5	122/21 126/22 129/6	43/24 46/10 62/23	141/18 142/3 142/5	31/7 40/25 45/11
209/25	79/3 96/3 120/1	130/4 130/5 130/10	65/13 67/18 68/8 68/8	142/17 142/23 142/24	76/23 115/25 164/11
factually [1] 137/22	135/12	133/19 137/3 138/11	97/14 145/1 210/16	143/5 144/14 145/2	209/13
fading [1] 207/13	ferociously [1] 187/22		founded [3] 6/12 7/22	146/4 146/5 146/25	gay [7] 74/24 78/4
failed [2] 123/3 211/7	few [16] 21/11 44/22	142/19 143/2 145/24	18/21	147/1 147/17 147/17	86/13 86/16 86/16
faint [1] 105/20 faintly [1] 122/22	66/19 79/18 80/1 82/4	159/14 159/25 164/17	four [7] 5/4 9/12 60/12		132/11 185/21
fair [1] 22/20	82/7 96/12 102/2	164/18 180/4 181/5	122/10 149/6 175/3	151/14 151/14 151/20	gays [7] 86/7 86/11
fairly [4] 39/22 91/22	119/1 120/8 131/6	185/4 191/14 201/17	175/5	154/12 154/15 155/22	86/16 86/17 112/11
185/10 185/12	144/22 188/4 193/20	204/15 205/22 214/6	four years [3] 60/12	156/9 157/25 158/12	112/11 206/17
fairness [2] 110/9	201/7	215/17	122/10 149/6	159/2 161/11 164/5	Gays' [2] 107/21
125/21	field [6] 32/9 54/19	firsthand [1] 47/11	fourth [1] 98/25	167/5 167/13 167/14	108/15
fall [4] 58/2 58/4	146/2 151/1 151/2	firstly [2] 41/7 190/9	Fowler [4] 3/11 3/11	167/15 167/21 168/14	general [23] 11/15
119/15 119/24	151/5	fits [1] 146/15	128/7 207/16	169/14 174/11 175/10	13/20 13/24 14/19
falls [1] 189/24	fight [1] 8/16	five [5] 83/17 114/21	free [2] 12/7 150/4	175/13 175/20 176/10	18/24 21/14 21/18 25/15 32/13 36/17
familiar [3] 29/20	fighter [1] 9/22 figure [4] 10/10 36/11	114/21 122/20 211/1 five years [1] 211/1	freedom [4] 49/8 50/8 52/25 100/25	177/2 177/3 178/7 180/6 180/18 182/23	38/21 38/22 40/9
33/25 56/24	60/12 149/12	fix [1] 115/9	frequent [1] 149/20	183/4 184/7 184/12	59/12 59/18 59/25
families [1] 185/9	figures [2] 60/25	flag [10] 70/14 70/17	fresh [1] 17/16	185/8 185/14 189/13	60/1 62/22 161/16
family [5] 35/24	145/7	70/20 71/16 71/16	friendly [2] 24/24 67/7	193/4 193/4 193/7	185/18 191/6 207/14
125/11 125/11 125/13	filled [2] 66/25 66/25	71/22 71/25 72/2	friends [3] 25/2 67/7	193/8 195/1 198/1	208/24
185/8	filter [1] 45/14	118/19 123/22	208/25	200/11 205/12 206/21	generally [6] 26/9
iamous [1] 10/19	final [4] 38/25 135/21	flag A [1] 72/2	frightened [1] 77/13	208/14 209/5 211/3	47/16 62/14 68/16
fantastic [2] 6/23	136/11 139/22	Florence [1] 19/16	frightening [1] 114/7	211/20 212/16 217/3	121/16 129/11
		- <del>-</del>			
					(20)
					(66) factor generally

<u> </u>	407/4 404/0 407/00
G	187/4 194/2 197/22 212/6 214/11
generic [1] 50/4	gives [1] 189/22
Geneva [1] 146/12 genuine [1] 190/7	giving [30] 7/25 8/1
Geoffrey [1] 5/2	27/24 27/25 31/9
geographical [1] 14/2	41/10 49/14 54/5
geriatric [1] 8/12	56/13 57/2 71/9 75/ 79/6 79/21 86/11 91
get [78] 7/7 9/6 12/21	92/4 98/19 112/12
13/5 13/8 13/8 16/16	121/9 123/5 133/22
16/17 17/18 18/17	141/18 141/22 154/
20/9 22/17 23/8 24/5 24/13 25/3 30/24	190/16 204/4 206/1
36/17 37/5 37/11 38/2	209/11 214/24
38/4 39/14 40/5 40/23	<b>Glenarthur [34]</b> 5/6 5/8 6/2 9/8 10/16 58
41/19 47/19 47/22	58/11 66/1 70/19
52/8 54/18 57/18	75/12 77/20 78/6
61/21 61/23 65/2 65/11 65/19 65/19	78/18 80/7 80/10 83
68/13 68/14 71/11	84/15 85/14 88/20
75/15 83/22 83/24	92/16 103/9 107/6
83/25 86/25 86/25	111/6 117/23 124/1 124/15 130/20 152/
88/17 88/21 97/1	153/19 169/6 177/1
109/25 113/6 117/15 131/1 140/24 145/7	177/13 178/15 212/
145/7 153/24 155/6	Glenarthur's [8] 66
157/14 163/16 168/11	69/23 100/16 102/2
169/8 174/4 182/1	116/14 126/4 162/1 175/17
184/16 185/19 188/14	Gloria [3] 5/10 5/16
190/7 191/15 194/8 201/11 202/5 203/25	5/17
206/10 206/14 209/24	go [94] 2/14 9/16 18
211/2 211/20	23/10 23/18 27/25
gets [1] 214/24	30/16 39/12 39/16 41/10 43/20 47/20
getting [29] 8/11 8/12	51/22 52/3 53/24
9/25 20/6 26/23 32/12 33/6 43/4 48/18 59/24	57/16 61/2 61/5 69/
64/20 72/10 86/4	70/2 71/15 72/1 74/
86/18 98/3 116/20	74/25 77/18 78/11 78/14 80/12 84/24
130/11 137/18 138/19	86/22 88/8 90/12 91
145/14 145/15 145/15	92/23 93/17 95/18
153/8 154/19 161/25 170/12 187/7 193/22	98/6 100/19 102/17
203/24	106/17 107/3 107/9
giant [1] 24/20	108/11 116/9 116/1
Gillick [1] 92/20	118/7 118/16 119/1   123/12 123/14 124/
give [30] 2/21 9/10	124/16 125/8 125/9
10/2 12/25 13/21 16/17 19/18 23/16	125/23 126/23 126/
35/25 36/14 49/21	127/1 127/4 128/15
51/4 51/5 51/21 56/19	129/1 129/18 129/2
81/14 86/7 86/14 97/6	130/23 132/24 133/ 137/3 138/6 139/17
104/7 104/16 131/24	140/7 141/21 144/8
141/15 148/13 164/18 186/22 187/1 209/10	147/9 148/23 163/8
211/3 215/9	163/17 164/17 164/
given [22] 8/13 41/3	165/16 167/7 167/8
44/12 56/18 61/14	169/22 171/1 178/1   178/18 179/19 179/
80/18 82/19 99/22	181/19 193/7 193/1
100/5 100/23 110/6 127/9 144/22 152/2	194/17 197/3 202/5
166/10 166/10 172/25	204/19
	<b>God [3]</b> 37/10 46/4

187/4 194/2 197/22 89/5 212/6 214/11 gives [1] 189/22 giving [30] 7/25 8/18 27/24 27/25 31/9 41/10 49/14 54/5 56/13 57/2 71/9 75/25 79/6 79/21 86/11 91/3 92/4 98/19 112/12 121/9 123/5 133/22 141/18 141/22 154/7 190/16 204/4 206/17 209/11 214/24 Glenarthur [34] 5/6 5/8 6/2 9/8 10/16 58/8 58/11 66/1 70/19 75/12 77/20 78/6 78/18 80/7 80/10 83/1 84/15 85/14 88/20 92/16 103/9 107/6 111/6 117/23 124/1 124/15 130/20 152/17 153/19 169/6 177/11 177/13 178/15 212/19 Glenarthur's [8] 66/19 69/23 100/16 102/22 116/14 126/4 162/10 175/17 Gloria [3] 5/10 5/16 5/17 go [94] 2/14 9/16 18/5 23/10 23/18 27/25 30/16 39/12 39/16 41/10 43/20 47/20 51/22 52/3 53/24 57/16 61/2 61/5 69/16 70/2 71/15 72/1 74/8 74/25 77/18 78/11 78/14 80/12 84/24 86/22 88/8 90/12 91/1 92/23 93/17 95/18 98/6 100/19 102/17 106/17 107/3 107/9 108/11 116/9 116/18 118/7 118/16 119/10 123/12 123/14 124/14 124/16 125/8 125/9 125/23 126/23 126/25 127/1 127/4 128/15 129/1 129/18 129/24 130/23 132/24 133/17 137/3 138/6 139/17 140/7 141/21 144/8 147/9 148/23 163/8 163/17 164/17 164/18 165/16 167/7 167/8 169/22 171/1 178/17 178/18 179/19 179/22 181/19 193/7 193/13 194/17 197/3 202/5 204/19

86/12 86/14 86/17 87/8 92/2 92/20 98/2 goes [7] 128/2 136/7 136/16 138/7 148/13 121/2 121/19 124/13 148/21 158/23 125/24 129/15 142/1 going [105] 1/10 2/14 3/4 9/10 10/5 11/10 145/2 152/1 152/9 11/11 11/13 20/19 24/7 28/10 33/14 38/5 39/23 40/6 40/7 40/18 42/11 44/22 48/11 174/2 174/12 174/19 55/15 57/1 57/2 59/2 185/19 188/12 190/1 66/17 68/3 69/5 69/15 191/6 191/18 204/23 69/16 71/14 71/17 209/6 209/7 210/15 72/11 75/22 76/20 210/16 212/6 76/20 76/22 77/3 77/4 governing [1] 54/8 77/5 78/25 81/15 83/15 84/4 87/15 88/6 2/9 2/23 6/21 6/22 88/25 90/6 92/3 92/14 7/22 14/18 15/3 15/5 97/2 107/7 113/23 114/18 114/25 115/7 28/8 28/14 41/22 49/10 113/20 182/11 115/9 122/21 124/3 127/16 127/21 130/15 131/12 136/25 142/2 Government's [1] 142/25 143/10 144/11 133/11 147/21 151/7 152/3 governments [3] 154/12 154/25 156/1 179/24 183/6 190/18 157/8 163/16 167/10 **GP [3]** 27/12 31/14 169/3 169/25 171/2 GPs [2] 16/25 50/17 175/9 177/6 178/3 179/21 180/21 183/21 grateful [5] 130/10 135/18 136/4 140/2 186/3 186/6 186/10 192/7 194/12 197/1 157/17 197/16 198/24 202/6 grave [1] 9/18 202/22 205/6 205/25 great [7] 24/19 33/7 206/13 209/7 210/24 49/13 51/20 159/13 211/15 211/16 212/5 192/23 212/15 greater [1] 199/3 214/10 214/22 greatest [2] 120/16 going out [1] 84/4 gone [7] 7/23 11/8 157/24 20/21 106/19 186/9 greatly [5] 68/1 200/18 215/6 good [24] 7/13 7/17 209/22 19/22 20/23 30/1 31/5 greeted [1] 9/11 35/6 55/25 67/7 67/21 grew [1] 53/13 68/18 68/19 86/17 grief [2] 31/5 86/17 90/1 96/11 120/3 Griffiths [6] 17/22 161/22 174/23 174/25 18/11 19/14 19/20 181/24 186/6 186/21 19/21 20/18 188/16 213/21 grip [1] 61/17 got [89] 5/21 8/25 9/7 ground [6] 32/2 53/11 86/23 98/20 109/17 9/23 11/9 13/3 13/14 15/19 19/21 20/17 109/20 23/3 23/7 24/23 25/6 grounds [2] 158/17 25/8 31/8 31/10 32/1 173/15 32/5 33/21 35/6 36/8 37/3 37/8 37/13 38/7 72/20 74/2 84/1 96/6 39/4 41/8 45/19 45/20 131/8 131/10 131/13 46/7 46/12 46/14 131/14 156/24 157/4 52/17 54/7 55/6 59/7 161/18 163/7 61/24 62/11 63/13 groups [18] 33/12 63/16 65/4 66/9 70/10 48/2 48/13 48/14 75/19 77/15 84/20 48/15 48/16 71/10

180/18 191/16 guardian [3] 25/5 143/19 143/20 143/20 36/19 134/4 153/11 153/17 153/18 156/19 165/22 170/12 guess [1] 13/2 171/16 171/24 173/23 guidance [8] 26/4 26/9 39/15 39/19 55/10 79/8 190/23 191/2 **Gunson [1]** 179/2 guv [1] 210/1 government [22] 1/15 |guy's [1] | 152/4 **ha [1]** 92/19 22/6 24/7 27/21 27/23 89/2 203/14 210/18 210/23 84/11 125/7 had [262] 30/9 44/16 44/20 84/16 87/6 87/7 149/5 162/6 haematology [5] 156/19 haemophilia [22] 13/17 13/18 13/22 33/15 34/16 47/14 47/15 48/23 49/1 197/12 197/19 202/23 197/6 205/5 210/7 63/1 63/7 73/16 191/8 195/25 8/22 32/21 63/19 73/10 79/8 80/11 80/21 81/10 81/16 83/7 97/24 113/25 group [14] 13/19 34/2 184/20 187/17 188/3 190/19 191/1 192/14 193/21 195/4 195/9 195/22 195/24 196/7 196/13 197/10 197/19

74/15 119/8 131/25 141/14 141/14 141/21 144/19 176/4 176/19 guarding [1] 204/1 guy [2] 67/22 179/8 habit [3] 44/4 45/20 habits [4] 74/5 80/3 hadn't [13] 14/7 23/4 119/24 132/8 149/2 haematologists [3] 34/16 147/6 150/19 32/25 35/5 35/8 36/6 33/2 33/5 33/10 33/14 53/15 73/10 120/20 156/20 187/21 190/24 haemophiliac [11] 120/16 128/24 146/13 154/15 184/23 191/2 haemophiliacs [50] 120/25 146/17 146/21 154/3 154/8 154/12 154/24 176/20 180/12 181/2 183/10 183/17 184/4 184/12 184/13

198/17 199/21 200/1 200/11 201/7 201/10 201/16 210/8 haemotherapy [3] 180/13 181/3 190/20 half [9] 8/4 21/15 26/21 37/20 56/15 102/8 102/9 159/11 204/5 halfway [2] 200/23 204/8 halves [2] 2/3 2/3 Hamilton [3] 60/7 60/9 61/7 hand [7] 90/1 90/1 90/2 96/23 109/1 175/15 179/16 handful [2] 1/11 198/24 handle [7] 76/14 77/7 81/9 81/13 107/1 107/2 112/21 handled [5] 78/24 81/4 112/18 202/8 202/15 handling [4] 28/4 75/20 76/3 206/15 hands [1] 25/7 handwriting [7] 116/11 116/22 117/24 126/6 137/4 137/11 175/15 handwritten [2] 125/21 176/18 happen [6] 65/5 144/13 151/13 159/16 195/4 214/25 happened [20] 18/14 22/22 40/4 65/9 65/10 65/20 109/17 113/17 115/1 122/17 126/16 127/25 128/4 166/13 172/3 172/3 186/8 204/10 210/22 213/8 happening [3] 27/9 32/14 117/18 happens [7] 31/11 93/1 97/17 134/23 151/23 182/10 191/6 happy [3] 56/4 122/2 138/13 hard [1] 30/4 hard-working [1] 30/4 hardly [2] 8/20 124/10 harm [3] 23/11 112/20 112/20 harmful [1] 114/4 harmless [2] 21/10 191/17 Harris [2] 132/25 140/10 HARRY [2] 1/8 217/2

(67) generic - HARRY

152/11 152/13 153/11 153/25 154/2 155/20 155/21 159/4 159/5 159/6 159/9 159/17 162/15 162/15 162/16 162/17 162/18 163/14 163/15 163/16 166/20 166/21 166/24 169/22 170/10 170/18 170/20 170/21 177/15 179/6 179/6 179/7 179/8 179/8 179/9 179/10 179/12 179/14 179/15 203/24 208/15 208/15 208/16 208/19 208/22 208/23 214/5 214/24 he'd [7] 10/23 18/25 19/2 26/9 121/24 153/19 170/10 he'll [2] 40/3 60/12 he's [4] 5/7 67/21 153/21 166/8 head [3] 3/21 4/3 211/11 headed [2] 74/11 120/11 heading [3] 72/12 73/4 147/10 heads [1] 136/10 health [140] 1/17 1/18 1/18 1/20 1/24 1/25 2/6 2/6 3/5 3/9 3/15 3/18 3/24 4/19 5/1 5/13 5/14 6/6 6/8 6/9 7/6 7/9 7/11 7/14 7/19 7/21 8/6 8/19 9/13 9/14 9/16 10/8 12/6 13/4 13/25 14/1 14/8 15/24 16/3 16/4 16/6 16/7 16/13 16/22 17/3 17/9 17/13 17/24 18/4 18/7 18/15 18/18 18/23 20/1 20/14 21/17 21/24 22/2 22/4 22/13 23/18 24/1 24/10 24/17 25/4 25/6 25/17 26/1 26/17 27/25 28/3 28/5 28/6 28/11 28/20 33/17 37/17 40/10 42/6 42/12 43/15 46/5 50/3 50/12 50/14 50/17 50/21 50/23 50/25 51/1 51/10 52/1 52/20 53/16 53/17 54/4 54/5 54/12 54/20 75/4 78/16 84/23 86/18 92/24 106/9 110/22 110/24 111/24 121/13 122/1 133/1 136/23 138/14 140/3 140/4

140/8 140/21 141/2

141/7 146/4 146/9 149/9 151/15 161/23 179/8 180/13 181/3 182/25 183/12 185/6 186/3 190/19 192/2 201/25 203/15 203/17 211/8 211/14 212/16 215/5 Health Service [2] 53/16 53/17 Health's [1] 47/1 healthy [1] 149/25 heard [20] 6/1 28/18 29/2 62/15 62/16 98/19 103/1 122/8 149/7 158/6 162/2 163/23 163/25 164/12 185/8 198/4 198/13 199/6 207/15 210/2 hearing [2] 55/23 216/3 heat [7] 137/24 138/25 194/20 194/22 194/23 195/3 213/17 heaven's [2] 28/9 39/20 heavily [3] 12/20 31/25 205/17 heavy [1] 190/14 held [5] 1/15 2/12 19/3 66/12 190/5 hell [2] 143/17 166/15 help [9] 17/18 49/16 68/18 115/9 128/10 130/17 160/11 164/4 192/21 helpful [4] 7/12 54/23 109/24 161/23 helps [1] 130/25 hence [2] 11/14 23/21 Henry [7] 35/16 35/20 35/20 35/22 35/25 36/7 161/14 hepatitis [13] 23/20 60/16 61/8 61/9 61/11 61/20 62/2 62/6 122/5 122/6 145/6 145/7 194/25 her [9] 13/12 19/18 29/6 29/17 29/19 30/6 35/7 189/22 203/9 here [27] 25/15 26/3 32/22 53/14 55/20 56/16 57/7 58/20 85/10 86/12 102/10 104/25 105/10 117/15 120/16 151/12 152/22 153/3 158/2 159/21 165/11 172/4 172/7 183/9 199/6 208/13 213/16

herself [2] 35/5 41/1

212/3

heterosexual [1] 184/15 heterosexuals [1] 184/16 Hewlett [1] 129/21 hierarchy [4] 3/10 3/25 28/19 29/13 high [18] 16/11 37/4 46/25 47/1 59/14 71/10 93/21 94/20 96/6 119/8 123/4 125/7 148/5 149/17 168/19 181/23 182/7 206/13 high-priority [1] 47/1 high-risk [4] 71/10 93/21 94/20 123/4 higher [2] 31/12 186/3 highest [4] 28/22 72/20 74/2 190/12 highlighted [1] 119/4 highly [4] 16/14 133/12 169/14 187/5 him [17] 3/23 6/3 10/25 13/5 35/19 38/7 45/12 45/13 52/16 54/7 77/21 152/11 159/17 163/17 164/18 164/19 171/16 himself [6] 19/1 35/21 36/1 36/12 41/1 166/19 hindsight [9] 127/15 151/13 153/4 158/13 192/18 193/1 210/21 212/13 214/14 his [36] 12/14 13/12 16/12 19/14 25/7 26/8 26/10 27/13 30/18 31/16 32/10 32/10 35/24 38/6 38/9 40/3 45/9 54/3 67/5 67/6 67/9 88/9 120/24 121/3 126/4 133/25 135/7 146/10 148/7 150/10 150/23 153/19 155/23 189/22 208/11 208/14 historic [1] 51/25 history [1] 87/24 hit [1] 35/23 HIV [7] 23/20 31/23 32/20 34/14 34/15 122/7 194/25 HIV/AIDS [3] 31/23 34/14 34/15 hm [2] 78/21 149/14 hoc [1] 12/23 hold [4] 22/15 43/17 65/2 156/16 holding [2] 95/13

home [3] 38/7 187/5 199/9 homeopath [1] 53/15 homeopathic [2] 52/2 | HTLV [1] 134/7 52/9 homeopathy [3] 51/23 52/1 52/8 homes [1] 94/17 homophobia [3] 76/7 112/9 184/18 homophobic [3] 76/10 76/23 86/18 homosexual [6] 74/13 hundreds [1] 37/11 74/15 92/5 122/17 141/11 184/13 homosexuals [15] 71/9 72/20 73/1 73/15 74/1 75/22 75/24 99/20 104/7 104/15 132/9 149/18 154/2 157/25 195/1 Hooper [6] 5/10 5/11 5/12 5/16 5/17 11/14 hope [4] 106/25 144/13 155/7 210/23 hopefully [1] 135/21 hopeless [2] 7/16 163/16 horrendous [1] 21/1 hospital [10] 4/21 6/24 7/3 19/11 19/17 48/7 48/9 50/24 52/2 206/4 hospitals [6] 6/25 6/25 8/12 9/23 23/5 52/20 hour [2] 56/15 67/10 hours' [1] 44/22 house [5] 5/3 5/15 8/4 | I appreciate [2] 11/10 204/8 houses [1] 200/23 how [57] 7/14 10/14 10/14 18/5 22/24 24/6 33/15 34/11 36/18 41/1 41/1 43/3 44/10 47/21 55/3 57/18 61/17 62/2 62/8 63/16 65/22 67/5 67/10 76/13 78/7 78/23 79/18 80/1 81/9 82/4 82/7 85/9 86/6 87/8 89/5 89/5 90/10 90/21 | I became [3] 41/9 92/24 105/9 106/5 106/21 111/2 112/17 118/11 122/14 124/12 134/2 135/4 142/11 152/3 159/22 164/14 165/23 168/8 187/3 202/11

holiday [5] 107/12

110/12 125/8 125/9

125/10

however [13] 60/23 74/4 104/6 117/9 117/25 119/17 136/1 158/22 161/17 165/9 167/24 176/2 182/24 **HS1 [1]** 128/12 HTLV-III [1] 134/7 huge [7] 6/14 36/8 36/8 40/14 41/7 46/3 54/13 hugely [1] 193/1 Human [1] 182/19 hundred [2] 83/24 83/25 hung [1] 211/2 hurling [1] 50/6 hypothetical [1] 152/22

laccept [2] 145/19 172/2 I acquired [1] 195/14 I actually [4] 8/8 24/12 63/25 136/12 l agree [5] 113/19 116/25 143/6 143/21 177/21 lagreed [1] 178/14 I also [1] 64/25 I always [5] 28/8 36/16 44/14 86/19 214/2 I am [14] 7/24 30/10 55/15 56/24 69/15 106/20 107/22 112/17 124/25 153/16 159/20 165/15 166/10 187/8 I apologise [1] 187/4 135/25 152/22 I arrived [5] 9/11 9/11 10/20 21/7 193/13 lask [6] 2/18 2/19 57/13 60/20 140/8 213/12 l asked [2] 213/24 215/19 I assume [1] 15/2 l assure [1] 57/1 I attach [3] 70/14 116/23 130/1 63/13 70/10 I been [1] 213/23 I began [1] 24/5 I believe [1] 133/3 I called [1] 80/16 I can [8] 63/15 63/22 91/24 125/18 131/15

Cam.   3   1448   1644   17022   1644   1647   1674   1647   1674   1674   1674   1674   1674   1674   1675   16						
1289   1287   1387	I	127/21 127/24 131/13	119/22 125/4 125/4	214/14	I spent [1] 8/4	I used [8] 24/25 41/11
1644   17022	l can [2] 1/1/8	133/19 138/5 140/14	126/19 127/16 144/16	I meant [1] 186/11	I start [1] 192/21	41/24 44/5 124/12
		140/18 144/14 144/16	145/10 146/18 146/24	I mention [2] 11/14	I started [1] 44/12	125/9 125/11 181/19
18/25 96/3 346 64/9   18/25 19/25   18/25		145/1 145/12 149/7	152/6 157/22 160/5	14/12	I still [1] 207/9	I usually [1] 17/14
75/16 86/20 86/8 92/21 105/22 106/41 10/19 116/11 12/913 14/91/11 16/91 12/913 16/91 16/91 17/91 17/91 15/913 16/91 16/91 17/9		150/15 150/16 152/10	161/5 166/13 181/17	I mentioned [1] 106/2	I suppose [4] 43/14	I vaguely [1] 67/2
1902   1092   1094   1902   1904   1905   1907   1906   1907		153/15 156/3 157/18	187/3 190/12 193/2	I met [1] 7/11	87/24 163/7 199/24	I visited [1] 48/7
1009   1611   12811   4410   4417   1801   12811   4410   4417   1801   14617   1801   1801   14617   1801   1801   14617   1801   14617   1801   1801   14617   1801   1801   14617   1801   14617   1801   1801   14617   1801		159/25 162/2 162/7	195/21 199/4 205/8	I must [1] 90/24	I suppose what [1]	I want [9] 15/20 36/17
Havin 1457   15016   1471   15016   1471   15016   17724   14716   4779   17724   14847   14716   17724   14847   14716   17724   14847   14716   17724   14847   14716   17724   14847   14716   17724   14716   17724   14847   14716   17724   14847   14716   17724   14716   17724   14716   17724   14847   14716   1472   14725   147		162/21 163/4 163/25	207/12	I needed [1] 143/15		
2017/224 18/17/208/13   2019/8   2019		165/18 170/9 171/4	I haven't [4] 19/5		I surprised [1] 202/23	145/21 180/24 204/14
		171/24 174/6 177/9	29/17 172/20 189/9			
Cannot [1]   161/9     1687/9   1877   187		179/14 184/21 184/22	I heard [1] 103/1	104/23 208/20 212/3	166/1	I wanted [7] 9/7 11/12
Certainty [3] 31/4   89/11 160/14   199/15 199/23 200/22   10close [1] 100/52   10close [1]		185/19 187/2 187/2		215/18	I taught [1] 44/10	
Serial   S		187/3 191/1 192/12		I note [3] 55/15		140/13 205/22
1995   1997   2907   2007		193/12 195/13 198/13	I imagine [1] 58/17			I was [79] 2/2 2/5 4/18
Circle   1   100/25   105/12   186/21   200/22 200/24   201/13   201/25   206/19 206/20 206/23   206		199/5 199/23 200/20		I now [2] 66/20 103/17	I think [107] 1/12 2/22	5/15 8/1 8/23 9/2 9/4
1016/12   18072   10173   2048 206618   20173   2048 206618   20174		200/22 200/24 201/1	I intervened [6] 77/15			9/9 9/11 9/25 10/3
Colorare   Cleared   Cle		201/13 204/8 206/18	81/3 103/4 103/15		17/3 19/2 23/15 24/2	10/13 11/2 11/11
		206/19 206/20 206/23	112/16 112/22		26/6 26/8 29/5 29/12	14/24 20/5 22/14 24/6
2001   124/20   124/24   124						
124/10   124/16   1						
Leventually [1] 11/3   15/3 160/21 178/4   12/9   162/16 2016 2017   27/5 47/9   28/16 2017   27/5 47/9   28/16 2017   27/5 47/9   28/16 2017   27/5 47/9   28/16 2017   27/5 47/9   28/16 2017   28/1				,		47/12 47/12 48/21
decided   1   105/1   decided   1   106/17   209/6 209/7   leared   1   107/2   leared						
1   1   1   1   1   1   1   1   1   1			207/7	I played [1] 208/2	63/18 63/21 65/10	68/2 75/17 76/16
		209/6 209/7	I keep [1] 92/5			
		I feared [1] 107/21			70/8 75/12 80/23 81/7	80/20 80/23 80/23
14/11   14/13   13/13   13/14   14/13   14/13   14/13   14/14   14/13   14/14   14/1					84/18 86/1 88/18 91/8	
Ininis   [1]   188/2   first   [2]   62/15 75/16   148 [7]   195/14   182/9   195/14   205/12   205/23   205/			I know [5] 11/3 42/23		91/16 98/7 98/17	104/18 105/2 106/7
1851/14   2051/3   2051/2   2051/3   2051/2		I finish [1] 158/2		I quite [2] 122/5 145/5		
			I later [1] 10/9			112/9 112/23 113/13
Iside   12   9/2   10/19   11/5   29/15   30/7   35/4   41/5   48/15   68/15   29/15   39/7   31/4   31/15					109/22 109/25 113/12	120/1 125/8 125/9
Table   Tabl					118/25 125/21 126/17	131/10 156/3 163/23
Timbox   T						
Contact   Cont					130/25 131/16 137/21	194/16 198/22 200/25
Part		209/13			139/9 142/23 142/24	204/6 205/5 206/8
160/20 201/14 201/15   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14   160/20 201/14 201/14		I give [2] 10/2 23/16			144/7 153/6 153/16	207/19 211/7 211/8
Image   Imag					164/8 164/17 164/18	212/5
10   10   10   10   10   10   10   10			I mean [78] 6/9 8/21		172/21 173/9 174/17	I was a [1] 86/3
Tolscovered [2] 33/4   46/1   10   10   10   10   10   10   10						
1 do [6] 57/25 66/14   72/1 109/15 167/11   192/17   100rt [117] 5/16   10/19 10/25 14/16   10/19 10/25 14/16   10/19 10/25 15/6 17/20   25/24 29/18   31/14 31/16 33/8 33/9   35/23 41/10 42/23   46/25 47/7 47/8 48/3   48/4 48/6 54/13 57/17 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 69/5 71/7 76/2 84/4 86/5 87/17 89/5 91/20 100/19 103/19 103/19 103/19 103/19 113/18   121/14 123/12 124/14   123/12 124/14   123/12 124/14   123/12 124/14   123/12 124/14   123/12 124/14   123/12 124/14   123/12 124/14   123/12 124/14   123/12 124/14   136/12 136/12   30/7 30/24 31/2 31/2 31/2 31/2 31/2 31/2 31/2 31/2						
72/1 109/15 167/11 192/17 1don't [117] 5/16 10/19 10/25 14/16 11/25 15/6 17/20 25/24 29/18 31/14 31/16 33/8 33/9 35/23 41/10 42/23 46/25 47/7 47/8 48/3 48/4 48/6 54/13 57/17 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 69/5 77/7 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/11 01/411 1092/17 1000 14/15 24/5 24/23 106/21 13/16 124/6 10/19 10/25 11/3/16 124/6 10/19 10/25 14/16 10/29 11/19 10/25 11/20 10/24 10/24 10/24 10/27 10/24 10/24 10/27 10/24 10/24 10/27 10/24 10/24 10/27 10/24 10/24 10/27 10/24 10/2	1 *** *	I had [37] 8/9 8/10	30/7 30/24 31/2 31/25	66/22 72/10 105/22		
192/17   don't [117] 5/16   10/19 10/25 14/16   14/25 15/6 17/20   25/24 25/24 29/18   31/14 31/16 33/8 33/9   35/23 41/10 42/23   48/2 48/2 49/23 50/5   59/18 59/18 59/18 59/18   31/14 31/16 33/8 33/9   35/23 41/10 42/23   48/2 48/2 49/24 105/3   35/23 52/5 53/10 53/12   60/2 60/3 62/17 62/18   84/2 102/24 105/3   35/23 41/10 42/23   48/2 48/2 49/23 50/5   59/18 59/18 59/18 59/18   31/14 31/16 33/8 33/9   35/23 41/10 42/23   48/2 48/2 49/23 50/5   60/2 60/3 62/17 62/18   84/2 102/24 105/3   35/23 41/10 42/23   48/2 48/2 49/23 50/5   60/2 60/3 62/17 62/18   84/2 102/24 105/3   35/23 41/10 42/23   48/2 48/2 49/23 50/5   60/2 60/3 62/17 62/18   84/2 102/24 105/3   35/23 41/10 42/23   48/4 48/6 54/13 57/17   75/17 76/2 64/20   65/21 66/12 67/10   67/11 68/20 69/4 69/4   69/5 77/7 76/2 84/4   69/5 77/7 76/2 84/4   69/5 77/7 76/2 84/4   69/5 77/7 76/2 84/4   60/11 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/21 113/10 113/18   10/22 1119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/23 111/22 119/3   10/24 10/24 10/27   10/24 10/24 10/24   10/24 10/24 10/27   10/24 10/24 10/24   10/24 10/24   10/24 10/24   10/24 10/24   10/24 10/		10/6 14/15 24/5 24/9	34/17 39/24 42/23	I responded [1]	197/2 197/8 197/14	212/3
192/17   140n't [177] 5/16   10/19 10/25 14/16   14/25 15/6 17/20   25/24 25/24 29/18   31/14 31/16 33/8 33/9   35/23 41/10 42/23   48/4 48/6 48/6 48/7 49/25 23/3 25/5 53/10 53/12   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   59/1 59/26 61/16 62/5   60/22 41/10 62/2   10/224 105/3   106/2 113/16 124/6   13/26 11/2 63/16 149/5   10/224 104/13 104/16   13/26 11/26 51/16 61/2   10/224 104/13 104/16   13/26 11/26 51/16 61/2   10/224 104/13 104/16   13/26 11/26 51/16 61/2   10/224 104/13 104/16   13/26 11/26 51/16 61/2   10/224 104/13 104/16   13/26 11/26 51/16 61/2   10/22 11/2 11/26 1		24/23 30/2 30/12	45/3 46/19 47/18 48/1	136/12	197/20 197/21 198/14	I went [2] 19/25
10/19 10/25 14/16 14/25 15/6 17/20 25/24 25/24 29/18 31/14 31/16 33/8 33/9 35/23 41/10 42/23 46/25 47/7 47/8 48/3 48/4 48/6 54/13 57/17 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 66/5 87/17 89/5 91/20 10/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14  46/24 48/2 49/23 50/5 59/18 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 59/18 59/25 62/17 63/12 65/6 62/17 63/12 65/6 62/17 63/12 65/6 67/20 76/6 80/25 81/10 83/16 86/5 87/24 89/5 101/21 102/24 104/13 104/16 11 10/22 11 10/3 122/20 11 16/19 124/9 129/16 153/3 198/14 139/15 140/16 124/6 67/20 76/6 80/25 81/10 83/16 86/5 87/24 89/5 101/21 102/24 104/13 104/16 11 10/22 11 10/23 111/22 119/3 12 124/14 12 12 12 12 12 12 12 12 12 12 12 12 12 1				I safely [1] 57/7		
59/18 59/18 59/25 60/2 60/3 62/17 62/18 84/2 102/24 105/3 106/2 113/16 124/6 139/15 140/16 149/5 139/15 140/16 149/5 195/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/5 71/7 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/21 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14 123/12 125/13 124/14 123						I will [4] 56/24 109/23
14/25   15/6   17/20   25/24		59/18 59/18 59/25				
31/14 31/16 33/8 33/9 35/23 41/10 42/23 46/25 47/7 47/8 48/3 48/4 48/6 54/13 57/17 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 69/5 77/17 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14  34/1 01/2 119/3  35/12 4 52/10 56/12 61/12 67/68 80/25 81/10 83/16 86/5 87/24 89/5 101/21 102/24 104/13 104/16 1102/24 104/13 104/18 1102/24 104/13 104/16 1102/24 104/13 104/1		60/2 60/3 62/17 62/18	62/17 63/12 65/6	I say [12] 14/24 34/17	I thought [8] 31/10	I wind [1] 20/19
35/23 41/10 42/23 46/25 47/7 47/8 48/3 48/4 48/6 54/13 57/17 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 69/5 71/7 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14  81/10 83/16 86/5 87/24 89/5 101/21 102/24 104/13 104/16 129/14 138/11 140/22 147/22 150/8 1 seen [4] 30/4 85/23 112/12 150/8 1 seen [4] 30/4 85/23 112/12 150/8 1 seen [4] 30/4 85/23 1 seen [4] 55/23 80/23 136/12 143/15 143/15 152/2 143/15 1 told [1] 207/8 1 took [3] 58/1 85/22 207/19 1 tried [1] 50/2 1 trusted [1] 50/2 1 trusted [1] 50/2 1 trusted [1] 19/25 1 seen [1] 147/4 1 should [10] 43/11 67/15 110/10 125/22 135/18 140/2 140/17 160/12 162/8 208/14 1 signed [1] 191/13  1 would [21] 31/7 34/19 35/24 36/6 37/9 38/14 38/15 39/8 1 tried [1] 50/2 1 trusted [1] 50/2 1 trusted [1] 19/25 1 understand [5] 17/23 44/1 50/9 136/2 215/13 1 wouldn't [5] 39/8 102/25 181/10 181/10 182/16		84/2 102/24 105/3	67/20 76/6 80/25			
36/25 47/7 47/8 48/3 48/4 48/6 54/13 57/17 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 69/5 71/7 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14  139/15 140/16 149/5 195/13 195/20 204/1 206/3  1 hadn't [5] 30/9 44/16 44/20 149/5 152/2 152/4 152/7 144/8 144/7 152/2 1 seen [4] 30/4 85/23 1 tried [1] 50/2 1 trusted [1] 67/23 1 turned [1] 19/25 1 turned [1]						
48/2 44/16 46/3 48/4 48/6 54/13 57/17 59/17 64/2 64/20 65/21 66/12 67/10 67/11 68/20 69/4 69/4 69/5 71/7 76/2 84/4 86/5 87/17 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14 123/12 124/14 123/12 124/14 123/12 124/14 123/12 124/14 123/12 124/14 123/12 119/3 111/22 119/3 11/24 104/13 104/16 129/4 104/13 104/16 129/4 104/13 104/16 129/4 104/13 104/16 129/4 104/13 104/16 129/4 138/11 104/16 129/4 138/11 104/22 118/22 110/22 11/4/22 150/8 112/12 150/8 112/12 1183/2 112/12 1				199/5 201/24 214/2		
206/3   1 dok   34/13   37/17   59/17   64/2   64/20   65/21   66/12   67/10   67/11   68/20   69/4   69/5   71/7   76/2   84/4   64/2   149/2   149/5   152/2   152/4   152/7   152/2   152/4   152/7   152/2   153/16   159/23   112/12   183/2   112/12   112/12   183/2   112/12   112/12   133/2   112/12   133/2			102/24 104/13 104/16	I see [3] 126/22	I told [1] 207/8	I would [21] 31/7
53/17 64/2 64/20 65/21 66/12 67/10 67/10 68/20 69/4 69/4 69/5 71/7 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14 105/2 110/23 111/22 119/3 110/23 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 111/22 119/3 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23 110/23						34/19 35/24 36/6 37/5
65/21 68/20 69/4 69/4 69/4 69/5 71/7 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14 123/12		I hadn't [5] 30/9 44/16		I seem [4] 30/4 85/23		
69/5 71/7 76/2 84/4 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14    Thave [42] 2/22 8/3 29/16 30/25 31/17 49/1 55/25 57/22 61/12 63/11 63/14 64/1 66/11 80/18 85/21 105/20 109/15 110/23 111/22 119/3    Trusted [1] 67/23   Litructed [1] 67/23   Litructed [1] 19/25   Litructed [1] 19/25   Litructed [1] 19/25   Litructed [1] 67/23   Litructed [1] 19/25   Litruct					I tried [1] 50/2	
29/16 30/25 31/17 86/5 87/17 89/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14 29/16 30/25 31/17 49/1 55/25 57/22 61/12 63/11 63/14 64/1 66/11 80/18 85/21 105/20 109/15 110/23 111/22 119/3 61/12 63/14 64/1 66/11 80/18 85/21 105/20 109/15 110/23 111/22 119/3 61/12 63/14 64/1 66/11 80/18 85/21 105/20 109/15 110/23 111/22 119/3 61/12 165/15 166/8 169/14 170/8 171/2 174/5 182/17 183/24 185/13 185/18 191/3 197/12 198/13 203/22 204/6 209/22 214/1 61/12 165/15 166/8 1 set [1] 147/4 1 should [10] 43/11 67/15 110/10 125/22 135/18 140/2 140/17 160/12 162/8 208/14 1 signed [1] 191/13 67/15 110/10 125/22 135/18 140/2 140/17 160/12 162/8 208/14 1 signed [1] 191/13		I have [42] 2/22 8/3	152/20 153/16 159/23	I seen [1] 213/20		
60/5 67/17 69/5 91/20 101/6 104/10 104/11 104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14 4 49/1 55/25 57/22 61/12 63/11 63/14 64/1 66/11 80/18 85/21 105/20 109/15 110/23 111/22 119/3 49/1 55/25 57/22 61/12 63/11 63/14 64/1 66/11 80/18 85/21 105/20 109/15 110/23 111/22 119/3 49/1 55/25 57/22 61/12 63/11 63/14 185/13 185/18 191/3 197/12 198/13 203/22 204/6 209/22 214/1						122/2 125/13 152/19
104/24 105/7 105/8 106/11 113/10 113/18 121/14 123/12 124/14						
104/24 103/7 103/8 106/11 113/10 113/18 121/14 123/12 124/14						
106/11 113/10 113/16 121/14 123/12 124/14 85/21 105/20 109/15 197/12 198/13 203/22 14/1   160/12 162/8 208/14   I understood [2] 102/25 181/10		64/1 66/11 80/18				I wouldn't [5] 39/8
110/23 111/22 119/3   204/6 209/22 214/1   I signed [1] 191/13   85/12 98/23   182/16		85/21 105/20 109/15	197/12 198/13 203/22	160/12 162/8 208/14	I understood [2]	102/25 181/10 181/10
	121/14 123/12 124/14	110/23 111/22 119/3	204/6 209/22 214/1	I signed [1] 191/13		182/16

(69) I can... - I wouldn't

192/6 192/7 197/1 197/14 197/14 197/15 197/15 197/15 197/17 197/17 198/12 198/24 203/8 203/22 207/13 208/10 208/15 209/1 209/23 209/24 209/25 211/25 213/1 214/3 215/21 I've [53] 5/21 15/14 29/15 36/3 46/2 52/7 56/8 57/1 61/13 64/3 66/19 70/4 71/7 83/16 85/3 85/19 86/21 87/20 88/3 88/3 96/23 97/11 111/21 119/4 126/23 143/19 144/7 149/7 150/15 150/16 153/11 157/23 158/6 158/8 159/25 164/5 165/22 180/22 186/6 192/23 195/19 197/20 198/13 198/13 198/15 199/5 204/18 205/21 207/10 210/2 210/5 212/6 213/16 lan [1] 146/2 ID [3] 107/17 135/12 135/22 idea [20] 7/25 13/14 17/17 18/1 19/12 21/7 61/23 64/2 104/6 125/4 125/5 125/17 126/19 127/16 149/5 187/22 193/24 195/19 198/15 202/16 ideas [4] 41/17 42/2 182/16 202/10 identical [1] 198/18 identifiable [1] 56/6 identified [3] 56/6 113/1 122/12 identify [1] 171/25 identifying [1] 142/20 if [248] ignore [1] 101/9 ignoring [1] 104/14 ii [1] 123/23 **III [1]** 134/7 illegal [1] 51/13 illustration [1] 124/8 imagine [6] 10/18 33/7 58/17 112/13 159/11 187/20 **IMCD [1]** 128/11 **immediate** [1] 56/3 immediately [5] 96/7 99/14 101/11 101/24

168/4

immerse [3] 35/21 36/1 41/23

immersed [3] 36/12

40/21 41/7 immune [5] 72/13 122/13 146/13 180/1 180/17 impact [2] 33/15 81/15 implement [1] 140/4 implemented [2] 18/11 171/11 implementing [1] 41/18 implicated [1] 212/1 implications [4] 94/24 96/13 99/25 123/9 implicit [1] 173/10 **imply [1]** 173/13 import [3] 162/25 177/2 212/4 importance [3] 113/23 117/13 181/14 important [17] 44/20 68/12 75/21 76/15 77/9 81/2 81/14 82/9 83/6 113/22 113/23 114/1 141/6 180/7 182/18 186/9 201/12 importantly [1] 196/9 importation [2] 59/6 200/16 imported [15] 58/23 59/13 60/11 60/24 63/21 147/17 184/22 187/23 187/24 192/14 193/8 195/5 203/6 208/13 208/18 importing [1] 207/1 imports [8] 60/22 70/23 159/2 167/4 169/3 169/4 203/20 204/6 imposing [1] 51/18 impossible [1] 122/14 impression [6] 61/12 97/1 195/20 195/20 203/22 204/1 improve [1] 168/11 improved [7] 66/17 68/2 193/1 196/15 197/12 197/19 197/22 improvement [1] 36/8 **improving [2]** 116/2 194/17 inaccuracies [1] 134/9 incident [1] 14/14 incidents [3] 196/2 199/11 199/12 include [2] 5/25 215/5 included [2] 8/2 17/2 includes [1] 128/13 including [9] 26/18 78/19 92/9 95/8 99/19

116/9 128/19 159/2 203/14 incorporate [1] 93/12 increase [1] 120/13 increasing [2] 20/8 73/5 **incubation** [3] 73/8 148/24 149/2 indeed [16] 32/13 35/2 52/7 61/21 66/11 75/12 91/12 98/21 98/24 99/15 103/24 109/15 143/23 193/22 208/16 212/17 independence [4] 13/9 49/5 100/25 101/5 independent [1] 50/18 independently [1] 49/14 indicate [3] 109/23 119/14 148/21 indicated [5] 3/7 77/20 99/1 107/6 189/6 indicates [1] 120/15 indicating [1] 78/7 indication [1] 119/1 individual [8] 36/4 50/10 50/11 64/16 82/23 122/11 199/8 200/2 individually [5] 14/21 119/21 120/6 123/7 141/8 **individuals** [3] 74/16 89/15 148/20 industrial [2] 6/14 20/11 industry [1] 6/16 inevitable [3] 28/8 78/23 79/22 inevitably [1] 136/3 infect [2] 122/9 195/3 infected [10] 61/22 61/23 63/7 63/21 64/6 122/11 122/15 145/16 189/5 194/24 infection [10] 21/3 57/24 61/21 79/7 89/14 122/4 122/7 122/19 148/25 184/22 infer [1] 70/8 inferred [1] 80/14 influence [8] 21/17 21/20 24/1 24/8 25/10 25/14 25/17 207/21 influenced [2] 99/16 153/12 influencing [1] 24/25 inform [7] 180/11

181/1 183/4 183/7 183/11 190/18 194/13 information [50] 25/19 27/15 36/18 36/22 38/12 52/21 53/18 53/20 54/18 55/10 70/17 72/13 72/17 73/25 74/21 75/3 75/7 91/2 98/10 100/9 107/17 107/17 117/5 121/17 129/21 130/22 131/23 132/2 132/16 133/23 135/5 135/14 135/20 136/19 159/9 159/10 160/7 163/2 176/21 179/17 180/16 180/19 183/12 185/5 189/19 190/23 190/24 192/3 192/4 202/13 informed [7] 32/11 39/5 186/16 186/17 187/8 187/8 190/7 informing [2] 189/23 197/6 infringe [1] 74/16 inherited [1] 11/7 inhibit [2] 2/20 3/1 inhibited [1] 49/17 initial [2] 118/10 135/7 initiating [1] 39/7 inject [1] 141/12 inquiries [1] 207/22 Inquiry [19] 1/16 15/22 21/6 28/18 29/2 29/5 31/22 54/23 69/5 88/20 105/15 122/8 155/22 166/11 185/8 197/2 197/3 210/25 211/6 Inquiry's [2] 3/2 203/11 insight [2] 159/15 163/21 insist [2] 52/9 108/4 instance [1] 213/15 instantly [1] 41/17 instigated [1] 81/20 instigation [2] 8/24 80/15 institution [1] 182/20 institutions [1] 19/23 instructions [4] 24/3 25/22 25/25 55/14 instruments [1] 175/21 insufficient [1] 95/23 intelligent [1] 67/21 intended [2] 24/13 167/14 intense [1] 40/16

**intention** [1] 74/4 interact [1] 17/1 interaction [1] 16/23 interactions [2] 14/9 35/18 interest [7] 42/11 55/21 71/1 114/6 118/2 176/3 186/10 interested [3] 1/16 118/6 206/12 interesting [8] 66/24 88/11 104/10 150/2 166/12 182/13 200/24 interests [4] 49/19 75/4 175/22 190/15 interfere [2] 11/25 50/9 interference [2] 12/7 52/24 interfering [2] 49/11 50/7 international [5] 175/21 176/3 182/1 182/9 182/14 interpretation [1] 173/11 **interpreted** [1] 74/14 interrupt [1] 118/22 interrupted [1] 160/17 intervene [5] 9/6 17/7 52/15 80/18 103/16 intervened [11] 9/5 68/9 77/15 81/3 84/8 102/24 103/1 103/4 103/15 112/16 112/22 intervening [3] 51/18 81/8 117/22 intervention [2] 31/3 114/9 interview [1] 64/17 interviewed [1] 64/1 interviews [1] 133/24 interwoven [1] 29/14 intimation [2] 214/6 214/24 into [19] 8/9 25/9 27/15 37/1 39/12 52/3 52/5 59/7 106/19 111/20 139/2 153/15 166/2 182/1 191/6 197/3 203/19 211/18 212/13 intrigued [1] 151/11 intrigues [1] 213/3 introduce [2] 173/8 174/3 introduced [3] 167/16 167/20 168/8 introducing [1] 168/3 introduction [1] 44/11 investigate [1] 200/14

(70) I'd - investigate

investigated [2] 201/20 203/3 investigations [1] 65/17 investigative [1] 209/14 invited [2] 47/22 157/2 inviting [1] 102/7 involve [4] 51/19 63/14 175/21 204/3 involved [53] 7/8 8/1 8/8 9/6 9/22 10/13 12/20 14/24 16/5 18/17 20/1 39/7 39/23 40/6 41/6 43/21 53/13 63/16 66/14 68/4 68/6 68/13 69/11 70/9 70/10 70/10 72/8 72/10 75/11 75/19 76/13 77/15 78/8 87/20 87/21 91/25 102/25 103/11 113/2 124/6 136/10 165/22 172/10 193/14 194/17 195/18 203/24 203/25 206/10 206/14 207/13 207/15 209/6 involvement [5] 46/24 143/8 143/9 161/10 211/6 involves [1] 188/15 involving [5] 91/24 111/24 135/10 208/8 209/15 Ireland [3] 14/11 14/18 14/21 irrelevant [1] 68/5 Irrespective [1] 208/5 irritated [1] 91/16 irritating [1] 209/11 irritation [1] 94/7 isn't [13] 31/19 91/6 117/20 122/4 127/17 141/25 153/11 169/11 170/22 170/22 182/1 186/5 186/15 isn't -- the [1] 170/22 issue [39] 15/1 25/22 26/4 26/9 29/15 39/16 39/17 50/5 55/13 59/11 68/2 70/9 71/2 72/13 72/25 75/2 77/25 78/5 85/8 85/21 94/4 99/22 100/23 103/17 112/25 114/19 116/8 118/10 118/12 123/16 140/3 146/20 161/10 167/3 168/5 171/8 190/23 190/23 202/24 203/10 204/23

206/22 issued [5] 79/9 88/17 88/22 102/16 115/4 issues [23] 2/18 10/11 12/18 13/16 13/23 26/12 38/14 40/12 43/21 53/14 53/15 58/1 58/3 58/10 74/12 115/24 138/24 161/9 161/15 182/20 193/6 201/23 205/16 issuing [3] 24/3 25/24 121/12 it'll [2] 204/23 210/25 it's [157] 7/19 9/13 15/10 15/12 16/12 22/1 22/2 22/5 22/7 22/7 22/10 27/24 28/8 31/21 32/5 37/9 39/21 39/22 40/24 41/16 44/8 51/13 52/11 52/11 54/9 54/9 54/16 54/16 54/17 56/9 60/7 63/15 66/11 69/22 69/22 69/24 78/12 78/14 78/17 84/23 84/25 87/24 88/11 90/1 92/24 93/4 98/3 98/7 98/9 101/2 101/5 101/8 101/11 101/17 101/20 102/22 103/24 104/10 104/25 107/10 110/6 112/17 113/19 113/21 114/4 114/7 114/19 116/13 117/14 117/19 119/3 122/14 124/7 125/2 125/7 125/7 125/17 129/8 129/10 129/10 129/11 129/12 129/20 131/16 133/19 135/1 136/18 138/14 139/24 142/5 142/7 142/16 142/24 143/5 143/6 145/10 145/16 146/1 146/2 146/4 146/5 146/7 151/7 151/22 152/15 153/5 153/14 155/13 156/23 157/11 159/22 162/1 163/4 163/8 163/22 169/16 171/14 172/4 172/8 173/4 174/3 174/10 178/18 180/25 181/20 181/23 181/24 181/25 182/21 182/22 183/5 183/11 183/25 186/6 186/7 186/9 188/12 188/12 188/13 189/4 189/20 194/3 195/3 196/12 197/21 201/22 202/14

210/13 210/14 210/17 210/18 212/12 213/2 213/3 its [15] 18/18 21/20 28/3 48/19 48/20 48/20 72/19 79/11 111/25 119/6 119/7 152/25 167/23 171/22 197/3 itself [8] 21/13 74/7 101/8 118/7 174/8 178/18 179/16 184/4 ITVN0000041 [1] 204/15 ITVN0000045 [1] 204/24 **IV [1]** 158/1 IV drug [1] 158/1 **January [7]** 138/6 139/16 139/18 139/22 140/11 140/16 144/14 job [7] 13/7 27/24 37/21 41/3 45/14 181/24 196/10 **John [5]** 5/2 66/21 90/24 105/20 208/24 John Patten [1] 105/20 Johnson [1] 211/2 joint [1] 43/17 joke [2] 25/1 41/11 jokes [1] 125/12 Joseph [1] 19/8 journalism [1] 209/14 journals [4] 27/12 53/20 54/1 54/17 Joyce [3] 69/22 116/13 175/16 judgment [4] 39/21 40/8 49/18 67/23 judgments [2] 152/7 182/20 July [32] 1/1 2/7 60/7 69/21 72/7 72/8 77/18 77/19 77/24 78/6 78/12 78/17 80/9

83/12 84/23 85/8 90/19 92/18 93/4 108/25 113/2 142/24 156/13 161/4 164/8 175/14 177/8 177/9 177/11 177/14 178/8 178/9 July 1983 [1] 156/13 July 1984 [1] 142/24 June [4] 70/20 120/15 90/22 176/7 179/20 junior [6] 4/10 4/11 4/12 11/17 66/22 203/18

juniors [1] 211/15 just [163] 3/6 3/13 5/18 9/10 9/25 11/4 13/24 14/3 14/5 15/1 15/8 20/14 21/14 21/15 22/10 24/7 30/8 31/19 33/14 35/23 41/2 41/12 43/1 43/6 43/12 44/8 45/1 45/6 49/3 51/20 52/14 55/24 56/10 59/23 60/4 61/5 62/22 62/22 64/8 64/13 67/4 67/6 68/16 68/23 69/2 71/14 71/14 72/9 72/11 76/18 76/22 78/11 80/25 81/9 81/9 81/13 81/19 84/4 84/6 84/9 85/9 86/25 88/11 90/4 91/5 93/17 95/12 96/23 97/7 97/14 97/19 100/19 101/9 102/17 103/3 103/4 103/20 103/22 103/22 106/14 106/17 110/1 110/8 110/10 110/18 111/21 111/22 111/25 115/9 118/22 120/4 125/15 125/23 126/1 126/6 126/19 126/25 127/23 127/25 129/10 129/16 130/17 133/9 136/14 137/3 138/10 140/20 140/20 142/23 144/7 148/7 149/3 151/11 151/18 153/23 155/3 156/8 157/14 157/15 157/19 160/12 160/21 161/7 161/13 163/11 164/3 164/4 167/10 169/13 169/18 172/5 178/4 179/19 183/14 184/25 185/4 185/16 186/7 186/8 187/1 188/24 189/5 189/16 191/18 193/12 193/23 193/25 194/16 197/13 198/24 201/11 204/11 204/20 204/25 207/7 209/24 210/9 212/10 212/11 213/2 213/3 213/16 214/20

justified [1] 108/13 justify [1] 158/21 keen [3] 16/12 37/19 keep [7] 27/10 27/13 90/23 92/5 111/10 111/17 157/9 keeping [5] 46/24

94/19 174/17 186/23 200/1 Keith [2] 19/8 19/13 Keith Joseph [1] 19/8 **Ken [2]** 45/1 166/3 **KENNETH [3]** 1/8 141/2 217/2 Kenneth Clarke [1] 141/2 kept [4] 8/15 43/6 48/4 143/18 key [8] 13/17 37/22 41/15 44/4 44/8 45/21 90/23 159/1 kicked [1] 185/24 kill [1] 92/3 killed [3] 77/6 89/21 154/17 killing [3] 52/16 132/11 154/7 kills [2] 76/10 185/21 kind [27] 4/5 4/7 4/22 17/8 39/16 39/17 41/6 44/11 45/4 45/13 59/1 59/18 64/22 65/15 65/16 101/3 151/16 154/25 181/13 182/21 195/21 196/3 201/14 205/16 206/3 207/3 207/13 kinds [5] 32/6 32/7 61/23 68/4 144/18 Kingdom [6] 60/19 63/1 70/22 120/14 158/12 177/2 kit [1] 23/6 knew [16] 11/11 32/24 layman [2] 62/4 65/21 33/24 42/8 45/22 59/5 63/25 82/11 83/8 92/12 113/3 118/6 121/2 162/22 185/13 194/21 know [231] knowledge [14] 41/19 54/2 57/22 59/12 59/25 60/3 116/1 142/18 159/21 176/12 192/11 192/25 193/2 200/13 known [15] 10/10 19/16 52/7 52/22 105/14 120/23 121/16 149/5 149/19 150/3 151/17 154/11 154/16 158/13 207/12

89/5 171/5 labelled [1] 173/18 laboratory [10] 60/18 61/3 73/21 146/4

knows [4] 31/23 46/4

149/9 151/15 153/22 163/9 193/15 212/16 lack [1] 82/5 Lancet [4] 53/25 53/25 146/17 146/20 language [2] 76/11 135/12 large [11] 7/24 28/1 37/14 50/20 53/25 61/13 79/7 89/15 120/18 180/6 193/4 last [15] 22/8 28/19 29/2 60/12 66/18 66/20 91/15 111/5 114/16 117/12 144/2 146/12 173/3 211/12 211/21 late [4] 168/6 195/22 196/5 200/11 later [17] 10/9 25/1 29/4 42/19 56/16 61/4 63/6 74/10 81/15 81/18 142/21 144/10 145/14 145/17 164/7 166/11 194/8 latest [3] 53/20 60/25 207/24 latter [1] 18/1 laughable [1] 86/10 launch [2] 111/9 111/16 lawyers [3] 161/23 190/3 192/21 lax [1] 115/19 lay [3] 27/1 29/24 195/12 lead [6] 34/3 89/14 96/1 117/7 196/1 196/8 leading [4] 34/9 146/8 149/12 196/11 leaflet [129] 69/13 70/10 70/17 71/2 71/22 72/3 72/14 72/17 72/23 73/2 74/7 74/22 75/3 75/7 76/2 78/23 79/5 79/13 79/16 79/22 81/2 81/2 81/22 82/3 84/3 84/7 85/7 85/16 86/4 86/6 86/7 86/13 88/14 88/17 90/5 90/7 90/11 90/23 90/25 91/1 91/2 91/2 91/7 91/25 93/7 93/11 93/16 94/4 94/16 95/11 95/20 95/23 96/7 96/25 97/22 98/9 104/8

(71) investigated - leaflet

104/14 107/3 108/2

110/5 111/25 112/25

113/6 113/11 113/15

L	184/25 185/4 191/24	literature [1] 146/24	192/3 194/6 194/7	212/10 212/19 217/2	made [25] 8/9 18/24
leaflet [63] 113/17	letter [5] 119/23	litigious [1] 190/2	202/3 204/15 212/8	Lord Clarke [56] 1/3	19/1 21/21 21/23 48/5
113/23 114/18 115/2	146/11 202/13 205/12	little [17] 21/4 23/16	looked [17] 92/15	1/10 10/12 13/23 15/9	66/20 73/12 73/25
115/4 115/15 115/24	205/14	25/11 33/10 42/20	101/14 115/3 126/1	15/12 15/17 55/7	80/5 93/12 95/20
116/25 117/10 118/10	letters [4] 26/4 37/11	63/6 95/12 109/25	130/6 131/5 133/9	55/22 56/12 57/13	103/6 119/9 129/5
118/19 119/9 119/18	46/19 46/19	119/16 119/25 157/21	135/6 136/9 139/10	60/5 61/6 64/14 65/11	132/4 137/2 146/25
119/20 120/6 120/12	letting [1] 87/2	159/24 162/5 163/10	142/4 142/20 144/16	69/9 70/7 71/17 72/7	147/7 147/17 153/19
121/12 121/25 122/21	level [2] 4/3 158/20	163/18 165/15 165/19	166/17 181/7 182/24	74/10 75/10 77/17	157/1 158/22 168/14
123/6 123/16 123/22	liability [1] 102/15	live [2] 191/5 196/16	213/5	78/10 78/25 80/13	187/15
124/2 124/5 124/23	liable [1] 190/5	lived [2] 196/7 196/14	looked at [7] 130/6	83/5 84/22 85/13	magnitude [1] 162/24
126/10 128/1 128/2	liaising [1] 14/10	Liverpool [1] 9/17	131/5 133/9 136/9	87/12 89/13 90/3 91/5	Mail [1] 189/13
129/5 129/6 130/1	licensed [1] 156/9	lives [6] 22/1 76/21	139/10 166/17 213/5	95/1 95/16 96/15 98/9	main [17] 5/14 38/11
130/3 130/8 130/19	licensing [6] 11/21	151/18 158/15 196/13	looking [11] 21/14	98/25 99/2 108/7	48/2 48/19 48/20
131/4 131/7 131/23	12/1 12/11 51/12	210/6	58/19 95/15 101/13	109/22 110/9 110/17	53/10 53/18 68/7
132/5 133/5 133/10	163/6 168/2	living [1] 54/14	105/14 122/3 122/4	113/8 114/25 116/12	72/19 78/22 79/4 80/3
134/1 134/14 135/4	life [28] 8/4 8/19 46/2	lobbied [1] 50/1	130/24 175/12 193/6	150/23 151/6 155/8	82/14 144/25 156/7
135/21 136/1 136/22	49/1 97/3 125/11	lobbying [2] 47/24	198/14	160/6 171/9 172/5	161/6 165/22
139/2 139/20 140/7	150/16 154/8 154/9	48/11	looks [1] 98/11	175/9 195/2 202/20	mainly [5] 26/7 53/13
141/5 141/9 141/17	154/16 154/25 187/16	lobbyists [1] 49/17	loose [1] 143/17	203/10 204/12	77/8 182/18 185/20
142/1 142/8 142/10	187/16 188/2 188/2	local [6] 4/15 16/1	Lord [139] 1/3 1/8	Lord Glenarthur [30]	mainstream [1]
143/3 176/21 176/25	195/23 196/1 196/8	24/13 24/15 104/1	1/10 3/11 5/5 5/5 5/6	5/6 6/2 10/16 58/8	181/25
177/17 178/11 180/19	196/15 196/15 197/12		5/7 5/8 5/8 6/2 10/12	58/11 66/1 70/19	<b>maintained</b> [2] 168/2
191/9 206/16	197/18 197/21 199/12	locally [2] 18/15 19/7	10/16 13/23 15/9	75/12 77/20 78/6	173/6
leaflets [16] 26/5 68/6	199/17 201/10 202/9	London [2] 9/17 20/14		78/18 80/7 80/10 83/1	major [7] 4/6 11/11
80/6 88/22 94/10 97/5	210/14	long [29] 10/2 11/8	55/22 56/12 57/13	85/14 88/20 92/16	33/21 48/21 76/1
113/5 117/3 119/14	life-threatening [2]	20/2 42/7 67/10 81/1	58/8 58/11 58/13	103/9 107/6 111/6	182/1 193/15
120/7 121/18 130/17	199/12 199/17	84/4 86/9 88/21 88/23	58/14 58/16 60/5 61/6	117/23 124/1 124/15	majority [4] 51/24
134/16 180/23 203/25	light [7] 106/23 130/6		64/14 65/11 65/16	130/20 152/17 169/6	52/5 52/6 192/23
206/22	135/9 136/21 159/21	113/8 113/21 124/25	66/1 69/9 69/23 70/7	177/11 177/13 178/15	make [34] 12/25
learn [1] 189/13	181/6 212/19	127/13 142/23 143/7	70/19 71/17 72/7	212/19	13/12 19/24 24/9
learnt [1] 62/8	lightweight [1] 68/21	143/7 144/24 145/10	74/10 75/10 75/12	Lord Glenarthur's [7]	26/15 27/20 38/9
least [7] 117/23	like [31] 6/10 30/3	145/16 149/2 151/21	77/17 77/20 78/6	69/23 100/16 102/22	41/11 43/12 51/14
152/25 163/1 170/17	32/4 33/13 34/1 38/22		78/10 78/18 78/25	116/14 126/4 162/10	52/19 68/15 76/18
184/2 192/1 199/19	38/22 39/9 40/9 40/22	209/11	80/7 80/10 80/13 83/1	175/17	77/9 84/10 84/16 99/2
leave [14] 5/16 57/7	50/21 52/12 55/19	long-winded [1]	83/5 84/22 85/13	Lord Trefgarne [4]	99/2 103/4 109/16
81/16 96/16 99/2 99/5	56/22 68/5 77/16	162/21	85/14 87/12 87/19	5/5 5/7 58/13 58/16	109/20 113/24 124/8
102/12 109/1 109/5	79/17 126/20 136/14	longer [6] 43/23 46/23		Lords [4] 5/3 5/15	131/22 140/17 158/24
110/2 125/16 137/25	137/24 139/23 142/24		90/3 91/5 92/16 95/1	11/11 23/24	163/5 164/20 169/19
145/9 164/19	152/5 157/9 157/18	196/16	95/16 96/15 98/9	losing [2] 80/20 81/7	174/19 211/15 211/16
leaving [2] 105/6	170/11 176/18 190/8 203/25 209/4 211/13	longest [1] 9/19	98/25 99/2 100/16 102/22 103/9 107/6	lot [23] 8/2 12/13	213/23 214/15
201/18		look [73] 1/23 5/20		26/20 29/16 30/1	makes [2] 54/11
led [1] 203/13	liked [3] 30/6 42/17 159/15	9/1 15/8 33/19 42/5	108/7 109/18 109/22 110/9 110/17 111/6	30/20 33/20 35/20	174/13
left [6] 29/17 39/17	likelihood [1] 167/21	44/6 53/5 54/19 54/20 57/13 60/4 60/20		37/4 37/17 47/21	making [16] 24/20 27/8 28/2 68/23 87/13
42/7 138/20 142/11	likely [9] 40/19 73/20	62/21 77/23 78/8	113/8 114/25 115/23 116/12 116/14 117/23	85/19 89/22 95/18 106/19 110/6 155/2	112/17 112/23 125/12
163/11	74/18 117/3 117/7	82/21 83/13 84/20	121/16 123/25 124/1	171/2 194/3 195/12	147/4 158/23 161/10
legal [9] 51/13 101/2	129/8 129/12 129/17	87/13 89/19 90/18	124/15 125/1 126/4	195/24 212/24 212/24	172/8 173/2 182/2
101/4 101/5 101/9	214/25	93/15 95/11 96/14	130/15 130/20 132/13	lots [2] 47/7 47/8	190/4 206/6
102/14 103/25 104/20	limb [1] 192/3	98/24 99/10 99/25	140/17 142/4 146/1	low [1] 90/23	male [2] 72/19 74/1
105/3	limited [1] 196/1	100/20 103/20 107/8	150/12 150/23 151/6	luck [1] 125/13	man [10] 4/4 16/14
legally [2] 104/25	limiting [1] 199/25	109/1 115/7 116/14	152/17 155/3 155/8	lumped [1] 198/18	30/3 30/3 30/4 134/6
190/5	limits [2] 23/2 104/19	116/21 117/24 123/13	156/5 157/11 157/14	lunch [3] 114/19	150/17 156/21 159/14
legislation [3] 5/13	line [6] 14/22 15/21	126/6 130/15 135/8	160/5 160/6 160/13	115/3 118/17	159/14
11/10 11/12	17/25 132/2 151/22	136/17 136/25 137/3	161/20 162/8 162/10	Luncheon [1] 114/23	manageable [2] 38/9
less [7] 33/19 61/19	156/5	138/10 138/13 140/8	165/11 167/10 168/5		45/15
168/17 168/18 170/14	lines [1] 9/24	145/24 146/6 148/7	169/6 170/24 171/9	M	management [7]
186/20 186/21	list [2] 198/24 207/13		172/5 175/9 175/17	<b>MA [1]</b> 140/10	17/23 18/2 18/5 19/7
let [9] 65/15 79/12	listed [2] 2/13 78/19	156/14 158/8 160/12	177/11 177/13 178/15	machine [1] 39/11	19/9 19/10 44/11
111/9 111/16 143/17	listen [1] 163/17	167/8 173/3 175/15	180/3 180/21 181/5	MACK0000307 [1]	managerial [1] 24/20
156/16 157/19 183/5	listened [1] 159/17	177/6 177/10 178/5	183/5 185/3 192/7	178/18	manifestation [1]
214/16	listening [1] 142/23	178/8 181/5 183/3	192/13 195/2 199/1	mad [3] 81/10 83/9	122/12
let's [5] 77/17 138/10	lists [1] 141/10	184/25 189/14 191/24	202/20 203/10 204/12	83/10	manifested [1] 149/1
		.5.,25 100/11 101/24			
					(72) leaflet manifester

(72) leaflet... - manifested

М	121/8
manner [1] 119/18	127/2
manufactured [2]	141/1: 147/7
149/21 167/15	149/2
manufacturers [1]	166/19
174/14	169/2
many [15] 2/22 7/14 48/15 48/16 58/3	173/1
84/17 95/15 95/25	194/10
122/14 132/9 149/21	maybe
152/23 184/21 203/13	26/21
209/12	193/2
March [24] 1/19 1/21	mayhe 103/5
167/16 167/25 168/6	McKin
168/14 168/18 168/20	me [12
169/4 169/8 169/12 169/16 169/20 172/1	10/5 1
172/1 172/12 172/16	15/17
173/12 173/18 173/21	29/18
173/21 174/12 174/13	30/24
174/20	36/1 3 45/20
March 1983 [1] 168/6	50/6 5
March 23rd [1] 167/16	65/15
Margaret [3] 2/9 19/21	66/25
20/17	81/1 8
Margaret's [1] 23/3 mark [1] 124/12	83/19
market [1] 170/15	85/12
marking [1] 44/2	86/16
markings [2] 44/19	95/14 105/1
45/25	109/1
Mary [1] 1/4	110/1
masses [1] 192/23 massive [2] 41/14	114/1
132/8	124/9
material [7] 44/3	134/2
117/21 151/24 157/12	143/1
167/15 167/25 189/7	143/2: 144/1:
materials [2] 141/19	152/1
172/17	153/2
matter [24] 7/4 10/14 10/22 15/19 39/21	160/1
62/25 87/24 90/2	165/2
99/23 122/10 127/10	166/2
128/1 138/5 139/8	177/1
139/19 155/24 160/11	191/3 197/4
164/13 165/13 169/5	202/2
188/5 194/22 212/20	206/6
213/7	206/1
matters [12] 5/25 13/24 25/16 39/14	207/1
79/21 88/2 113/22	208/2
118/20 128/17 161/19	210/1
165/12 209/18	213/1
may [48] 14/12 14/14	215/1 <b>mean</b>
18/19 26/17 41/15	9/15 1
56/19 73/5 73/10	15/3 1
73/16 77/17 83/5 90/4 98/20 101/7 109/25	27/21
113/1 113/4 115/19	30/24
113/1 113/4 113/19	34/17

193/22

121/8 122/10 122/14 47/20 48/1 48/4 48/7 127/22 134/23 135/7 50/17 51/20 51/23 141/15 143/16 146/2 52/3 52/5 53/10 53/12 147/7 147/13 148/20 59/1 59/2 61/16 62/5 149/25 159/7 161/11 62/17 63/12 63/17 166/19 167/24 168/18 65/6 65/7 67/20 70/5 169/24 170/5 173/10 76/6 80/25 81/10 173/11 176/4 187/10 83/16 86/5 87/24 89/5 194/10 202/22 212/10 101/21 102/24 104/13 maybe [5] 26/21 104/16 106/3 116/19 117/16 129/14 131/15 26/21 65/21 171/17 138/11 140/22 144/8 mayhem [3] 81/5 144/17 145/6 151/16 103/5 185/24 152/2 152/2 152/4 McKinsey's [1] 19/12 152/7 152/20 153/16 me [122] 1/5 2/8 9/9 159/23 161/25 165/15 10/5 10/9 14/13 14/14 166/8 169/14 170/8 15/17 17/15 24/11 171/2 174/5 182/17 29/18 29/21 30/11 183/24 185/13 185/18 30/24 31/7 31/8 34/24 191/3 197/12 197/15 36/1 36/14 45/19 198/13 203/22 204/6 45/20 46/17 47/19 205/22 206/1 209/22 50/6 50/7 57/20 63/15 214/1 214/14 65/15 66/18 66/23 **Meaning [1]** 158/18 66/25 68/15 75/18 means [7] 50/25 100/7 150/3 174/1 81/1 83/18 83/19 83/19 84/13 84/14 174/4 174/24 203/16 85/12 85/25 86/1 meant [8] 39/12 42/6 86/16 91/8 92/9 92/21 51/3 82/17 169/18 95/14 102/14 103/2 186/11 202/1 202/16 105/13 105/16 105/21 Meanwhile [1] 71/1 109/18 109/22 109/24 measure [3] 199/15 199/20 200/3 110/19 111/9 111/16 114/15 114/15 124/5 measures [9] 14/10 124/9 126/15 127/20 52/23 144/22 179/25 134/22 140/12 140/17 183/7 198/23 201/21 143/14 143/14 143/21 203/4 203/20 143/22 144/1 144/1 mechanics [1] 113/10 Med [4] 84/25 98/10 144/12 145/18 151/11 128/11 131/2 152/1 152/8 153/10 153/20 156/16 158/25 Med IMCD [1] 128/11 160/10 163/22 164/13 Med SEB [1] 131/2 165/23 165/25 166/16 media [10] 8/4 55/21 166/20 169/14 170/12 61/18 62/14 62/20 177/19 183/5 185/16 83/9 93/2 133/25 191/3 192/17 195/15 189/7 211/2 197/4 199/4 201/17 medic [2] 13/20 62/4 202/21 202/22 202/23 medical [81] 12/14 206/6 206/11 206/12 12/14 12/15 12/16 206/18 206/19 207/11 12/17 12/20 12/22 207/18 207/20 207/25 13/3 13/7 16/11 16/23 208/23 209/15 209/24 26/3 26/6 26/8 26/11 210/1 211/9 213/3 26/12 26/14 26/24 213/16 214/1 214/4 27/4 27/6 27/6 27/11 27/14 27/23 28/16 mean [95] 6/9 8/21 28/20 28/21 29/1 29/3 9/15 11/23 11/25 14/6 29/10 29/24 29/25 15/3 16/7 20/22 22/1 30/1 30/17 31/3 31/11 27/21 29/17 30/7 31/15 31/16 31/20 32/15 33/7 33/14 34/4 30/24 31/2 31/25 34/17 39/24 42/23 34/19 35/15 35/21 45/3 46/19 47/18 36/13 36/14 36/23

47/19 50/1 51/24 52/14 52/18 53/19 54/8 54/11 54/25 55/5 55/9 74/24 78/4 78/19 115/11 128/10 134/10 135/18 135/24 136/23 153/21 162/14 163/18 179/11 182/5 189/19 195/12 202/9 203/16 203/17 205/17 205/18 medically [1] 138/19 medicine [7] 27/3 32/2 34/10 51/24 52/9 188/13 196/6 medicines [17] 11/22 12/1 12/2 12/11 13/19 49/20 49/24 51/12 99/21 100/22 102/15 155/9 155/11 155/15 156/12 162/12 167/2 Medicines' [1] 161/4 medics [14] 12/13 29/20 52/5 52/6 52/8 52/15 65/19 65/20 65/22 65/25 83/24 84/1 204/10 207/6 medium [1] 24/22 medium-sized [1] 24/22 meet [8] 47/16 47/18 47/21 48/13 48/16 48/23 66/23 196/22 meeting [65] 25/18 26/19 26/20 26/24 27/5 38/15 38/17 39/11 40/3 40/18 42/17 43/12 45/3 45/10 45/10 48/7 48/25 66/2 66/7 66/18 67/1 68/17 78/16 78/16 78/17 80/15 80/17 81/19 81/21 81/23 83/12 83/13 83/23 84/6 85/8 85/13 87/25 88/3 88/4 90/21 90/22 90/24 91/9 91/19 92/19 101/22 105/7 112/15 112/24 113/16 131/8 131/21 147/6 155/20 155/21 155/24 159/11 161/7 163/14 166/6 166/24 206/5 206/18 208/17 213/7 meetings [17] 9/2 24/5 24/9 24/23 35/19 36/5 40/17 40/20 42/16 42/22 43/17 43/17 47/17 66/13 83/17 113/12 201/15 meets [1] 130/10 member [12] 28/7

45/5 60/1 79/11 159/4 159/5 166/21 178/24 179/24 182/10 190/18 211/7 member states [3] 79/11 179/24 190/18 members [8] 15/3 27/22 36/2 37/12 131/21 156/25 159/11 181/25 memo [1] 98/7 memory [3] 33/20 85/12 90/24 memos [1] 151/1 men [2] 141/12 141/12 mention [2] 11/14 14/12 mentioned [1] 106/2 merit [1] 177/16 merits [1] 172/6 mess [1] 25/9 message [2] 135/17 191/18 messages [1] 17/3 met [6] 7/11 29/17 42/25 49/1 117/5 164/7 method [20] 93/19 94/18 95/2 96/20 96/21 99/13 99/14 99/24 101/10 101/12 101/15 101/24 108/1 108/5 109/10 109/12 111/25 115/25 123/18 124/3 methods [3] 94/1 96/18 102/10 meticulous [1] 88/8 middle [11] 8/5 18/21 28/12 61/6 126/16 126/17 127/12 127/12 143/12 211/23 212/14 might [38] 10/24 21/16 25/25 33/15 36/18 40/7 45/7 52/22 55/16 62/13 67/24 75/24 80/13 96/8 99/25 101/12 104/5 108/18 122/16 162/16 163/15 165/25 166/3 166/8 166/15 167/11 169/10 177/15 185/9 189/4 192/10 194/7 198/23 200/3 203/18 208/16 210/4 212/8 mild [2] 198/19 200/10 militant [1] 9/15 million [1] 60/24 millions [1] 211/1 mind [9] 37/7 39/1

84/3 88/9 91/3 99/18 109/16 129/7 200/25 mine [4] 6/24 15/5 118/25 152/5 minimise [8] 52/23 71/3 79/25 80/4 82/11 82/14 112/19 167/21 minimised [1] 184/6 minimising [11] 180/14 181/4 183/13 183/19 184/9 184/11 184/19 185/1 192/5 197/7 201/12 minister [92] 1/17 3/5 3/21 4/2 4/5 4/12 4/18 5/5 6/5 6/15 9/3 9/12 11/15 11/20 12/5 12/9 13/3 13/7 13/14 13/25 17/12 23/13 26/18 26/18 27/5 28/1 28/14 31/1 35/15 36/19 36/20 37/2 37/5 37/17 37/24 38/5 38/18 38/25 39/6 39/8 39/10 39/14 39/17 39/23 40/2 40/7 40/9 40/11 40/25 41/1 41/2 42/3 43/14 44/9 44/10 45/8 46/6 46/7 51/3 51/17 52/15 58/7 66/22 68/10 70/6 78/15 103/9 110/23 111/23 141/2 150/14 165/18 165/20 166/5 169/9 169/21 170/17 178/21 202/5 202/6 203/2 203/23 203/24 206/19 207/7 208/8 209/19 210/4 211/23 211/24 213/13 214/19 Minister's [2] 27/24 36/20 ministerial [16] 2/12 3/10 3/25 5/24 11/23 12/7 23/22 37/1 37/8 42/16 47/4 48/5 58/2 103/8 130/7 152/24 ministers [71] 3/6 3/15 3/17 4/11 4/12 11/6 11/18 11/24 11/25 12/2 12/25 13/1 13/2 15/4 15/4 17/4 17/5 26/10 26/25 27/22 32/11 37/16 50/13 51/2 51/7 68/18 70/5 70/15 71/1 72/2 75/5 75/10 79/3 86/1 87/22 93/12 96/19 99/1 116/9 117/2 118/9 123/21 134/16 139/18 139/19 140/6 151/25 162/13 163/2

(73) manner - ministers

117/2 119/1 119/6

г	
	M
	ministers [22] 165/7 165/14 172/11 173/1 175/11 175/20 176/4 176/6 178/20 178/22 179/13 181/16 181/17 182/3 182/7 201/25 202/16 202/25 203/18
	205/16 208/25 210/23 ministers' [4] 73/1 93/5 116/24 140/2 ministry [1] 27/23 minor [3] 76/1 123/9 131/21
	minor step [1] 76/1
	minute [36] 43/1 69/21 70/2 70/12 72/6 77/18 78/10 78/25 84/22 90/18 90/19 107/10 108/11 110/9 111/5 115/10 124/17 124/22 128/6 129/20 132/25 133/7 133/21 134/18 135/1 136/17 138/7 140/1 144/2 156/22 175/12 175/13 177/10 177/13 177/22 178/9
	minuted [1] 42/22 minutes [7] 105/1 106/15 108/17 112/14 178/12 181/6 182/23 Miss [1] 116/16 Miss Bateman [1] 116/16 mistake [2] 56/7
	211/16 misunderstanding [2] 74/19 74/21 mm [4] 78/21 127/8 134/3 149/14 Mm-hm [2] 78/21 149/14
	moderate [1] 198/20 moment [16] 5/18 15/17 32/5 33/22 43/10 69/12 70/7 91/13 109/24 132/19 155/4 173/16 174/25 178/3 185/3 212/8
	moments [1] 131/6 money [25] 7/18 7/20 7/24 20/4 20/6 20/8 21/21 21/23 22/3 22/5 22/6 22/7 22/8 22/9 22/10 22/12 22/16 22/19 22/22 22/25 23/4 23/7 23/9 23/12 59/24
	monitor [1] 171/22 monitoring [1] 119/11

month [17] 41/12 87/4 100/6 100/13 100/16 115/5 127/17 127/22 128/25 142/6 142/9 142/14 143/11 143/13 143/21 144/11 145/18 months [8] 9/20 35/14 41/14 102/11 102/12 106/22 150/1 194/1 more [64] 5/10 8/8 8/18 11/17 16/13 16/18 18/3 20/1 20/3 93/3 175/16 22/5 22/8 22/11 22/14 23/2 23/12 26/7 27/17 29/14 37/9 39/20 50/4 50/11 53/22 64/25 175/13 65/23 74/17 77/1 79/17 80/22 82/11 83/8 89/17 89/17 92/12 109/25 115/20 117/7 118/13 121/16 122/5 123/18 123/23 124/9 130/8 134/15 215/6 135/17 137/2 141/9 143/15 145/7 151/7 163/21 154/1 162/18 162/21 164/12 172/8 180/21 182/14 183/25 189/25 190/1 196/9 197/8 203/5 140/10 Moreover [2] 79/11 158/20 morning [3] 38/8 46/14 211/19 131/3 136/20 mortality [1] 150/7 most [31] 4/9 4/14 8/1 70/13 84/23 10/7 28/7 32/24 41/21 42/20 44/20 45/24 124/22 47/23 53/14 54/2 62/19 76/15 79/5 93/20 94/19 95/1 96/20 99/17 100/7 101/16 109/15 113/22 113/25 125/15 162/24 167/5 209/6 210/8 mother [1] 134/6 Mrs [1] 129/21 **motivation** [1] 24/18 motive [1] 110/2 **mounting [5]** 78/1 186/25 201/5 204/2 206/25 move [6] 55/15 74/15 114/18 145/21 157/20 212/7 moved [1] 142/19 **MP [3]** 1/12 1/13 182/11 Mr [46] 60/7 61/7 66/2 69/22 69/22 69/25 70/13 75/12 77/24 78/6 84/23 85/10 93/3 98/23 217/3

93/3 107/6 107/11

107/14 110/21 110/21 115/12 116/13 116/23 124/18 124/19 124/22 128/7 131/3 132/25 52/11 53/9 57/4 63/3 133/3 136/20 140/10 63/9 64/19 106/13 141/9 156/20 159/3 124/8 130/8 142/21 159/7 159/13 163/13 163/21 166/18 175/13 175/14 175/16 175/16 197/1 multi [1] 41/22 177/13 178/10 215/6 Mr Alcock [3] 69/25 multi-facetted [1] 41/22 Mr Alun [1] 133/3 multiple [1] 199/25 Mr Clarke [1] 141/9 multiply [1] 146/22 Mr Cumming [1] 45/2 56/17 90/24 99/22 100/23 141/15 Mr Cumming's [2] 159/5 185/12 186/24 177/13 178/10 Mr Fowler [1] 128/7 187/7 204/7 Mr Galbraith [7] muttering [1] 30/10 156/20 159/3 159/7 my [128] 2/23 4/21 159/13 163/13 166/18 8/6 8/19 8/21 8/24 10/1 10/7 11/3 12/3 Mr Galbraith's [1] 14/6 17/10 24/11 **Mr Hamilton [1]** 61/7 **Mr Harris [1]** 132/25 28/9 31/4 31/14 39/1 Mr Joyce [3] 69/22 39/2 41/4 42/6 42/9 116/13 175/16 42/14 44/12 44/15 Mr MA Harris [1] 44/24 45/5 45/20 45/22 46/2 46/12 46/14 47/11 48/5 Mr Naysmith [5] 107/11 110/21 124/18 57/3 57/22 58/2 58/4 Mr Parker [3] 69/22 62/25 63/11 63/14 66/11 66/11 66/12 Mr Parker's [2] 85/10 66/15 66/16 66/17 68/1 68/2 68/9 68/11 68/12 75/18 77/25 Mr Patten [4] 66/2 75/12 77/24 78/6 80/17 85/12 85/18 Mr Patten's [1] 175/14 86/2 86/20 103/2 Mr Williams [3] 103/16 103/18 106/4 115/12 116/23 124/19 Mr Winstanley [2] 116/11 118/2 119/23 107/14 110/21 125/14 125/20 127/2 **MS [32]** 1/9 78/15 129/15 130/2 137/15 78/22 79/15 85/13 138/4 143/13 143/22 90/22 90/25 91/16 144/11 145/19 147/4 98/23 107/15 117/25 150/16 152/6 153/3 124/20 126/8 128/14 157/5 161/5 161/24 129/22 131/4 132/4 162/3 164/4 164/13 133/1 133/7 133/25 174/5 192/11 192/17 134/17 135/3 135/11 192/25 195/4 195/8 136/5 136/21 137/7 138/18 138/23 177/16 197/18 201/4 201/16 177/18 178/9 217/3 202/20 203/2 203/6 Ms Bateman [3] 128/14 129/22 133/1 208/3 211/6 211/9 MS RICHARDS [3] 1/9 212/1 214/2 My only [1] 47/11 much [31] 6/19 11/24 myself [12] 24/8 36/6

16/13 17/11 20/1 20/3 44/7 44/10 63/23 21/12 22/7 22/24 26/7 91/24 124/6 140/17 35/22 35/25 36/2 50/4 166/11 170/9 206/14 207/16 mystery [2] 46/21 126/17 144/21 183/20 188/13 N 196/14 196/15 196/16 name [6] 8/13 24/2 29/19 63/25 64/15 155/13 **narrower** [1] 169/7 national [21] 3/18 6/8 6/9 7/21 9/13 9/14 15/24 17/23 18/4 must [13] 10/25 37/24 33/22 50/12 51/1 51/9 57/23 70/18 72/14 108/5 109/12 117/8 134/14 176/24 nationalised [1] 6/16 **nationally [1]** 104/15 5/8 5/14 5/14 5/21 8/4 nationwide [1] 128/21 nature [1] 74/19 Naysmith [5] 107/11 110/21 124/18 131/3 24/24 25/2 25/11 26/6 136/20 NBTS [2] 72/25 75/8 near [4] 99/13 133/13 139/1 169/8 near-uniformity [1] 99/13 nearer [1] 196/14 48/21 48/25 55/7 57/2 nearest [3] 208/21 209/5 214/24 nearly [1] 159/24 necessarily [2] 116/19 215/16 necessary [11] 64/24 76/3 81/22 104/4 115/19 131/16 132/1 135/23 170/19 179/25 183/6 108/13 109/16 110/12 necessitates [1] 87/15 125/7 125/11 125/12 necessity [1] 78/23 need [46] 41/23 57/19 64/13 65/7 69/16 71/23 72/9 73/3 76/18 77/10 83/12 84/7 85/7 93/15 95/16 100/2 112/25 115/14 115/20 118/21 119/5 120/11 120/18 121/7 123/12 124/14 127/9 128/3 195/12 195/17 197/16 130/7 130/10 131/15 131/19 134/12 135/8 135/25 138/6 143/3 203/11 206/10 207/25 155/2 165/11 166/7 173/13 188/21 191/2 199/18 199/23 213/17 needed [5] 23/12 79/7

needing [1] 200/20 needless [1] 77/8 needs [2] 22/13 22/14 negative [1] 115/21 negotiate [2] 22/18 22/19 **neither [1]** 17/10 network [1] 51/11 never [40] 7/21 9/2 9/3 9/4 9/5 10/3 14/24 14/25 22/7 30/12 41/5 46/2 47/15 51/17 61/14 66/12 66/13 68/3 68/6 77/15 88/3 88/3 97/13 104/23 105/6 106/3 106/6 112/14 152/1 153/17 158/6 165/6 165/21 198/4 206/8 208/20 210/2 212/3 212/18 215/18 new [25] 6/25 6/25 19/23 20/17 21/2 21/3 31/22 32/19 33/3 33/13 33/23 34/11 40/10 52/21 81/6 107/24 114/7 118/10 136/3 141/6 141/9 143/3 167/15 194/11 214/16 New Year [1] 136/3 New York [2] 81/6 107/24 Newcastle [1] 128/24 news [2] 120/3 128/19 newsletter [1] 53/5 newsletters [3] 17/5 27/8 53/4 newspapers [12] 23/10 34/1 39/24 59/5 59/8 59/19 62/11 112/3 132/10 132/12 185/7 191/6 next [28] 3/25 4/6 23/6 38/16 40/3 44/18 45/6 69/10 73/18 74/8 77/18 83/13 85/6 94/13 100/2 100/3 119/10 123/8 126/23 129/18 131/20 144/14 155/7 156/4 157/20 175/9 178/19 179/22 NHS [6] 4/14 15/24 18/13 21/18 25/12 186/16 Nicol [1] 146/8 night's [1] 44/18 **Nightingale [1]** 19/16 nine [1] 38/24 no [150] 3/3 7/23 11/19 11/23 12/9 19/10 26/15 28/11

79/24 139/3 143/15

N
no [142] 31/17
31/25 35/20 39/19
40/25 43/23 44/11
44/19 46/21 46/23
46/24 47/8 47/15 48/
48/15 53/2 53/3 55/1
55/21 57/1 60/3 64/1
64/3 65/15 67/19
67/23 73/19 73/21
74/4 76/1 77/10 80/2 86/9 88/11 89/11 90/
96/19 98/16 98/17
101/5 103/6 103/13
104/13 104/16 104/1
106/3 106/12 109/15
110/15 114/11 116/2
117/21 119/25 121/1
125/4 125/5 125/17
125/18 126/19 127/1
137/2 145/13 145/25
147/22 147/22 147/2 148/3 149/5 149/6
150/3 150/12 150/23
152/13 152/15 152/1
152/17 153/12 154/2
157/9 158/18 159/4
159/9 159/10 160/21
162/8 162/11 166/7
166/16 166/16 166/1
166/21 170/8 171/1
172/10 172/17 174/9
174/13 175/25 178/1 178/7 178/7 178/23
179/9 185/23 186/2
186/6 188/24 189/15
189/15 189/21 191/1
192/1 192/11 192/12
193/9 193/24 194/4
194/8 194/9 194/14
194/15 195/19 196/2
197/20 198/10 198/1
199/4 200/6 200/12
200/22 202/21 203/2 204/4 204/9 205/9
208/18 213/2 213/23
215/10 215/18 215/1
215/22
nobody [8] 19/18
31/23 33/23 140/24
170/3 171/5 197/16
214/22
nodded [7] 2/15 6/4
30/19 35/17 36/21
58/24 132/18
nominally [1] 24/2 nominated [1] 6/18
non [3] 23/21 26/25
50/1
non-clinicians [1]
00/05

non-controversial [1] 23/21 non-medical [1] 50/1 none [5] 12/2 12/3 101/21 186/20 192/18 nonsense [2] 13/15 51/25 normal [4] 76/8 77/1 175/22 196/15 normally [4] 11/19 162/11 164/8 182/16 Norman [7] 3/10 3/20 11/1 11/1 185/16 207/15 207/20 Northern [3] 14/10 14/18 14/20 not [262] note [9] 55/15 70/20 78/16 114/12 125/22 128/8 129/7 133/22 174/25 nothing [18] 3/15 3/17 10/6 17/4 55/7 55/8 68/15 69/6 79/4 79/14 117/21 117/23 135/11 136/13 172/15 183/24 194/21 195/6 notice [4] 79/23 103/16 107/4 197/16 notifications [1] 120/6 **notified [1]** 170/17 notwithstanding [1] 167/23 November [9] 1/13 2/7 115/6 128/6 129/20 130/13 130/14 130/21 142/7 November 1983 [2] 115/6 142/7 November 2019 [1] 1/13 now [94] 1/3 1/15 2/12 3/11 6/8 8/1 8/8 11/4 16/12 16/13 21/5 32/10 34/13 37/10 38/13 38/18 52/11 53/18 54/12 54/14 56/1 56/9 57/5 58/19 59/9 61/17 62/8 62/15 66/20 68/17 68/22 81/17 85/1 85/19 85/21 86/12 103/17 105/23 107/15 109/1 110/23 111/13 112/25 114/21 114/25 115/7 118/19 121/20 123/7 124/2 124/20 125/17 128/4 135/3 137/8 142/23 145/14 145/17 145/21 145/25 149/18 150/12 151/15 151/23

158/8 158/12 158/14 159/12 159/16 166/10 166/10 183/14 187/25 188/13 188/14 190/3 191/17 193/23 194/1 194/25 195/14 195/21 196/3 196/22 197/21 207/14 208/13 209/8 210/6 210/14 210/21 nowadays [1] 188/20 **nowhere [2]** 113/13 153/15 **NS [1]** 146/7 number [19] 1/15 2/12 46/10 56/8 60/10 69/24 93/20 94/15 119/15 119/24 120/19 147/20 148/17 148/19 178/20 179/20 196/25 198/23 204/24 numbers [8] 37/14 53/25 79/19 89/15 99/19 145/13 145/15 193/4 Nye [1] 18/20 Nye Bevan [1] 18/20 o'clock [3] 215/24 215/24 215/25 O.K [2] 127/1 127/4 oasis [1] 23/21 oath [3] 1/4 1/4 1/6 obey [1] 2/24 objecting [1] 104/17 **objective [5]** 48/19 79/4 80/3 82/14 97/23 obligation [2] 101/4 101/5 **obscure [2]** 181/20 182/5 obtain [2] 50/4 100/8 obvious [8] 39/22 90/13 93/24 99/14 101/12 101/15 101/18 101/24 obviously [47] 8/21 13/18 29/20 36/4 37/1 45/9 46/7 47/8 53/11 64/22 76/1 81/25 83/20 86/21 92/20 92/21 95/4 101/2 101/20 102/24 103/6 105/2 106/19 107/12 108/14 109/8 110/12 111/3 112/10 112/22 113/9 114/14 118/3 120/1 121/22 124/10

127/1 129/6 129/14

131/10 138/4 164/21

169/19 171/24 183/9

153/4 154/11 156/2

191/13 214/8

occasion [4] 56/15

96/2 104/22 197/8

occasions [3] 56/8

143/25 196/25

16/10 25/1 47/18 53/3

occasionally [5]

55/12

occupied [1] 5/19 occurred [4] 68/15 73/15 122/23 193/3 October [13] 35/10 124/18 125/19 125/25 126/1 127/7 127/8 127/13 127/17 127/21 130/21 131/5 132/23 odd [3] 3/13 27/2 194/1 off [19] 26/10 27/1 35/23 76/25 82/18 87/4 92/21 92/25 97/6 98/2 103/5 112/4 114/4 122/21 166/13 185/12 195/24 202/6 214/20 off very [1] 114/4 offer [1] 125/18 offered [1] 120/7 office [65] 10/1 14/10 14/11 14/11 14/17 14/18 15/4 15/4 36/20 36/23 37/3 37/16 37/19 37/23 44/1 45/5 45/16 46/15 57/25 58/1 68/13 69/23 75/18 78/13 92/17 93/4 103/2 107/1 107/13 110/11 116/14 116/16 116/20 118/5 124/18 125/20 128/7 128/14 129/19 129/23 131/3 133/2 133/15 134/25 136/20 138/7 141/24 143/10 143/13 143/18 143/22 144/12 152/5 153/19 166/2 175/14 175/17 175/18 177/12 177/23 178/8 182/10 206/10 208/4 211/18 officer [34] 12/14 12/14 12/16 12/20 16/11 26/3 26/6 26/11 26/14 26/25 27/4 27/6 27/7 28/21 29/3 30/2 30/17 31/3 34/4 34/19 35/15 36/13 36/15 52/19 54/25 55/9 69/25 115/11 134/10 162/15 179/11 189/19 203/17 205/18 officer's [1] 45/14

officers [17] 12/15 19/11 26/8 28/20 29/1 29/10 29/25 31/11 32/15 33/7 33/14 36/23 55/5 85/24 163/18 202/9 203/17 official [5] 2/19 2/22 2/24 39/3 214/19 officially [1] 38/11 officials [22] 3/23 7/7 20/13 20/22 26/22 38/17 40/19 42/14 75/2 75/15 79/3 87/23 100/4 100/8 117/9 122/25 123/15 200/14 206/5 211/15 213/6 213/13 offing [1] 79/13 often [8] 8/5 31/7 43/17 48/6 93/1 144/13 176/3 188/18 **Oh [10]** 5/21 57/20 75/16 92/19 103/13 157/4 174/19 204/23 205/14 215/13 OK [1] 138/2 okay [5] 69/19 71/21 156/23 160/21 183/2 old [10] 2/3 8/11 8/12 8/13 41/10 41/11 43/5 134/6 174/21 210/16 Oliver [2] 78/19 84/25 omitted [1] 138/24 once [13] 18/24 31/10 87/21 105/2 141/20 153/10 154/6 169/17 171/15 192/19 196/4 196/23 197/19 once -- it [1] 197/19 one [123] 2/23 3/12 3/25 5/1 5/3 6/2 7/23 10/23 11/24 13/5 15/8 15/19 18/20 19/10 21/10 21/18 21/25 23/22 23/22 29/1 29/20 30/5 37/20 40/25 42/5 45/15 47/7 48/21 53/25 68/10 73/15 76/1 79/12 81/14 81/15 81/17 82/6 83/24 84/17 86/2 86/9 86/19 88/23 89/13 89/20 90/1 90/1 92/8 93/23 95/13 97/8 98/4 101/22 102/1 102/5 103/23 104/14 104/16 104/16 105/4 108/1 108/4 108/19 108/25 109/10 109/12 113/12 115/5 118/2 118/3 119/1 119/3 121/2 121/22 121/23

122/3 124/7 125/12 133/10 135/15 136/14 139/4 143/24 144/22 145/13 148/24 150/8 152/23 154/21 155/16 156/21 160/4 162/24 163/9 163/17 171/3 182/4 183/25 184/14 185/15 185/20 185/21 187/12 190/1 190/13 191/14 191/16 191/17 194/4 197/8 199/2 200/2 200/2 201/24 203/11 204/21 206/11 211/14 211/18 212/2 212/3 212/10 213/13 one hundred [1] 83/24 ones [14] 23/3 23/9 23/12 30/5 33/3 42/19 44/19 44/21 46/12 86/20 187/25 198/25 208/20 209/4 only [61] 3/12 6/18 8/2 9/13 9/15 9/17 11/5 11/9 15/19 20/21 33/19 37/5 44/22 45/9 47/11 50/5 52/13 52/15 53/25 59/5 61/21 63/15 77/14 84/8 84/17 88/24 89/25 90/16 92/8 105/18 112/16 112/18 120/20 121/2 121/19 121/22 121/23 125/10 125/17 131/21 137/17 141/20 144/8 144/8 151/17 159/21 164/16 167/14 169/20 171/4 174/13 194/15 199/6 200/2 200/17 201/7 203/24 204/1 204/23 207/14 211/11 onset [1] 150/1 onwards [1] 200/11 Ooh [1] 7/14 open [4] 25/21 26/2 123/1 144/22 operate [2] 135/19 188/18 operated [1] 2/4 operation [6] 77/5 90/23 98/4 101/1 188/20 188/21 operations [1] 77/12 opinion [19] 31/7 31/16 45/11 45/11 52/14 54/6 68/11 95/3 95/4 95/10 95/13 96/22 111/2 114/17 151/14 152/4 153/7 164/13 205/10

(75) no... - opinion

26/25

0
opinions [4] 41/21
77/3 99/16 197/17
opportunity [3] 41/19
136/5 136/15 opposed [2] 7/1 84/6
opposite [2] 101/19
108/7
opposition [1] 22/4 option [4] 79/4 95/11
95/20 96/12
options [3] 101/14
108/5 109/12 or [182] 1/7 2/20 3/1
3/1 4/6 6/12 6/15 7/5
9/6 9/8 10/6 10/14
10/24 11/16 11/17 12/11 12/11 12/16
12/18 12/18 12/20
13/12 14/9 14/11
14/15 14/18 14/21 14/22 16/5 24/3 24/16
24/16 24/21 24/21
25/22 25/25 26/2
26/19 26/21 26/21 26/21 27/17 28/7
29/18 29/24 31/1 31/6
35/14 35/18 36/5
36/22 38/6 39/15 40/21 41/1 41/12
42/15 44/11 45/3 45/6
45/10 46/8 46/10
46/23 47/25 48/12 49/6 49/15 49/18
50/19 51/16 52/19
53/2 54/24 55/9 56/2 56/2 56/6 56/8 56/18
58/8 60/3 61/9 62/10
63/18 65/11 65/17
67/3 67/10 68/21 73/7
73/21 74/5 77/16 80/13 82/18 85/5
91/13 91/21 94/7 96/7
96/13 99/2 100/25 109/10 110/2 115/4
117/22 119/25 125/8
129/16 132/9 141/18
142/15 143/14 143/16 143/16 145/22 150/4
151/22 152/5 152/5
152/23 153/1 162/2
162/10 162/25 163/18 165/13 168/18 169/6
171/5 171/6 172/6
172/8 173/1 176/2
176/11 176/17 181/14
182/3 186/20 186/22 186/22 187/15 188/7
189/11 189/18 189/22
192/15 192/15 193/14 193/23 194/3 194/25
130/20 134/0 134/20

195/13 199/12 200/2 200/8 200/13 200/21 200/22 201/2 202/13 202/17 202/25 203/5 205/9 207/2 208/5 208/18 208/18 209/17 209/18 209/19 209/21 210/4 210/18 212/4 212/19 213/6 214/19 oral [1] 80/7 oratory [1] 25/12 order [6] 24/6 24/12 25/3 38/9 66/23 94/21 ordinary [4] 77/2 137/19 196/1 196/8 organisation [2] 10/14 24/21 organisations [1] 54/16 organise [1] 47/3 original [4] 45/24 130/3 141/23 163/9 originally [1] 132/16 originals [1] 46/6 other [54] 2/12 6/23 16/5 16/24 19/5 37/12 40/5 43/13 43/16 43/23 53/19 69/2 73/21 83/17 85/22 86/1 90/2 90/13 92/9 94/15 95/8 95/25 96/23 97/4 97/10 123/13 128/17 131/25 139/10 139/13 141/18 143/19 144/1 144/19 145/21 147/6 150/20 151/20 151/21 153/2 153/24 159/18 163/11 165/16 166/4 168/14 172/17 182/15 188/1 200/14 200/21 201/13 203/4 206/3 others [10] 34/6 39/15 49/6 56/5 71/19 84/12 113/25 120/7 153/23 161/11 otherwise [10] 38/13 52/19 55/10 59/23 84/9 132/10 138/2 144/4 172/6 175/24 ought [2] 37/24 45/12 our [27] 22/1 33/7 34/1 35/7 35/7 43/19 67/9 80/20 90/22 111/11 111/18 113/24 115/18 130/9 148/6 153/8 177/4 177/17 178/10 182/4 182/6 184/7 193/18 193/24 194/18 201/12 204/5 ours [1] 194/18

ourselves [1] 158/24

out [102] 5/16 6/21 7/24 10/4 11/21 15/20 16/9 17/5 18/18 19/15 23/9 23/14 24/6 25/7 34/10 37/22 38/24 39/12 39/25 40/6 40/7 41/18 52/12 53/3 54/1 56/10 59/9 59/23 62/24 63/3 63/9 64/15 64/19 64/24 65/14 65/23 71/15 72/11 78/25 79/11 81/1 83/19 84/4 85/10 86/7 86/22 91/1 91/8 94/15 95/13 96/15 96/17 96/21 97/7 102/14 103/2 103/19 104/8 104/15 110/19 112/2 112/10 112/14 113/6 114/13 118/17 118/19 119/7 119/24 123/6 123/11 124/4 128/2 134/18 137/25 138/1 140/7 140/11 147/4 147/20 148/15 150/17 151/7 151/10 157/18 161/25 166/20 167/10 169/13 170/6 179/21 180/4 184/17 185/2 186/6 186/9 187/7 189/7 202/13 206/10 206/16 211/19 outcome [4] 20/5 87/12 87/14 150/20 outcomes [2] 22/16 48/18 outdated [1] 29/5 outlier [1] 152/12 outrage [2] 51/3 210/7 outrageous [1] 185/17 outside [3] 32/7 56/2 157/4 outstanding [1] 54/9 over [23] 3/20 4/21 5/4 21/17 38/8 42/4 66/18 74/24 76/5 84/16 92/14 93/9 102/7 118/7 128/15 129/12 147/9 148/23 162/5 166/5 185/7 203/14 205/8 overacting [1] 154/19 overall [7] 4/4 6/7 28/14 113/4 211/10 211/13 211/22 oversight [1] 11/16 overspeaking [43] 4/1 10/17 14/23 34/25 42/16 45/25 53/7 55/11 91/11 107/13

109/14 110/4 118/5

119/2 122/19 125/3 127/3 138/15 138/16 141/4 142/13 149/1 151/4 153/2 157/3 157/16 160/9 160/23 163/3 164/10 164/25 168/16 172/22 173/6 173/7 183/16 198/21 201/21 203/7 203/21 206/2 209/21 215/20 overwhelming [2] 52/4 185/10 own [17] 4/24 8/24 26/10 27/11 35/7 35/7 45/25 66/13 94/16 100/7 116/11 143/8 176/25 177/17 178/10 189/11 193/18

pace [1] 27/14 page [50] 15/11 15/12 15/12 15/14 17/19 57/16 70/3 74/11 78/11 78/14 80/12 84/24 92/23 93/9 94/14 98/7 98/8 98/25 99/11 100/20 102/7 102/9 102/18 117/25 118/7 123/2 123/12 126/7 128/15 129/1 133/19 133/20 137/4 137/12 137/20 137/25 140/9 146/7 147/9 148/23 148/24 157/15 160/13 160/25 167/8 178/19 179/19 179/22 204/20 204/22 page 14 [1] 17/19 page 18 [1] 57/16 page 2 [1] 137/20 page 3 [2] 137/25 204/22 page 6 [1] 123/2 page 86 [2] 160/13 160/25 page 9 [2] 15/12 15/14 pages [3] 57/18 101/14 204/23 paid [3] 59/20 59/21 61/19 paint [1] 185/10 pandemic [1] 33/22 panic [13] 31/24 77/10 80/19 81/10 82/11 83/9 83/11 92/6 92/25 112/2 112/3 112/19 186/2 panicked [1] 154/19 paper [19] 37/6 37/7 37/15 37/18 37/22

45/15 70/14 71/24 72/16 146/21 147/3 147/9 150/24 155/23 163/9 papers [9] 35/4 36/25 38/4 38/15 44/2 44/17 54/1 57/7 206/6 paperwork [1] 38/19 paragraph [66] 15/13 15/14 17/20 17/21 57/16 57/21 61/5 73/18 74/8 80/13 82/1 82/13 82/21 82/22 85/11 91/15 93/10 93/17 94/23 100/2 100/3 100/19 101/11 102/19 109/5 111/8 111/14 115/13 116/18 116/22 117/1 118/8 118/16 118/16 118/18 119/10 119/12 120/11 122/24 123/24 128/17 128/23 131/20 133/22 134/4 134/8 137/25 138/17 138/22 138/23 140/1 140/19 149/15 158/25 159/1 160/25 167/9 168/5 170/7 170/22 172/15 172/23 174/7 176/8 176/21 205/1 paragraph 1 [5] 80/13 116/22 118/8 128/17 133/22 paragraph 10 [1] 117/1 paragraph 2 [10] 15/14 85/11 102/19 118/16 119/12 128/23 134/4 138/17 140/1 140/19 paragraph 2.1 [1] 15/13 paragraph 2.22 [2] 17/20 17/21 paragraph 3 [6] 82/1 118/16 118/18 134/8 138/22 176/8 paragraph 3.1 [2] 57/16 57/21 paragraph 4 [4] 82/21 82/22 158/25 176/21 paragraph 5 [3] 120/11 167/9 170/7 paragraph 6 [2] 122/24 123/24 paragraph 7.103 [1] 160/25 paragraphs [1] 102/2 parallel [2] 28/19 29/13

38/4 38/19 40/22 41/8 parallels [1] 33/23 paraphrasing [2] 127/11 165/10 parent [1] 125/12 Parker [4] 69/22 70/13 84/23 93/3 Parker's [3] 85/10 90/24 124/22 **Parliament [3]** 27/18 28/3 28/4 parliamentary [13] 1/11 4/9 4/25 23/23 27/18 37/13 37/14 43/15 60/6 80/8 181/18 182/2 182/12 Parly [4] 4/13 4/23 4/23 68/11 part [23] 3/14 6/14 17/6 17/8 21/4 21/8 35/7 36/25 45/24 47/1 50/21 52/1 55/1 89/11 103/25 122/7 143/6 166/21 175/14 185/4 190/12 210/14 211/8 partially [1] 200/22 participants [1] 156/21 participated [2] 78/17 178/21 particular [33] 4/13 4/17 12/24 14/9 32/9 34/15 43/8 43/10 44/2 51/5 52/23 55/21 58/20 61/10 62/1 65/12 71/18 73/11 82/23 96/2 97/20 103/17 104/3 104/22 111/22 112/12 120/2 150/23 161/6 161/18 171/9 180/2 185/14 particularly [14] 4/11 16/12 24/15 30/5 32/18 34/9 44/21 45/19 51/22 93/1 112/4 171/1 196/4 206/16 partly [1] 107/20 partner [1] 184/14 partnerships [1] 50/19 parts [5] 7/24 72/11 108/3 144/19 207/5 party [3] 22/3 22/6 210/19 pass [1] 45/7 passage [1] 15/8 passing [1] 69/12 past [2] 114/21 114/21 path [1] 130/25 patient [22] 13/10 13/11 13/13 22/15

(76) opinions - patient

_	_
P	9
patient [18] 48/13 48/14 49/15 49/19	pe
50/11 51/19 128/24	p
187/12 187/13 188/6	p
188/15 188/18 188/19	<b>p</b> (
188/23 189/23 189/24	1
199/8 200/2 patients [31] 12/19	1
17/7 20/6 20/7 48/15	p
48/16 48/19 49/12	4   7
50/2 51/10 77/1 77/2	1
77/12 79/7 98/3 112/6 112/20 120/16 120/19	2
148/2 176/11 183/8	p
185/9 186/16 187/10	1
188/9 189/3 189/10	1
190/15 190/25 191/8 <b>Patten [9]</b> 5/3 66/2	1
66/21 75/12 77/24	1
78/6 105/20 107/6	pe
208/24	2
Patten's [1] 175/14 pausing [3] 58/6 91/5	pe
161/13	p
pay [5] 4/22 6/16 12/8	<b>p</b> e
72/23 206/4	7
peak [1] 20/17 peer [1] 2/16	1
pen [1] 44/5	2
pension [1] 13/13	<b>p</b> e
pensions [1] 3/16 penultimate [1] 82/13	1
people [79] 8/15	p
12/16 13/17 16/8	3
16/17 16/17 24/13 24/15 24/16 31/2	pe
31/12 32/8 32/24	p
32/25 34/6 34/8 40/18	1
48/23 50/19 52/16	<b>p</b> (8
53/13 54/19 55/20 59/22 59/23 63/13	pe
65/1 67/23 69/24	1
75/25 76/10 76/17	P
76/20 76/23 76/25	pl
77/10 80/22 83/17 83/22 85/23 86/15	5
86/23 89/22 92/3 92/9	pl
95/8 95/14 97/12	4 pl
97/12 101/17 112/5 122/14 128/19 132/9	pl
132/12 141/13 144/1	5
145/7 145/15 150/21	<b>p</b> l 5
151/21 152/5 154/22	pl
165/15 166/4 169/25 182/16 183/7 185/10	pl
186/4 187/23 193/3	4
196/20 197/6 207/13	pl 4
207/14 207/21 214/10	pl
214/21 per [7] 83/24 83/25	pl
F [-] 50/21 50/20	pl

94/8 123/24 150/7 150/9 151/16 erceived [1] 158/20 ercipient [1] 156/22 erfect [1] 124/7 erfectly [9] 83/10 97/15 97/17 129/10 129/10 129/17 174/7 191/5 208/1 erhaps [11] 35/22 15/12 64/25 78/5 79/19 114/19 117/13 147/5 174/25 208/8 213/10 eriod [19] 3/4 5/1 5/5 17/5 73/8 99/6 100/6 100/10 100/14 100/16 17/22 119/12 127/13 43/24 148/4 148/25 49/2 198/10 198/12 eripheral [1] 203/23 ermanent [3] 10/24 28/22 28/24 ermanently [1] 4/20 ermission [1] 118/12 erson [13] 12/17 28/1 34/25 45/15 56/3 73/7 89/20 95/8 97/14 105/18 189/20 207/12 211/12 ersonal [6] 25/2 51/18 64/16 103/18 144/5 212/2 ersonally [7] 19/3 31/14 39/1 51/18 124/8 182/8 187/3 ersons [1] 149/25 erspicacious [2] 150/17 151/19 ersuade [3] 17/15 31/1 214/4 ersuaded [3] 88/10 163/14 166/19 et [2] 13/4 41/17 etunia [1] 43/5 harmacists [2] 16/24 50/22 hotocopies [3] 46/8 16/11 46/12 hotograph [1] 29/19 hotographed [1] 56/5 hotographing [1] 56/4 hotographs [1] 56/2 hrase [4] 18/19 29/6 19/3 189/8 hrases [2] 44/4 15/21 hysical [1] 74/6 hysically [1] 38/6 hysician [2] 189/2

190/9 physicians [8] 180/11 181/1 183/4 184/4 186/23 187/6 187/6 187/11 pick [5] 49/3 85/10 114/25 120/9 127/25 picked [3] 59/1 62/13 151/21 picket [1] 9/24 picking [1] 99/11 picture [3] 110/8 111/23 185/10 piece [1] 11/12 pig's [1] 211/16 piles [2] 40/14 41/8 pill [1] 187/5 pity [2] 145/10 159/22 place [8] 14/7 31/12 42/10 66/9 67/17 101/4 201/17 202/3 plain [1] 141/24 plainly [1] 76/3 **plan [1]** 115/5 planning [1] 7/1 plasma [13] 73/13 120/18 149/20 167/13 167/15 168/14 168/18 172/12 172/16 173/12 173/18 173/21 180/6 play [4] 37/23 111/20 196/9 202/1 played [2] 6/14 208/2 please [16] 1/7 56/1 72/4 78/9 83/14 92/18 102/18 126/9 129/18 133/19 145/24 156/6 160/17 167/7 178/18 215/24 pleasure [1] 42/6 plunged [1] 41/2 pm [5] 114/22 114/24 175/6 175/8 216/2 PN [1] 79/25 point [24] 11/4 58/8 58/20 62/23 63/6 68/1 71/8 71/11 88/21 89/24 94/13 95/19 96/14 112/23 132/14 149/3 155/6 155/7 184/17 186/2 186/15 187/12 188/24 197/2 pointed [7] 10/4 91/8 102/13 103/2 110/19 166/20 206/10 pointless [1] 88/12 points [5] 93/12 138/8 156/7 161/6 169/13 polarised [1] 41/21 **policies [2]** 8/9 175/24 policy [22] 6/1 8/11

22/4 22/6 23/18 25/17 26/22 27/21 68/7 81/9 87/20 120/9 135/19 165/24 205/3 205/24 206/1 206/3 206/18 206/23 208/6 212/3 polite [1] 153/16 political [7] 6/7 6/13 7/16 24/15 28/13 181/21 210/14 politically [2] 50/14 50/14 politician [1] 54/5 politicians [5] 24/16 27/22 49/10 54/4 62/19 politicisation [1] 20/11 **politicised** [1] 18/16 politics [5] 6/19 8/2 41/20 181/25 182/15 polluted [2] 193/5 193/25 **pool** [1] 149/20 pooled [3] 73/13 120/18 149/16 pools [1] 180/7 poor [2] 47/2 195/24 **popular [2]** 16/13 28/10 population [2] 94/9 99/18 posed [3] 74/19 129/2 137/10 position [4] 13/2 85/11 165/17 212/13 positions [3] 1/15 2/13 5/19 positive [4] 71/3 115/21 121/7 134/15 possibilities [6] 180/13 181/3 183/13 184/10 185/1 192/5 possibility [17] 62/9 63/20 64/5 89/16 89/18 92/3 125/7 132/11 158/3 158/11 167/23 170/14 172/12 184/19 194/7 197/6 201/5 possible [23] 74/13 74/22 78/2 92/2 94/1 96/18 99/12 112/21 121/10 122/22 129/11 130/11 136/1 147/8 149/24 169/19 171/12 180/5 189/4 201/2 201/3 204/2 214/7 possibly [7] 26/3 80/16 84/18 161/12

167/25 168/18 168/20 169/8 169/16 169/20 172/1 173/18 173/23 174/12 174/13 174/20 191/9 post-March [8] 167/25 168/18 168/20 169/8 169/16 169/20 172/1 174/20 post-March 23 [3] 173/18 174/12 174/13 postponement [1] 117/7 Postponing [1] 199/18 posts [2] 2/9 2/23 potential [12] 73/23 75/1 86/3 115/16 148/25 177/18 180/12 181/2 183/12 185/6 190/19 192/2 potentially [3] 25/14 168/15 198/23 pounds [1] 211/1 pour [2] 36/25 37/6 pouring [1] 37/15 power [2] 51/13 210/19 **PQ [1]** 80/8 practicable [2] 75/14 123/4 practical [1] 167/23 practically [3] 42/25 44/14 144/17 practice [8] 4/10 39/12 42/15 105/9 105/9 175/22 188/13 196/20 practising [3] 72/19 122/17 141/11 practitioners [2] 48/2 pre [10] 74/20 168/14 169/4 169/7 169/12 172/1 172/12 172/16 173/12 173/21 pre-empt [1] 74/20 pre-March [5] 169/4 169/12 172/12 172/16 173/12 pre-March 1983 [1] 168/14 pre-March 23 [2] 172/1 173/21 preambles [1] 179/21 precautions [1] 176/15 preceded [3] 198/5 198/6 198/8 precise [2] 62/24 163/24 184/11 200/15 177/9 post [15] 40/10 59/11 **Precisely [1]** 56/24

preclude [1] 103/11 predecessor [2] 11/7 26/8 predict [1] 97/21 prefer [1] 85/14 preferred [6] 87/10 99/15 101/12 101/17 101/25 136/13 preparation [2] 175/23 176/15 preparations [1] 158/12 prepared [8] 70/14 72/18 98/9 106/20 107/16 128/10 167/14 180/6 preparing [1] 192/19 prescribe [2] 49/20 196/23 prescribing [5] 49/24 49/25 50/2 51/15 207/2 present [12] 8/3 43/23 126/18 133/5 149/25 158/16 158/21 176/12 179/14 185/25 204/20 210/23 presentation [4] 28/3 28/12 135/11 185/17 presented [3] 40/14 112/18 165/24 presided [1] 3/20 press [21] 27/16 55/24 76/4 76/9 76/12 79/13 79/23 80/19 107/1 107/4 107/16 107/18 114/6 128/2 133/24 133/25 140/15 141/24 152/5 185/20 207/17 pressure [1] 176/4 presumably [9] 21/20 35/1 103/1 106/23 110/18 143/15 159/18 160/1 194/11 pretty [8] 14/8 22/23 86/6 88/12 101/15 101/18 151/11 153/20 prevalent [1] 120/15 prevent [5] 3/1 70/22 129/3 177/1 206/17 preventative [1] 196/6 prevented [1] 210/5 prevention [2] 16/13 176/10 previous [7] 101/14 102/17 118/2 124/7 130/19 141/10 190/2 previously [2] 132/23 149/5 priced [1] 50/4

(77) patient... - primary

primary [1] 5/24

Prime [1] 42/3 principal [3] 9/22 48/20 49/12 principally [1] 79/8 principle [5] 100/25 188/5 188/17 189/1 203/12 print [1] 89/6 printed [3] 103/7 117/4 137/9 printers [1] 122/22 printing [8] 72/23 76/2 93/6 131/7 132/5 136/3 136/7 136/15 prior [2] 95/24 96/7 priority [3] 47/1 117/11 127/10 prisoners [1] 59/22 prisons [1] 59/22 pristine [1] 46/8 private [45] 36/20 36/23 37/16 37/19 37/22 42/24 42/24 44/1 45/5 45/14 50/18 50/21 69/23 69/25 78/13 92/17 93/4 103/2 107/13 110/10 116/14 116/16 116/20 118/5 124/18 128/7 128/14 129/23 131/3 133/2 133/15 134/25 136/19 138/7 143/10 143/13 143/18 143/22 144/12 175/14 175/17 175/18 177/12 177/23 178/8 probability [1] 201/6 probable [1] 194/8 probably [28] 2/24 10/23 16/16 33/9 37/21 38/15 70/8 75/17 84/19 85/2 103/2 131/14 131/16 136/6 145/6 148/9 148/11 149/23 151/7 154/21 162/4 162/17 171/5 173/25 176/17 209/11 211/17 214/6 problem [16] 8/22 19/5 19/22 21/2 32/9 34/16 43/8 51/21 74/19 75/20 133/12 144/25 194/11 194/19 202/11 209/2 problems [6] 33/20 81/6 96/23 185/17 201/7 201/23 proceed [4] 94/21 96/8 111/6 132/22 process [6] 25/18

27/17 38/16 54/10 87/13 172/8 produce [6] 60/18 134/13 135/25 136/10 193/17 209/13 produced [5] 19/8 46/1 120/18 151/14 161/24 producer [1] 204/22 producers [1] 204/19 producing [6] 20/20 38/4 88/13 113/11 113/20 135/20 product [8] 60/14 64/7 84/19 148/20 184/22 196/3 201/12 214/11 production [4] 70/25 130/9 180/8 191/15 products [46] 3/3 5/17 6/1 8/20 9/4 9/5 9/6 10/3 10/6 10/15 20/25 21/7 57/24 59/7 59/13 60/18 61/3 62/10 64/19 68/16 70/24 73/9 124/5 129/4 146/25 147/3 147/16 148/12 149/16 150/4 156/10 157/25 165/21 170/15 176/12 176/16 180/6 180/9 193/8 193/15 201/15 205/4 206/20 206/21 207/7 208/2 profession [8] 12/22 13/7 16/23 31/21 51/25 54/8 54/9 54/10 professional [2] 27/11 54/16 professor [1] 156/19 profile [3] 46/25 59/14 181/23 Programme [1] 8/7 progress [1] 54/11 **prominence** [1] 55/22 promiscuous [4] 74/1 75/23 97/5 112/11 promise [1] 137/23 prompted [1] 14/14 proof [1] 185/23 proper [1] 208/20 properly [3] 44/24 98/23 143/14 prophylactic [4] 196/5 196/7 196/24 197/25 prophylactically [1] 199/9 proportion [4] 16/11 37/4 148/5 208/3 108/17 112/4 112/10 proportions [1] 119/22 120/2 126/15 206/13

proposal [2] 94/6 127/20 130/21 136/10 147/4 139/2 143/19 149/3 proposed [3] 93/7 122/21 147/18 proposing [1] 29/22 pros [5] 52/22 101/13 102/8 102/9 165/12 protect [1] 144/23 proven [1] 51/16 provide [5] 52/10 99/25 180/16 185/5 193/10 provided [13] 16/1 30/17 36/22 51/9 52/1 58/17 69/13 105/15 107/17 160/7 190/24 192/4 199/8 providing [2] 23/25 55/10 psychiatrists [1] 34/7 public [37] 6/15 9/19 16/2 16/4 16/6 17/2 18/24 22/3 24/19 27/16 27/25 28/5 33/16 37/12 42/10 60/1 61/17 66/20 71/1 75/4 77/8 77/25 82/19 92/6 92/8 92/25 97/22 146/4 146/8 149/9 151/15 165/25 185/18 186/10 207/15 210/25 212/16 publication [8] 70/16 73/2 75/3 75/6 78/2 113/21 141/5 177/17 publicity [10] 78/24 79/23 93/6 107/20 110/7 117/8 130/2 132/8 133/23 135/9 publish [1] 52/19 published [4] 53/21 115/17 142/1 203/10 **publishing** [1] 74/21 **pulling [1]** 7/13 purely [1] 207/11 purpose [6] 67/1 72/16 72/19 110/2 156/4 165/17 purposes [5] 62/25 130/3 131/16 172/22 204/21 pursued [1] 120/8 put [47] 8/9 10/18 17/5 22/8 27/15 38/5 39/3 39/12 44/18 44/20 45/1 45/2 45/2 53/3 65/15 66/15 70/25 71/23 76/15 213/10 213/12 213/15 76/25 79/11 81/1 97/6 97/16 104/8 104/14 213/16 215/11 215/13

163/9 184/20 185/2 199/4 201/3 202/13 207/10 210/24 212/13 puts [1] 112/11 putting [19] 16/9 16/9 20/8 22/9 42/9 57/20 82/18 86/7 97/11 97/15 98/2 102/1 132/12 143/14 144/20 157/10 168/18 206/6 206/16 qualifications [1] 12/4 quality [9] 7/15 31/12 154/9 154/16 168/11 187/16 188/2 196/15 201/10 quantities [2] 37/15 174/4 quantity [1] 193/11 quarter [2] 175/3 175/5 **Queer [1]** 76/10 queried [1] 112/12 queries [1] 107/2 query [2] 138/18 139/7 question [46] 30/11 32/20 55/7 60/6 60/14 60/21 61/7 62/25 65/15 69/12 79/24 80/2 80/8 103/23 104/10 104/19 111/22 116/3 129/2 137/10 138/11 152/22 155/7 155/17 168/22 169/2 169/7 170/13 189/16 195/4 195/8 196/5 201/18 201/19 202/20 203/2 203/6 203/11 203/19 205/4 206/2 206/15 208/5 212/20 213/18 215/8 questioned [2] 74/5 79/21 questioning [3] 82/5 165/23 212/25 questions [30] 1/9 1/11 3/2 27/19 37/13 37/14 47/25 60/8 62/22 109/18 109/23 110/1 110/3 131/19 156/5 160/4 160/6 169/24 170/5 192/22 207/25 209/12 212/24

217/3

quick [1] 153/20

quickest [1] 130/11 quickly [6] 74/22 110/1 110/15 139/1 169/19 201/11 quiet [2] 21/4 21/10 quite [65] 2/3 3/22 3/22 7/12 7/16 9/18 9/24 18/12 24/11 39/3 43/16 45/16 49/14 49/23 52/8 56/20 64/2 64/5 66/24 68/14 69/17 75/21 76/4 76/10 89/22 90/13 92/20 93/1 95/19 96/11 103/19 105/22 110/6 112/9 112/22 113/19 114/4 122/5 126/16 129/17 145/5 148/15 150/18 152/8 153/5 155/2 157/5 157/9 169/21 172/24 183/25 184/19 187/12 189/9 190/8 191/22 192/6 193/9 193/20 194/8 208/14 212/24 212/24 214/3 214/3 quizzed [3] 76/21 80/3 97/3 quote [3] 19/16 97/4 138/1 quoting [3] 79/19 127/11 165/10

radical [3] 200/15 203/5 203/5 radio [1] 8/7 rage [1] 154/14 raise [2] 40/1 66/4 raised [7] 103/24 103/25 139/15 156/22 202/21 202/22 202/23 raising [4] 48/17 115/24 186/2 200/21 ran [6] 10/1 16/15 19/4 21/13 23/9 214/2 range [7] 4/7 4/7 34/5 107/25 109/7 109/8 161/9 ranges [1] 198/19 rank [2] 4/6 4/10 ranking [2] 19/12 211/23 ranks [1] 4/2 rapidly [4] 1/25 13/5 39/3 110/18 rapporteur [1] 179/6 rarely [1] 48/25 rate [1] 150/7 rather [23] 10/16 19/4 29/13 30/15 65/5 65/8 68/12 76/8 86/22

95/16 96/9 96/24 104/20 107/18 115/21 152/21 162/1 170/11 181/20 189/13 213/4 213/8 213/22 rationally [1] 97/17 rations [1] 12/8 re [2] 134/12 157/22 re-emphasise [1] 134/12 re-read [1] 157/22 reach [8] 14/2 36/18 87/14 89/7 92/11 94/8 150/8 215/3 reached [19] 20/17 44/16 44/18 44/20 83/20 83/21 84/14 87/6 87/7 87/22 88/5 145/12 156/15 157/7 157/23 159/22 162/19 215/1 215/2 react [2] 34/12 97/13 reacted [3] 90/21 91/18 153/6 reaction [6] 67/9 74/17 97/22 135/7 153/3 162/3 reactions [2] 45/22 92/19 read [43] 15/20 41/8 44/7 45/8 45/21 59/18 66/19 71/15 72/11 73/3 78/25 79/17 91/3 94/16 95/24 96/7 100/2 105/1 116/11 116/21 120/7 124/10 125/18 125/18 132/10 143/16 147/21 147/22 151/19 152/8 152/19 152/21 156/8 156/16 157/8 157/9 157/22 160/18 167/10 167/11 181/8 203/9 208/11 reading [4] 40/16 84/6 161/8 181/12 reads [2] 83/3 174/7 ready [2] 157/20 194/15 real [8] 7/22 42/2 51/14 83/21 145/13 170/12 210/3 211/5 realise [4] 30/7 89/16 92/1 214/9 realised [5] 30/9 39/4 44/16 61/20 149/2 really [37] 2/4 3/22 12/16 14/24 19/24 29/15 31/5 36/10 38/1 39/19 41/15 41/25 43/18 44/8 61/17 66/16 68/3 68/19 68/21 76/24 86/21

(78) Prime - really

R	123/15 163/7 163/8
really [16] 87/17	164/2 171/6 185/19
	recommendary [1]
104/11 125/10 125/17	182/21
150/25 156/4 159/24	recommendation [
160/4 170/24 171/8	74/25 96/14 96/15
174/24 194/2 195/6	99/9 99/10 124/16
210/18 210/20 213/3	
reason [12] 21/6	126/5 164/21 164/2
61/12 64/3 67/19 84/8	173/3 176/5 176/9
96/4 112/16 112/17	176/14 176/23 177
143/17 152/11 190/1	177/5 177/7 177/1
	177/24 178/1 178/ <sup>-</sup>
197/20	178/20 180/10 180
reasonable [3] 68/20	180/25 181/6 183/3
87/1 123/3	183/6 183/25 184/3
reasonably [1] 50/4	185/5 188/6 190/1
reasoning [1] 148/8	
reasons [11] 42/5	191/12 192/4
51/25 52/2 59/9 61/13	recommendations
80/18 105/5 147/4	<b>[14]</b> 164/9 164/10
	168/8 175/10 176/2
147/20 148/24 150/10	179/23 180/4 181/9
reassure [1] 69/2	181/11 181/15 183
reassured [8] 9/8 66/8	191/19 202/4 206/
68/14 120/1 153/10	recommended [14
166/4 166/16 176/20	
reassures [1] 141/17	18/11 51/17 79/10
reassuring [5] 67/19	117/1 123/14 150/
68/8 68/8 68/16 68/24	167/22 168/1 169/
rebuilding [1] 193/14	171/14 172/4 172/
	173/4 174/11
recalcitrant [1] 26/1	recommending [3]
recall [25] 14/9 16/4	117/15 162/20 172
30/5 47/5 47/7 48/6	Recommends [1]
48/25 59/12 61/9 62/1	179/24
62/8 62/16 85/24	reconsidered [1]
86/20 91/21 115/2	
120/6 123/8 142/10	136/22
144/20 162/2 199/1	record [2] 30/2 71
200/7 206/18 206/19	recorded [1] 146/2
recalled [1] 66/1	red [5] 38/6 46/13
received [11] 30/25	46/14 46/20 176/22
	redevelopment [1]
57/25 95/23 96/24	61/2
120/21 121/1 124/11	redrafted [1] 119/9
146/14 146/19 155/22	reduce [5] 60/13
203/23	113/24 199/18 200
receivers [1] 97/24	203/21
receiving [6] 30/22	
120/20 128/20 132/7	reduced [2] 154/1
148/20 176/11	192/15
recent [4] 128/16	reducing [4] 93/20
130/6 133/23 135/22	154/8 199/7 203/4
130/0 133/23 133/22	E FAT 40/0 400/
	refer [4] 18/6 139/
recipients [4] 80/21	
recipients [4] 80/21 176/19 180/12 181/2	142/4 178/11
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11	142/4 178/11 reference [16] 61/
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/3
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16 recognising [1] 91/5	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/9 139/7 140/9 167/18
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16 recognising [1] 91/5 recollection [14] 14/5	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/5 139/7 140/9 167/18 198/15 205/12
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16 recognising [1] 91/5 recollection [14] 14/5 14/6 14/19 14/23 26/6	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/9 139/7 140/9 167/18
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16 recognising [1] 91/5 recollection [14] 14/5 14/6 14/19 14/23 26/6 66/9 80/17 85/10	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/5 139/7 140/9 167/18 198/15 205/12
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16 recognising [1] 91/5 recollection [14] 14/5 14/6 14/19 14/23 26/6 66/9 80/17 85/10 90/20 103/18 105/20	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/3 139/7 140/9 167/18 198/15 205/12 references [2] 71/
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16 recognising [1] 91/5 recollection [14] 14/5 14/6 14/19 14/23 26/6 66/9 80/17 85/10 90/20 103/18 105/20 109/15 199/4 205/9	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/3 139/7 140/9 167/18 198/15 205/12 references [2] 71/ 71/19 referred [9] 17/21
recipients [4] 80/21 176/19 180/12 181/2 reckon [2] 8/6 43/11 recognise [1] 29/19 recognised [1] 146/16 recognising [1] 91/5 recollection [14] 14/5 14/6 14/19 14/23 26/6 66/9 80/17 85/10 90/20 103/18 105/20	142/4 178/11 reference [16] 61/ 69/15 70/21 74/7 7 74/23 78/4 93/10 119/9 123/13 129/9 139/7 140/9 167/18 198/15 205/12 references [2] 71/ 71/19

3/15 163/7 163/8 4/2 171/6 185/19 ommendary [1] 2/21 ommendation [35] 25 96/14 96/15 /9 99/10 124/16 6/5 164/21 164/24 3/3 176/5 176/9 6/14 176/23 177/1 7/5 177/7 177/15 7/24 178/1 178/17 8/20 180/10 180/22 0/25 181/6 183/3 3/6 183/25 184/3 5/5 188/6 190/17 1/12 192/4 ommendations **1]** 164/9 164/10 8/8 175/10 176/2 9/23 180/4 181/9 1/11 181/15 183/1 1/19 202/4 206/7 ommended [14] 11 51/17 79/10 7/1 123/14 150/11 7/22 168/1 169/16 1/14 172/4 172/7 3/4 174/11 ommending [3] 7/15 162/20 172/23 commends [1] 9/24 onsidered [1] 6/22 ord [2] 30/2 71/19 orded [1] 146/21 **[5]** 38/6 46/13 14 46/20 176/22 evelopment [1] rafted [1] 119/9 uce [5] 60/13 3/24 199/18 200/3 3/21 uced [2] 154/10 2/15 ucing [4] 93/20 4/8 199/7 203/4 er [4] 18/6 139/12 2/4 178/11 erence [16] 61/7 15 70/21 74/7 74/8 23 78/4 93/10 9/9 123/13 129/5 9/7 140/9 167/18 8/15 205/12 erences [2] 71/15 19 erred [9] 17/21 /9 49/7 69/12 71/24

199/6 referring [3] 90/20 149/19 177/16 refers [7] 85/2 94/23 128/17 128/23 133/21 134/4 176/21 reflections [1] 29/14 reflects [1] 168/6 reform [2] 19/7 20/19 reforms [6] 5/13 5/14 18/10 19/20 19/24 20/20 refrain [3] 72/21 74/14 180/18 refuse [1] 77/4 refusing [1] 77/12 regard [1] 190/13 regarded [5] 3/14 18/23 51/24 76/7 182/8 region [2] 104/3 104/5 regional [43] 7/11 21/17 21/24 24/1 24/10 25/6 25/17 47/6 47/9 72/18 79/12 85/24 86/24 87/7 87/9 92/10 94/2 95/9 97/12 98/20 100/5 102/13 104/1 104/20 105/8 105/13 106/5 106/9 107/2 108/24 114/13 115/15 118/14 119/13 119/19 132/6 140/4 140/8 141/7 142/12 156/23 179/3 179/9 regions [4] 22/20 99/17 99/24 100/8 registered [1] 123/7 regret [1] 41/15 regrettable [1] 209/23 regular [6] 24/5 24/9 24/23 42/15 42/22 100/8 regularly [3] 7/12 62/20 196/6 regulation [1] 12/1 regulations [3] 167/16 167/20 168/20 rejected [1] 96/2 rejection [1] 96/5 relate [1] 31/20 relates [1] 73/1 relating [1] 25/16 relation [16] 18/1 32/18 44/1 49/4 53/6 55/3 85/15 90/5 90/6 94/3 115/1 117/8 119/13 142/10 148/13 148/19 relations [2] 6/14 20/11

relationship [4] 13/10

23/15 24/11 48/19 relatively [3] 80/1 123/9 167/24 relatives [1] 64/17 release [2] 128/3 140/15 released [1] 80/6 releases [1] 27/17 relevance [3] 109/19 109/21 117/23 relevant [8] 31/21 32/16 34/10 38/1 45/5 45/7 64/2 206/5 reliability [1] 30/21 reliance [1] 201/12 reliant [2] 32/1 126/20 relies [1] 54/3 reluctant [1] 112/6 rely [5] 32/14 85/21 91/23 177/3 205/17 relying [1] 31/18 remain [1] 137/23 remained [2] 1/13 207/12 remains [1] 126/17 remark [1] 18/24 remarkably [1] 42/20 remember [54] 5/12 7/14 14/16 15/2 16/7 18/25 25/24 29/21 36/3 36/4 58/12 59/16 59/17 62/15 63/16 64/9 66/7 66/12 66/14 66/22 67/2 67/2 67/2 67/11 72/10 75/16 85/20 85/21 88/10 90/16 91/24 91/24 92/21 105/7 105/22 105/22 106/11 108/14 129/13 144/10 144/17 154/4 159/12 160/20 161/9 199/23 200/20 200/23 200/24 206/23 208/14 209/3 209/4 209/8 remembered [1] 185/20 remembers [1] 171/5 remind [4] 44/7 55/24 56/10 63/14 reminded [5] 103/17 105/16 110/15 110/17 114/15 remote [1] 137/18 remotely [4] 97/5 159/20 186/23 195/18 remove [3] 18/2 97/23 157/13 removed [2] 13/6 103/20 106/18 107/5 76/11 removing [1] 94/20 124/16 133/15 135/1 138/3 138/4 143/25 repeat [1] 80/2

repeated [1] 189/9 replaced [1] 115/11 replying [1] 144/13 report [9] 17/22 17/22 18/11 19/14 45/11 107/22 134/4 162/14 165/6 reported [6] 80/1 146/15 146/18 146/20 164/7 179/15 reporting [5] 6/18 28/20 28/22 73/17 76/12 reports [1] 118/9 reposes [1] 30/20 representative [2] 48/14 182/6 represented [1] 71/13 representing [1] 179/12 reprinted [1] 139/20 reproduced [1] 117/10 reputable [1] 152/13 request [1] 74/13 require [1] 117/3 required [4] 74/6 87/19 106/3 164/17 requirements [1] 60/19 requires [1] 40/8 requisite [1] 30/16 research [6] 53/20 54/1 54/18 70/24 111/20 194/11 Reserving [1] 199/25 reshuffles [1] 42/3 resident [1] 158/1 resolution [1] 74/9 resolved [5] 9/21 39/18 52/13 52/14 102/10 resort [2] 211/12 211/21 resource [3] 94/24 96/13 99/24 resources [1] 100/1 respect [2] 180/1 181/18 respected [1] 152/13 respective [1] 22/14 respects [1] 82/3 respond [2] 38/14 38/14 responded [4] 106/15 124/15 136/8 136/12 responding [1] 178/15 response [17] 38/9

177/23 178/7 182/24 204/22 204/25 208/1 208/1 responses [1] 133/11 responsibilities [7] 4/8 10/21 11/6 36/13 41/13 47/2 104/1 responsibility [29] 4/4 5/24 5/25 6/5 10/16 11/9 11/16 11/23 13/25 20/2 40/13 49/13 51/1 51/8 58/3 58/4 58/7 103/9 103/10 144/5 144/15 170/18 190/14 202/25 208/9 209/20 211/10 211/22 211/24 responsible [25] 3/8 9/3 10/4 11/20 15/23 15/25 19/1 19/4 27/12 28/1 37/2 49/14 50/14 61/15 88/7 99/20 100/21 102/15 121/19 165/20 189/21 201/1 211/13 211/20 213/14 rest [6] 3/16 3/19 26/24 100/3 118/24 191/4 restrict [4] 2/20 3/1 162/25 169/4 result [2] 63/20 64/6 resulted [1] 134/5 **Results [2]** 119/10 119/11 retaining [1] 46/22 return [1] 63/14 returning [1] 145/19 revealed [1] 111/2 reversion [1] 199/2 review [1] 119/10 reviewed [1] 146/24 reviled [1] 154/24 revise [1] 130/5 revised [23] 93/11 118/12 123/16 124/23 126/10 128/1 130/1 130/4 130/21 131/4 131/7 133/10 134/1 134/13 134/17 135/3 135/12 136/1 136/13 136/24 139/20 141/5 142/8 revision [3] 116/24 123/22 133/5 revisit [2] 116/3 116/5 **RHA** [1] 106/11 Rhondda [1] 19/2 **RICHARDS [3]** 1/9 98/23 217/3 rid [4] 8/11 8/12 23/8 92/2 rife [1] 79/14

R	19/14 19/21 20/18
right [32] 2/8 7/2 18/9	Royal [1] 47/23
34/25 39/3 39/7 55/24	RTCs [2] 123/6
57/20 58/25 75/9	123/10
81/19 82/5 83/5 90/9	RTDs [1] 100/4
94/25 96/17 100/20	ruin [1] 7/3
109/1 112/13 116/15	rule [1] 26/16
132/20 139/16 155/25	rules [1] 39/21 rumours [1] 154/2
157/5 158/25 160/19	run [7] 7/5 7/5 7/2
175/15 182/22 197/11	15/7 16/15 17/16
199/24 212/8 213/18	running [5] 16/9
right-hand [2] 109/1 175/15	18/13 20/12 214/7
rightly [3] 78/1 150/18	S
165/23	
rights [3] 74/15 74/16	sad [1] 159/22
182/19	sadly [1] 166/25
rising [1] 37/19	safe [6] 51/10 57/
risk [54] 52/24 55/3	98/3 168/17 168/1   170/15
60/16 61/8 61/11 66/5	safely [2] 57/7 14
66/6 71/3 71/10 72/20	safer [2] 77/9 113
73/11 74/2 79/5 80/11	safety [18] 12/10
83/2 83/6 86/10 89/20	51/11 57/23 99/21
93/21 94/20 96/1 96/6 96/9 97/24 104/14	100/22 101/3 102/
112/19 113/24 119/8	104/2 104/4 144/2
120/16 123/4 131/25	155/9 155/11 155/
141/11 141/14 141/21	156/12 161/4 162/
147/2 147/18 148/21	167/2 168/12
149/17 154/6 157/24	SAGE [1] 34/1
158/20 180/18 188/23	said [48] 23/17 56 67/3 70/4 82/22 83
189/3 189/24 191/16	84/5 84/18 88/8 8
193/19 196/2 200/3	93/25 96/23 98/8
203/4 203/21 204/2	107/9 108/7 121/1
214/7 214/14	127/9 141/9 145/6
risks [29] 52/22 57/24	152/6 153/6 153/2
76/13 180/14 181/4	159/12 159/12 16
183/13 183/19 184/5 184/6 184/9 184/11	166/14 170/10 17
184/20 185/1 185/11	181/10 185/9 186
186/16 187/9 188/9	186/9 189/9 191/1
188/11 188/16 188/19	196/25 198/1 201/
189/13 190/3 190/6	204/21 205/20 20
190/10 192/5 192/14	209/3 209/9 210/5 213/6 213/9 213/2
195/8 195/11 197/7	213/6 213/9 213/2
role [14] 6/7 16/8	said I [1] 145/6
16/21 18/12 27/23	sail [1] 41/17
28/13 28/13 29/11	Saint [1] 30/3
37/22 49/13 58/10	sake [4] 28/9 39/2
68/10 208/1 212/2	76/23 138/13
room [1] 33/25	same [17] 15/3 33
rough [1] 38/24 roughly [1] 67/16	34/13 46/8 67/12
round [3] 41/10 48/11	67/16 80/5 88/1
197/1	101/19 134/24 13
routes [1] 7/2	146/19 162/1 162/
routine [2] 74/6 117/7	169/11 182/11 19
row [1] 43/10	sane [1] 54/6
Roy [3] 19/14 19/21	sat [2] 84/13 159/ satisfied [1] 215/
20/18	satisfy [1] 184/3
Roy Griffiths [3]	saved [3] 151/18
	-2.02[0] 101/10

4 19/21 20/18 al [1] 47/23 **s [2]** 123/6 s **[1]** 100/4 **[1]** 26/16 [1] 39/21 ours [1] 154/20 **7**] 7/5 7/5 7/24 16/15 17/16 23/5 ing [5] 16/9 18/3 3 20/12 214/7 [**1**] 159/22 **y [1**] 166/25 **[6]** 51/10 57/9 168/17 168/18 y [2] 57/7 141/21 **[2]** 77/9 113/24 t**y [18]** 12/10 1 57/23 99/21 22 101/3 102/16 2 104/4 144/23 9 155/11 155/14 12 161/4 162/12 2 168/12 **E [1]** 34/1 **[48]** 23/17 56/8 70/4 82/22 83/16 84/18 88/8 88/15 5 96/23 98/8 9 108/7 121/14 9 141/9 145/6 6 153/6 153/21 12 159/12 161/20 14 170/10 174/23 10 185/9 186/6 9 189/9 191/18 25 198/1 201/3 21 205/20 208/11 3 209/9 210/5 6 213/9 213/21 5 214/21 -- I [1] 145/6 **1]** 41/17 t [1] 30/3 **[4]** 28/9 39/20 3 138/13 e [17] 15/3 33/22 3 46/8 67/12 6 80/5 88/1 19 134/24 139/18 19 162/1 162/6 11 182/11 194/19 **[1]** 54/6 **2]** 84/13 159/5 fied [1] 215/16 **fy [1]** 184/3

158/15 210/6 saw [14] 67/19 70/6 99/16 110/25 116/19 124/9 129/12 129/16 135/11 153/3 178/4 178/12 198/14 207/24 say [70] 10/16 14/24 15/21 17/24 23/10 30/14 34/17 35/23 35/24 40/1 41/24 44/10 45/12 52/6 52/10 54/6 55/6 55/19 55/25 56/12 57/21 57/21 62/4 63/24 75/19 75/21 83/18 85/13 86/9 86/17 86/20 89/3 89/25 93/18 102/10 106/16 106/18 111/4 111/8 116/6 122/14 126/19 137/16 137/17 138/9 151/15 153/23 159/22 160/12 160/24 160/25 162/3 162/8 173/9 178/16 186/11 186/12 189/21 191/21 191/22 195/7 199/5 200/22 201/24 203/8 205/2 205/7 205/23 207/9 214/2 saying [26] 41/11 45/8 48/17 86/15 87/25 90/2 92/5 108/6 137/22 143/3 143/18 161/25 162/21 166/2 166/8 170/21 171/13 177/12 187/14 188/1 190/11 197/18 205/21 209/24 210/1 210/16 says [28] 70/13 73/4 77/24 82/23 90/25 99/11 100/3 101/11 102/19 102/20 115/12 117/25 118/18 126/7 129/25 136/20 137/19 147/11 147/15 156/14 157/6 169/16 172/15 173/14 173/20 174/6 174/7 175/19 scale [2] 184/21 214/7 scandalous [1] 8/14 scare [1] 108/2 scaremongering [1] 79/25 scaring [1] 187/12 scene [1] 210/15 schoolboys [1] 196/8 science [2] 27/3 32/11 scientific [8] 12/18 13/2 26/12 26/13 28/16 29/24 54/17

205/18 scientist [1] 194/23 scientists [1] 34/7 **Scotland [2]** 14/15 14/20 Scottish [3] 14/11 14/17 15/3 screen [4] 57/15 84/21 108/20 111/15 screening [4] 121/10 137/23 138/25 213/17 screwing [1] 68/11 scribble [3] 38/8 44/25 46/16 scribbled [1] 44/14 season [3] 106/25 108/15 112/2 **SEB [2]** 84/25 131/2 Sec [3] 4/13 4/23 4/23 second [24] 11/3 13/2 60/14 61/7 82/23 88/23 89/24 90/7 95/11 95/20 102/18 111/14 113/25 114/18 115/1 138/12 139/4 167/8 180/10 180/24 183/3 191/17 191/24 192/3 second-guess [1] 13/2 secondary [1] 112/8 secondly [1] 190/9 Secretaries [1] 4/25 secretary [34] 1/24 2/5 3/9 4/2 4/9 5/15 10/18 10/22 10/24 11/2 17/12 18/22 19/25 23/23 24/2 26/19 28/6 28/10 28/11 28/23 28/24 37/3 42/8 42/24 42/24 43/15 60/14 128/7 128/8 129/8 209/20 211/9 211/10 211/21 Secrets [3] 2/20 2/22 2/24 Secs [1] 68/11 sections [2] 83/9 93/2 sector [3] 9/19 50/18 50/21 security [6] 1/20 1/21 2/1 3/9 3/17 14/1 see [90] 37/24 37/24 37/25 37/25 40/2 42/20 43/16 43/20 45/12 60/6 63/22 66/21 67/6 68/13 69/21 69/23 70/13 72/7 72/12 73/4 77/19 77/23 78/10 78/14 84/22 87/8 93/3 93/10 98/25 102/19 103/17

106/16 108/21 109/13 110/20 111/1 111/14 115/23 116/12 116/14 116/18 117/25 117/25 119/3 119/5 123/25 125/4 125/10 125/11 125/13 126/9 126/22 127/2 128/13 128/17 129/22 129/24 130/17 131/11 131/20 132/13 139/16 140/1 142/16 146/10 147/9 147/22 148/23 150/8 151/20 152/16 152/18 153/13 157/6 170/22 172/24 174/18 175/12 175/16 177/10 178/19 179/19 179/22 180/3 180/25 183/4 194/12 198/25 202/12 215/15 seeing [1] 59/17 seek [1] 211/24 seeking [2] 93/5 102/22 seeks [5] 70/15 102/21 116/24 118/11 133/25 seem [16] 15/18 30/4 85/23 109/8 109/10 109/16 112/12 115/19 127/5 143/13 143/21 144/20 158/5 182/4 183/2 193/6 seemed [2] 67/17 113/14 seems [7] 73/20 78/2 83/15 93/24 102/11 112/13 158/25 seen [48] 45/4 46/2 61/6 63/11 67/21 71/2 71/7 82/9 85/2 85/3 85/20 86/21 90/20 91/2 103/3 107/15 115/8 116/6 119/3 119/24 124/21 129/9 129/14 135/3 142/3 143/11 150/15 150/16 151/25 152/24 159/16 162/2 162/3 162/6 164/5 166/2 166/13 170/10 172/20 177/13 178/9 184/7 185/14 192/24 204/18 207/5 213/20 213/21 selected [4] 95/17 157/13 180/11 181/1 selecting [1] 95/12 selective [1] 157/10 **self [9]** 50/19 54/8 158/24 180/8 191/15 193/14 193/17 194/17 200/19

self-employed [1] 50/19 self-sufficiency [5] 180/8 191/15 193/14 194/17 200/19 self-sufficient [2] 158/24 193/17 selling [1] 59/24 send [2] 123/6 125/20 sending [1] 182/4 **senior [1]** 40/19 sensationalised [1] 209/14 sense [5] 24/9 39/22 40/8 68/9 93/24 sensible [1] 67/17 Sensitive [1] 74/11 sensitivities [1] 77/2 sensitivity [2] 72/25 75/1 sent [15] 2/2 72/6 92/17 94/10 119/20 120/5 125/6 125/8 126/22 132/16 133/6 150/25 156/17 169/22 181/7 **sentence** [11] 15/20 45/2 82/13 82/23 100/21 101/18 102/2 102/5 117/12 173/3 205/23 **sentences** [3] 44/8 119/3 157/18 separate [7] 2/1 2/5 3/22 3/22 49/23 167/3 204/24 separated [1] 2/4 separately [1] 15/7 September [17] 1/22 2/16 66/3 66/3 88/18 88/21 89/4 113/4 113/18 115/4 126/14 126/15 126/17 127/12 127/16 127/20 143/12 September 2020 [1] 2/16 sequence [1] 69/17 sergeant [1] 4/6 serious [13] 36/11 36/11 62/2 88/20 89/20 92/1 122/13 145/15 158/21 187/19 213/22 213/25 215/13 seriously [2] 86/10 190/1 seropositive [1] 134/7 servant [4] 31/1 78/19 133/14 210/4 servants [3] 27/1 37/20 78/18 **serve [1]** 24/18

(80) right - serves

serves [1] 85/12

	1 1505 4010	1 PP 00/01 10-11	404/44 474/05 4774	40/40 40/00 4=***	FA 61 F/0 / 0 / /C -
S	shared [2] 43/6	show [5] 62/24 125/22		40/16 43/20 45/11	sorry [36] 5/21 21/22
service [71] 3/18 4/19	187/10	169/5 178/4 206/11	179/7 212/6 216/1	46/16 47/2 50/16 51/3	29/8 35/11 84/20
6/8 6/9 6/15 7/5 7/6	sharing [2] 25/19	showed [2] 29/18	Sir Donald Acheson	51/15 53/23 58/17	93/18 100/15 102/17
7/19 7/21 9/13 9/14	208/22	119/23	[2] 16/10 35/12	61/11 62/22 66/4 68/11 81/12 85/14	108/10 111/13 111/14 116/10 116/11 124/25
9/16 10/6 14/8 15/24	<b>she [23]</b> 5/11 5/12 20/18 20/18 28/7 29/4	<b>showing [3]</b> 48/10 114/15 120/3	<b>Sir Henry Yellowlees</b> [2] 35/16 161/14	85/24 85/25 86/15	125/4 140/16 140/17
17/24 18/4 18/21 19/7	29/5 29/10 29/12	shown [11] 75/17	sit [8] 1/7 31/14 42/25	86/16 87/21 91/8	142/9 143/5 151/7
21/13 22/23 23/20	29/20 29/21 30/13	75/18 111/21 118/3	83/18 83/23 159/21	92/10 103/5 105/12	157/2 160/17 177/24
24/19 28/3 29/24	35/3 35/3 35/5 49/15	161/5 163/24 165/21	202/16 202/17	112/20 114/14 115/22	178/1 178/6 178/6
37/18 38/16 42/12	80/9 82/25 88/18	172/21 192/22 205/9	sitting [4] 31/13	119/20 120/5 123/9	189/16 197/15 198/7
47/12 48/18 50/3	88/19 105/25 117/14	213/23	151/12 153/3 208/13	127/22 131/14 135/8	199/21 204/23 204/24
50/13 50/17 50/21	129/24	shows [4] 122/11	situation [4] 64/4	137/2 143/16 143/17	209/10 213/1 215/9
50/23 50/25 51/1 51/10 52/1 53/16	she's [1] 212/25	140/18 161/8 182/6	128/9 199/17 209/25	145/21 149/9 152/10	215/21
53/17 54/12 57/23	shocked [1] 213/4	shy [1] 212/23	six [3] 102/11 106/21	152/20 153/11 153/24	sort [22] 6/21 16/21
58/18 59/25 70/18	<b>short [13]</b> 7/18 7/19	sic [1] 133/7	194/1	154/7 154/18 157/22	18/18 22/17 34/8
72/15 77/9 79/10 80/4	22/5 45/2 47/2 57/11	side [16] 3/24 31/4	sized [1] 24/22	168/25 171/25 172/21	40/24 41/9 43/12
80/10 82/15 83/1	57/17 175/7 184/9	48/1 81/17 85/18 97/8	skate [1] 103/19	175/10 183/21 184/2	51/16 56/22 64/11
84/11 92/7 92/12	200/15 203/4 203/20	97/9 97/10 98/4	skills [1] 57/17	187/9 189/4 194/22	66/13 75/25 92/25
97/13 103/6 104/24	215/9	105/19 108/17 108/17	skim [1] 44/7	195/17 198/8 202/5	103/5 112/14 129/11
106/7 112/20 114/3	shortage [2] 89/23 107/23	108/19 108/19 109/1 188/1	skip [2] 74/24 92/14	202/11 202/13 204/8 207/23 209/20 211/14	162/13 191/9 202/3 211/19 214/20
117/9 134/14 136/23	shorter [5] 10/3	sidelined [1] 119/22	sleep [1] 44/22 slightly [5] 30/10 68/4		sorting [1] 37/21
146/4 149/10 151/15	107/12 113/9 143/24	sidelines [1] 118/25	162/21 167/3 212/6	somebody [9] 10/24	sought [2] 73/2
153/22 163/10 212/17	145/11	sign [1] 46/20	slip [1] 79/12	35/6 58/9 91/8 122/9	134/18
Service's [1] 18/7	shortly [2] 62/22	signed [5] 2/19 2/22	slow [1] 120/13	122/16 151/14 152/9	soul [1] 47/2
services [8] 1/19 16/1	70/25	146/7 191/13 202/5	slowly [1] 69/17	210/15	Soumik [21] 15/10
84/24 110/22 133/1 138/14 176/24 203/17	should [97] 29/10	significant [5] 64/21	small [7] 80/11 83/7	somehow [3] 17/3	17/19 57/15 69/20
session [1] 120/8	34/11 34/21 37/23	71/13 135/22 162/24	103/19 145/15 148/19	35/22 144/20	71/23 72/4 84/21
sessions [3] 94/11	43/11 49/10 49/16	193/4	148/21 167/24	someone [19] 10/4	92/18 92/23 102/18
94/20 95/21	51/19 56/1 64/15	signs [1] 122/11	Smithies [5] 115/11	10/18 19/1 24/18 41/5	108/17 116/10 126/3
set [19] 12/23 20/23	65/13 65/23 65/24	silly [3] 106/25 108/15		61/12 62/19 64/6	133/20 145/24 156/6
32/6 33/9 33/12 35/3	67/15 73/25 74/3 74/5	112/2	143/2	68/21 89/14 90/21	157/15 158/10 161/1
59/9 65/23 92/21	75/13 78/24 79/11 79/19 79/25 80/5	similar [2] 79/8 107/22	smoking [1] 16/17 snappy [1] 155/13	118/4 119/6 137/4 140/10 163/17 173/10	167/7 178/18 sounds [3] 2/8 23/16
92/25 94/15 96/17	80/10 81/22 81/24	Similarly [2] 89/21	snatching [1] 157/18	203/13 210/16	141/23
114/4 134/17 138/1	82/2 83/1 85/4 85/9	189/23	so [276]	something [33] 4/6	source [7] 38/11
147/4 170/6 179/21	90/11 93/19 100/5	Simon [38] 9/8 58/16	So we'd [1] 154/23	8/20 10/5 26/23 31/13	
180/4	102/12 104/5 107/2	66/15 66/16 66/17	social [11] 1/18 1/20	32/18 33/13 34/11	158/18 158/19 196/21
set-up [2] 20/23 35/3 sets [5] 32/7 85/10	110/10 113/15 114/1	66/19 66/22 67/3	1/21 2/1 3/9 3/17 4/15	36/5 46/9 59/15 62/13	sources [2] 120/22
	117/10 117/11 118/3	67/21 67/21 69/3 69/5	4/15 14/1 15/25 48/1	62/17 75/13 75/14	167/13
97/7 118/16 147/20 setting [1] 103/5	123/7 125/22 130/10	69/7 84/15 102/11	society [4] 16/2	87/17 102/5 125/13	<b>Spain [1]</b> 146/18
settle [1] 40/15	135/18 136/4 136/6	152/16 152/18 153/18	187/21 210/8 214/3	127/23 139/23 142/24	
settled [1] 39/5	139/20 139/21 140/2	153/19 165/20 166/1	solely [1] 30/15	143/16 158/5 163/18	speaking [3] 27/18
seven [1] 26/21	140/17 141/21 145/11	169/10 170/10 171/1	solution [9] 158/22	170/11 176/18 190/21	33/12 181/13
seventies [4] 19/8	147/1 148/3 151/24 152/3 154/13 155/17	171/2 171/2 171/5 171/6 171/15 183/2	194/15 194/15 194/20 200/19 201/8 203/5	198/1 200/4 202/14 202/24 211/17 211/25	speaks [1] 101/8 special [5] 58/7 60/3
195/18 195/19 200/11	158/14 160/2 160/12	191/13 201/1 208/10	203/5 206/8	sometime [1] 142/22	103/10 170/18 208/9
several [4] 9/20 25/1	162/8 168/8 169/3	208/12 208/22 209/2	solutions [2] 41/21	sometimes [17] 9/24	specialise [1] 33/1
34/3 149/25	169/12 169/19 170/4	214/1 215/3	201/23	22/18 23/13 24/21	specialised [2] 33/5
severe [3] 198/20	170/16 170/21 171/1	Simon Glenarthur [1]	solved [1] 194/21	39/2 42/20 43/22	187/6
199/10 199/17 severity [1] 198/19	172/11 174/3 177/14	84/15	some [107] 7/15 7/16	43/22 44/16 44/23	specialist [8] 13/19
sex [2] 76/21 97/3	178/11 184/2 185/2	Simon's [1] 67/23	7/16 7/25 8/13 10/11	44/25 45/1 45/2 48/12	21/10 35/5 35/8 54/22
sexual [4] 74/5 79/21	186/8 187/13 187/14	simple [1] 41/21	10/18 11/13 11/16	162/15 181/24 210/18	65/1 186/25 191/3
80/3 141/13	188/9 188/11 189/2	simply [3] 21/9 56/6	12/8 13/3 13/3 13/16	somewhere [9] 40/1	specialists [10] 12/24
sexually [1] 114/7	190/18 190/20 190/21	198/17	13/23 13/24 14/14	46/3 81/5 125/15	13/18 32/2 32/25 34/9
<b>Shall [2]</b> 157/13 175/2	190/22 191/22 201/18	since [7] 6/12 7/20	14/15 16/2 16/16	143/17 152/9 184/13	52/9 53/15 53/16 84/1 207/6
shambles [1] 20/9	201/19 202/13 203/2 203/18 207/1 208/14	7/22 9/19 29/17 76/9 120/17	16/20 17/16 20/22 21/16 22/17 23/7 24/6	194/23 204/6 <b>soon [14]</b> 40/2 75/14	specific [5] 4/8 43/21
<b>shambolic [4]</b> 20/15	209/17	single [1] 130/24	24/8 24/9 24/12 24/13	92/2 136/1 139/2	59/10 62/21 176/19
20/24 23/17 23/19	shouldn't [3] 49/17	sir [14] 16/10 35/12	24/14 24/19 25/3	147/7 171/11 171/18	specifically [2] 25/16
share [3] 144/5	189/10 194/2	35/16 55/15 98/24	25/25 32/14 34/6 34/7	174/2 174/3 174/4	167/20
145/19 212/1	<b>shove [1]</b> 190/11	109/4 114/12 114/18	39/2 39/3 39/24 39/24	174/11 174/11 174/19	
	- <del>-</del>				

(81) service - spectator

S	96/25 151/12 152/8	166/8 178/24 181/24	style [1] 165/2	138/24	144/24 145/1 145/3
speculation [1] 79/14	153/10	185/22 197/21 207/9	sub [32] 155/10	succeed [1] 58/11	158/17 177/4 193/10
speed [2] 40/12 40/23	starts [1] 143/2	stint [1] 11/3	155/12 155/14 155/25	<b>succeeded [1]</b> 58/16	196/22 204/5
spelt [1] 123/11	state [51] 1/24 2/6 3/9		156/12 156/24 157/1	successors [1] 28/9	support [2] 90/24
Spence [5] 146/8	3/14 4/3 4/5 4/9 4/12	42/6	157/2 157/5 159/24	such [24] 13/10 15/1	130/11
147/10 149/11 151/3	4/18 4/25 5/15 6/6	stop [36] 20/13 25/3	160/7 161/3 162/11	61/16 73/9 73/23	<b>supported</b> [1] 42/12
205/13	9/12 10/19 10/22 11/2	45/6 52/17 55/8 76/2	163/5 163/11 163/15	74/17 74/21 76/17	suppose [6] 43/14
spend [3] 22/5 23/7	11/15 13/25 17/12	77/11 91/25 103/7	163/23 164/1 164/6	88/8 103/14 122/22	87/24 163/7 163/21
211/1	17/13 18/22 20/1 24/3	104/12 112/11 125/12	164/9 164/22 164/24	158/21 161/15 162/5	199/24 213/4
spending [3] 20/4	26/19 26/19 27/5 28/6	148/2 154/2 154/14	166/6 166/21 167/1	173/19 176/19 180/9	supposition [1] 94/1
22/25 48/8	28/11 28/11 37/5	159/1 160/2 169/12	167/5 170/6 171/10	180/12 181/2 187/16	sure [44] 26/15 27/8
spent [9] 3/5 8/4	37/17 39/6 39/8 42/8	169/25 171/13 173/12	191/4 202/1 213/25	208/6 208/7 208/19	29/18 32/17 32/22
18/18 20/4 23/4 33/7	43/14 43/15 45/8	173/20 174/20 177/24	215/4	209/10	34/3 37/9 43/13 43/2
47/24 48/10 206/12	60/15 68/10 78/15 110/23 111/20 111/23	183/20 186/13 186/19 191/16 200/19 200/21	sub committee [21] 155/25 156/24 157/1	<b>suddenly [5]</b> 51/4 77/3 89/22 98/1 98/2	51/14 59/18 68/23 75/17 76/19 79/2
spite [1] 75/1	128/8 129/8 209/19	201/8 204/3 206/17	157/2 157/5 159/24	suffered [1] 48/24	84/10 95/19 98/15
<b>splendid [1]</b> 30/3	209/20 211/9 211/10	207/1 207/2 208/12	160/7 163/5 163/11	suffering [4] 63/2	103/4 105/19 105/22
spoke [2] 107/15	211/21 211/23	stopped [7] 76/17	163/15 163/23 164/1	73/7 122/18 198/18	105/23 105/24 111/1
124/20	State's [2] 37/3 128/7	81/11 154/6 171/18	164/6 164/22 164/24	sufficiency [5] 180/8	111/17 121/22 152/1
spoken [2] 110/23	statement [18] 2/13	184/23 187/22 194/24	166/6 166/21 170/6	191/15 193/14 194/17	153/19 164/20 169/19
133/4	5/23 15/9 17/19 29/6	stopping [8] 86/11	202/1 213/25 215/4	200/19	169/21 171/15 171/1
spot [3] 151/16	30/14 49/6 57/14	154/1 169/18 184/9	sub committees [1]	sufficient [4] 131/24	171/19 172/3 174/19
151/23 159/15	57/15 59/10 107/16	187/18 199/16 200/16	191/4	158/24 193/11 193/17	184/13 184/19 189/1
spot-on [1] 159/15	133/25 138/19 142/5	204/4	Sub-Committee [9]	suggest [13] 91/20	190/4 192/6 197/15
spotted [1] 151/20 spread [1] 70/22	160/13 160/14 161/20	stops [1] 211/11	155/10 155/12 155/14	117/21 118/4 124/24	203/22 208/15
spreading [1] 79/6	209/12	stories [2] 108/14	156/12 161/3 162/11	146/1 150/13 162/9	surely [2] 31/5 57/20
squabbling [1] 20/10	statements [6] 27/20	112/3	164/9 167/1 171/10	168/25 186/4 188/6	surgeon [1] 27/12
squiggle [1] 120/2	27/21 49/6 111/11	story [1] 107/1	Sub-Committee's [1]	188/25 210/3 210/10	surgery [2] 199/18
staff [2] 9/16 50/24	111/18 130/7	straight [1] 113/14	167/5	suggested [7] 10/25	199/23
stage [12] 14/16	states [13] 23/23	strange [2] 23/17	subject [20] 21/10	29/5 91/18 123/5	surprise [5] 21/2
53/12 56/13 58/17	58/23 59/6 60/11	152/12	41/8 41/20 55/2 61/15	126/11 132/2 174/17	160/22 169/7 212/15
61/4 81/18 88/17	60/17 79/11 120/22	straw [1] 47/2	62/18 67/5 83/10	suggesting [18] 13/4	212/18
96/10 106/3 153/25	147/17 167/19 168/7	streams [1] 54/1	107/19 111/5 118/6	64/14 65/11 65/13	surprised [13] 31/3
188/3 195/17	173/19 179/24 190/18	strength [1] 79/15	147/5 155/23 173/17	109/10 144/2 147/24	152/1 153/17 153/17
stages [3] 71/14	statistics [1] 60/22	strengthen [4] 42/11	176/9 193/1 201/16	147/25 148/3 154/1	163/10 163/19 164/1 165/13 165/15 165/19
122/9 184/25	status [1] 179/10 steadily [1] 116/2	118/21 119/6 119/7 stresses [1] 141/14	205/6 205/25 209/8 subjects [3] 43/18	154/2 169/12 169/18 170/23 174/10 187/13	170/11 202/23 203/8
stand [2] 1/5 1/7	steady [1] 120/13	stressing [1] 117/12	197/2 206/4	201/13 202/14	surprising [2] 152/15
<b>standards</b> [1] 113/20	steer [1] 207/22	strict [1] 30/8	subliminally [1]	suggestion [7] 100/17	
stark [1] 153/9	step [19] 71/3 71/13	strike [6] 9/13 9/14	153/12	134/8 142/18 142/19	surprisingly [2] 47/2
start [33] 1/10 27/1	75/19 76/1 77/9	9/17 9/19 39/25 113/8	submission [27]	155/19 174/14 187/21	61/18
31/13 31/16 31/17	139/25 150/10 153/1	strikes [3] 6/16 6/17	10/18 70/23 72/2	suggestions [2] 67/8	surrounded [1]
38/19 40/16 40/17	167/22 168/4 172/7	206/4	72/12 92/16 93/5 93/9	192/9	184/18
41/18 42/4 49/11	173/9 173/9 173/10	strong [9] 45/11 63/20		suggests [3] 118/13	surrounding [2] 78/2
51/18 69/10 69/20 77/12 81/10 82/18	173/12 174/3 174/10	64/5 89/16 91/22 92/2	102/21 103/20 106/18	150/18 155/23	135/9
84/2 84/2 103/5	200/15 210/6	97/15 151/22 152/3	110/25 116/8 116/23	suitable [1] 121/10	Surveillance [4] 146
103/15 112/13 128/5	Stephen [1] 78/12	stronger [4] 132/2	118/7 118/9 118/12	summarised [1] 87/12	
151/11 169/15 175/11	Stephen Alcock [1]	135/15 136/14 188/13	121/5 124/21 126/5	summarising [1]	suspect [3] 11/8
185/4 192/20 192/21	78/12	strongly [6] 79/18	126/9 139/17 143/10	128/9	153/18 166/1
196/10 202/18 207/1	steps [15] 60/13	84/12 84/13 114/14	145/18 178/10	summary [2] 156/7	suspected [1] 96/4
211/19	60/17 70/21 108/3	130/8 153/18	submit [2] 162/12	161/6	suspension [1]
started [17] 13/4 21/3	123/4 153/2 169/3	struck [1] 66/6	175/20	summer [1] 132/16	147/25
23/1 33/3 33/6 44/12	170/16 170/20 171/22	structure [2] 20/24	subparagraph [1]	summonsed [1]	switched [2] 185/12
50/6 54/5 81/7 87/25	172/13 179/25 183/7	30/11	158/9	210/15	189/8
98/2 145/14 154/5	184/3 200/14	studying [1] 26/23	subparagraph 3 [1]	Sunday [1] 189/13	sworn [2] 1/8 217/2
193/3 193/20 196/4	sterile [1] 141/20	stuff [18] 27/7 28/17	158/9	superior [1] 152/4	symptoms [2] 148/29 150/1
197/24	stick [3] 31/9 39/4	75/25 108/15 151/12	subplot [1] 34/15	supervisory [1] 18/7	
starting [1] 196/23	184/14 sticking [1] 90/4	169/13 169/16 169/20 171/14 173/24 174/13	<b>subsequent [2]</b> 70/8 91/9	<b>supplies [8]</b> 167/25 168/3 173/23 174/2	<b>Syndrome [4]</b> 72/13 146/13 180/2 180/17
startled [3] 152/20	still [14] 22/1 26/17	174/15 174/20 174/21	subsequently [3] 29/3		system [8] 24/25
152/21 162/5	46/11 137/17 137/22	182/21 206/25 208/18	128/4 131/6	204/5	35/18 40/11 42/15
startling [5] 86/6	145/8 161/13 165/4	215/14	substantive [2] 2/18	supply [9] 113/24	46/22 118/14 122/13
	. 10/0 101/10 100/4	210/11	2400tuntivo [2] 2/10		10/17 122/10
				<u> </u>	(82) speculation - syste

(82) speculation - system

		<b>,</b>	<del>,</del>	<u>,                                      </u>	
S	63/18 97/20 109/5	178/5 178/17	192/7 194/10 194/21	210/8 214/4	43/25 44/10 44/19
system [1] 123/24	170/9 208/21 208/25	than [24] 10/17 22/11	199/15 199/16 199/19		45/6 48/22 51/2 52/8
<del></del>	talks [1] 96/12	26/7 29/13 30/15	200/3 200/18 202/2	theme [1] 9/25	53/23 54/22 55/8
<u> </u>	tally [1] 146/20 tap [2] 29/6 29/9	54/12 54/14 92/13 95/16 96/9 104/20	202/8 202/14 205/12 205/14 205/21 207/8	themselves [9] 7/8 13/19 25/9 32/3 107/3	56/10 56/14 56/15 58/3 58/6 59/5 60/1
tabloid [1] 76/12	taught [2] 41/1 44/10	115/21 141/10 142/21	207/8 211/5 212/2	122/18 181/9 187/2	62/23 63/6 64/5 66/21
take [56] 1/4 1/4 9/4	team [11] 30/18 34/8	151/10 154/1 162/18	212/5 213/17 213/18	188/7	69/24 73/5 73/14
9/5 16/18 17/6 17/8	35/7 36/3 37/1 68/18	164/12 166/5 168/17	214/13 215/19 215/22		73/16 73/19 74/4 74/7
38/25 39/6 41/14 41/15 56/1 57/5 60/13	68/19 68/19 153/21	187/8 189/13 197/8	Thatcher [2] 2/10 6/21		74/8 74/18 76/13
60/17 62/7 71/14 72/9	209/22 211/8	200/21	their [84] 11/7 12/9	4/25 5/2 5/3 8/3 12/25	77/19 78/20 79/18
81/1 89/2 98/21	team's [1] 32/10	thank [16] 15/14	17/17 20/23 22/4 22/6	15/1 16/22 17/14 18/5	80/2 81/6 81/14 81/22
101/18 107/7 112/6	teams [1] 3/22	37/10 57/4 62/7 84/21	23/4 27/11 37/21	22/15 27/15 28/21	81/24 82/7 83/5 83/9
114/20 115/5 115/19	technology [1] 70/24	98/7 106/13 106/17	40/10 40/12 48/5	33/5 34/14 35/14	83/17 83/18 84/13
123/3 131/12 131/15	television [1] 59/17	109/4 119/5 126/3	48/10 49/11 49/12	36/23 38/13 38/16	85/8 85/19 85/23
135/22 144/15 149/6	tell [12] 2/8 22/24 44/17 54/20 65/3	133/20 157/18 158/10 160/25 175/4	49/18 50/1 50/7 50/25 53/18 53/19 56/13	38/20 39/11 40/16 41/9 41/9 42/1 42/2	87/10 89/17 89/19 91/5 92/9 93/13 94/23
155/7 155/18 157/19	157/15 164/2 186/10	that [810]	58/10 63/7 72/21 74/3	43/6 44/25 45/17 46/9	95/9 95/12 95/14
163/12 170/20 172/14	188/9 188/19 188/23	that I [12] 44/6 68/9	74/5 74/16 74/17	46/9 60/20 61/2 68/12	95/23 95/25 103/21
175/2 179/25 183/6	197/14	80/17 108/13 110/19	74/21 76/21 78/7 80/3	69/10 73/3 73/18 74/7	103/24 105/23 105/25
183/16 186/17 186/20	telling [5] 44/8 86/7	120/1 129/12 153/13	81/11 92/19 94/16	74/11 74/23 74/25	108/2 112/24 113/7
186/20 187/3 187/5 187/11 187/15 189/25	86/13 104/15 169/14	162/6 167/4 206/14	96/4 96/5 97/15 99/17	78/4 78/7 78/18 79/1	113/15 114/16 115/23
194/25 197/16 206/20	temporarily [1]	215/8	99/22 100/7 100/24	81/20 82/13 82/21	117/20 118/20 119/5
210/25 215/23	199/19	that is [13] 15/11	101/10 104/21 105/6	84/20 85/8 87/4 89/17	119/16 119/17 119/25
taken [48] 11/17	temporary [2] 147/16	23/14 23/15 34/2	105/10 107/6 120/6	90/5 91/3 91/10 91/15	121/6 122/8 122/9
11/17 14/7 16/20	147/25	112/16 112/22 127/13	121/9 123/5 123/7	92/14 92/17 93/12	124/9 125/23 127/1
19/13 34/4 66/9 70/21	temptation [1] 94/21	172/3 189/25 190/12	136/10 141/22 154/8	93/16 93/25 94/23	127/22 132/8 132/14
73/6 98/21 101/21	tempted [1] 96/8 ten [5] 38/24 57/6	190/13 196/18 199/24 that seems [1] 112/13	154/9 154/16 156/1 156/3 162/16 162/18	96/12 98/17 100/2 106/23 107/8 108/25	134/9 136/12 137/17 138/5 138/6 139/7
108/3 117/14 124/25	215/24 215/24 215/25	that's [127] 10/20	164/19 165/1 166/22	109/10 109/23 110/25	139/10 139/11 140/9
125/3 133/13 142/5	ten o'clock [3] 215/24	13/6 16/19 16/21	166/24 168/12 176/25	111/4 111/8 111/12	142/10 143/5 143/17
142/7 143/6 145/11	215/24 215/25	32/18 34/2 39/10	179/14 185/11 186/16	111/19 113/18 116/21	144/18 145/19 146/7
145/22 154/13 154/14 160/22 161/4 162/16	tend [2] 4/13 91/20	47/20 51/11 51/14	186/22 188/7 189/11	118/16 119/8 119/9	150/3 150/12 150/23
162/24 166/13 167/25	tended [1] 105/21	54/18 64/2 69/4 70/12	189/12 189/14 189/18	121/4 121/21 123/11	151/1 152/15 153/1
169/3 170/16 171/22	tendency [1] 207/16	71/11 72/2 72/4 78/15	190/13 190/15 195/25	126/12 127/20 127/23	155/3 158/18 158/25
172/25 176/1 176/15	tends [1] 4/10	79/15 81/3 85/6 85/13	197/12 197/21 200/19	127/25 128/23 129/1	159/6 159/12 159/17
184/2 188/22 191/3	tens [1] 211/1	86/10 87/10 87/17	202/9 210/8	129/18 130/23 131/20	159/23 160/6 161/13
193/11 193/12 193/21	tensions [1] 30/9 tenure [2] 1/17 35/14	89/6 92/17 93/23 94/13 95/7 98/12	them [83] 7/10 8/16 12/3 12/24 14/25 17/2	132/24 133/17 134/4 134/8 134/11 134/23	162/17 168/25 169/1 169/24 170/5 170/8
198/24 199/20 200/15	term [1] 88/18	98/16 99/7 100/11	17/14 17/16 18/18	136/17 138/1 138/5	170/20 171/20 172/13
201/2 203/20 210/6	terms [30] 3/24 7/22	100/11 101/3 101/25	20/22 22/15 22/21	138/11 139/7 139/16	172/17 172/18 175/25
214/20	18/10 20/7 21/14	102/23 103/3 104/13	23/11 23/14 24/23	140/10 143/23 147/20	177/15 178/21 179/1
takes [2] 166/18	22/14 24/24 25/15	106/2 107/17 110/16	24/24 24/25 25/1 25/1	148/23 150/6 153/20	179/1 179/20 180/3
taking [34] 29/24 56/5	20/12 26/17 /1/20	112/22 121/4 121/14	30/10 30/24 31/8	154/22 157/6 157/13	180/25 182/17 183/17
57/25 58/10 59/20	43/20 49/7 58/19	124/11 124/12 127/2	31/18 31/19 31/19	164/23 166/3 167/3	183/18 183/19 184/5
63/21 67/20 77/6	58/21 64/20 64/21	129/5 131/4 132/21	33/8 37/20 37/20 38/8	174/2 175/3 176/8	185/22 185/23 186/6
81/11 86/9 97/18	65/6 67/8 68/20 88/20	133/9 133/19 135/14	41/18 41/18 41/18	177/5 177/23 178/4	186/24 188/3 189/3
103/15 110/16 142/22	91/13 96/20 116/20	137/10 137/13 137/15	42/19 44/18 47/18	178/17 180/3 180/10	189/6 189/7 191/5
151/22 157/21 173/12	121/16 124/3 124/16 143/8 151/2 208/25	137/22 139/9 139/16 139/16 140/12 140/13	49/23 50/16 52/17 54/20 54/24 65/19	180/15 183/3 186/11 188/12 191/10 191/24	192/1 193/9 193/19 194/9 194/14 194/14
173/20 183/20 184/23	torrible [5] 22/11	140/13 140/13 141/24	65/20 69/16 71/20	192/20 193/19 205/7	195/6 196/21 198/19
186/13 186/19 186/21	53/23 103/2 106/12	143/1 143/2 143/5	81/1 81/12 83/23	211/25 214/16	198/23 201/4 201/20
187/18 187/23 187/24	196/12	146/7 150/2 154/1	85/20 87/2 92/4 101/4		203/3 203/19 204/7
189/11 189/11 193/4	terrifying [1] 188/25	156/4 156/11 158/6	104/12 104/16 114/14		205/6 205/20 205/25
195/5 196/20 197/13 199/16 212/4	test [4] 41/18 73/22	158/14 159/18 160/4	120/9 124/12 124/13	5/10 5/10 8/15 8/23	208/7 208/17 210/9
talk [7] 19/20 38/18	73/23 121/10	160/8 160/10 160/11	142/4 147/21 159/2	11/23 19/10 19/11	210/12 210/25 212/22
38/23 56/17 56/21	tests [2] 137/24	160/19 160/21 161/7	172/21 181/12 183/11	21/12 24/21 26/15	214/19 215/23
61/2 69/1	138/25	161/20 161/22 163/24	184/1 185/13 186/17	26/16 27/4 29/12	there'd [2] 59/13 82/4
talked [1] 49/4	text [16] 93/11 129/24		187/1 187/6 187/10	29/13 30/9 31/13	there's [41] 4/2 4/20
talking [13] 11/4	134/1 134/17 134/17	172/2 172/4 173/25	187/19 188/25 191/9	31/14 33/20 34/6	12/8 15/19 16/22
25/14 25/15 26/22	135/12 135/22 136/13	174/5 174/23 174/23 174/23 175/17 176/17	193/23 195/24 198/25 198/25 199/9 201/4		18/19 31/25 46/3
33/25 37/7 53/12	136/22 136/24 140/20 142/3 146/10 178/3	177/22 182/17 185/25	207/8 207/22 208/20	41/25 42/7 42/15 43/16 43/18 43/22	46/10 46/21 54/13 55/7 69/6 73/21 74/23
	172/0 170/10 170/0	111122 102111 103123	20110 201122 200120	10/10 70/10 70/22	0011 0010 10121 14120

(83) system... - there's

Т	66/13 69/8 95/5	162/7 162/22 163/4	176/4 183/2 187/9	182/11 192/13 192/17	totally [5] 31/22 49/25
there's [26] 98/16	105/10 114/1 120/3	163/25 164/8 164/17	204/8 206/12 214/25	192/18 195/6 195/13	209/15 214/8 214/17
102/9 110/9 113/13	122/3 132/7 151/17	164/18 165/18 172/21	thousands [5] 7/7	195/15 195/20 197/20	touch [4] 9/9 43/6
117/21 125/21 128/15	153/24 165/22 181/23	173/2 173/9 174/17	46/1 102/5 151/18	198/10 198/12 207/19	43/13 171/3
134/8 139/17 139/25	200/17 201/24 209/14	175/13 176/17 177/9	192/20	208/3 210/20 212/6	touched [3] 12/19
140/9 145/25 162/8	212/10	179/15 179/16 181/8	thread [1] 115/1	212/22	67/25 68/7
166/6 166/7 167/3	<b>things [56]</b> 6/23 8/10 9/18 10/1 12/17 12/24	183/15 184/21 184/22 186/9 186/12 187/2	threat [1] 6/17 threatening [2]	times [3] 5/4 38/24 207/11	touching [2] 43/2 68/22
171/19 172/10 179/18	15/6 27/2 35/22 35/24	189/7 191/1 191/18	199/12 199/17	tiny [3] 46/10 208/3	toughen [2] 116/1
183/24 186/2 186/12	36/2 37/5 37/13 38/1	192/12 192/13 193/12		208/3	116/3
188/24 189/3 207/16	40/5 40/20 41/9 42/10	195/8 195/14 195/20	26/22 46/10 56/17	tip [1] 44/5	trace [1] 64/12
214/22	43/7 45/8 48/11 50/1	196/18 196/25 197/2	63/19 77/22 78/18	title [2] 179/18 182/6	traced [2] 121/3
thereby [1] 79/6	51/15 53/4 55/19 59/3	197/8 197/14 197/20	89/8 100/13 100/16	to [1354]	121/23
therefore [8] 22/17	61/23 67/17 68/5 68/6	197/21 198/13 198/14	102/11 115/5 142/6	to 12 [1] 57/6	trade [1] 48/20
90/23 100/4 121/6	86/2 87/5 114/5	198/14 200/17 201/22	142/9 142/14 146/17	today [13] 2/21 3/4	Trades [1] 24/16
133/12 135/18 137/24 139/5	117/20 139/10 139/13	202/17 203/13 205/12	180/3 193/23	8/6 14/12 19/17 22/2	tradition [1] 26/16
these [51] 19/23	139/15 143/19 155/4	206/20 209/1 209/8	three days [2] 56/17	69/9 133/24 141/2	tragedy [5] 8/22 21/5
35/21 39/9 41/9 43/21	162/5 162/13 171/3	210/1 210/11 210/12	77/22	185/20 189/25 198/9	145/13 186/7 193/2
57/7 58/1 61/15 79/16	185/15 186/1 186/24	210/20 212/17 213/5	three-month [3] 142/6	214/16	tragic [1] 65/5
84/2 84/10 94/3 97/16	201/13 202/3 202/8	213/9 213/12 213/20	142/9 142/14		trail [1] 162/9
108/14 109/13 109/15	202/10 203/1 203/25	215/1 215/2 215/7	through [44] 1/4 2/14	34/3 83/22 107/16	training [2] 40/25
119/14 122/8 124/10		thinking [1] 202/17	5/15 21/20 21/22	135/5 136/10 198/18	44/11
132/15 134/12 134/16	209/18 213/14	thinks [5] 49/15 66/21	21/23 22/21 24/25	told [26] 32/23 35/3	transcript [2] 125/24
141/13 144/17 145/17	think [195] 1/12 2/22	89/4 170/10 177/14	25/5 25/18 26/3 26/22	51/4 52/16 54/22 66/1	203/9
147/2 152/2 161/19	3/13 5/4 5/16 9/20	third [12] 15/21 17/25	27/10 27/11 27/16	68/12 75/13 76/20	transformed [1] 214/17
165/16 167/20 171/3	14/7 15/5 15/6 16/19 17/3 19/2 23/15 24/2	110/9 110/16 111/8 135/20 136/11 180/15	27/17 38/23 43/20 51/9 52/18 55/9 63/7	88/20 94/25 95/7 96/19 97/5 105/2	transfused [1] 146/22
175/23 180/14 181/4	25/24 26/6 26/8 28/9	180/22 191/16 204/20	64/12 69/2 69/16 71/4	144/12 184/11 188/11	transfusion [66] 10/6
182/25 185/17 185/25	29/5 29/12 29/13	205/1	72/14 77/17 87/15	188/15 200/17 205/9	21/13 23/20 47/6 47/9
190/6 191/4 191/14	29/18 34/2 34/17	this [365]	88/8 95/18 106/14	207/8 211/18 213/24	47/11 57/23 58/18
192/5 193/20 196/19	34/23 35/3 35/4 35/9	thoroughly [1] 61/22	107/1 128/4 143/9	214/9 214/18	59/24 70/18 72/14
201/6 201/13 201/22	36/12 41/16 42/17	those [52] 2/9 2/13	188/22 190/25 191/3	tomorrow [4] 5/20	72/18 73/6 73/24
202/8 202/10 203/1	43/9 44/9 46/25 47/9	2/14 4/22 5/18 10/11	192/21 197/13 201/2	69/9 143/21 215/24	74/20 77/4 77/13 79/9
205/8 206/25	47/12 48/4 49/1 49/4	12/6 13/16 13/23	203/16 210/24 212/19	too [14] 6/19 88/21	79/12 80/4 80/9 80/22
they [237] they'd [17] 26/14 43/3	49/5 49/24 52/11	16/16 25/12 26/17	throughout [1] 186/7	88/23 89/4 113/8	82/15 83/1 84/11
43/16 44/15 44/18	52/11 53/5 54/13 56/9	38/4 40/24 42/22	thus [3] 94/17 94/20	115/19 142/23 143/7	85/24 86/24 87/7 87/9
44/20 45/9 45/11	57/25 58/13 59/1 59/1	45/24 46/13 46/23	122/8	143/7 144/21 144/24	92/7 92/10 92/12 94/2
47/19 65/3 65/4	59/15 61/11 61/20	47/13 47/14 50/6	tick [1] 164/11	145/16 166/18 168/19	95/9 97/13 98/20
117/16 121/1 154/25	62/5 62/11 62/13	56/10 58/10 71/10	time [92] 3/4 3/8 4/21	took [32] 5/11 5/12	100/5 102/13 103/6
168/22 188/18 213/21	62/15 63/18 63/21	71/18 79/5 91/13	6/19 8/24 8/24 10/7	9/24 21/2 40/10 58/1	104/1 104/21 104/24
they're [34] 20/2	64/2 64/3 65/10 67/3 67/14 67/15 68/1	93/15 98/15 99/23 104/5 104/6 107/7	11/8 14/12 15/22 16/11 16/12 17/1	59/11 67/10 77/21 84/4 85/22 86/21 87/3	105/8 105/13 105/16 106/5 106/7 114/3
31/25 33/2 34/9 46/11	68/20 68/24 69/1 69/4	119/1 123/6 123/8	18/14 18/18 19/1	87/4 87/14 88/16	114/13 115/16 115/18
46/11 49/16 49/19	69/5 69/25 70/8 71/7	123/11 138/8 139/13	19/15 20/10 26/18	88/21 88/23 89/4 89/6	115/20 117/9 118/15
50/18 50/19 50/20	75/12 76/2 77/3 77/14	141/10 147/23 150/10	29/16 30/10 33/8	89/11 112/13 113/4	119/13 119/19 122/16
50/22 52/10 52/16	80/23 81/7 84/4 84/18	162/13 164/16 172/25	37/21 42/6 42/7 42/25	125/19 144/21 145/10	128/21 132/6 134/14
56/4 57/9 68/14 77/12	86/1 86/8 87/17 88/18	180/7 180/18 184/6	47/17 47/17 48/8	191/11 196/6 196/16	137/19 142/12 176/24
96/11 97/15 97/16	91/8 91/16 98/7 98/17	202/3 206/22 207/12	48/10 48/21 49/9	206/21 207/19 208/3	179/3 179/9 179/11
101/9 118/25 131/14	100/13 104/18 105/18	208/2	53/12 54/25 55/15	top [26] 3/10 4/3 29/7	transfusions [5] 77/1
134/22 163/6 171/13		though [8] 37/21 83/3	55/16 55/24 56/10	29/9 44/14 44/21	82/20 97/25 112/7
184/15 190/4 201/25 210/24 211/16 214/10	109/21 109/22 109/25	89/19 95/12 141/23	58/8 58/20 65/2 80/5	44/25 45/23 78/14	135/10
214/15	113/3 113/12 114/9	142/20 194/7 207/18	85/2 86/9 87/14 88/16	80/12 84/24 93/10	transmissibility [1]
they've [5] 32/1 48/5		thought [36] 22/19	90/20 95/24 97/18	94/13 98/6 99/11	115/17
137/2 139/12 143/19	126/17 128/2 129/8	25/21 29/10 30/12	113/9 114/12 115/8	100/19 101/11 116/22	transmissible [3]
thick [1] 44/4	129/11 130/9 130/25	31/10 36/16 42/10	116/2 116/6 120/24	117/24 123/2 126/7	121/8 148/10 176/13
thing [37] 3/21 4/19	131/16 131/18 133/19	42/11 44/7 48/17 51/3	124/12 125/1 127/14	137/4 137/19 140/9	transmission [5] 71/4
4/22 8/2 11/5 11/24	137/10 137/21 138/6	53/3 55/12 55/23 63/1	132/7 132/14 143/15	148/24 175/15	122/9 147/2 147/19
13/17 16/21 17/8 31/1	139/9 140/18 142/23	68/10 79/16 80/23	144/9 145/11 148/4	topic [6] 55/16 68/12	176/10
34/8 34/13 38/18 41/6	142/24 144/7 145/12 149/7 150/15 150/16	84/12 101/13 101/16 104/3 108/13 118/3	153/20 157/19 157/21 159/21 161/18 165/14	69/11 91/21 181/6 212/7	transmit [1] 73/10 transmitted [5] 73/6
41/7 44/13 45/13	153/6 153/16 156/3	132/1 136/12 143/15	174/25 175/20 175/20	Tory [1] 210/19	84/19 114/7 129/4
46/15 52/4 64/11 65/5	158/5 159/25 161/17	152/11 160/12 143/13	181/13 181/19 182/4	total [2] 94/9 208/3	148/11
	.33/3 /30/20 /0////	.52,11 100,21 100,10	.01,10 101,10 102,4		. 19/11

(84) there's... - transmitted

Т	trying [20] 16/16	23/23 43/15 72/6 73/4	76/14 92/25	149/6 151/21 157/10	usual [2] 125/7 165/1
	16/17 17/15 18/18	73/17 99/20 100/22	Union [1] 24/16	160/1 162/16 163/12	usually [16] 4/3 6/13
transmitting [2] 72/21 74/2	22/15 49/16 62/16	101/4 101/9 102/15	unions [1] 48/20	165/12 171/10 176/25	8/24 17/14 17/14
treat [2] 188/7 188/7	65/11 82/11 155/6	105/3 124/21 128/2	United [13] 58/23 59/6	185/24 186/23 187/21	21/10 22/24 23/13
treated [4] 20/7 49/11	156/8 168/11 172/6	128/3 133/7 140/7	60/11 60/16 60/19	191/13 194/2 195/17	23/23 27/10 27/20
195/3 210/7	191/14 191/15 191/16	147/10 192/4	63/1 70/22 120/14	202/4 202/5 203/1	37/1 39/22 41/10
treating [13] 13/11	207/22 209/13 209/25	under-reporting [1]	120/22 147/17 158/12	207/10	42/23 45/17
49/19 148/2 154/3	211/19	73/17	173/19 177/2	up-to-date [4] 27/9	V
169/25 187/1 187/6	Tuesday [1] 1/1	Under-Secretaries [1]	United Kingdom [4]	27/10 27/13 54/2	
191/1 199/9 199/10	tuppence [1] 164/13	4/25	63/1 70/22 120/14	<b>Update [1]</b> 128/16	vaguely [2] 67/2
199/11 199/12 199/13	turn [5] 17/19 78/7	Under-Secretary [2]	158/12	upon [4] 61/19 91/21	198/22
treating all [1] 199/13	90/6 93/9 194/2	4/9 43/15	United States [5]	135/21 170/5	value [3] 20/6 56/11
treatment [49] 12/19	turned [3] 19/25 76/21		58/23 59/6 60/11	upset [1] 35/24	167/24
13/5 13/12 13/21	149/6	149/23	120/22 173/19	upwards [2] 20/3	valueless [1] 152/7
16/15 17/7 31/15 33/1	turns [3] 114/13	undergo [1] 74/6	units [2] 60/10 60/24	36/25	vanish [1] 125/15
33/4 33/16 49/15	148/15 150/17	underline [1] 76/19	universal [1] 95/10	urgency [2] 117/13	vanishing [1] 52/12
49/20 51/4 51/5 51/9	TV [1] 209/13	underlined [1] 119/7	unkind [1] 35/24	139/20	variation [1] 119/18
51/19 52/7 53/24	twenties [1] 195/25	underlining [7] 44/4	unknowingly [2]	urgent [3] 130/8 134/1	
54/21 63/8 73/9	twice [1] 8/7 two [42] 1/16 2/2 2/4	44/13 44/15 45/21	122/15 141/15	144/12	various [11] 19/17 21/16 37/12 39/14
120/20 137/24 138/25	3/12 3/21 26/21 40/21	46/12 46/16 118/24	unknown [1] 33/23	urgently [1] 134/19	47/24 62/21 76/13
155/1 183/12 186/17	41/12 42/6 46/10	underlinings [1] 129/15	unless [13] 10/4 51/22 124/9 131/12	urging [1] 211/2 us [25] 12/3 21/2	93/13 130/16 136/9
187/15 188/10 188/11	55/19 60/8 63/18	underlying [1] 171/8	152/9 152/10 169/25	33/24 59/22 61/19	207/5
188/14 189/12 189/22	67/23 78/22 82/3	understand [27] 3/6	173/10 181/25 183/20	66/1 67/3 82/16 89/7	vast [3] 37/6 51/24
190/5 190/9 190/16	91/13 94/1 96/18	13/1 17/23 18/9 27/2	186/3 186/13 187/7	103/3 108/8 130/18	52/6
194/20 194/22 194/24	101/13 101/14 105/1	42/1 44/1 46/21 49/9	unlikely [1] 202/19	130/25 140/25 154/19	vastly [1] 54/12
195/21 197/23 198/2	106/15 108/17 113/22	50/9 56/20 67/18 75/9	unlucky [2] 61/24	157/19 158/11 159/2	vehement [1] 187/25
198/4 199/5 199/10	114/21 114/21 120/20	81/20 89/13 90/9	188/20	160/11 162/22 167/13	ventilated [1] 200/5
200/7 200/10 205/5	120/25 121/19 122/10	96/17 100/20 116/15	unpick [1] 155/2	174/15 192/18 193/10	version [14] 118/12
213/17	132/15 135/9 135/15	130/18 130/25 136/2	until [31] 1/13 1/21	214/9	129/6 130/1 130/4
treatments [1] 189/11	143/24 183/7 183/11	166/4 172/5 173/16	9/21 21/1 41/24 55/25	USA [7] 146/14	134/13 135/3 135/5
<b>Trefgarne [7]</b> 5/5 5/7 5/8 58/13 58/15 58/16	184/4 193/23 204/11	198/1 213/19	57/1 83/8 89/4 105/1	146/19 146/21 146/23	135/17 135/21 136/6
58/16	204/14 204/23	understand it [1] 42/1	113/2 114/21 121/9	147/1 148/9 177/3	136/11 137/8 141/10
tremendous [3] 8/16	two pages [2] 101/14	understanding [15]	125/19 127/5 127/12	use [16] 39/9 41/18	141/24
89/23 185/24	204/23	14/20 36/18 62/2 68/2	131/7 134/16 136/3	44/5 59/13 147/2	versions [2] 50/3
trial [12] 99/5 100/6	type [1] 200/2	82/16 108/8 161/17	142/7 142/16 142/22	158/5 167/14 168/22	130/16
100/9 100/13 100/16	types [1] 62/6	164/5 174/5 182/15	147/2 147/18 167/25	174/13 174/20 180/5	very [91] 1/25 3/13
115/5 119/12 142/6	U	195/12 195/17 197/9	171/24 173/22 173/23	191/14 199/2 200/7	5/13 7/12 7/16 13/8
142/9 142/11 142/14		197/18 201/4	175/3 211/18 216/3	208/18 210/15	13/8 13/19 13/20
142/21	UK [13] 70/24 79/19	understood [2] 85/12		used [37] 4/18 9/25	17/11 18/9 19/22
tribunal [1] 46/3	82/7 120/19 120/23	98/23	up [93] 1/23 4/6 4/24	24/25 29/6 41/11	20/22 21/5 21/8 21/9
tricky [2] 62/17 97/18	167/14 168/21 168/22 169/2 170/15 172/13	undertake [1] 65/18	7/9 7/23 9/23 12/23	41/24 42/17 44/5	21/12 23/19 24/24 29/19 30/3 35/22 37/4
tried [9] 18/14 22/12	172/16 175/23	undertakings [1]	13/8 13/8 16/17 19/13	45/19 45/20 47/7 49/3	40/24 45/16 47/18
24/12 25/7 50/2 76/2	UKHCDO [1] 190/25	176/2 undesirable [1] 98/1	19/22 19/25 20/19 20/20 20/23 25/8 27/9	60/24 73/22 88/18 96/25 97/4 115/22	48/6 50/2 53/17 54/9
104/12 112/10 207/21	ultimately [6] 10/21	unequivocally [1]	27/10 27/13 32/6 32/7	124/12 125/9 125/11	55/25 55/25 57/4
trouble [3] 7/17 43/4	28/20 28/22 100/14	79/20	33/9 33/12 35/3 36/5	125/14 141/19 141/20	61/24 62/21 67/22
191/10	109/21 128/2	unexpected [1] 65/5	37/9 40/10 40/11	148/4 174/16 176/22	73/20 75/19 76/11
true [9] 10/7 21/9 22/1	unanimous [2] 88/4	unfavourably [1]	40/23 49/3 54/2 55/25	181/19 182/12 189/7	76/24 77/9 80/11 81/2
22/2 70/11 137/17	88/5	91/18	57/20 58/10 59/2	196/4 197/24 198/8	83/7 84/4 89/18 90/22
188/12 189/25 197/21	unbelievable [1]	unfortunate [1]	59/11 60/5 62/13	198/9 198/10 198/11	90/23 91/16 91/18
Trumpington [1] 5/9	37/15	127/15	63/12 67/16 68/11	200/10	98/6 101/21 106/13
Truro [1] 7/9	uncertain [2] 32/19	unfortunately [6] 48/4		useful [3] 181/24	114/4 114/14 122/2
trust [2] 30/20 31/19	96/19	57/17 127/13 196/12	71/23 73/13 76/21	182/8 182/13	129/12 129/12 140/24
trusted [2] 30/5 67/23	unchanged [1] 138/20		85/5 85/10 85/17 86/4	useless [2] 22/23	141/24 142/15 144/13
try [23] 6/21 7/10 10/2 17/18 20/12 24/5 38/3	unclear [4] 55/13	unhelpful [1] 109/23	86/12 86/22 90/12	52/7	148/5 148/7 148/19
40/23 41/18 63/9 71/8	126/23 145/8 179/5	unhelpfully [1] 132/12	91/1 94/4 96/24 99/10	using [17] 33/3 49/18	150/17 151/22 152/13
81/8 83/19 112/21	unconscionable [1]	unidentified [1] 73/21	99/11 101/15 106/8	108/1 159/2 160/2	152/13 152/25 157/17
125/14 163/16 184/14	88/19	uniform [1] 118/13	106/11 114/25 115/19	169/12 169/15 169/20	161/22 161/23 174/23
192/7 194/12 206/17	uncovered [1] 162/9	uniformity [1] 99/13	116/1 116/3 117/3	171/14 174/20 177/24	181/19 181/24 182/13
207/17 207/22 215/9	undated [1] 177/14	uniformly [1] 123/23	120/10 120/14 124/12	184/10 200/22 201/8	187/19 188/4 188/4
	under [20] 4/9 4/25	unintentional [2]	127/25 133/18 134/22	204/3 207/2 208/13	188/16 190/13 190/13
I					

(85) transmitting - very

		I	1		
V	visiting [2] 9/23 47/7	wary [1] 137/23	33/21 92/15 98/18	185/12 186/23 187/14	182/11 187/21 188/14
	visits [1] 47/8	was [630]	115/2 142/1 142/3	189/20 191/8 191/13	191/18 191/20 193/3
very [8] 195/24	vital [1] 117/10	was it [1] 80/25	143/11 162/4 174/12	191/21 191/22 192/13	196/19 196/19 199/17
196/1 196/1 196/16	volunteer [1] 97/7	wasn't [43] 15/1 21/12	174/19 184/7 190/1	192/17 194/6 195/11	201/3 203/24 206/10
203/9 206/13 212/12	volunteering [2]	34/23 61/21 64/14	204/23 206/9 207/5	200/17 201/22 203/8	206/22 208/4 211/9
212/15	76/17 112/5	69/10 71/9 75/25	website [1] 203/11	208/10 208/24 209/22	211/18 213/5 213/14
veteran [1] 41/10	volunteers [1] 132/1	76/11 81/8 89/3 91/6	week [9] 8/7 28/19	213/12 214/1 215/23	213/14
veteran's [1] 41/11	voting [1] 159/4	92/8 95/8 95/9 100/12	29/2 40/21 55/23	well-respected [1]	whenever [1] 112/23
vicinity [1] 56/3	vulnerable [1] 16/2	105/18 121/22 125/25	66/20 87/3 146/12	152/13	where [35] 18/21 20/4
victim [1] 63/25		135/15 139/7 159/4	164/7	Welsh [5] 14/10 14/17	21/11 26/22 32/9
victims [3] 120/13	W	159/5 163/14 172/8	weekend [1] 45/17	15/4 19/2 19/3	38/17 41/4 43/17
120/21 120/25	Wakefield [3] 7/8 25/4	177/24 179/1 179/6	weekends [1] 125/14	went [19] 9/13 9/20	43/17 46/4 50/5 53/20
Victorian [2] 7/3 8/11	25/8	179/15 183/19 188/17	weekly [1] 42/17	18/15 19/17 19/25	53/22 54/18 62/15
view [23] 13/21 60/16	Wales [4] 14/3 14/15	190/8 195/18 201/16	weeks [2] 89/8 122/20	45/18 46/6 53/13 87/4	62/16 64/5 84/2 86/25
68/1 71/1 72/25 75/2 77/25 85/18 85/22	14/20 118/15	202/20 202/22 202/23	weigh [1] 165/11	97/2 152/17 153/15	88/4 99/11 102/19
	Walford [17] 29/2	207/7 208/23 210/1	weighed [1] 160/1	161/24 171/4 171/6	107/10 111/13 113/13
86/2 86/20 86/22 88/1	29/16 30/4 31/6 32/23	210/9 212/3 214/19	weighing [1] 154/5	182/12 195/19 211/25	121/4 127/11 130/25
90/10 90/17 98/17 101/19 115/16 130/5	35/1 36/7 55/6 70/15	watching [1] 147/23	weight [3] 99/22	212/18	134/5 162/14 166/10
	71/25 88/13 88/16	way [45] 19/4 24/8	100/23 102/1	were [257]	180/8 202/3 205/23
144/18 153/22 187/11 209/7	88/24 115/12 151/2	24/24 33/19 39/5	welcome [2] 104/7	weren't [10] 7/2 43/2	208/17
views [20] 38/23	151/5 203/8	40/18 41/5 43/1 44/2	203/9	76/22 77/4 86/9 132/8	wherever [1] 180/5
38/23 67/20 82/2 87/2	<b>Walford's [1]</b> 70/19	44/9 45/18 48/5 49/11	Welfare [1] 3/14	162/19 169/17 183/16	whether [56] 11/1
87/21 91/22 98/21	walk [2] 94/11 211/18	60/4 65/16 66/4 66/5	well [144] 2/2 5/10	185/22	14/19 27/16 30/25
98/22 101/10 103/16	<b>Walk-in [1]</b> 94/11	66/25 76/17 81/13	10/10 10/11 13/16	western [2] 6/10 6/11	52/18 55/9 58/8 62/1
107/25 109/7 109/9	wandering [2] 27/1	87/10 91/17 97/22	14/12 16/14 18/14	what [271]	63/24 81/21 98/3
111/1 111/5 144/20	166/1	104/20 108/10 112/18	19/16 21/25 23/25	what feasibility [1]	101/7 104/11 121/14
145/22 170/6 197/3	want [55] 1/5 15/20	114/1 124/23 125/10	27/20 29/12 33/11	173/25	129/16 153/1 153/1
VIII [57] 33/4 33/6	23/6 23/7 23/18 24/15	160/10 162/21 168/17	33/19 34/2 34/17	what's [15] 40/6 40/7	155/17 160/2 160/8
58/22 60/10 60/17	35/23 36/17 37/25	171/25 182/13 182/14	34/24 50/16 53/1 53/8	76/19 82/22 93/25	161/2 163/12 165/12
60/22 60/24 61/8	38/2 39/20 40/3 40/7	184/9 188/23 190/4	55/5 57/5 62/4 62/21	96/17 102/19 103/19	168/13 170/10 170/14
63/21 64/7 70/25 73/9	51/22 64/18 69/10	196/4 197/5 202/8	63/11 66/3 66/11	109/19 116/21 142/9	170/16 170/20 171/5
73/12 81/11 120/22	72/1 76/16 76/25 77/1	202/14 204/1 210/13	66/21 69/9 75/11	191/21 195/16 197/4	171/19 172/9 172/11
121/1 146/14 146/19	77/10 77/11 81/17	211/5	77/21 79/17 80/23	213/9	186/19 186/20 186/22
147/24 148/1 148/2	82/18 83/8 85/16	ways [5] 21/16 21/19	82/11 84/7 87/16	whatever [15] 3/15	187/14 188/7 195/13
148/18 149/16 154/3	87/13 90/10 90/11	184/6 202/18 203/4	87/17 89/2 89/5 89/24	3/17 14/17 31/18 37/2	195/14 198/25 201/1
154/7 154/12 154/14	90/25 92/6 95/18	we [420]	89/25 91/23 95/3	43/5 45/3 47/23 53/12	201/20 202/12 203/2
160/3 168/12 170/1	97/23 97/25 97/25 104/15 107/21 108/11	we'd [24] 23/1 38/23	95/15 95/18 96/8 97/8	103/7 154/22 172/15	203/3 203/7 203/19
177/2 183/19 183/20	112/9 127/25 145/21	38/24 40/5 43/17 43/18 68/13 81/3	98/19 101/2 102/23 103/15 105/17 108/2	202/2 203/16 206/5	204/7 204/10 208/5 208/11 208/15 208/16
184/10 184/24 186/14	155/3 160/16 160/21	89/22 101/22 120/25	108/11 109/19 113/9	whatsit [1] 215/4 when [93] 2/2 2/2 5/14	
186/19 187/2 187/4	167/4 167/11 168/21	121/22 145/12 151/17	114/14 117/19 118/2	9/7 9/11 9/11 11/2	which [178] 1/16 4/5
187/15 187/19 187/23	174/6 178/4 180/24	151/18 154/14 154/20	120/23 122/6 122/10	12/18 17/15 19/20	5/14 5/24 6/24 8/12
187/24 193/22 195/10	186/13 204/14 204/25	154/23 158/13 159/15		19/25 20/4 21/2 21/6	8/14 8/14 11/20 17/22
195/16 196/3 196/17	207/17 212/20	187/24 206/7 210/7	139/10 139/24 140/16	28/10 31/22 32/20	19/5 19/9 19/13 20/17
196/18 196/23 197/23	wanted [29] 9/7 9/9	214/8	140/20 144/1 144/25	33/5 34/14 36/8 37/7	20/25 20/25 21/16
198/5 200/20 201/8	11/12 24/17 38/18	we'll [29] 1/3 5/19 9/1	145/19 149/8 150/15	37/16 38/7 40/9 42/18	21/19 22/4 23/2 26/20
204/3 208/13 210/9	43/8 66/4 67/4 67/15	10/11 13/16 13/23	150/15 152/1 152/6	44/12 46/13 48/7	27/12 30/23 31/23
Virginia [3] 85/25	75/15 81/21 82/3 84/5	22/5 33/11 39/13	152/13 152/15 153/3	54/21 58/1 58/11	31/24 32/21 32/24
105/21 105/24	84/10 85/6 87/3 93/18	43/20 53/5 57/5 62/21	153/21 155/2 155/6	58/16 59/11 61/18	34/1 35/6 36/15 37/8
Virginia Bottomley [1]	103/4 116/1 140/13	69/9 69/21 72/7 89/24	155/21 156/1 157/2	61/18 62/23 63/6	37/23 37/24 38/5 43/7
85/25	152/25 162/15 171/11	90/3 93/3 95/15 98/25		63/11 63/24 64/9	43/18 43/21 44/17
virologist [3] 147/6	193/17 204/20 205/22	108/21 114/20 116/21	159/11 159/22 159/25	64/21 66/16 66/20	45/4 46/2 46/11 50/3
153/22 156/20	207/25 214/4 214/23	147/9 155/2 178/19	160/4 161/22 162/11	75/16 76/21 76/23	50/25 51/1 51/15
virologists [3] 33/16	wanting [3] 24/18	179/22 215/23	162/20 163/4 163/15	78/8 79/21 81/6 88/9	51/21 51/23 54/5
34/5 150/19	53/22 54/2	we're [20] 11/3 32/21	163/16 164/12 166/1	88/9 90/25 91/18	54/11 56/11 56/19
virus [5] 33/13 52/21	wants [1] 91/17	33/21 54/14 55/23	166/3 166/4 168/10	96/25 97/1 97/18	60/25 60/25 61/3
73/21 122/14 141/16 vis [2] 6/7 6/7	war [1] 9/20	67/7 69/2 69/16 90/6	168/25 169/10 170/21	103/1 105/12 110/25	63/12 64/4 64/22 66/4
vis [2] 6/7 6/7 vis à vis [1] 6/7	warn [1] 28/9	97/20 145/14 145/14	170/24 171/13 171/20	113/5 117/14 120/7	66/5 66/18 66/24
vis a vis [1] 6/7 visit [3] 47/6 47/9	warning [7] 56/22	151/12 169/20 181/24	171/24 172/18 179/14	125/8 125/9 136/12	66/25 67/1 68/2 68/3
47/14	79/11 119/6 119/8	183/9 191/19 198/11	181/17 182/10 183/2	140/14 143/2 154/4	70/15 72/24 73/6
visited [1] 48/7	131/24 152/3 153/13	201/24 209/22	183/9 183/17 183/21	154/5 157/20 164/16	73/15 73/22 74/16
	warnings [1] 190/2	we've [17] 6/1 32/5	184/7 184/16 185/7	173/4 176/1 177/16	77/15 80/23 85/19
1			I		

(86) very... - which

W	86/23 87/25 88/8
which [104] 87/14	89/14 92/9 95/14
91/3 91/22 92/4 92/7	102/13 104/5 104/6
93/19 94/1 95/13 96/1	110/24 115/11 115/11
97/11 97/14 97/23	116/15 121/8 122/16
98/1 99/14 99/21	122/16 123/6 128/13
100/23 101/12 101/24	128/24 131/13 132/10 141/12 146/8 146/14
102/16 104/20 105/4	150/21 150/25 150/25
105/19 111/1 114/1	152/10 154/15 156/21
114/5 114/6 115/5	156/21 156/22 159/12
115/15 116/9 116/23	159/13 159/14 161/23
117/3 118/17 119/18	166/4 178/4 179/1
119/23 122/7 122/11	179/2 179/17 183/17
124/8 124/24 131/22 134/9 139/12 139/15	187/1 189/20 193/21
139/25 140/1 140/4	201/18 203/13 203/24
140/18 142/6 142/20	207/15 210/19 211/4
143/7 143/8 145/13	214/19 214/23 215/4
145/25 147/4 149/20	215/8 215/11
150/10 151/19 152/6	who'd [2] 101/17
153/24 158/6 159/19	121/2
161/8 161/24 162/19	whoever [5] 58/12
163/23 164/5 164/7	95/4 96/22 203/18
164/24 168/5 170/3	203/18 whole [19] 3/7 3/21
170/6 172/17 172/19	6/8 12/13 12/22 20/23
174/4 175/21 175/24	22/23 26/20 30/1
176/5 179/21 182/19	31/21 61/22 69/8
184/6 184/13 184/16	85/19 105/21 114/3
185/5 185/9 187/5 188/23 191/24 192/23	132/7 166/6 192/25
193/14 194/2 197/2	209/8
197/3 198/11 198/12	whom [6] 7/11 19/11
198/23 198/25 199/7	29/1 50/13 99/24
205/1 206/24 208/22	177/3
212/8 212/14 213/4	whose [2] 56/11 207/23
213/7 214/14	why [34] 20/17 20/18
whichever [2] 37/2	20/19 20/25 25/8
87/10	30/23 31/9 46/23 50/9
<b>while [3]</b> 68/24 146/12 167/11	51/11 67/18 69/4 82/9
whilst [4] 62/19 84/9	83/5 88/7 91/24 106/2
120/8 185/22	109/13 110/16 111/21
Whips [1] 182/10	111/23 112/22 125/2
Whitehall [1] 164/20	125/19 127/17 144/11
who [114] 3/6 3/12 5/2	145/18 148/22 153/15 171/1 185/25 197/5
5/18 7/7 10/23 11/10	200/18 212/18
11/13 11/14 13/3	wide [5] 4/7 4/7 79/22
13/11 13/18 16/10	111/2 119/17
18/20 19/18 24/18 26/7 29/2 29/20 32/8	wider [3] 28/4 103/8
32/24 32/25 33/2 33/5	197/1
34/19 35/7 35/9 35/11	widespread [2] 74/18
36/11 39/3 40/19 41/5	76/7
45/15 48/9 48/10	widest [1] 32/15 wife [1] 125/12
48/23 48/23 50/6	wild [2] 7/4 127/22
51/15 52/9 54/22	wildly [1] 15/6
55/24 56/12 58/7	will [40] 1/4 15/22
58/11 59/23 61/12 62/19 65/1 66/21	22/8 47/24 55/20
69/22 72/20 73/7 73/7	56/14 56/14 56/15
74/1 78/19 79/5 79/7	56/16 56/24 60/5
,	60/17 61/6 70/19
l	

70/25 75/5 77/19 83/23 91/16 100/8 106/23 109/23 110/3 111/10 111/17 122/20 131/20 132/19 136/2 138/25 155/7 178/5 180/18 190/3 194/8 197/3 204/9 207/20 210/25 211/2 Williams [4] 115/12 116/23 124/19 133/3 161/23 Willy [1] 60/9 wind [1] 20/19 winded [1] 162/21 Windsor [1] 136/19 Winstanley [2] 107/14 110/21 wisdom [4] 127/15 153/4 192/18 214/13 wise [1] 159/14 wish [3] 42/2 117/2 176/5 wished [4] 20/9 120/10 170/20 172/14 wishes [2] 56/4 170/10 wishing [1] 176/25 with [259] with it [7] 10/7 84/9 86/13 106/20 151/5 169/23 171/16 withdrawal [1] 147/16 withdrawing [2] 96/10 158/11 withdrawn [1] 147/1 within [11] 9/12 28/25 40/12 50/13 51/8 58/2 58/4 117/5 169/1 182/24 202/24 without [7] 56/3 152/21 168/19 181/11 188/18 188/25 197/10 WITN0758001 [1] 15/10 2 153/15 witness [11] 2/15 6/4 15/8 30/19 35/17 36/21 58/24 132/18 153/5 159/8 160/12 witnesses [1] 56/12 woefully [1] 187/7 women [1] 141/12 **2]** 74/18 won't [7] 8/18 9/16 19/5 41/25 52/3 159/12 211/17 wonder [4] 155/1 195/21 196/3 212/18 word [4] 97/4 174/16 176/17 193/7 worded [1] 130/8 wording [2] 18/25 68/5 words [3] 39/9 56/9

168/14 work [13] 7/10 11/21 19/14 24/6 27/6 40/19 44/9 106/19 125/16 164/19 182/16 190/5 193/15 worked [7] 13/8 13/8 30/8 48/9 86/23 106/5 154/20 workhouses [1] 8/14 working [7] 3/23 30/4 38/20 131/8 131/10 131/13 192/21 world [8] 25/12 54/14 83/22 164/20 194/13 210/3 211/5 211/5 worried [10] 33/6 53/11 53/21 76/16 76/25 77/13 80/19 80/20 80/21 86/4 worry [4] 95/15 166/16 213/2 215/10 worrying [2] 193/7 193/19 worse [1] 8/10 would [260] wouldn't [21] 17/4 17/7 26/10 39/8 43/1 52/24 53/9 83/25 84/8 102/25 116/6 140/22 162/12 168/21 181/10 181/10 182/16 186/21 201/17 214/20 215/16 wound [2] 20/20 67/16 writing [3] 46/13 127/2 137/15 written [10] 37/14 60/6 60/21 66/19 102/2 116/21 126/23 140/10 198/14 208/11 wrong [15] 5/21 18/15 30/24 31/9 39/4 135/11 136/13 183/24 197/15 197/15 209/24 210/2 210/11 210/20 211/25 wrongly [2] 96/4 125/24 wrote [2] 95/5 96/22 yard [1] 211/3 yardstick [1] 39/16 yeah [43] 3/12 14/4

24/5 34/23 53/8 59/1 62/4 69/14 72/10 75/16 79/2 81/25 82/8 89/9 89/9 90/8 90/13 93/8 93/14 100/18 109/9 110/18 113/3 116/5 118/6 134/22

138/4 138/21 139/6 139/10 139/11 148/5 149/5 152/15 156/8 160/10 162/6 165/6 165/6 165/19 168/10 179/5 198/22 year [14] 7/21 12/9 22/8 23/1 23/6 60/25 107/12 117/6 134/6 136/3 143/6 144/14 144/24 150/8 years [21] 2/23 14/13 25/2 36/4 41/25 60/12 62/17 102/6 122/10 144/10 145/17 149/6 152/23 166/11 185/13 190/2 203/14 205/8 208/2 209/5 211/1 Yellowlees [7] 35/16 35/20 35/21 35/22 35/25 36/7 161/14 yes [126] 1/23 2/11 2/17 2/23 5/21 15/12 15/14 32/17 35/13 35/13 51/11 55/18 57/8 58/11 58/18 59/3 59/4 59/4 60/9 61/25 62/5 62/7 63/5 64/8 65/7 70/12 71/10 71/12 75/16 77/21 80/16 83/5 85/6 89/21 93/23 95/4 96/11 98/15 99/8 103/15 108/25 109/16 110/14 111/3 114/20 116/1 117/14 118/4 118/23 119/5 119/22 121/15 124/5 126/2 127/15 127/17 127/19 129/11 129/12 131/12 131/15 133/16 135/16 137/3 137/14 137/22 139/4 139/23 139/25 140/21 141/23 142/18 143/4 144/1 144/3 144/7 144/7 145/4 148/7 151/9 152/1 152/7 155/13 155/16 156/8 156/17 156/23 157/11 157/23 158/2 164/12 164/14 165/1 165/8 166/23 170/2 171/24 172/21 173/5 174/19 174/22 174/23 175/2 177/20 179/7 181/10 181/10 181/12 183/2 183/11 188/9 189/1 191/19 199/11 199/12 199/14 199/22 202/11 204/18 208/18 209/22 209/22 211/7 212/10

213/20 216/1

yesterday [2] 198/15 204/18 yet [5] 10/13 73/20 117/17 145/12 180/9 York [2] 81/6 107/24 **Yorkshire** [1] 25/6 you [694] you'd [20] 22/17 22/18 32/14 38/14 38/20 39/5 40/15 40/21 40/22 59/15 94/6 114/15 132/23 135/6 154/6 173/23 195/11 213/10 214/18 214/21 you'll [31] 41/13 42/1 42/1 42/2 56/22 60/6 78/10 84/22 115/2 115/23 116/12 117/25 119/5 123/25 128/17 129/24 130/17 132/13 142/3 142/10 142/16 146/10 148/23 157/6 157/11 175/12 179/19 180/3 180/25 183/4 188/21 you're [59] 4/6 11/1 12/4 12/5 14/13 26/22 28/10 28/10 28/12 30/11 30/22 34/21 37/7 42/19 43/3 47/25 53/12 53/21 57/20 63/17 64/20 68/25 69/1 86/7 86/13 87/18 88/6 88/7 94/25 95/12 97/18 98/19 102/1 108/21 132/21 132/22 134/20 151/7 157/20 169/14 178/15 179/7 185/13 186/10 187/4 187/13 187/14 188/14 188/21 201/13 202/21 203/9 211/11 211/12 211/18 211/20 211/21 212/23 213/14 you've [37] 1/15 2/12 2/13 3/7 5/23 15/19 17/21 35/9 37/7 41/24 52/16 59/9 67/21 81/14 84/20 86/14 87/12 87/22 88/5 88/6 98/1 98/2 103/10 103/24 147/22 155/2 156/19 165/22 171/24 174/2 185/14 191/3 195/12 212/14 212/23 212/24 215/7 young [1] 37/19 your [110] 1/11 1/16 2/13 4/24 5/23 6/5 14/5 14/22 15/8 17/19

(87) which... - your

28/13 28/13 30/14

Υ			
your [97] 30/15			
33/13 35/14 36/23			
39/13 40/1 40/18 41/13 42/21 43/7 43/8			
44/1 45/24 47/4 48/8			
49/5 54/18 56/23			
57/14 59/10 59/11			
60/21 61/24 68/22			
69/25 78/12 80/15			
81/18 85/11 91/3			
92/17 93/3 96/24 97/3			
102/7 102/21 103/24			
106/8 106/10 107/5			
107/13 109/5 110/10			
114/9 116/16 116/20			
118/4 124/16 124/18			
124/21 128/14 129/19			
129/23 130/5 130/11			
131/3 133/1 133/15			
134/25 135/3 135/12			
135/18 136/19 137/5			
137/11 138/3 138/7			
140/19 142/5 143/8			
143/8 143/10 152/23			
156/17 157/19 160/12			
161/20 162/10 165/10			
171/21 175/17 177/11			
177/22 178/7 178/9			
192/22 197/9 197/9			
197/11 200/13 204/21			
204/25 209/12 211/14			
211/15 212/17 213/6			
yourself [6] 41/23			
111/24 116/9 181/15			
212/13 212/20			
			(88) your - yourself