

1 Wednesday, 22 September 2021

2 (10.00 am)

3 LORD NORMAN FOWLER (continued)

4 Questioned by MS RICHARDS (continued)

5 MS RICHARDS: Lord Fowler, I just wanted to ask you
6 a little about the understanding of risk in 1983. I'm
7 not now talking about the risks of AIDS but the risks
8 to those with bleeding disorders of not having access
9 to factor concentrates. You used a phrase yesterday
10 in your evidence of -- and this was when you were
11 talking about Dr Galbraith's letter, Dr Walford's
12 response and the decision of the Committee on the
13 Safety of Medicines. You used the phrase "greater
14 risk of bleeding", you got to a position where there
15 was a greater risk of bleeding. What did you mean by
16 that?

17 A. Well, that was the advice that was given to me by my
18 own medical experts and, as I remember, given to me by
19 the committee itself, that there was a greater risk,
20 I think in terms of quantity, of what might happen
21 than if we had a ban, which is what Dr Galbraith was
22 proposing, which was a ban on all imports.

23 Q. So I don't think there is any evidence that you
24 yourself received advice on this issue in 1983?

25 A. I think that's probably correct.

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1 Q. So I'm going to ask you some questions in a sense on
2 a hypothetical basis or about what should have been
3 the position. Would you agree that it was important
4 that those who were involved in the decision-making,
5 Chief Medical Officer and his medical staff, or the
6 Committee on the Safety of Medicines or whoever it
7 might be, it was important that they should have
8 a clear and accurate understanding of what the risks
9 were for haemophiliacs?

10 A. Yes.

11 Q. The reason for that, would you agree, is because it
12 might dramatically affect how you weighed the
13 advantages and disadvantages of taking action. If,
14 for example, the evidence suggested that people with
15 bleeding disorders were going to die in large numbers
16 from cerebral haemorrhages if there weren't factor
17 concentrates, that might tip the balance one way, but
18 if, on the other hand, the evidence suggested most
19 bleeds were not life threatening or there were ways of
20 managing them, that might tip the balance the other
21 way; would you accept that as a matter of principle?

22 A. Yes, as a matter of principle.

23 Q. So an accurate understanding of the risks to those
24 with bleeding disorders would be key to the
25 decision-making process?

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1 A. It would have been a very important part of it, but
2 that would have been an important part of my medical
3 advisers, and I don't think that you would necessarily
4 expect Ministers to have that kind of detailed
5 knowledge. But you would certainly expect your
6 medical advisers to have such.

7 Q. So if -- and again, this is a hypothetical, I stress,
8 it will be a matter for submission and decision by the
9 Chair in due course -- if the decision making of the
10 committee on the Safety of Medicines or of others,
11 proceeded on the basis of an incomplete or factually
12 inaccurate understanding of the risks for
13 haemophiliacs from withdrawing factor concentrates,
14 that would be a matter for considerable concern?

15 A. It would be a matter for concern and for consideration
16 first, because it would seem to me, on the face of it,
17 that there was less chance of that happening with
18 a group of experts who were considering this, than
19 relying on the judgment of one man. That was the
20 point really of my evidence yesterday, and I think it
21 was the point of what we were saying.

22 Q. And just so that there is no misunderstanding about
23 why I ask these questions, Lord Fowler, and this is
24 really just for your information rather than anything
25 else, it may be said in due course that the Committee

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1 on Safety of Medicines might have proceeded upon the
2 evidence of one man, not Dr Galbraith but
3 Professor Bloom, and have received an inaccurate or
4 incomplete understanding of what the risks were to
5 haemophiliacs. So that's the reason for asking those
6 questions. I understand you yourself, however, did
7 not have, as a matter of fact, any involvement in that
8 process?

9 A. I did not.

10 Q. Can I come to, and still I'm afraid on 1983, but the
11 Council of Europe recommendations?

12 A. Yes.

13 Q. If you want to remind yourself by reference to your
14 witness statement, Lord Fowler, which is at
15 WITN0771001, it's page 111.

16 A. Yes.

17 Q. It will come up on the screen in a moment. You'll see
18 reference to the Council of Europe recommendations in
19 paragraph 6.23 of your witness statement, and we'll
20 look at the document itself in a moment. But you
21 explain in that paragraph of your witness statement
22 that the minute which referred to the Council of
23 Europe recommendations, although primarily addressed
24 to others, including Mr Patten, was copied to your
25 Private Office?

4

1 A. Yes.
 2 Q. Are you able to assist with whether you yourself would
 3 have given consideration to it, or is that impossible
 4 at this distance of time?
 5 A. I can't frankly remember at this stage.
 6 Q. Then if we look at the documents themselves.
 7 Soumik, it's PRSE0000372.
 8 So these are the recommendations of the
 9 Committee of Ministers of the Council of Europe. Now,
 10 just in general terms, what kind of significance would
 11 the Government or the Department attach to formal
 12 recommendations of the Council of Europe's Committee
 13 of Ministers at that time?
 14 A. Well, it wouldn't -- I mean, it's a very important
 15 point. It wouldn't be of the order of the European
 16 Union, because it isn't the European Union, and, as
 17 you see it is all very carefully set out as being
 18 recommendations, and that is what it was.
 19 There were members of the Council of Europe who
 20 came from this country and basically were Members of
 21 Parliament -- I don't know if they were members of the
 22 House of Lords or not, but certainly Members of
 23 Parliament -- but they weren't elected to the Council
 24 of Europe, they were appointed to the Council.
 25 I mean, I've got quite a lot of experience in

5

1 appointed members and it's not so dissimilar, I think,
 2 to the House of Lords, from that point of view,
 3 that -- and also the status is not that dissimilar
 4 either. I mean, it is not like the European Union.
 5 So it's not an instruction "you will do", it
 6 is recommendation "you will do".
 7 As it happens, most of the recommendations that
 8 I've seen, that have come from this, on this,
 9 I actually agree with. But I think it's important
 10 just to put to it in that context.
 11 Q. If we look over to the second page, top of the second
 12 page --
 13 A. Yes.
 14 Q. -- we'll see the three recommendations -- well -- yes,
 15 the three recommendations that are in
 16 paragraph numbered 1:
 17 "1. To take all necessary steps and measures with
 18 respect to the Acquired Immune Deficiency Syndrome and
 19 in particular ..."
 20 And there are three matters set out. Now, the
 21 third was:
 22 "- to provide all blood donors with information on
 23 ... [AIDS] ..."
 24 A. Yes.
 25 Q. We'll come on to that shortly when we look at the

6

1 issue of the blood donor leaflet. So just want to ask
 2 you a little about the first and second of those
 3 recommendations. The first is:
 4 "- to avoid wherever possible the use of
 5 coagulation factor products ..."
 6 A. Yes.
 7 Q. "... prepared from large plasma pools; this is
 8 especially important for those countries where
 9 self-sufficiency in the production of such products
 10 has not yet been achieved."
 11 Now, if we just go back to your statement, the
 12 same paragraph as we had before, page 111. What you
 13 say in the last sentence of paragraph 6.23 is that:
 14 "The operative phrase was 'wherever possible' - it
 15 was clearly not possible with the UK's heavy
 16 dependence upon imported blood."
 17 I think on a point of clarification you mean
 18 imported blood products there.
 19 A. I do.
 20 Q. So that was your observation. As I understand it,
 21 you're saying it wasn't possible to comply with this
 22 recommendation; is that right?
 23 A. No, the recommendation is clearly "wherever possible",
 24 and what we are saying is that at this particular
 25 point in time it wasn't possible. And it might have

7

1 been regrettable, and we'd been through some of the
 2 factors on that, but at that point there was no
 3 question that it -- we couldn't just press a button
 4 and do it. I mean, that was the fact of the matter.
 5 And so it didn't meet the criteria of being possible.
 6 Q. If we just go back then to the text of the
 7 recommendation, Soumik, so PRSE0000372, second page.
 8 Now, assuming for the purpose of the question that
 9 you're right that the Committee on Safety of Medicines
 10 took the right decision, you couldn't ban all factor
 11 concentrates with immediate effect. So that's the
 12 premise of the -- what I want to explore with you?
 13 A. Yes.
 14 Q. Would you accept that what's being said here is:
 15 "... avoid wherever possible the use of
 16 coagulation factor products ..."
 17 So the question of an all out ban would not be the
 18 only way of avoiding, wherever possible, use; there
 19 might be other ways, for example there might be
 20 regions which could revert to a greater use of
 21 cryoprecipitate for some categories of haemophiliacs,
 22 or there might be steps that could be taken to use
 23 a product called DDAVP for mild haemophiliacs, or you
 24 might want to postpone elective surgery, for example.
 25 Those are some of the strategies we've explored with

8

1 other witnesses.
 2 Now, again, Lord Fowler, I'm not expecting that
 3 you would have had hands-on knowledge at the time --
 4 **A.** I don't think any of those proposals came anywhere
 5 near Ministers.
 6 **Q.** I think that's probably right. What I'm really again
 7 trying to explore with you, Lord Fowler, is the
 8 question of: should they have done?
 9 **A.** Well, I think -- yes, you're missing the elephant in
 10 the room, if you don't mind me saying so, because the
 11 fact of the matter was that we were 50 per cent -- we
 12 were only 50 per cent sufficient. So we were
 13 50 per cent dependent upon imports at that particular
 14 point. Now, if you say that there were other ways of
 15 doing that, well doubtless that would have been looked
 16 at inside the profession, I mean, you know, no-one
 17 wanted to put patients at unnecessary risk.
 18 I mean, you know -- I mean, there is an enormous
 19 amount of goodwill in this. No-one was ever
 20 conspiring against the patients, we were trying to
 21 make them safe and better and all that. So, I mean,
 22 you know, you've got to accept that there was
 23 a certain amount of goodwill that comes from the
 24 Department of Health on this, and we're not just
 25 conspiring against people; in fact, I mean, I think

1 one of the most unhappy things in this whole Inquiry
 2 has been the allegations from outside that there has
 3 been some sort of conspiracy taking place. It isn't
 4 true and I hope it will be knocked down.
 5 **Q.** Well, if we can just concentrate on the question of
 6 what the Department should have done in 1983.
 7 **A.** Yes.
 8 **Q.** You say doubtless that that question of alternatives
 9 to the use of coagulation factor products where
 10 possible would have been looked at or should have been
 11 looked at within the profession. Should it not have
 12 been looked at by the Department, given that this was
 13 a recommendation to Government?
 14 **A.** I mean, it could have been, and, as far as I know, it
 15 might have been. I have no knowledge of that.
 16 **Q.** No. That's why I'm putting it on the basis of
 17 a hypothetical question, as you'll understand.
 18 **A.** Mm.
 19 **Q.** If we look then at the second --
 20 **SIR BRIAN LANGSTAFF:** Can we just, before we look at the
 21 second -- can I just ask you about this.
 22 This is a recommendation which plainly, in the
 23 spirit that you've just mentioned, needed careful
 24 consideration addressed to Government. Counsel has
 25 focused, and indeed in the exchange you've both

1 focused on the first part of the first
 2 recommendation --
 3 **A.** Yes.
 4 **SIR BRIAN LANGSTAFF:** -- to avoid wherever possible the
 5 use of coagulation factor products. You've said, and
 6 I understand, that, "That wasn't possible because we
 7 had to import."
 8 But there is a second part, and:
 9 "... [avoiding] wherever possible the use of
 10 coagulation [factors] ..."
 11 Is said to be:
 12 "... especially important for those countries
 13 where self-sufficiency in the production of such
 14 products had not yet been achieved."
 15 **A.** Yes.
 16 **SIR BRIAN LANGSTAFF:** So is it, on the face of it, saying
 17 that -- such countries would necessarily have to
 18 import, wouldn't they?
 19 **A.** Yes, I think so.
 20 **SIR BRIAN LANGSTAFF:** So countries which import
 21 coagulation factors are being recommended to avoid
 22 wherever possible their use. Is that what it seems to
 23 be saying?
 24 **A.** I think it's a bit obscure what it is they are trying
 25 to say, frankly. I mean, I don't think that's the

1 best piece of drafting I've ever seen, but it's
 2 obviously important, "the use of coagulation factor
 3 products prepared from large plasma pools" is best --
 4 it's best avoided, and that has particular strength
 5 "for those countries where self-sufficiency in
 6 production of such products has not yet been
 7 achieved".
 8 Well, that just follows on, I think, from the
 9 first sense. I'm not sure what else it adds.
 10 **SIR BRIAN LANGSTAFF:** Well, I think what one may read the
 11 exchange you've just had with counsel in this way: you
 12 might have been saying, "Well, wherever possible, it
 13 wasn't possible for us because we had to import
 14 50 per cent", but that would miss the second part of
 15 the recommendation, which says it's especially
 16 important -- not just important, but "especially
 17 important" -- for those countries which have to
 18 import, let's say, 50 per cent or more of their
 19 product to avoid the use of the product. But that
 20 seems to be a way, at least --
 21 **A.** You mean it's underlining the first point?
 22 **SIR BRIAN LANGSTAFF:** Well, it underlines the point that
 23 it isn't -- the words "wherever possible" isn't
 24 a get-out clause for countries which say "Well, we
 25 have to import it, we have no other choice" because

1 it's not really addressing importation, it's
 2 addressing use.
 3 **A.** It's not a get-out clause, we don't intend to use it
 4 as a get-out clause, and never have used it as a
 5 get-out clause. But it's an explanation of the
 6 position we were in. We were 50 per cent dependent
 7 upon exports from the United States. I mean that was
 8 the fact of the matter, now I might regret that as the
 9 incoming Secretary of State, but that was the position
 10 that we were in, and we -- in my evidence, I tried to
 11 state that.
 12 **SIR BRIAN LANGSTAFF:** I think it does look, at the moment
 13 to me, as though the wording emphasises the point that
 14 counsel was putting to you, I appreciate that it
 15 didn't cross your desk at all, it's just a matter
 16 which, if it was to be dealt with within Government,
 17 which it should have been, given the recommendation
 18 was to Government, arguably, then the medical division
 19 would have been seeking to give -- to encourage,
 20 wherever possible, less use.
 21 **A.** Yes. And, as far as I know, they may well have been.
 22 But I'm afraid you're going to have to ask the medical
 23 division on that and to see whether that was the
 24 position there. But I -- it wasn't, as you rightly
 25 say, this was not something which came across my desk.

1 **SIR BRIAN LANGSTAFF:** No. Thank you very much.
 2 **MS RICHARDS:** Then if we just look at the second
 3 recommendation, Lord Fowler. So this is
 4 a recommendation to, in particular, again the opening
 5 words in paragraph 1:
 6 "... to inform attending physicians and selected
 7 recipients, such as haemophiliacs, of the potential
 8 health hazards of haemotherapy and the possibilities
 9 of minimising these risks ..."
 10 So it's a recommendation that Government should
 11 essentially provide information to both doctors and
 12 relevant cohorts to patients -- for our purposes at
 13 this stage, those receiving blood products -- about
 14 both the risks of that treatment and possible ways in
 15 which those risks could be minimised. That's --
 16 **A.** And selected recipients, as well as physicians.
 17 **Q.** Yes, exactly. So haemophiliac patients?
 18 **A.** Yes.
 19 **Q.** Were you aware of any steps being taken by the
 20 Department to comply with that recommendation?
 21 **A.** Not -- I can't actually reel off a list of that, but
 22 it seems to me that it comes back a bit to the -- what
 23 we were talking yesterday about, "no conclusive
 24 proof". My view on this is quite clear, I mean
 25 I think that we should be as open as possible, you

1 should have open Government in this sort of thing.
 2 I was brought up as a journalist for the first decade
 3 of my life after university and then I went into
 4 politics. But my strong view is that open Government
 5 is the only and best way of doing it, and open
 6 Government means informing people.
 7 I have to say that it -- we're now reverting to
 8 yesterday -- but I have to say that people who
 9 disagreed with that, I suspect, might well have been
 10 taking it for all of what they considered the best
 11 reasons, that they didn't want to alarm people,
 12 et cetera, et cetera. That kind of argument. But
 13 I think that the greater good is to be open.
 14 **Q.** So the -- again, I'm going to deal with this on, as it
 15 were, a general principle basis --
 16 **A.** Yes.
 17 **Q.** -- because you weren't involved in the actual
 18 decision-making, but the kind of steps that the
 19 Department should have been taking in response to this
 20 recommendation would be ensuring that those involved
 21 in treating people with blood products --
 22 **A.** Yes.
 23 **Q.** -- whether by means of a CMO letter or some other
 24 communication, had the most up to date and accurate
 25 information about those risks --

1 **A.** Yes.
 2 **Q.** -- and ensuring, obviously not by interfering in the
 3 individual doctor patient relationship on a one-to-one
 4 basis, but ensuring, as much as the Department could,
 5 that patients themselves were being told both of the
 6 risks and of the ways of avoiding them?
 7 **A.** Yes, it was a general -- a sort of general attitude,
 8 really, a general policy in this area. But as you
 9 rightly mention, taking account of the fact that the
 10 Department again were in a slightly sensitive
 11 position, in as much as they couldn't instruct people
 12 to do this, they could suggest, they could, I think,
 13 propose, but they certainly couldn't instruct. But
 14 that doesn't preclude, you know, making the points
 15 that I've just made.
 16 **Q.** So there might be a number of ways in practice the
 17 Department could do this. It could produce
 18 a leaflet --
 19 **A.** Yes. Or the CMO could write round.
 20 **Q.** Or the CMO could do --
 21 **A.** The most sensible thing in all this is for the CMO to
 22 have written round, which is exactly what happened
 23 when we went to Donald for our CMO when the CMOs
 24 changed. But that is the leadership that we could
 25 have exerted from the centre, no question.

1 Q. If no such steps were taken, and again that might be
 2 a matter for submission in due course --
 3 A. Yes, well, I mean, I don't know whether they were or
 4 not.
 5 Q. I understand that. If no such steps were taken would
 6 that have been a failing on the part of Department?
 7 A. I would like to see the evidence on that. I'm not
 8 giving a blanket answer to that.
 9 Q. Would you accept, however, that one principle that the
 10 Department should have had well in mind would be the
 11 right of patients to take full-informed decisions and
 12 exercise individual autonomy --
 13 A. No, that's just what I've been saying. I mean,
 14 I think that is an important element and it may be
 15 that people, with the best will in the world, were
 16 trying to prevent panic or anything of that kind. But
 17 it is possible to prevent panic and, at the same time,
 18 being open, and that should have been the general
 19 policy.
 20 Q. Just by way of examples of some of the materials the
 21 Department did put out, we talked yesterday about the
 22 whooping cough campaign --
 23 A. Yes.
 24 Q. -- that you were closely involved in. We can see
 25 an example of a CMO letter at WITN0771074. This is

17

1 October 1982, and it's about the hepatitis B vaccine.
 2 So it's one of the CMO's "Dear Doctor" -- sorry, it's
 3 the CMO and the Chief Nursing Officer together, one of
 4 the "Dear Doctor, Dear Nursing Officer" letters.
 5 A. Yes.
 6 Q. If we can just look -- we don't need to look at the
 7 all of the enclosures, but we can see it provides
 8 information about risks in the second paragraph, in
 9 outline terms, and then in the third paragraph it
 10 makes clear it's not an instructing document, whether
 11 or not to give the vaccine will be for the individual
 12 doctor to decide, but then goes on to give advice. So
 13 this is an example of the kind of information that the
 14 CMO could, in the '80s --
 15 A. It is an example but, I have to say, I think it's
 16 fairly rare example, certainly in the papers that I've
 17 seen --
 18 Q. Yes.
 19 A. -- but, again, one is struggling in -- the papers that
 20 I have seen may not be the complete papers and we're
 21 all struggling under that particular burden.
 22 Q. Now, if we then -- we can take that down, thank you.
 23 If we then come, I think, briefly to the meeting of
 24 the Biologicals Subcommittee on the Committee on
 25 Safety of Medicines, 13 July.

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1 A. Yes.
 2 Q. You've referred to it in your evidence, Lord Fowler,
 3 and I'm not going to ask you about the substance of
 4 the decision because, again, you were not involved at
 5 the time and I think you've not seen the material that
 6 was before the Committee. So I've just got a couple
 7 of questions really about process and general
 8 principle.
 9 The decision-making of the Committee on the Safety
 10 of Medicines and its Biological Subcommittee doesn't
 11 appear to have had any Ministerial involvement, so the
 12 Minister was not briefed that it was being done and
 13 not briefed about the outcome, as far as we can see on
 14 the evidence available. Does that surprise or concern
 15 you?
 16 A. Well, it doesn't surprise me that the Minister wasn't
 17 involved in the process, I'm slightly surprised to
 18 hear -- I'm not sure it's right, actually -- that
 19 ministers didn't -- a minister didn't actually --
 20 a Health minister didn't know what the outcome was,
 21 I would be very surprised if that was the case because
 22 I would have thought that that would have been
 23 information that was passed on. And I, again -- the
 24 CMO, I would have thought, would know, almost as soon
 25 as the report came out.

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1 Q. So is this right, and again I'm trying to deal with it
 2 in general terms, you wouldn't expect the Minister or
 3 the CMO to be participating in the Committee's
 4 meeting?
 5 A. No, certainly not.
 6 Q. But you would expect the Minister and the CMO to be
 7 fully briefed about the meeting, perhaps --
 8 A. No, I expect him to be fully briefed about the result.
 9 I mean, it was -- it is an independent committee, the
 10 last thing you want are ministers plodding all over
 11 it, and they didn't. And I don't think one should
 12 have a rule that they should, because the independence
 13 of committees of this kind is absolutely crucial. But
 14 there comes a point when the -- when you reach the
 15 end, that the secrecy goes and you can actually tell
 16 ministers or tell the CMO of what has taken place and
 17 what the findings are. That seems illogical.
 18 Q. I think yesterday you agreed, again as a matter of
 19 general approach, that part of the role of ministers
 20 will be to challenge, to ask questions --
 21 A. Yes.
 22 Q. -- to explore alternatives, and you need to know what
 23 decisions are and aren't being taken in order to do
 24 that, don't you?
 25 A. And to make any statement that is required you need to

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1 know that, and you need to know if -- I mean, it is
 2 an independent committee, it doesn't mean to say that
 3 the independent committee is something that the
 4 Government will agree with. I mean, the place is
 5 littered with committees, not health committees
 6 particularly, but committees generally, over the
 7 years, where governments have had a disagreement here
 8 or a disagreement there. But, yes, a certain amount
 9 of investigation -- not investigation, challenging,
 10 just reading the report and seeing if you agree with
 11 it.
 12 **Q.** Obviously, the Committee's decision was taken in
 13 July 1983, so taken at a particular point in time, and
 14 on the basis of whatever information was put before it
 15 at that point in time. Would you have expected that
 16 question of whether concentrate should be banned or
 17 whether some conditions or limitations should be
 18 placed upon their use from the licensing perspective;
 19 would you have expected that to be revisited at
 20 a later stage?
 21 **A.** This was in -- what --
 22 **Q.** July '83 was when the Biologicals Subcommittee took
 23 its decision, which was then endorsed by the Committee
 24 itself?
 25 **A.** Yes, I'm not sure that I would expect it -- the policy

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1 to have been totally reviewed at that time because, in
 2 a sense, the Biologicals Subcommittee was saying that
 3 the policy or the non-intervention was a justified
 4 policy. But that was -- so that -- I wouldn't expect
 5 that they were at that stage to be going in, no.
 6 **Q.** No, I'm sorry, my question wasn't sufficiently clear
 7 and, again, sometimes this is the problem with general
 8 or hypothetical questions. But the decision they take
 9 is on the basis of information provided to them in
 10 July 1983.
 11 **A.** Yes.
 12 **Q.** As more information became available, for example the
 13 first death of a haemophiliac later in 1983, or
 14 information about AIDS having entered the domestic
 15 blood supply -- or possibly having entered the
 16 domestic blood supply, I should say -- or becoming
 17 more widespread, or indeed the identification of
 18 HTLV-III; so as things changed, would you have
 19 expected the Committee on the Safety of Medicines to
 20 want to look at this again?
 21 **A.** The Committee on the Safety of Medicines to want to
 22 look at it again?
 23 **Q.** Or its Biologicals Subcommittee?
 24 **A.** I would expect them to keep pace with the
 25 developments, yes, certainly, like any expert

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1 committee, and I am sure the members of it were doing
 2 precisely that.
 3 **Q.** We don't have a complete picture at the moment --
 4 **A.** You don't need to tell me.
 5 **Q.** Which is why I need to put it a general and
 6 hypothetical level.
 7 Can I then turn to the blood donor leaflet.
 8 **A.** Yes.
 9 **Q.** So the first leaflet.
 10 **A.** Yes.
 11 **Q.** If we perhaps just pick it up by reference to
 12 Dr Walford's evidence to the Inquiry.
 13 **A.** Yes.
 14 **Q.** So, Soumik, it's INQY1000137, please.
 15 **A.** Is that on page 112?
 16 **Q.** No, I think it's page 168.
 17 **A.** Oh, okay. I'll wait for it. Yes, okay -- oh, I see.
 18 Right, okay. Yes, go on.
 19 **Q.** So if we try about page 42, Soumik, electronically.
 20 Sorry, I'm just checking that I've given you the right
 21 reference.
 22 Yes. If we go to the bottom half of the page,
 23 Soumik, thank you.
 24 I'm just going to pick it up here in the evidence
 25 of Dr Walford, Lord Fowler. So bottom of the

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1 left-hand side, around line 20, Dr Walford is asked
 2 about a memorandum from Mr Winstanley.
 3 **A.** Yes.
 4 **Q.** 8 June 1983. This is talking about the first draft of
 5 the leaflet. Then if we go to the next column, so
 6 bottom right-hand side, please, Soumik.
 7 I can just pick it up at line 10,
 8 Mr Winstanley's memo says:
 9 "... I think we can accept your text subject to
 10 the comments above, but it is essential to act without
 11 delay. As it is, the time for printing and
 12 distribution seems painfully slow."
 13 Then I asked the question of Dr Walford:
 14 "... it would appear Mr Winstanley's already
 15 concerned it's taking too long?"
 16 Dr Walford answered:
 17 "Yes, it was."
 18 So this is the beginning of June, Dr Walford
 19 thinks it's already taking too long.
 20 **A.** And we're talking -- what are we talking about? We're
 21 talking about the leaflet, are we, now?
 22 **Q.** We're talking about the leaflet to blood donors.
 23 **A.** Yes. And that's the first leaflet?
 24 **Q.** Yes, the first leaflet.
 25 **A.** Thank you.

24

- 1 Q. You'll see the importance of the position set out in
2 lines 18 to 23, where I put to Dr Walford:
3 "... as every day or week went by a donor,
4 a high -- risk donor, might be giving blood ..."
5 And she says:
6 "Yes."
7 A. Yes.
8 Q. Then if we go to the top of the next page, the top of
9 page 169, we can see there is reference to the
10 paper trail, and we pick it up around line 7, it's the
11 beginning of September by the time the leaflet is
12 ready, and I put to Dr Walford that's too long and she
13 says:
14 "Much too long."
15 Now, I know you've also seen the evidence of
16 Lord Glenarthur in relation to this, and indeed
17 I think probably also the evidence of Lord Clarke, but
18 I just wanted to remind you of that.
19 So Dr Walford's view and Mr Winstanley's view, it
20 would appear, was that June 1983 it was urgent, taking
21 too long. If I can then just give you the dates,
22 Lord Fowler, without taking you to the detail of the
23 documents. A submission to Ministers, not to you, but
24 to --
25 A. Yes.

25

- 1 Q. -- the -- I think Lord Glenarthur?
2 A. Ken Clarke and Simon Glenarthur were dealing with it
3 basically.
4 Q. And indeed Mr Patten as well, I think?
5 A. And Mr Patten.
6 Q. Went to Ministers on 1 July 1983, and then the leaflet
7 was effectively announced and presumably made
8 available in transfusion centres with effect from
9 1 September 1983.
10 So those are the --
11 A. Yes.
12 Q. -- headline dates.
13 Now, in terms of your own involvement, there is
14 just one document I want to ask you about. That's
15 PRSE000049. This is an internal Scottish Home and
16 Health Department document, which you referred to in
17 your witness statement because you were asked about
18 it. It's discussing the leaflet, it's 6 July 1983,
19 and the second paragraph says:
20 "However, we are informed that Mr Fowler's first
21 reach is that the terms of this leaflet are too
22 strong, and that DHSS may therefore be making further
23 amendments."
24 Now this is two other people talking about what
25 their understanding is of your reaction. As

26

- 1 I understand your statement, Lord Fowler, you've got
2 no recollection of whether you had any reaction at
3 all, and if so, what it was?
4 A. Well, I think it's just hearsay, isn't it? I mean,
5 I don't know when it was said, who I was speaking to,
6 when this occasion was, or anything of that kind.
7 I mean, it's total hearsay. And I'm afraid I'm not
8 that all happy that -- you know, that such "evidence"
9 should even be used, but there we are. That,
10 I gather, is not the rule in inquiries. But I have no
11 recollection of that. The only thing I can even
12 remotely think of is that I would need to see the
13 preliminary work on the leaflet.
14 I mean, there was -- the major question for me
15 in that leaflet was the position of homosexuals, and
16 we got to a position at the end of that where it
17 basically said we should be warning homosexuals who
18 have frequent partners, or words to that effect, which
19 I think is fair. We actually -- by the second time we
20 got to the position where we were just warning
21 homosexuals generally, but at that point I would have
22 been concerned that we were not painting everybody
23 with the same brush.
24 It's not totally dissimilar to the kind of issue
25 that you're putting on haemophiliacs. We shouldn't

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- 1 start painting everybody with the same brush in this
2 particular area. So that was my concern. But what
3 the "too strong" -- whether the "too strong" relates
4 to that, I have, frankly, no idea.
5 Q. There are in the documents -- and I'll just give you
6 one example, DHSC0002321_028. Not a document you've
7 seen at the time, this is between the information
8 division and, I think, the medical division, but
9 you'll see there in the first sentence a reference to
10 the Minister being "very keen to keep the leaflet
11 operation very low key". And there are a couple of
12 other references around this time to wanting to take
13 a low key approach.
14 I wanted to ask about that as a matter of
15 generality. Was it right, in your view, to take a low
16 key approach, given that it was known by this time
17 that there were cases of AIDS in the UK and given the
18 importance of preventing AIDS from entering the
19 domestic blood supply?
20 A. Well, that was Ken's judgment on the issue. I mean,
21 perhaps from my perspective I would have a rather
22 different view on it. I don't quite see why it should
23 be kept low key, as it happened. But everyone --
24 I think everyone -- well, not everyone, but I think
25 that some people, either in the Department or

28

1 Ministers, got rather nervous about this leaflet.
 2 I think rather unnecessarily, frankly, when you read
 3 the leaflet itself.
 4 **Q.** Then the second point goes back to the timing.
 5 I showed you Dr Walford's evidence; Lord Glenarthur
 6 I think also felt it took too long.
 7 **A.** Yes.
 8 **Q.** Would you agree that, bearing in mind the officials in
 9 early June say this is urgent, for it to take until
 10 1 September is too long?
 11 **A.** It's a pity that August intervened in that, because
 12 that was the crucial stage when no-one was doing,
 13 really, anything. It's off the boil. And I think
 14 that's actually quite difficult. I mean, I know that
 15 Ken got lampooned for going on holiday in August, and
 16 lampooned by me at times, but I mean, to be fair --
 17 I mean, he had a young family -- but why I mention Ken
 18 is that he wasn't the only person with a young family,
 19 all the -- most -- you know, a lot of people in the
 20 Department of Health had young families as well. And
 21 so if you really wanted to put out a leaflet at a time
 22 when you had fewer people, fewer expert people around
 23 to answer the questions which were bound to come in,
 24 choose August. And also, of course, the trouble with
 25 August -- and as an ex-journalist, I might say -- that

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1 if you actually want to have no impact at all, you put
 2 it out then. I mean, governments are usually
 3 criticised for putting things out in August, because
 4 they can hide it then. Everyone is on the beaches,
 5 and they're not actually concerned about what is being
 6 put out.
 7 So August, I'm afraid, was -- is, in Government
 8 terms, often a no-go month, and I think it was in this
 9 particular case.
 10 We could have ignored all of that, but it was
 11 important also to get the best possible information
 12 out, so it was important that we had the Minister of
 13 Health, it was important that we had some of the
 14 officials, because otherwise, you know, you were into
 15 the next stage down, which was not a good idea.
 16 **Q.** So is the answer to my question that it did take too
 17 long, but that you've given a partial explanation as
 18 to --
 19 **A.** Well, I don't -- you see, you say -- it isn't that it
 20 took too long; it's an inevitable consequence of
 21 having a sort of August -- I mean, as I remember the
 22 letters and the correspondence -- I mean, the
 23 correspondence between the Ministers went on
 24 throughout July, from what I remember, and in fact
 25 I think almost into the beginning of August. What I'm

30

1 saying is, under those circumstances, and after the
 2 consideration which they gave to this -- and everyone
 3 took it as a very important leaflet -- I think it is
 4 not unreasonable to get the presentation of the
 5 leaflet right, and they got it virtually on the first
 6 day of September. But to do in August I think would
 7 have been counterproductive. What are you trying to
 8 do? We're trying to persuade the public. Actually,
 9 in this case, we're trying to persuade blood donors.
 10 We want the most authoritative influence that you can
 11 have.
 12 **Q.** What you say about the unavailability, potentially, of
 13 Ministers and civil servants in August --
 14 **A.** And lawyers actually, as well, as you well know,
 15 because this Inquiry actually went into recess, in
 16 lawyers, so I don't want to make too much of a point
 17 about this, but it's not exactly unknown in the
 18 British system.
 19 **Q.** No, no, you're absolutely right in terms of both
 20 lawyers and politicians, Lord Fowler, but my point is
 21 that given that that would have been known and given
 22 that we were dealing here with an issue of public
 23 health, public safety, that would rather militate in
 24 favour of getting everything dealt with before August?
 25 **A.** Well, if you were content -- that is absolutely

31

1 correct, as long as you were content. And as they
 2 were still debating it up until the beginning of
 3 August, that doesn't seem to me to be a very likely
 4 prospect.
 5 **Q.** Can I then ask you about another issue related to the
 6 safety of the blood supply, but this time about the
 7 practice of taking blood in prisons?
 8 **A.** Oh, yes.
 9 **Q.** There are three documents I'm going to ask you to look
 10 at with me.
 11 The first, Soumik, is at PRSE0004345.
 12 I don't think there is any suggestion that this
 13 came across your desk, Lord Fowler, but you'll see
 14 it's a minute dated 27 July 1983, "Use of blood from
 15 prisons":
 16 "At a recent meeting of Medicine Division's
 17 Inspection Action Group concern was expressed about
 18 the collection and use of blood from borstal
 19 institution and prisons. Blood Transfusions Centres
 20 in Scotland were making use of these sources
 21 (particularly prisons) and some, at least, of the
 22 English Blood Transfusions Centres were also
 23 understood to do so.
 24 "The Group considered this practice to be highly
 25 questionable because of the incidence of homosexuals

32

1 and homosexual activity in prisons and the present
2 unease about the incidence of AIDS among this group of
3 people.

4 "The Group asked to be advised of Departmental
5 policy on the practice of collecting and using blood
6 from borstals and prisons and I shall be grateful if
7 you will let me have a note about this which I can
8 pass on."

9 So that appears to be the factual position to the
10 question being posed: what's the Department's policy?

11 **A.** Who is this from?

12 **Q.** It's from a JB Brown, MB2, I can't off the top of my
13 head remember what division that is within the
14 Department, but it's addressed to Mr Parker, who we
15 know was a civil servant within the Health Services
16 Division.

17 **A.** Yes.

18 **Q.** Then there is a response on behalf of Mr Parker in
19 August at PRSE0004729, so dated 23 August. It's from
20 Mr Winstanley in the Health Services Division on
21 behalf of Mr Parker, and he says at paragraph 2:

22 "It is difficult to advise any particular
23 Departmental policy on the collection of blood from
24 borstals and prisons at the moment. It is for
25 individual Regional Transfusion Directors to determine

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1 Now, given that we are, by this time, in
2 August 1983 and, as this sets out, that there was
3 an increased risk in taking blood from prisoners was,
4 it would appear, something that was known about, even
5 before the advent of AIDS, because of the risks of
6 hepatitis, thrown into sharper relief, as this
7 correspondence makes clear, because of the advent of
8 AIDS. Does it surprise or concern you, as Secretary
9 of State for Health, that blood was apparently still
10 being collected from prisons or borstals at this point
11 in time?

12 **A.** Well, let me say my general position on this,
13 although, as you rightly say, I wasn't involved in it,
14 but my general position would be that for prisoners
15 one should make -- one should take every opportunity
16 to bring them back to a normal life, and if that meant
17 that they could make a contribution in this way, then
18 that was good. However, it has to be said, apart from
19 that -- I mean you can't just say all prisoners are
20 infected and -- you know, I mean we're going into
21 generalisations now, which I think everyone would
22 actually resent.

23 I think that the trouble with that theoretical
24 position of mine is that when you're in the confined
25 circumstances of a prison, the whole thing gets,

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1 how and from where donations are sought in the light
2 of the targets they need to achieve and the numbers of
3 donors on their panels."

4 Then in the third paragraph, it says:

5 "[The] Transfusion Directors have been aware of
6 the dangers of relying too heavily on prisons as
7 a source of donations for some time i.e. prior to the
8 advent of AIDS as a cause for concern, because of the
9 risk of hepatitis in prisons, (also connected with the
10 higher incidence of homosexuality) which can be spread
11 through blood transfusion. Nevertheless, although
12 most Regions, especially those with no shortage of
13 donors, may not need to use prisons, there is at least
14 one which has come to view them as a major source of
15 donations in order to meet targets."

16 Then paragraph 4 explains that AIDS has now called
17 into question the wisdom of continuing to do this.
18 There is a suggestion about directors discussing it at
19 the next meeting in September. It's not actually
20 clear wherever that happened or not, so I'm not going
21 to ask you about that.

22 Then paragraph 5, second sentence says:

23 "We shall obviously need to liaise closely with
24 Home Office also since they have in the past been very
25 much in favour of blood donation by prisoners."

34

1 I think, extraordinarily difficult to do, because
2 rumours go around, and the rest. So the safest
3 policy, I'm afraid -- and I say it with some
4 reluctance -- but I'm afraid the safest policy was to
5 stop it altogether, unless, I guess, there were
6 particular reasons with some prison governors who
7 might have felt strongly on this and could give
8 guarantees, unless they could give a clear sheet on
9 it.

10 But the -- I'm sorry, this is a long answer, but
11 the overwhelming -- the overriding interest must have
12 been the safety of the system, the safety of it all,
13 and that, I'm afraid, meant that you didn't collect
14 blood from prisoners.

15 But this was a matter not just for the
16 Department of Health, it was also a matter for the
17 Home Office, and what their view on it was. But, as
18 you rightly say, I wasn't involved in it but I think
19 that it would have been very interesting to know what
20 their view was. But I would have thought the safest
21 policy was not to do it.

22 **Q.** There is no evidence, I think, that we've seen, of any
23 minister being informed in 1983 that this practice of
24 collecting blood from prisoners was still ongoing.
25 Does that surprise or concern you that, so the

36

1 minister with responsibility for blood and blood
2 products wasn't told about this and asked for his
3 views?

4 **A.** Yes, well, I'd be surprised. I would have thought
5 that the Home Office would have actually been in touch
6 and would have told the Department, and told the
7 Health Department about the policies that were being
8 pursued. I mean that's, after all, what prison
9 governors are about, and, yes, I would be surprised if
10 we weren't informed of that.

11 **Q.** Given that it -- the officials clearly knew that this
12 was the position and knew that it was going on, as at
13 July/August 1983, would you have expected some action
14 to be taken by those within the Department to put
15 a stop to the practice and adopt a safer policy of not
16 taking blood?

17 **A.** Well, I think I would have put it rather differently
18 to that. I think I would certainly have expected
19 there to have been a discussion about the issue
20 itself. That, I would certainly say. But, I mean,
21 past experience with prisons, I mean it's very
22 difficult, the Home Office are quite difficult to talk
23 with on some of these subjects, and AIDS was one of
24 them. But this isn't AIDS. But, yes, we should have
25 made -- we could have made more progress, I think,

37

1 here.

2 **Q.** Just to then complete, I think, the chronological
3 picture in relation to 1983, and -- sorry, moving away
4 from prison blood now -- to PRSE0000886. This is
5 14 November 1983, and it's a statement by
6 Kenneth Clarke. It's the right-hand side, top of the
7 page, under the heading "Blood Products (Imports)"
8 where it records a question from Mrs Currie, and then
9 an answer from Mr Clarke. You'll see the three
10 sentences in Kenneth Clarke's answer:

11 "There is no conclusive evidence that [AIDS] is
12 transmitted by blood products. The use of factor VIII
13 concentrates is confined almost exclusively to
14 designated haemophilia centres whose directors and
15 staff are expert in this field. Professional advice
16 has been made available to all such centres in
17 relation to the possible risks of AIDS from this
18 material."

19 I should say, Lord Fowler, it's not necessarily
20 entirely clear at the moment what that third sentence
21 is there referring to, but I'm not proposing to ask
22 you about that.

23 Now, we looked at the earlier statements from the
24 Department in around in the middle of 1983 about "no
25 conclusive proof". We're now in November 1983, and

38

1 the Department now knows that there are two patients
2 with haemophilia known to have AIDS, one of whom has
3 died. That information was with the Department
4 certainly by September 1983. Whether or not there was
5 any justification for the earlier statements by the
6 Department, was there any justification as at
7 November 1983 for continuing to use the line we see
8 here "no conclusive evidence"?

9 **A.** Well, I think we've been over this before. It should
10 have been -- the "no conclusive evidence" should have
11 been qualified by saying that there was evidence to
12 suggest that it might be. I mean, if you want open
13 Government, that's what it should have said. Now, who
14 drafted this? I mean, I see that Edwina Currie has
15 a statement later on about all this, but whoever
16 drafted this, I think probably just drafted it as --
17 almost as a hand down from what had been said before.
18 But it should have been changed by this point.

19 **Q.** Now, that takes us effectively to the end of 1983, and
20 I think it's right to understand from your statement
21 and from the evidence you've given yesterday and this
22 morning that, by this point in time, you yourself have
23 had very little direct involvement in the issue of
24 AIDS?

25 **A.** In the issue of AIDS?

39

1 **Q.** Yes.

2 **A.** Yes, well I think that's right. I don't think anyone
3 had.

4 **Q.** We've seen, I think, that, as Secretary of State,
5 issues about the AIDS leaflet, issues about the
6 collection of blood from prisons, issues about
7 Dr Galbraith's suggestion and the Committee on the
8 Safety of Medicines decision, none of that is coming
9 across your desk, or if it is it's very tangentially
10 you occasionally get copied into material.

11 Looking at it now, does that lack of involvement
12 of you as Secretary of State in 1983 surprise you?

13 **A.** No, not really, because, I mean, I think, you know, we
14 go back to square one. I mean, I was Secretary of
15 State for Health and for Social Security. I mean, to
16 put it mildly, we had quite a lot on our plate and my
17 whole aim had been, as well as dealing with these
18 issues, which were vast and important, and public
19 spending, as we said yesterday, being the most
20 important of it, didn't get the public spending, then,
21 you know, a lot of what we've been talking about was
22 strictly for the birds. I mean, we weren't going to
23 make any progress at all.

24 So that was my number 1 job. So I had to have
25 ministers who I could devolve to and, by 1983, I think

40

1 we were in that position that we could do that,
 2 because we obviously had Ken, Ken Clarke, who was
 3 a formidable figure, which he showed later; I think
 4 Simon Glenarthur was just about to come in, who was
 5 extremely good as well; we had John Patten a former
 6 Cabinet Minister to come. I mean, these issues, as
 7 you say, AIDS wasn't totally on the agenda at that
 8 time, or when -- it was important but not to the
 9 degree that it became later. So it was sensible that
 10 one should try to devolve, and if we -- if you ask
 11 a Secretary of State of something as big as the
 12 Department of Health and Social Security to go into
 13 every issue, then I think, you know, it's asking too
 14 much, and it's -- I don't think any Secretary of
 15 State, my experience, has ever tried to do that.

16 **Q.** Now, I think if we turn to 1984, it's really towards
 17 the end of 1984 that we see you starting to become
 18 actively involved in the issue of AIDS, so if I can
 19 just take you to a couple of documents and then I'll
 20 ask --

21 **A.** By this stage, I think I'm right in saying -- am I --
 22 that the Chief Medical Officer position had changed,
 23 or if hadn't changed it was in the process of
 24 changing.

25 **Q.** In fact, it had changed in 1983, so October 1983 was

41

1 when Donald Acheson took over.

2 **A.** Yes, I mean, that's -- I mean, certainly -- let me say
 3 this: I mean, that was one of the most important
 4 points in the whole story, because, at that stage, you
 5 then had a Chief Medical Officer who was hands on, who
 6 recognised the importance of AIDS and who worked well
 7 with ministers -- well, he certainly worked well with
 8 me, anyway, as Secretary of State, and it was of
 9 absolute crucial important. Sorry, I interrupted your
 10 question.

11 **Q.** No, that's quite all right.

12 So what I'm going to show you its material that we
 13 have and that you've exhibited to your statement from
 14 late 1984, which shows you and the Chief Medical
 15 Officer becoming more directly involved. So we can
 16 pick it up at DHSC0002323_009. This is a minute from
 17 Dr Smithies, who had succeeded Dr Walford by this
 18 stage, dated 19 October 1984, and we can see it's in
 19 response to a request for information from the Chief
 20 Medical Officer:

21 "CMO has requested information about the problems
 22 of AIDS and blood donations."

23 The first question you'll see at (a) is about
 24 testing, and I'll come of back to that later, if
 25 I may, Lord Fowler. Then the bottom of the page, the

42

1 second question that the Chief Medical Officer has
 2 apparently asked is:

3 "What is the position about blood
 4 transfusion/plasma related AIDS in the UK and its
 5 controls."

6 The answer is:

7 "We have yet no known case of AIDS reliably
 8 related to blood transfusion (there are about 40 cases
 9 in the [US]). Officially there are three cases of
 10 haemophiliacs who have contracted AIDS one of whom has
 11 died. In view of the prevalence of HTLV III antibody
 12 and haemophiliacs, about 35 per cent, it is likely
 13 that there will be more."

14 Then it refers to two cases, and recipients of
 15 batches being followed up. Then if we go to the last
 16 paragraph, we'll see it says:

17 "The only protection recipients of blood and blood
 18 products have from contracting AIDS from donors is the
 19 publicity given to the possibility of transmission
 20 from high risk groups."

21 Then reference is made to the leaflet, that's the
 22 first leaflet, and then the last sentence refers to
 23 a redraft of the leaflet. That's the second leaflet,
 24 which I'll come on to briefly later.

25 So no particular question to ask you about this

43

1 document, I'm just trying to put it in a chronological
 2 context. This is evidence of the Chief Medical
 3 Officer, October 1984, asking for some information?

4 **A.** And in action.

5 **Q.** I'm sorry?

6 **A.** And in action, as a Chief Medical Officer. I mean,
 7 you now see the transformation which was taking place.

8 **Q.** Yes. I mean, there may be a question as to why this
 9 is taking place in October '84, which is a year after
 10 Donald Acheson had taken over, but I doubt that that's
 11 a question that you'd be able to answer?

12 **A.** No, and I think -- I mean, he needed time to actually
 13 find his feet around this enormous Department, but
 14 when he did he made it happen.

15 **Q.** In terms then of your own involvement, we can pick it
 16 up at November '84 at DHSC0002309_053.

17 Again, it's a minute from Dr Smithies,
 18 19 November 1984, addressed to your Private Office:

19 "Secretary of State has asked for a note
 20 summarising the current situation of AIDS."

21 Then if we go over the page, I'm not going to go
 22 through all of it, but we can see it refers in
 23 paragraph 1 to news from Australia:

24 "... 13 people including 3 babies have died from
 25 AIDS after receiving a blood transfusion ..."

44

1 Paragraph 2 refers to a further death of
2 a haemophiliac patient, this time a patient in
3 Newcastle. There are then references to the numbers
4 of cases of AIDS in paragraph 3, and then there is
5 an update, bottom of the page, about what's being
6 done. Just going towards the bottom of the page
7 there, you'll see the question being posed is a
8 heading:

9 "What is being done to prevent AIDS being
10 transmitted by blood or blood products."

11 There is reference first of all to the leaflet and
12 then we go to the paragraph -- paragraph 6 refers to
13 the screening test. Again, I'm not going to go
14 through the detail of this with you, Lord Fowler.

15 Paragraph 7 refers to BPL.

16 Paragraph 8 refers to experts having been invited
17 to join a working group.

18 Then paragraph 9 refers to heat treatment, and
19 then over the page there is a discussion about
20 education.

21 Paragraph 11:

22 "Measures are being undertaken to educate at risk
23 groups."

24 Can you recall what it was that led you, in
25 November or around November of 1984, to, as it were,

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1 having previously effectively delegated matters to the
2 Minister of State for Health or Lord Glenarthur, to
3 become directly involved yourself?

4 **A.** I think it was a growing realisation that this was
5 a fundamentally important point -- a fundamentally
6 important issue, and that what I needed was a summary
7 of what the position actually was at that moment. It
8 was something I did in other departments as well, ask
9 for situation reports. It was really as clear as
10 that. But, I think that it was a good reply that
11 I got, and a full reply, which actually set out all of
12 the -- set out the issues.

13 **Q.** Now, you'll have seen reference in both of
14 Dr Smithies' notes, her note for you and her note for
15 the Chief Medical Officer, you will have seen
16 reference to the proposed leaflet or redrafted
17 leaflet?

18 **A.** Yes.

19 **Q.** Again, I don't think there is any evidence of direct
20 involvement on your part in the process, so I'm going
21 to give you the headline dates and then ask you in
22 general terms about it.

23 The original leaflet and the way in which it was
24 distributed, we know it was issued on
25 1 September 1983, and was due to be reviewed after

46

1 three months --

2 **A.** Yes.

3 **Q.** -- so that would take us to the beginning of
4 December 1983.

5 Dr Smithies identified in February of 1984
6 a need to strengthen both the content of the leaflet
7 and the way it was distributed, and a submission on
8 that issue finally went to Ministers in August of
9 1984. You've exhibited that to your statement, but
10 I don't think we need to look at the content of it.

11 It's then January 1985 when the leaflet is, as it
12 were, signed off, and 1 February 1985 -- and again
13 you've exhibited, I think, the relevant press release
14 to your statement -- when it's issued. That is, on
15 any view, far too long, is it not?

16 **A.** Yes, it's too lengthy. We should have been able to do
17 better than that.

18 **Q.** And, again, I appreciate you're not really in
19 a position to comment on the detail of what was going
20 on, but was there anything about -- more generally
21 about the way in which the Department operated its
22 systems and processes for dealing with things
23 quickly --

24 **A.** No, I think it -- I mean, I can't remember now what
25 was happening in 1984, and what the health issues were

47

1 in 1984, but obviously they -- it could well have been
2 that either political or health issues were taking
3 precedence. But we should have been able to have done
4 better than that.

5 But the most important change from the first to
6 the second was that one that I was referring to
7 earlier, which was that rather than this very proper
8 reference to homosexuals who had many partners, as
9 a warning, in this one we just referred to
10 homosexuals. It was unfair on the people who had been
11 in loving relationships for years, but there we are.
12 That was the price that had to be paid.

13 But it was an important leaflet, and it should
14 have obviously come -- it should obviously have come
15 quicker. But, yes, I can't -- but I can't actually --
16 I think we had three Ministers working on this, I'm
17 not sure that to have a fourth doing it would have
18 speeded up the process.

19 **Q.** Can I just pick up with you one point in relation to
20 the wording of the leaflet?

21 **A.** Yes.

22 **Q.** You've exhibited it to your statement.

23 NHBT0096480_022, please, Soumik.

24 So we see there the date, January 1985.

25 Then, if we go over the page, the question -- so

48

1 the second box:
 2 "Who is at risk from AIDS?"
 3 **A.** Yes.
 4 **Q.** "1. Practising homosexual and bisexual men."
 5 **A.** Yes, well, it does.
 6 **Q.** I just wanted to explore that with you briefly, if
 7 I may, it's one of the questions I have been asked by
 8 Core Participants to raise with you. Was this wording
 9 still too low key because practising might lead people
 10 to think it was only directed at those who were
 11 currently engaging in sexual activity?
 12 **A.** Too low key, I wouldn't have thought so. I mean,
 13 I would have thought the objections would have come
 14 entirely from the other side, that you were now saying
 15 about practising homosexuals, people who'd been in
 16 relationships for years, happy relationships, lasting
 17 relationships, and you were saying that, you know,
 18 they were an AIDS risk. That's where I would have
 19 thought most of the objection would come to. But it
 20 depends which way you're looking at this, I suppose.
 21 I'm trying to take the general view, I don't
 22 particularly like the way it's being generalised or it
 23 was generalised, but I think it was necessary that it
 24 should be generalised in that way. But I don't think
 25 we can be accused of playing it down, I'm not quite

49

1 sure what else you would want to say.
 2 **Q.** We can take the leaflet down. You've reviewed, for
 3 the purposes of producing your witness statement,
 4 a lot of documents from 1983 and 1984 --
 5 **A.** Yes.
 6 **Q.** -- I think most of which on this issue you didn't see
 7 at the time. But I wonder if I can invite your
 8 comment or observation on this: do you think there was
 9 a real sense of urgency within the Department in 1983
 10 or 1984 of an unfolding public health crisis or --
 11 **A.** I think it -- I suspect, like many health crises, or
 12 at least this one, it developed, and it rather
 13 depended, I suspect, in the main, on the, you know,
 14 what was happening, what lead was being given. There
 15 was certainly, from 1984, going into 1985, there was
 16 a feeling of impending crisis. There was no question
 17 about that. And I was making speeches about it,
 18 giving interviews about it, Donald was -- the Chief
 19 Medical Officer -- was absolutely in full support of
 20 this, and it was from that moment onwards that it --
 21 well, I can't give you the exact moment, but it was
 22 probably during the early part of 1985 that we became
 23 thoroughly engaged in it.
 24 **Q.** I'll pick up some of the documents from 1985 after the
 25 break. But before we do that, there are just two

50

1 points I want to ask you about, first of all.
 2 In your witness statement, if we could go back to
 3 the statement, please, Soumik, and I'll find the page
 4 reference for you, it's page 142 --
 5 **A.** Yes.
 6 **Q.** -- and paragraph 6.88.
 7 **A.** Yes.
 8 **Q.** You say this:
 9 "The Inquiry asks about the decision to form the
 10 EAGA ..."
 11 That's the Expert Advisory Group on AIDS:
 12 "... and why this had not been done sooner ...
 13 EAGA was convened by the [Chief Medical Officer] with
 14 wide terms of reference. The available records do not
 15 help to explain exactly the thinking about behind the
 16 formation of the new group."
 17 Then you've referred to an extract from
 18 Sir Donald Acheson's autobiography, and I think we can
 19 take it from here rather than the document which we
 20 looked at yesterday, where you say Sir Donald gave
 21 this explanation of the formation of the group:
 22 "As far as HIV/Aids was concerned, a few cases of
 23 what was already seen as a fatal virus infection
 24 associated with infected blood and sexual intercourse
 25 had already occurred prior to my appointment.

51

1 I decided that the implications of the infection were
 2 so serious and our knowledge so limited that I should
 3 seek expert advice as soon as possible. The expert
 4 advisory group on Aids (EAGA) was set up and having
 5 met seven times in 1985 and regularly thereafter, it
 6 made a series of recommendation which led to more
 7 effective control of HIV/Aids within the UK, than in
 8 any other country that had links with the African
 9 continent."
 10 Again, it may be that you won't be able to assist
 11 in relation to this, Lord Fowler, but given that
 12 you've helpfully drawn our attention to Sir Donald's
 13 account, EAGA's first meeting, as I understand it, was
 14 on 29 January 1985. Sir Donald, I think, started his
 15 work as Chief Medical Officer in October 1983. That
 16 doesn't appear to be consistent with seeking expert
 17 advice as soon as possible, does it?
 18 **A.** No, but he -- well, he came to the conclusion, after
 19 sensible consideration, that he needed this expert
 20 advice, and he was responsible for the setting up of
 21 EAGA, and all credit to him for doing that, because
 22 that is what -- exactly what we wanted. It's --
 23 I mean, you can quibble about a few months, but the
 24 fact was that he was making the right decisions, and
 25 he was taking the whole issue forward. At last we had

52

1 someone who was doing that. That was the importance
2 of Donald Acheson as Chief Medical Officer. He was
3 totally committed to it. Then everything that follows
4 from then onwards is an exposition of that.

5 **Q.** But you can't assist us as a matter of fact with why
6 it wasn't set up in late '83 or '84, for example?

7 **A.** Well, it wouldn't have been late '83, I don't think.
8 He wouldn't have set it up then. He could have set it
9 up, I suppose, in '84, but I imagine -- I mean, you
10 know, he did have the whole of the Health Department
11 to look after at this stage. I imagine that he was
12 taking issues in order a bit. But from that moment
13 onwards -- he says in his book -- HIV/AIDS was his
14 number 1 issue. And so it was -- he totally
15 transformed the position as far as medical -- health
16 advice was concerned.

17 **MS RICHARDS:** Sir, probably a good point at which to
18 break. We've just gone past 11.15.

19 **SIR BRIAN LANGSTAFF:** Yes, it is. Shall we meet again
20 then at 11.50.

21 (11.14 am)

(A short break)

23 (11.50 am)

24 **MS RICHARDS:** Lord Fowler, we looked before the break at
25 the note you'd requested and received in

53

1 "5. In the [UK] most cases of infection that have
2 occurred so far have been in homosexual males and
3 patients with haemophilia treated with infected
4 Factor VIII from pooled plasma."

5 Then 6 refers to the possibility of heterosexual
6 transmission. Then 7 picks on the issue of a public
7 education campaign, if I can put it that way:

8 "A comprehensive campaign to reduce the spread of
9 infection principally by means of education directed
10 at those specially at risk is urgently needed."

11 And then he observes that:

12 "The personal and social consequences of HTLV3
13 infection to the infected person and his or her family
14 are calamitous."

15 Now, is it right to understand broadly that this
16 is the start of the discussion that you and the Chief
17 Medical Officer then had about a public education
18 campaign; is that right?

19 **A.** Yes, I think it's the formal start. I think we were
20 talking about it before, but it sets out the case,
21 I think, very clearly. We needed to do a number of
22 things, and I'm not quite sure on the chronology of
23 this, but one of the things we needed to do was we
24 needed to get the Ministerial Government Cabinet
25 arrangements much sharper than they were, because at

55

1 November 1984. The next direct involvement that
2 I think the papers suggest you had in relation to AIDS
3 begins in around June of 1985, and so I just want to
4 look at a couple of documents with you and discuss
5 with you what they indicate.

6 So DHSC0002114, this is a minute dated
7 27 June 1985. It's from the CMO directed to you,
8 enclosing an update on the AIDS epidemic, and if we go
9 to the third page, we can see the title of the report
10 that the CMO was putting together "HTLV3 infection,
11 the AIDS epidemic and the control of its spread in
12 the UK".

13 Then if we go over the page we can see the summary
14 of what he was saying, and I think we probably only
15 need to look at the summary:

16 "1. AIDS is the principal end stage of infection
17 with the HTLV3 virus."

18 Then there is an estimate of likely numbers
19 infected in the UK.

20 "2. The results of the infection are potentially
21 fatal ... no effective treatment for it ...

22 "3. There is usually a prolonged incubation
23 period ..."

24 (4) refers to means of transmission, so including
25 blood and blood products.

54

1 this time, and a few months afterwards, in fact, you
2 had issues on AIDS which went to the general Home
3 Affairs Committee of the Cabinet. So you took your
4 place in a long queue of issues that they could --
5 they would deal with, and there wasn't any expertise
6 and people would come along with their general views.

7 I mean, an example of that was -- well, was the
8 Prime Minister, who actually intervened on risky sex
9 and said: you know, do we have to have that in the
10 leaflet that goes around? Well, if you didn't have
11 risky sex, I think it was difficult to know quite what
12 you were actually talking about.

13 But the point is that we changed that to
14 a specialist Cabinet committee, all the major members
15 of the Cabinet were on it, and we then dealt with it
16 in that particular way. So it evolved in that shape.

17 **Q.** And we'll look at some aspects of the public health --

18 **A.** Sorry, yes.

19 **Q.** No, no, that's quite all right. We'll look at some
20 aspects of the public health education campaign
21 a little later. Just sticking with the summer of
22 1985.

23 **A.** Yes.

24 **Q.** If we can go to DHSC0002484_063. This is an update
25 from Dr Harris to the Chief Medical Officer, dated

56

1 4 July 1983, about heat-treated Factor VIII.
 2 If we just look at the handwritten entry at the
 3 bottom of the page, which I think we can infer was
 4 from the Chief Medical Officer:
 5 "Dr Harris
 6 "(1) Can you please translate this into an
 7 assurance I can give the [Secretary of State] next
 8 week that no haemophiliacs will be infected in the UK
 9 from now on."
 10 Then there is a question:
 11 "(2) What about cryoprecipitate?"
 12 Just before I ask you about the first of the two
 13 points, in terms of cryoprecipitate as an alternative
 14 means of treatment of factor concentrates, can you
 15 recall that being something which there was any
 16 discussion about to your knowledge prior to this?
 17 **A.** No, not in my -- well, not in my knowledge. I mean,
 18 there may well have been discussion about it, but it
 19 certainly wasn't anything which came over my desk or
 20 which we talked about.
 21 **Q.** Then, looking at the first part of the handwritten
 22 note, it looks as though the Chief Medical Officer,
 23 Sir Donald, wants to be able to say to you: well,
 24 insofar as haemophiliacs are concerned, there should
 25 be no further infections.

57

1 **A.** Because we had got to a very important stage. We'd
 2 got to the stage where we were having screening and we
 3 were also having heat treatment. So, you know, there
 4 was one question, you know, should you have both, and
 5 we said, yes, we should have both.
 6 **Q.** Yes, we don't in fact have screening yet, that's
 7 middle of October --
 8 **A.** Okay, so we've got heat treatment.
 9 **Q.** Then if we look at DHSC0002484_061, this is a further
 10 minute from the Chief Medical Officer to Dr Harris,
 11 8 July:
 12 "Could you let me have a note as soon as possible
 13 on the current position about the infectivity of these
 14 two preparations as administered in the [UK]. Also,
 15 how we can ensure that no infected Factor 8 and
 16 Factor 9 is used here and by what date this can be
 17 achieved. I gave the Secretary of State an assurance
 18 that I would look into this forthwith and will be
 19 seeing him again towards the end of next week."
 20 So is it right to understand from these
 21 interactions that, for what whatever reason, you are
 22 now directly involved with wanting to know about the
 23 position of haemophiliacs?
 24 **A.** And the whole -- the whole AIDS issue, and everything
 25 around it, yes.

58

1 **Q.** Was there anything in particular that had triggered
 2 you wanting to become directly involved in this issue
 3 in 1985, in circumstances where previously you hadn't
 4 been?
 5 **A.** Yes, there was. It was that it was quite clear that
 6 unless -- you know, unless someone from the Cabinet --
 7 unless a Cabinet Minister like myself took charge, we
 8 weren't going to make much progress.
 9 I've already mentioned the -- some of the issues
 10 or some of the challenges that we had, you know, like
 11 we can't have -- there were some -- some of the Prime
 12 Minister's interventions. You needed someone with
 13 some, I don't know if I can put it this way, but some
 14 weight in Cabinet, to be able to make the case, and
 15 put the points. Unless you had that, you weren't
 16 going to make any progress. It wasn't something that
 17 could be done at a minister of state level, it could
 18 only be done at a Cabinet level, and with other
 19 Cabinet Ministers, because they were the people that
 20 you needed, basically, on your side if you were going
 21 to change policy, and if you were going to extend
 22 policy. So that's what we aimed for, and that's what
 23 we achieved.
 24 **Q.** Does that beg the question, Lord Fowler, as to whether
 25 you should have been directly involved at an earlier

59

1 stage, so that you could bring your energies and your
 2 seniority to the issue of risks to the groups who were
 3 at risk, including haemophiliacs?
 4 **A.** Well, I mean, obviously one could have done that, but
 5 I did -- I mean, I was also in the -- I don't know --
 6 fifth year of my reign -- I use the word in an
 7 exaggerated form -- at the DHSS, so I had a lot of
 8 experience by this stage. Whereas earlier on I was in
 9 fact learning the job, up to a point. So it was,
 10 I think it was a natural progression.
 11 But again I come back to the fact that we had
 12 a new Chief Medical Officer, and the new Chief Medical
 13 Officer and I worked as a tandem on this -- and with
 14 another great man, called Tony Newton, who was
 15 Minister of Health after Ken Clarke left, was
 16 promoted. You know, we three kind of worked together
 17 on it. But -- so it was the coming together, I think,
 18 of Donald and myself that really changed the things.
 19 **Q.** If we then just look at two further documents in July
 20 of '85, the first is at DHSC0002327_032.
 21 This again is a document from the Chief Medical
 22 Officer to you, headed "Action on HTLV/AIDS":
 23 "There are three key items for discussion:
 24 "1. Control of further spread of HTLV-III
 25 infection.

60

1 "2. Confidentiality of the results of HTLV-III
2 testing.
3 "3. Provision of further resources in addition
4 to current PESC bid for counselling and other aspects
5 of health education."
6 Then there was a recommendation of setting up an
7 in-house small multidisciplinary steering group.
8 Then if we just go over the page -- go to the
9 third page, in fact, Soumik, of this document -- we
10 can see that there is a short subparagraph on
11 "Haemophiliacs and their Families" at the bottom of
12 this page:
13 "UK and foreign heat-treated Factor VIII is
14 available insufficient quantity for all UK
15 haemophiliacs. Further infection of this group should
16 not therefore take place provided that
17 non-heat treated material is not used. Heat treated
18 Factor IX produced at BPL Elstree is expected to be
19 available in October for sufferers of Christmas
20 disease. Heat treated foreign Factor IX is at present
21 available for named patients on prescription."
22 Then there are two handwritten entries or
23 scribbles. One says:
24 "All sero tested by end of Aug."
25 Presumably August.

61

1 Then the bottom says:
2 "Clinical judgement - balancing of dangers
3 involved."
4 As I understand your statement, Lord Fowler,
5 that's not your handwriting and you don't know whose
6 it is?
7 **A.** No, it's much too legible for mine.
8 **Q.** Then if we go over to the top of the next page, the
9 action in relation to haemophiliacs at this point is:
10 "Ask Professor Arthur Bloom, Chairman of the
11 Haemophiliac Centre Directors, to contact all the
12 Directors informing them on the availability of heat
13 treated Factor VIII."
14 Then if we just go to DHSC0000514, this is
15 30 July, the Chief Medical Officer writes to you
16 again. Halfway down the second paragraph it says:
17 "... I am arranging that a letter will go all
18 haemophilia centre directors in order to draw their
19 attention to the availability of heat treated
20 Factor VIII and the need to avoid using any commercial
21 unheat-treated Factor VIII which may remain from 1984.
22 "I am satisfied ..."
23 The next paragraph:
24 "... that it is extremely unlikely that any
25 patients of haemophilia treated in the UK will in

62

1 future be infected with HTLV-III virus."
2 And then Sir Donald, one assumes, has added this
3 in handwriting:
4 "- but sadly a very high proportion of the
5 haemophiliac population already are infected due to
6 previous use of unheat-treated Factor VIII."
7 Just pausing there. It might be said that writing
8 to Haemophilia Centre Directors at the end of
9 July 1985 about heat-treated Factor VIII is closing
10 the stable door after the horse has bolted. It's
11 somewhat late in the day, bearing in mind heat-treated
12 concentrates have been discussed at the end of 1984.
13 Do you know why this was only being done at this point
14 in time?
15 **A.** I imagine it was being done because it was a very
16 significant milestone. I mean, it was saying, in
17 effect, that heat-treated Factor VIII was now
18 available for everybody and that the risk of further
19 infection, as far as AIDS was concerned, had been very
20 substantially reduced. So I think it would be --
21 I think it would be extraordinary if the Chief Medical
22 Officer hadn't taken -- made note of that, and that
23 everyone else -- I imagine they would be getting to
24 understand that in any event, but everyone else should
25 know that as well.

63

1 **Q.** I will pick up on the question of screening. Now,
2 again, as I understand your statement, although you
3 became involved in an exchange of correspondence with
4 Nick Edwards, the Secretary of State for Wales on this
5 issue --
6 **A.** Yes.
7 **Q.** -- you, yourself, were not, I think, involved in the
8 ministerial decision-making in relation to the
9 introduction of the screening test. Is that correct?
10 **A.** I think that is correct. The issue there was, was it
11 not, whether you went with a not-complete test, or
12 whether you waited a couple of months to get the
13 proper test, you know, the full test.
14 **Q.** Yes, I mean, I think, if we just put some dates on it
15 first of all. Screening was introduced in around the
16 middle of October 1985 --
17 **A.** Yes.
18 **Q.** -- that's certainly the ministerial announcement from
19 Barney Heyhoe, by this time it's, I think,
20 14 October 1985. Other countries, they're referred to
21 the documents you've exhibited, but Australia, the
22 States, the Netherlands, for example, had introduced
23 screening earlier. The decision the Department took
24 was to undertake its own evaluation, two-stage
25 evaluation, of the screening tests to satisfy itself

64

1 that it had the most reliable tests --
 2 **A.** To avoid mistakes.
 3 **Q.** Well, I think that certainly seems to have been part
 4 of the thinking.
 5 Now, the Chief Medical Officer, if we look at
 6 WITN0771101, this is June 1985, and he was writing to
 7 John Patten on the issue of screening of blood
 8 donations. So the Chief Medical Officer seemed to
 9 think it was a finally balanced decision that was in
 10 favour of the suggested line --
 11 **A.** Yes.
 12 **Q.** -- and then he explains his thinking in the next
 13 paragraph. Then says, in the third paragraph:
 14 "Ministers should recognise, however, that support
 15 for a different view is likely to appear in the
 16 medical press ..."
 17 There is reference to a letter from Professor
 18 Bloom which was published in the medical journals in
 19 June 1985:
 20 "... and that considerable public pressure would
 21 develop if in the meantime a case of AIDS develops in
 22 a recipient of UK blood. Such a case or cases is
 23 likely to occur sooner or later ..."
 24 Now, I think perhaps we can pick up the
 25 counterargument, the argument in favour of introducing

65

1 testing earlier, just by reference to one document.
 2 Soumik, it's HSOC0002441. This is a document entitled
 3 "Haemophilia and transfusion -- the clinician's
 4 dilemma".
 5 **A.** Yes.
 6 **Q.** It's authored by Dr Peter Jones who is a haemophilia
 7 clinician and Reference Centre Director. If we go to
 8 page 8, we can pick up his thoughts towards the bottom
 9 of the page, the last nine lines or so, he says this:
 10 "Despite the difficulties which have arisen in the
 11 United States in the first months of their universal
 12 application of HTLV III tests ... my own feeling as
 13 a clinician is that we have been wrong in this country
 14 to await the development of a more reliable test."
 15 Then he refers to a Punch cartoon. Then at the
 16 bottom of the page:
 17 "It is easy to point to the false results
 18 encountered by the American tests and use them,
 19 together low incidence of positive tests as a whole
 20 found in the United States, as an argument for not
 21 testing individual donations until we are absolutely
 22 sure of what we are doing, but turn the argument round
 23 and you have a different picture. Surely with
 24 a disease like AIDS it is imperative to try to give
 25 some measure of protection to anybody at risk, no

66

1 matter how small that measure."
 2 So that's the counterargument, Lord Fowler.
 3 I raise that with you because I think in your
 4 statement you'd seen a number of these documents, not
 5 that particular one from Dr Jones at that stage. Then
 6 if we look at your statement -- if we could have
 7 Lord Fowler's statement, Soumik, page 149 -- in
 8 paragraph 6.100, you refer to the -- if we pick it up
 9 five lines down:
 10 "Although I was not involved in the detail of
 11 this, this an area where we (in my view justifiably)
 12 relied on the expert medical advice being given on the
 13 balance to be struck between speed of implementation
 14 and reliability. Looking it at now, while it may be
 15 said that lives may have been saved by the most rapid
 16 introduction of *some* testing, the concern about
 17 unreliable results and engendering a false sense of
 18 security has forces too, as it did at the time.
 19 Introducing a testing system involving less reliable
 20 testing, particularly if it had a tendency towards
 21 false negatives, would risk more cases slipping
 22 through the net."
 23 Then you say this:
 24 "I do not feel that I am able to comment more
 25 meaningfully or in more detail on whether the balance

67

1 was struck correctly, whether at the time or viewed
 2 with all of the benefits of hindsight."
 3 Having now seen, in addition to what you saw at
 4 the time of your statement, the observations from
 5 Dr Jones, does it remain your view that you're not
 6 able to comment more meaningfully on whether the
 7 balance was struck correctly?
 8 **A.** Yes, I think the balance was struck correctly, in the
 9 sense that I think I would back the judgment of the
 10 Chief Medical Officer, very expert in this area and
 11 who was completely dedicated to it, and I'm -- you
 12 know, I don't know Dr Peter Jones in quite the same
 13 way, I'm sure he's very distinguished, but I think
 14 that the Chief Medical Officer is right, and certainly
 15 right, from the point of view that, if you introduce
 16 a test which can go wrong, then you're playing with
 17 fire, because it means that -- and remember the press
 18 at this time were not 100 per cent in favour of much
 19 of what was taking place.
 20 But, I mean, a case which went wrong would be
 21 headline news and you would lose quite a lot in that,
 22 because you'd lose confidence, public confidence, in
 23 the system. So we're not just talking about medics
 24 talking to each other; we're also talking about the
 25 public as well, and we're talking about haemophiliacs

68

1 and we're talking about other patients, as well. So
 2 I think that the Chief Medical Officer was absolutely
 3 correct, that it was not a vast delay, I think
 4 a couple of months, something like that. But I think
 5 it's completely correct that he should do his utmost
 6 to get the best and correct measure.

7 **Q.** Those are your views, as I understand it, after the
 8 event because at the time, subject to the
 9 correspondence that you then had later on with Nick
 10 Edwards in, I think, around October 1985, this wasn't
 11 a matter that came to you for your decision; is that
 12 correct?

13 **A.** No, it wasn't, but I think I did write to Nick Edwards
 14 at the time, and Nick, who is a great friend, had,
 15 I think, argued, had he not, that some test is better
 16 than no test, or words to that effect, and I had
 17 challenged that and the whole Department actually had
 18 challenged that. So I think my view is consistent.

19 **Q.** Does it not concern you that the UK was slower than
 20 other countries to introduce testing. As I say,
 21 I think Australia, USA, Netherlands had all introduced
 22 testing by June 1985, and France and Germany were
 23 about to introduce it. Is that not something which
 24 troubles you, as to why the UK was taking a slower and
 25 different course?

69

1 **A.** Well, it was taking a certain course and I am all for
 2 trying to eradicate the risk. If you want
 3 international comparisons, you compare our record on
 4 AIDS with any of the countries that you have just
 5 mentioned and you'll find that our record comes out
 6 probably better than any of them. So that was the
 7 policy and prudence that we carried out, and you have
 8 alighted on one particular issue where we were behind;
 9 I can give you quite a number where we were 100 miles
 10 ahead.

11 **Q.** If we just, for the sake of completion, look at the
 12 correspondence with Mr Edwards --

13 **A.** Yes.

14 **Q.** -- not so much for what it tells us about screening
 15 but to cast some light, I think, on the interactions
 16 between the Department and the Welsh Office. If we go
 17 to DHSC0044118, please. This was in response too
 18 letter you'd written to the Prime Minister --

19 **A.** Yes.

20 **Q.** -- in September 1985, about setting up a Ministerial
 21 Steering Group. We can see Mr Edwards writing on
 22 8 October 1985, saying this, in the second paragraph:
 23 "The initiative to set up a Ministerial Steering
 24 Group to direct work in the wider implications of AIDS
 25 is timely. Since my Department has responsibilities

70

1 for housing, education and employment as well as
 2 health services I am particularly conscious of the
 3 need to address these wider issues ..."

4 He explained that there will be Welsh Office
 5 representation. Then he says:

6 "You mentioned in your letter the establishment of
 7 an interdepartmental team of senior officials to make
 8 recommendations to the Steering Group. The Welsh
 9 Office will need to be represented on that too at
 10 a senior level. This would go some way to promote the
 11 close liaison that is needed between our Departments,
 12 both in the wider implications of AIDS and on those
 13 aspects relating primarily to health services."

14 Just pausing there. I think this was the one
 15 concrete example you were able to give in your witness
 16 statement of the relationship between the Department
 17 and the Welsh Office. Was this fairly typical, as far
 18 as you can recall?

19 **A.** Well, it was typical of the relationship with Nick.
 20 Nick was forthright in his views and sometimes, one
 21 might have thought, rather over forthright. He had
 22 particular issues that he felt very strongly on and
 23 expressed it in that way. But we had constant --
 24 I won't say "constant", but we had regular
 25 conversations Secretary of State to Secretary of State

71

1 and, if Nick was concerned, he would certainly let me
 2 know. He was also very sensitive about the fact that,
 3 as you can see from this, that Wales should be
 4 represented, the Welsh voice should always be heard,
 5 which is absolutely fair. That's what the Secretary
 6 of State should be.

7 **Q.** Then there is a reference in the next paragraph to the
 8 testing or screening kits.

9 **A.** Yes.

10 **Q.** If we can pick that up in his later letter, at
 11 ARCH0000068.

12 This is 18 October 1985. Again, it's from
 13 Mr Edwards, as Secretary of State for Wales to you,
 14 and he sets out some issues about the test kits and
 15 the evaluation of those test kits in the first
 16 paragraph, explains he's had a presentation by his
 17 officials.

18 Then the second paragraph he says:
 19 "Be that as it may, I accept that even unreliable
 20 testing is better than no testing at all."
 21 So that's the letter he wrote to you.

22 If we can then just go to WITN0771090, we can see
 23 this is a response from the Department, preparing
 24 a draft reply, and paragraph 2 deals with the issue
 25 about the evaluation of the tests. But I just wanted

72

1 to draw your attention to and ask you about
2 paragraph 3, if I may, Lord Fowler. It says:
3 "A fairly robust response is proposed. The
4 introduction of a screening test, after a rigorous two
5 stage evaluation, is one of the Government's most
6 notable achievements in response to the challenge of
7 AIDS."

8 And then this:

9 "It is highly undesirable that another member of
10 the Government should have such a negative perception
11 of this achievement. Private attitudes can easily
12 become reflected and in the tone, if not the content,
13 of public statements and correspondence. Damning the
14 test by faint praise could lead to the very failure in
15 public confidence which Mr Edwards wishes to avoid."

16 So there appears to be a concern there being
17 expressed by your officials that there should not be
18 criticisms and concerns publicly expressed by other
19 Ministers; is that right?

20 **A.** That's one way of interpreting it. The other way of
21 interpreting is that Welsh department were fully part
22 of the policy group that were looking at this, and
23 went along with it. Then to find the
24 Secretary of State not actually taking another part
25 was a little surprising. But Nick was a very --

73

1 I mean, "A fairly robust response is proposed", we
2 say, but Nick was very robust as well, I mean he would
3 accept that. And he did -- I was going to say fly off
4 the handle, but that's not true. He did certainly
5 express himself very forcefully on these issues. But
6 I don't think -- I mean, I think this is just what you
7 might expect between -- from a department, the
8 Department of Health, who believed very firmly in what
9 they were doing, to what they regarded as a not very
10 learned intervention. If I could see that -- his
11 quote again. Can I see that first quote again? No,
12 before that.

13 **Q.** The letter from --

14 **A.** Yes, from Nick.

15 **Q.** That's ARCH0000068.

16 **A.** Yes, where does he say --

17 **Q.** It's the beginning of the second paragraph.

18 **A.** Yes, I see. He's basically saying unreliable testing
19 is better than no testing at all. Well, we disputed
20 that, and so did -- the other departments disputed
21 that. That wasn't the view.

22 In fact, frankly, when you get to the end of
23 this correspondence, he actually, basically, accepts
24 that we were right and he was wrong, but he didn't
25 quite put it on in those ways.

74

1 **Q.** Well, yes. And I think just so that we can see your
2 response, which was at DHSC0002482_126 -- sorry,
3 DHSC0002482_126 -- you say in the first main
4 paragraph:

5 "I am concerned that you have obtained from your
6 officials such a negative impression of the
7 Government's achievements in this area. This all the
8 more surprising since your officials have participated
9 fully in the forums which gave us the medical and
10 scientific advice on which our policy has been based."

11 Then you say this:

12 "Perhaps the most worrying misconception is the
13 statement 'unreliable testing is better than no
14 testing'. This is the complete opposite of our
15 thinking. We have based policy on the firm conviction
16 that unreliable testing would be disastrous and would
17 engender a false sense of security. This was the
18 reason why we delayed the introduction of screening
19 until we were satisfied that the tests to be used were
20 sufficiently reliable."

21 Then you talk about the two-stage evaluation.
22 Now, whether that was the right judgment is obviously
23 a matter for submission in due course, Lord Fowler,
24 and for decision by the Chair. But as I understand
25 your witness statement, what you say here was

75

1 essentially based upon the advice that you were being
2 given at this point by your officials. You say in
3 your statement that you've relied essentially on what
4 the Chief Medical Officer or Deputy Chief Medical
5 Officer were telling you?

6 **A.** Yes, but I would say -- I would just add this: I mean,
7 I think that Nick made a point. He suddenly -- he did
8 tend to pick up issues and then be fairly forceful
9 about them, but I think if he was here today he would
10 say, "Pass on, this wasn't an issue that I got right,
11 and I wouldn't wish to pursue it". That would,
12 I think -- I hope I'm not being unfair to him -- but
13 I think that he wouldn't wish to be judged by that
14 particular statement, I may be wrong --

15 **SIR BRIAN LANGSTAFF:** Can I just intervene at this stage?

16 **MS RICHARDS:** Yes.

17 **SIR BRIAN LANGSTAFF:** I want to see this correspondence in
18 context. Can I tell you what I think the context is
19 and how I should understand the letters which have
20 just been set out.

21 On 14 October 1985, universal screening was
22 introduced, so when Nick Edwards wrote on 18 October,
23 he was writing four days after a test --

24 **MS RICHARDS:** Yes.

25 **SIR BRIAN LANGSTAFF:** -- had been introduced. That test

76

1 had been evaluated. It was "satisfactory", in other
2 words it wasn't 100 per cent accurate -- I suspect few
3 tests are -- but it was okay for use. He was saying,
4 when he said, "Some test is better than no test", what
5 he was really saying wasn't expressing that principle
6 as a principle for action but he was saying: this test
7 isn't reliable enough, it's a poor test.

8 And I can understand -- am I to understand,
9 then, that the Department's reaction to that was one
10 of a bit of umbrage because they thought it was the
11 best test they'd got and to call it "poor" was likely
12 to undermine confidence in the testing that was the
13 best that could be done?

14 **MS RICHARDS:** I think that's certainly one way of viewing
15 the correspondence, sir, yes.

16 **A.** But I'm not sure that is the right way of viewing it.

17 **SIR BRIAN LANGSTAFF:** Well, that's what I'm asking,
18 really.

19 **A.** Yes, because I think -- basically I think what he is
20 saying is to challenge the -- the whole basis of
21 what -- because -- let me start again. What the
22 Department was saying, what the Health Department was
23 saying is that we should take this -- we should not
24 take, if you like, an interim step, but we should go
25 on until we're absolutely satisfied.

77

1 Now, that wasn't going -- a process which was
2 going to take several years; that was a process which
3 might take several months. And I think in the end my
4 memory is that Nick was entirely happy with that, and
5 withdrew from this --

6 **SIR BRIAN LANGSTAFF:** I think my point was this: that if
7 screening was introduced, as it was to my
8 understanding, on 14 October --

9 **A.** Yes.

10 **SIR BRIAN LANGSTAFF:** -- at that stage the Department was
11 satisfied that the test was appropriate.

12 **A.** Yes.

13 **SIR BRIAN LANGSTAFF:** So at that stage, when Mr Edwards
14 wrote to you, saying a poor test is better than no
15 test at all, he wasn't advocating the introduction of
16 a poor test, because there was a test. His policy --
17 if it was a poor test, it was being used. What he was
18 saying is: the test isn't entirely reliable but
19 I suppose it's the best we can do. That's the sort of
20 way that, at the moment, I'm looking at this
21 correspondence.

22 **A.** Well, I --

23 **SIR BRIAN LANGSTAFF:** It's not quite the way you've been
24 questioned about it, which is why I'm asking if I've
25 got this right.

78

1 **A.** Again, I'm not sure you are right, but I would like
2 to, if I might -- I'm sure this is unusual, but I'd
3 like to actually check the correspondence on this, and
4 perhaps write to you on it. Because -- just to get it
5 absolutely clear.

6 **SIR BRIAN LANGSTAFF:** That would be very, very helpful.
7 And in due course, if you do, we'll publish whatever
8 it is that you have to say.

9 **A.** Thank you so much, yes, yes.

10 **MS RICHARDS:** Yes.

11 And just for the sake of completeness, if we go
12 back to Mr Harris' minute of 31 October 1985, which is
13 at DHSC010103 -- no, sorry, it's not.

14 Thank you. It's WITN0771090.

15 I, sir, drew Lord Fowler's attention to the third
16 paragraph, because of what it might or might not
17 indicate about the relationship between Government
18 Ministers, but the second paragraph indicates that
19 Mr Edwards had been shown the draft report of the
20 evaluation in the BTS of the two screening tests, and
21 so it provides a little more context.

22 **A.** Yes. Perhaps I can try and sum this up --

23 **Q.** Yes.

24 **A.** -- can I? But knowing Nick Edwards as well as I did,
25 I think he would be intrigued to see how much is being

79

1 read into his letter. But there we are.

2 **Q.** Yes. I mean, again, so that there is no
3 misunderstanding, Lord Fowler, I've asked you about it
4 really less because of the substantive content --

5 **A.** Yes.

6 **Q.** -- but more because it's one of the few examples we
7 currently have of exchanges at a Ministerial level
8 between the Welsh Office and the Department of Health
9 on issues relating to AIDS, until we get to the
10 Cabinet subcommittee that you referred when Mr Edwards
11 in attendance.

12 **A.** Yes, but it was quite the a good relationship, I mean
13 it was a robust relationship -- to use the word --
14 because Nick was a very robust politician and -- but
15 it was never anything less than totally open and
16 honest.

17 **Q.** Can I move then from screening to a discrete issue
18 about making available funding to haemophilia centres
19 for counselling in relation to AIDS.

20 If we go to your witness statement, Lord Fowler,
21 at page-- well, it starts at the bottom of page 163,
22 but we can pick it up at 164.

23 At paragraph 6.127, you deal with the question of
24 funding that was made available and you've itemised
25 there a range of awards that were made not

80

1 specifically for Haemophilia Centres or for
2 individuals with bleeding disorders but, more
3 generally, in the range of counselling services. Then
4 at the bottom of that page, subparagraph (4), you
5 refer to funding for the Thames Regions, again that's
6 not specific to haemophiliacs, then at the very bottom
7 of the page, funding that would be used to support the
8 counselling work of the Haemophilia Reference Centres.
9 We can see there the figure, four lines down, £90,000
10 for the Haemophilia Reference Centres.

11 So I'm looking at your statement, really, to avoid
12 the need to go to all of the documents you refer to?

13 **A.** Yes.

14 **Q.** Essentially, September '85, there is a funding of
15 £90,000 for Haemophilia Reference Centres and then we
16 can see there is subsequently funding which you refer
17 to in subparagraph (6) of £270,000 be provided to six
18 Haemophilia Reference Centres, to continue support for
19 specialist counselling services they'd set up. Then
20 you describe that in a parliamentary answer. I don't
21 need to take you to that.

22 What I wanted to do was just ask you in relation
23 to two matters on the provision of funding. The first
24 is, when Nick talks about funding for counselling, did
25 you have any understanding of what was meant by

81

1 "counselling" for haemophiliacs infected with HIV at
2 that point in time?

3 **A.** Yes, I think so. It was, in broadest terms, how to
4 cope with that condition, rather important advice to
5 be given. If you go to my book on this, you'll see
6 that I think that we should have developed even more
7 the advice and education side of this -- of our
8 programme here.

9 **Q.** The Inquiry has heard a lot of evidence to the effect
10 that counselling in the form of ongoing psychological
11 support --

12 **A.** Yes.

13 **Q.** -- was not, for the most part, at least, available to
14 those who were infected, indeed either through blood
15 products or through blood transfusion. I wonder if
16 I can just show you the minutes of an EAGA meeting and
17 see if it casts any light on the matter.

18 It's WITN0771132, minutes of an EAGA meeting on
19 1 October 1985, and you'll see from the list of
20 attendees, Lord Fowler, that in fact Barney Heyhoe,
21 Minister of Health, attended that meeting. If we go
22 to page 5, bottom of the page, there is a description
23 of counselling, not specific to Haemophilia Centres,
24 in the last few lines. So one of those attending the
25 meeting, it's not entirely clear from the minutes but

82

1 it may be Professor Geddes, in the last five lines
2 says this:

3 "He undertook counselling himself but had not been
4 on the St Mary's course. The counselling he gave
5 basically consisted of an explanation of the
6 significance of a positive test and its health
7 implications and secondly the risks to other people.
8 Many patients asked if they could return with their
9 relatives for further counselling."

10 Again, Lord Fowler, the evidence the Inquiry has
11 heard, for the most part, was that, to the extent that
12 counselling was made available at this time, it was of
13 this order: this is what a test means and this is how
14 you might avoid passing it on, not counselling in the
15 sense of ongoing support and psychological support.
16 Do you recall that matter being considered around this
17 time at all within the Department, as to what this
18 money might actually fund?

19 **A.** I'm sure there were meetings on it and I know
20 certainly in my book in 1991, where I advocated
21 an inquiry, a public inquiry, into this whole area,
22 I did say that there should be a searching inquiry
23 into the whole area of health education, which will
24 examine the effectiveness of our current approaches,
25 and that AIDS -- what AIDS shows is that health

83

1 education is not some rather cosy marginal activity,
2 but is a way we have of preventing human disaster, but
3 is also actually, although that isn't written there,
4 is also a way of counselling people on how to live
5 with the disease.

6 **Q.** Just to complete, I hope, the picture in relation to
7 specific funding to Haemophilia Centres for
8 counselling --

9 **A.** Yes.

10 **Q.** -- if we go to CBLA0002374, we have a report of the
11 Social Services Committee, "Problems associated with
12 AIDS", and we can see that there is a date towards the
13 bottom of the page, "Ordered by The House of Commons
14 to be printed 13 May 1987". You and, I think,
15 Tony Newton both evidence before the Social Services
16 Committee along with a number of others.

17 **A.** Yes.

18 **Q.** Soumik, can we go to page-- I think it's probably 99.
19 The previous page, sorry.

20 So if we just pick it up at the bottom of the
21 page, paragraph 162, it says:

22 "The DHSS has provided each of the seven
23 Haemophilia Reference Centres in England with
24 £40-45,000 a year for the last 2 years to cope with
25 the extra burden of work placed on them by HIV."

84

1 I think that's a reference to the 270,000 figure.
 2 We can no doubt check that:
 3 "The Welsh and Northern Ireland Offices have
 4 provided similar levels of funding for the centres in
 5 Cardiff and Belfast. However, in Scotland, the
 6 Edinburgh Centre has received only temporary support
 7 from the Lothian Health Board, and the Glasgow Centre
 8 has had a small counselling research project funded by
 9 SHHD. There has been no support comparable to that in
 10 the rest of the UK. We hope this discrepancy will be
 11 rectified as soon as possible."

12 Then this recommendation:

13 "We recommend that all haemophilia centres have
 14 the requisite funding to enable them to cope with the
 15 extra work AIDS and HIV entail for them. Ideally,
 16 this money should include specific provision for
 17 a fully-trained AIDS counselling service."

18 Two questions, Lord Fowler, if I may. The first
 19 is, it would appear from this that the funding from
 20 the Department went solely to the reference centres.
 21 We know that there were many other smaller haemophilia
 22 centres where individuals had been in affected with
 23 HIV, who didn't receive funding. Are you able to
 24 assist us in understanding why funding was limited to
 25 the reference centres?

85

1 came after you left office, so I don't think I can
 2 sensibly ask you about that.
 3 But you have set out in your statement, and it
 4 probably picks up on the point you've just made about
 5 the Treasury, Lord Fowler, at -- it's paragraph 6.144.
 6 I'll get the page reference. I think it's ... no,
 7 sorry, wrong paragraph.

8 Page 165, please. So paragraph 6.128, you pick up
 9 on the issue of the funding to the Haemophilia
 10 Reference Centres. Then you refer at the bottom of
 11 the page to that EAGA meeting which Barney Heyhoe
 12 attended to talk about the case for additional
 13 funding, and you say this:

14 "He explained that we had made a strong case for
 15 additional monies and would continue to argue for the
 16 need for more resources. My general recollection,
 17 which is not tied to this specific period, is that
 18 AIDS was not seen as a priority in the Treasury, or
 19 for that matter, at number 10."

20 Are you able to assist us in understanding why you
 21 think AIDS was not seen as a priority by the Treasury
 22 or indeed the Prime Minister?

23 **A.** Well, obviously for the Treasury, the Treasury took
 24 the view that they weren't in business for actually
 25 spending more money, and if they can make reductions,

87

1 **A.** Because we were still working in an area, which --
 2 I mean, we always are going to be working in -- where
 3 funds were limited and the priorities we made were
 4 haemophilia centres. But if I had more money we could
 5 have done more things. But, I mean, frankly, these
 6 money questions, I mean, I do really think you should
 7 ask the Treasury about this. I mean, it's always the
 8 Health ministers who get blamed, but Health ministers
 9 have often been making the case for exactly the things
 10 that you're asking, but the Treasury have been saying
 11 no. So, I mean, I hope you'll bring a few
 12 Chief Secretaries in front of you and actually ask
 13 them why they didn't provide the money.

14 **Q.** So do I, Lord Fowler.

15 The second point in relation to Scotland. Now,
 16 obviously Scotland was not, for the reasons you've
 17 explained, your direct responsibility, but --

18 **A.** No, not at all.

19 **Q.** -- do you recall, kind of -- I don't think there are
 20 many documents that would aid in assisting your
 21 memory, in this regard. Do you recall any discussions
 22 or representations in relation to the positions of the
 23 Scottish --

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

25 **Q.** Then I think the formal response to this report then

86

1 they would. And they're not a social department, and,
 2 you know, as I said yesterday, I mean, I'm afraid
 3 there were some of the ministers who took some credit
 4 for the fact that they were not spending money and
 5 that -- I mean, most of the AIDS campaign, remember,
 6 we had to do ourselves, out of the resources inside
 7 the Department. So we took it -- we took the money
 8 from various parts of the Department. We didn't get
 9 extra money from the Treasury. The Treasury were
 10 completely stony faced, as far as all that was
 11 concerned.

12 Of course, what they were totally reassured by
 13 was that Number 10 and the Prime Minister didn't take
 14 it as a priority either. So if the Prime Minister had
 15 taken it as priority, doubtless things would have been
 16 slightly different. But she didn't, and there is no
 17 reason to actually beat about the bush, as far as that
 18 is concerned, that is something that she would,
 19 I think, concede herself.

20 And I think, I can't remember now what period it
 21 was. I mean, I remember, for example, even things
 22 which wouldn't cost money, I remember we wanted to do
 23 a ministerial broadcast on AIDS. The Committee, under
 24 Willie Whitelaw, and all other Cabinet Ministers there
 25 agreed, but that needed the say so of the Prime

88

1 Minister, and usually ministerial broadcasts needs her
 2 say so, and she took me in, asked me in -- well,
 3 actually I asked myself in -- on New Year's Eve, of
 4 all times, and said that she wasn't prepared to give
 5 that authority. So no ministerial statement was made.
 6 We had the offer of a ministerial statement over
 7 the whole of television and the opposition, Michael
 8 Meacher, to his great credit, had agreed that he
 9 didn't want any reply. So it was absolutely cut and
 10 dry, but it was vetoed by Number 10. So that was
 11 the -- I mean, I've said it was not seen as a priority
 12 and the Treasury or, for that matter, at Number 10,
 13 and that is exactly what the position was.
 14 **Q.** I want to come on to ask you about the -- a little
 15 more about the health education campaign, and certain
 16 aspects of it. But before we look at any of the
 17 documents relating to that, can I ask you to go to
 18 your statement, we'll put it up on the screen again,
 19 page 20. You describe in paragraph 0.42:
 20 "... bigotry and prejudice of some sections of the
 21 public ... fuelled by a number of public figures."
 22 You've given some examples and you correctly say
 23 that these are examples drawn from your book "AIDS:
 24 Don't Die of Prejudice". I'm just going to read them
 25 out for those who haven't had the advantage of reading

1 Do you consider that that bigotry, that prejudice,
 2 played a role in the decision-making in terms of
 3 funding and the lack of enthusiasm from the Treasury
 4 or Number 10 for funding?
 5 **A.** I don't know about that. I mean, I think -- I mean,
 6 I think that the Prime Minister's view on AIDS was
 7 of -- more long holding than that, I'm not sure if she
 8 was being influenced by that. The Treasury will use
 9 any argument that comes along for reducing spending.
 10 I'm not sure if they did, to be perfectly honest, on
 11 this one.
 12 But perhaps I could actually make this point
 13 about the campaign itself, which was -- I mean, this
 14 is behind all of this -- which alleges that the
 15 campaign led to a stigma of people with HIV. We did,
 16 unusually -- we were about the only people who did
 17 it -- we did, after the AIDS campaign, we asked the
 18 British Market Research bureau to do a survey of
 19 a public opinion. There were four waves of
 20 interviewing between '86 and '87. What that showed
 21 was that the people who claimed to know anything about
 22 AIDS recently, the proportion more than doubled from
 23 44 per cent to 94 per cent. It went on attitudes to
 24 advertising were generally favourable. The proportion
 25 claiming to know more about AIDS than a couple of

1 your statement beforehand:
 2 "The then Chief Constable of Manchester James
 3 Anderton said that homosexuals, drug addicts and
 4 prostitutes who had HIV/AIDS were '*swirling in a human
 5 assess pit of their own making*';
 6 "Lord Monkton argued that those with HIV should be
 7 quarantined and kept away from the general public ..."
 8 **A.** All of those with HIV, incidentally.
 9 **Q.** Yes, yes:
 10 "Woodrow Wyatt, a close political friend of the
 11 Prime Minister, told his News of the World readers:
 12 '*The start of Aids was homosexual love making.
 13 Promiscuous women are vulnerable, making love to
 14 promiscuous bisexuals. They then pass on AIDS to
 15 normal men*' ..."
 16 Then:
 17 "Alfred Sherman, an influential political figure
 18 on the right, (again close to the Prime Minister),
 19 wrote to The Times saying that AIDS was a problem of
 20 '*undesirable minorities ... mainly sodomites and drug
 21 abusers together with numbers of women who voluntarily
 22 associate with the sexual underworld*'."
 23 You talk, in the next paragraph, of that being the
 24 face of prejudice and stigma with which you were
 25 contending.

1 months ago rose from 38 per cent to 70 per cent, and
 2 it concluded that the advertising campaign
 3 substantially achieved the objectives of educating the
 4 public and influencing the climate of opinion on
 5 a basis for behaviour modification.
 6 So, frankly, I may have -- we may have made
 7 mistakes, but I don't think there was too much in that
 8 campaign that I feel inclined to apologise about,
 9 because I think it was probably one of the most
 10 successful public education campaigns since the war.
 11 **Q.** I want to ask you a little more about some aspects of
 12 that answer, Lord Fowler. But before we do that, just
 13 to give a handful of dates, I don't think we need to
 14 go to too much by way of documents. I think we can
 15 see from the various documents you've referred to in
 16 your witness statement that the public education
 17 campaign essentially commenced with an exercise with
 18 leaflets and posters in 1986.
 19 **A.** Well, leaflets, I think, mainly, wasn't it, in 1986?
 20 The real poster campaign came -- yes, you're quite
 21 there. Sorry, I'll start again. The beginning of --
 22 well, 1985 we started with, I think, leaflets and some
 23 advertisements. Then we moved into '86 and we, as you
 24 rightly say, we had leaflets and we had posters. And
 25 the reason that we did that was that, with the

1 creation of this special Cabinet Committee, we were
2 able to get it through, get this proposal through,
3 because previously it had been held up by people who
4 said people are going to be very offended to get
5 a communication through the letterbox and things of
6 that kind. So we were able to do that, and with the
7 advertising, and with -- the postering, I think, was
8 particularly effective. Again, I have to say, it was
9 all financed inside the Department.

10 **Q.** We'll just -- I think we can just look at one document
11 to see what the purpose was, or what was said to be
12 the purpose of this public education campaign. So if
13 we go to DHSC0105117. This is 7 March 1986:

14 "I attach a briefing package and a draft letter
15 for the Secretary of State to send to MPs."

16 If we go over the page, it says:

17 "I am writing to you and all other members of the
18 House to tell you about the [UK] public information
19 campaign which will be launched shortly."

20 At the bottom of that page, it says:

21 "In the absence of a cure or vaccine, either of
22 which may take many years to develop, the measures
23 available to control the spread of this dreadful
24 disease are limited. The one measure which is
25 unanimously advocated by the experts is

93

1 a high-profile, long-term public health information
2 campaign. This is something the World Health
3 Organisation is also recommending to Governments
4 around the world."

5 Then if we go to the next page:

6 "Since December 1985, when I announced my
7 intention to mount a campaign, work has been
8 progressing on the development of campaign proposals
9 to allow a Spring launch."

10 Reference to EAGA's involvement and
11 representatives of at-risk groups:

12 "Campaigns aimed at homosexuals and drug users are
13 needed but are not enough. A wider public information
14 campaign in layman's language is required to:

15 "-- provide basic facts and dispel myths about
16 AIDS and the infection which underlies it

17 "-- alert the high-risk groups to the danger of
18 infection and encourage them to change their
19 lifestyles

20 "-- emphasise to the general public the dangers of
21 sexual contact with people who may be infected."

22 Then you go on to say about:

23 "... such a campaign will have to be sensitively
24 balanced if it is to provide the basic information in
25 a form which people will be prepared to read and will

94

1 understand."

2 As I understand the rest of that paragraph, when
3 you talk about sensitive balance, it's -- you're going
4 to be putting in references or you wanted to put in
5 references to specific sexual activity but it needed
6 to be carefully worded so as not to offend or put
7 people off?

8 **A.** Yes. Much more important that we shouldn't actually
9 offend or otherwise alienate people who, through
10 absolutely no fault of their own, had HIV. That was
11 really the sensitivity that we had in mind. I think
12 I was slightly past the stage of worrying whether
13 I was offending people in the sense of the advertising
14 that we were doing, because it was, you know -- as,
15 I mean, from the very first, things like risky sex and
16 things of that kind, we were all into that, and we did
17 change. I mean, we were doing things that no other
18 Government, Health -- no other Government Department
19 had ever done in terms of health advertising.

20 What I would like to stress, however, is that in
21 the advertising itself, Donald Acheson and I, and
22 indeed Tony Newton, we went through every
23 advertisement, line-by-line. There were some things
24 that we cut out, we didn't -- I don't think we ever
25 inserted, but we did cut out things which -- if we

95

1 felt that that was going to in any way harm people
2 outside. So we had to somehow get the balance. We
3 had to warn the public, but we also had to try to
4 prevent ourselves, prevent the advertising from giving
5 the impression that we were condemning all those with
6 HIV.

7 **Q.** If we just go back to the top of the page --

8 **A.** Yes.

9 **Q.** -- we can see it says, the sentence I read before:

10 "Members of the Expert Advisory Group on AIDS and
11 representatives of the at-risk groups have been
12 involved in discussions on the style and content of
13 the campaign."

14 **A.** Yes.

15 **Q.** Now, by this point in time, those who had been
16 infected with HIV through blood products or through
17 blood transfusion or through organ donation might not
18 be described as "at-risk groups", they had already
19 been infected. Do you know whether there were any
20 discussions held with representatives of those who
21 were already -- had been infected by that route, on
22 the style and content of the campaign?

23 **A.** Well, only in a general sense. I mean, you can't
24 have -- I mean, you know, running a campaign is
25 difficult enough without actually -- and certainly

96

1 running the advertisement is difficult enough without
2 actually having a kind of great congregation of
3 people -- a great combination of people around the
4 table. And certainly some of the bodies would have
5 distinct views of their own. I mean if I can give the
6 example of one body which we did certainly take into
7 account, well, The Haemophilia Society was one,
8 another one was Terrence Higgins Trust. We certainly
9 took their views into account as well. And we did, of
10 course, create the National Aids Trust, which was
11 exactly to do the kind of things that you've been
12 talking about.

13 **Q.** Following the leaflets and print advertisements,
14 posters and so on, the next stage of the campaign, as
15 it were, was then the "Don't Die of Ignorance"
16 campaign?

17 **A.** Yes.

18 **Q.** And the television advertisements, which were --

19 **A.** Yes.

20 **Q.** I think it can probably fairly be said were
21 unforgettable for those who saw them, the tombstone
22 which falls at the end, the voiceover by John Hurt,
23 the lilies that fall onto the tombstone, the message
24 "Don't Die of Ignorance".

25 Now, looking at that advert, looking at what

97

1 you've said in the document on-screen about the
2 purpose of the campaign, the campaign was aimed at
3 deterring people from behaviour which might expose
4 them to AIDS, in a nutshell, was it not?

5 **A.** Warning people.

6 **Q.** What --

7 **A.** And actually getting their attention. I mean, you
8 know, you can actually write -- you can write -- we
9 started by writing wonderful long advertisements which
10 I don't think anyone -- well, I think some people
11 read, but they weren't very good. They weren't very
12 striking. But what one wanted was advertisements that
13 grabbed people's attention. Well, you know how
14 difficult it to get anyone's attention these days with
15 everything that appears on television, and the same
16 was true then. So we did need some sort of messages,
17 some kind of messages, which did grab their attention.
18 And as I think this report, the market bureau report
19 shows, I mean it was quite successful.

20 **Q.** Those who had been infected with HIV not as a result
21 of anything they'd done but as a result of what had
22 been done to them, through blood products, was any
23 consideration -- conscious consideration at least --
24 given on what the impact might be on them, this
25 already vilified cohort, community, sitting at home,

98

1 seeing an advert that would effectively spell out
2 a death sentence or might be seen as spelling out
3 a death sentence to them? Being told, "Don't Die of
4 Ignorance", when they've already been infected through
5 their NHS treatment with HIV. Was that impact
6 considered at all?

7 **A.** Yes, that impact was considered, and a number of other
8 issues of that kind were considered, and we tried to
9 take a course which, as best we could, took that into
10 account. But the number 1 priority was to -- we were
11 in a national emergency -- was to warn the public that
12 the dangers from HIV and AIDS were very substantial,
13 and that they should take some notice of what we were
14 saying. The whole purpose of the campaign was to
15 actually tell people: read -- you know, read the
16 leaflet that's come through, take some notice of what
17 we're saying, don't just pass on.

18 And I think they did, and I think all of the
19 figures show that they did. The knowledge of AIDS
20 went up, the knowledge of what you could do went up.
21 So that was the priority. But we tried to do it as
22 best we could without -- well, certainly not
23 demonising anyone with HIV and AIDS. I spent most of
24 my time, actually, giving interviews and saying that
25 this wasn't the purpose of what we were doing. But at

99

1 times it must have been appeared, I suppose, to some
2 who had HIV that this was quite a difficult message.
3 But it wasn't in any way an inaccurate message.
4 I mean, we said that -- you know, some of the most
5 famous advertisements we did, we said that it can be
6 the death of you. Well, it could be the death of you.
7 That was the trouble. There wasn't at this stage
8 any -- there certainly wasn't any cure, there isn't
9 now, and there weren't really any drugs, effective
10 drugs for it. So, you know, what would
11 a government -- a sensible government want to do?

12 I mean, you could, as they did in the
13 United States, Ronald Reagan did in the United States,
14 say nothing at all, and you had the most incredible
15 epidemic as a result of that, or you could try to take
16 it head-on. We probably took it more head-on than any
17 other country in Europe, which is why I slightly
18 bridled at your earlier international comparisons.

19 The effect was -- it's estimated we saved
20 thousands of lives as a result of that. And so, you
21 know, again I'm not inclined to apologise for the
22 campaign.

23 **Q.** I am -- just the last question before the break, if
24 I may, Lord Fowler.

25 **A.** Yes.

100

1 **Q.** I think you say in your statement that you can't think
2 of a middle way in which you could have achieved the
3 objectives of the campaign in a way that was less
4 dramatic, less bold. My next question is not about
5 asking for an apology, but just exploring
6 understanding.

7 Do you understand the perspective of those
8 parents sitting at home with young children who had
9 been infected with HIV from their treatment, husbands
10 and fathers who had been infected, partners who had
11 themselves been infected because their haemophiliac
12 husband had been, do you understand that, for some of
13 them at least, they have described a sense of fear
14 that came from many, many sources, but the advertising
15 campaign is a theme that's come up and the tombstone
16 advert is a theme that has come in some of the
17 evidence the Inquiry has heard, that it contributed to
18 the sense of fear, the sense of isolation, the sense
19 of vilification that they --

20 **A.** Yes, I do see it. Obviously I see that, and it had
21 been put to me in a number of areas. I mean, not just
22 with haemophiliacs, obviously. I mean, you have women
23 who have been entirely -- have been infected entirely
24 with no fault -- if "fault" is the right word -- on
25 them at all. Indeed, you might well say that, look,

101

1 United States.
2 **MS RICHARDS:** Sir, I note the time. I have a few more
3 questions on the issue of public education, but I can
4 pick those up at 2.05.

5 **SIR BRIAN LANGSTAFF:** 2.05, I think.

6 **MS RICHARDS:** Yes.

7 **SIR BRIAN LANGSTAFF:** So 2.05.

8 (1.05 pm)

9 (The luncheon adjournment)

10 (2.04 pm)

11 **MS RICHARDS:** Lord Fowler, I just want to ask you, before
12 we leave the topic of the public education campaign
13 about a handful of interactions with the
14 Prime Minister, Mrs Thatcher. If we could start by
15 looking at JEVA0000096.

16 Now this is a document dated 26 September 1985,
17 and it's an internal document, I think, to Number 10,
18 so not something you'd have seen, I imagine, at the
19 time?

20 **A.** Definitely.

21 **Q.** It's a reference:

22 "David Willetts has suggested that the Prime
23 Minister may like to open the £30 million Blood
24 Products Laboratory at Elstree next year. The lab
25 will ensure that haemophiliacs can be supplied from

103

1 any of the HIV victims in the sexual area are without
2 fault because at vast periods of time in this campaign
3 no-one knew how it was all caused and the rest. And
4 they certainly didn't expect to get AIDS as a result.
5 But the number 1 priority, I think, remained that we
6 should try to prevent that fate overtaking other
7 people. So we tried to prevent that fate overtaking
8 other people, but at the same time respecting and
9 defending -- I was forever defending the position of
10 people with HIV and AIDS. I continue to do that and
11 will continue to do that for as long as I'm around.

12 So I feel very strongly on this. But, I mean,
13 you have to make some choices. I mean, the greatest,
14 the choice was, first and foremost, to actually
15 prevent this epidemic going even further and further.
16 And, you know, you could have taken that course and we
17 could have made less effective advertising. We could
18 certainly have done that, and everyone would have
19 said, you know, that's nice advertising, but whether
20 it would have been effective or not is another matter.
21 I think actually the advertising was extremely
22 effective, and it played a very major part in
23 reducing, as we've had in some of the evidence, the
24 incidence of AIDS below that of most other European
25 countries, and certainly below that of the

102

1 our own pure sources with special blood plasma, to
2 protect them from becoming innocent victims of AIDS.
3 I suggested the Prime Minister discuss this at the
4 next diary meeting, and she agreed.

5 "My own feeling on this is that the Prime
6 Minister should stay clear of AIDS (!), even when it
7 is a question of opening laboratories to help innocent
8 victims. I think this all something for
9 Norman Fowler. If she is going to do a medical visit,
10 I should prefer to suggest opening a hospital, or
11 a home for children with incurable diseases, etc.
12 Furthermore, I do not think we could entertain the
13 idea of a visit to Elstree (where the lab is) without
14 combining it with something else."

15 Do you know why there appears to have been
16 a feeling in Number 10 that the Prime Minister should
17 stay clear of AIDS?

18 **A.** Can you show me who it's from?

19 **Q.** If you go down to the bottom of the page, it's from
20 Mark Addison, Private Secretary?

21 **A.** Oh yes. Yes. I think they knew perfectly what her
22 attitude to AIDS was, in a sense all he is doing is
23 replaying what her attitude is, and I doubt if it
24 required very much persuasion on his part to argue
25 against her going to Elstree.

104

1 David Willetts, on the other hand, is
2 a different kettle of fish, and he was much more
3 independent of Number 10. I think he was an adviser
4 at that time of one kind or another. It was a good
5 idea. What a good idea it would have been, had she
6 done it. But I think that it just portrays some of
7 the reservations I have about the attitudes coming out
8 of Number 10 at that time.

9 **Q.** Then, specifically in the context of the public
10 education campaign, if we then go to JEVA0000097.

11 If we could start with second page, please,
12 Soumik.

13 This is a letter from you directly to the
14 Prime Minister in March 1986. There is some earlier
15 correspondence, as we can see from the opening
16 paragraph, I'm not taking you to all of it, but in
17 which reservations about the proposed AIDS
18 advertisements are set out.

19 **A.** Yes.

20 **Q.** And you explain:

21 "[You] recognise some of the material in the
22 proposed advertisements might shock some people.
23 Indeed, the Chief Medical Officers' introduction
24 admits as much. But the advertisements are intended
25 to deal with a grave and unprecedented problem

105

1 I hope you find helpful, I see no alternative to
2 proceeding with publication this coming weekend."

3 Then if we just go to the first page of this
4 document, we can see what I think is a response to it.

5 "Mr Fowler's office tells me that the minute below
6 follows a long meeting this morning between Mr Fowler,
7 Baroness Trumpington, Ken Stowe and the Chief Medical
8 Officer, at which they concluded, after much agonising
9 that the proposed advertisement would lose much of its
10 effect if the passage of 'risky sex' was omitted.

11 Mr Fowler has therefore proposed some (quite small)
12 amendments, which I have marked up ..."

13 Then the question in the next paragraph:

14 "Are you content with the draft advertisement, as
15 amended?"

16 Then what is presumably the Prime Minister's
17 response in handwriting, saying, "Yes". This isn't
18 the only exchange that you have, I think, with
19 Number 10 on the issue?

20 **A.** Yes.

21 **Q.** But is this an example of the kind of difficulties
22 that your statement describes in getting the message
23 that you wanted to publish endorsed by your political
24 colleagues?

25 **A.** It is the difficulty that I had with Number 10. There

107

1 involving a potentially lethal infection which is
2 already spreading outside the original high risk
3 groups to women and children. Given that there is no
4 vaccine and no cure the only option open is public
5 education."

6 And then you say in the bottom paragraph that
7 you've:

8 "... considered, in light of your anxieties, how
9 our advertisements might be modified. I have to say
10 that our room for manoeuvre is small. For example,
11 unless there is a reference to anal intercourse, which
12 has been linked with 85 per cent of AIDS cases so far,
13 the advertisement would lose all its medical authority
14 and credibility. Not only should we be criticised for
15 dodging the issue, but it is certain that the media
16 would start to ferret out what the advertisements had
17 lost along the way and why."

18 Then, over the page, you talk about this being one
19 of the ways in which AIDS spreads.

20 In the next paragraph you have suggestions to
21 offer about the part of the advertisement that refers
22 to risky sex.

23 Then if we go further down the page you say --
24 this is the penultimate paragraph:

25 "... subject to the suggestions I have made, which

106

1 is no question with Margaret Thatcher I had that
2 difficulty with her. I mean, it goes back to the
3 risky sex argument that we had previously, which was
4 an even more dramatic example of it.

5 My own concern on this -- so I was just thinking
6 about this -- her own concern on this was actually
7 a rather odd concern. It was that if young people
8 read the warnings, they would be introduced to things
9 that they had never heard about -- which might well
10 have been the case -- but the implication was that if
11 they heard about it, if they'd be introduced to them,
12 they would race away and do them.

13 Well, there was absolutely zero evidence of that,
14 and never any at any stage was there any evidence of
15 that. And I think she just got that entirely wrong.

16 It was quite near to the concerns of the
17 Chief Rabbi, who also was unhelpfully part of this
18 parade, but -- who also felt that it was spreading
19 information to people who, up to that moment, knew
20 nothing about the issue as well.

21 So, you know, we did fight on several fronts.

22 But the fact that the Prime Minister was
23 well-known to be a sceptic on all of this, of course,
24 supported -- managed to support a whole range of other
25 sceptics, including, obviously, the Treasury, who

108

1 weren't beyond taking advantage of that division in
2 the ranks.

3 **Q.** Then if I can just pick up one further reference to
4 a meeting you had with the Prime Minister at
5 WITN0771162.

6 This is November of 1986, and it's from --

7 **A.** Yes.

8 **Q.** -- Number 10 to the Department of Health, I think,
9 because it says:

10 "The Prime Minister had a meeting yesterday with
11 the Lord President, your Secretary of State ..."
12 Which I think is reference to you.
13 "... the Minister for Health ..."

14 **A.** Yes.

15 **Q.** "... and Sir Donald Acheson to discuss the problem
16 of AIDS."

17 Then we see, the bottom of the page, it says:
18 "In conclusion the Prime Minister agreed with
19 Mr Fowler that it was very important to maintain
20 a balance between preventing the spread of the
21 disease, and causing panic."
22 You've exhibited a diary entry of yours at what
23 I think is probably WITN0771163 -- yes -- where you
24 say:
25 "A 30-minute briefing of the Prime Minister on

109

1 AIDS prior to Cabinet. I take along Donald Acheson.
2 It goes well. She asks good questions and shows
3 a wide understanding of the disease and what should be
4 done to prevent its spread."
5 And we can take that down, thank you.
6 Can you recall whether there was ever any
7 discussion between you and the Prime Minister about
8 the particular plight of those infected through their
9 NHS treatment?

10 **A.** I am sure there was, but I wouldn't like to be able to
11 put my finger on when it was. I mean, we talked on
12 the whole area. That was quite a good meeting that we
13 had then, and she was on best behaviour, and asked
14 very good questions and -- you know, she operated as
15 a scientist, which of course she was. And that was
16 quite useful. But it didn't, I'm afraid, change her
17 underlying views about the subject.

18 **Q.** I'm going to come next to ask you a little about the
19 issue of compensation --

20 **A.** Yes.

21 **Q.** -- and the consideration that was given to that. But
22 can you recall ever having a discussion yourself with
23 the Prime Minister on that issue?

24 **A.** On compensation?

25 **Q.** Yes.

110

1 **A.** I don't think I did.

2 **Q.** So if we then just pick up what was said about
3 compensation from 1985 through to 1987, when you then
4 left the Department. We start with PRSE0003350,
5 please.

6 So this is February 1985, and if we look at the
7 bottom half of the page, right-hand column, just below
8 the heading about Depo-Provera, it says:

9 "Mr Kenneth Clarke ..."

10 No, just above that, please, Soumik, the paragraph
11 above that.

12 There is a question from Mr Chope:
13 "... asked the Secretary of State for Social
14 Services if he has any plans to offer compensation to
15 persons who contract [AIDS] as a result of receiving
16 contaminated blood supplied by the [NHS] ..."

17 The answer from Mr Clarke is:
18 "There is only a very remote chance of contracting
19 AIDS from ordinary blood transfusions."
20 Then this:
21 "There has never been a general State scheme to
22 compensate those who suffer the unavoidable adverse
23 effects which can unhappily arise from many medical
24 procedures."
25 We'll see that phrase about "unavoidable adverse

111

1 effects" appears more than once in what's said by
2 Ministers of either department. Do you think that's
3 an apt way, a fair way, to characterise infection with
4 an incurable disease with a high mortality rate,
5 unavoidable adverse effects?

6 **A.** No, I think that -- I think that -- I mean, it
7 probably was Ken's view, but it also very much the
8 Treasury view that we should avoid any plans to offer
9 compensation, and various Ministers expressed that in
10 different ways. And I think rather than texturally
11 analysing the way that Ministers did it, one should
12 remember that that was the general policy. It was
13 a policy laid down by the Treasury that we weren't
14 going to offer compensation to people who contracted
15 AIDS in that way. And the reason for that -- or the
16 excuse, you might say, for that policy -- was that
17 there had never been a no-fault scheme, no general
18 State scheme to compensate.

19 I think what that avoided was the fact -- which
20 made -- again which made this a situation with
21 haemophiliacs different -- was that we were dealing
22 here with a new disease. It wasn't a question that
23 someone had been deficient or there had been some kind
24 of fault in dealing with it; the fact was that people
25 were exploring how they could actually deal with it.

112

1 For many, it was okay, but for some it wasn't --
 2 anything but okay. But I think to -- I think the
 3 trouble was that the Treasury, and again I come back
 4 to the Treasury, the Treasury never went past that
 5 particular point; they just said: there has never been
 6 a general scheme, and if we allow this one to go
 7 through, then we're going to have all kinds of claims
 8 on the Treasury. And that was their view. But they
 9 never looked at the point about AIDS, or indeed the
 10 point about haemophiliacs with AIDS, because this
 11 would -- we were in an area of unknown. It was rather
 12 foolish, I think, to start talking about culpability
 13 in that kind of area.

14 **Q.** But if we just move on a year to 1986, to DHSC0000194,
 15 this is a letter from Baroness Trumpington, who was
 16 now the Minister with responsibility for blood and
 17 blood products, March of 1986, to an MP who has
 18 clearly raised a number of issues. If we just look at
 19 the bottom paragraph. It says:

20 "The Government have the deepest sympathy for the
 21 plight of haemophiliacs. However, there has never
 22 been a general State scheme to compensate those who
 23 suffer the unavoidable adverse effects which can in
 24 rare cases unhappily arise from some medical
 25 procedures. Compensation is awarded by the Courts in

113

1 minister responsible, was she, for blood?

2 **Q.** I think she was.

3 **A.** For blood products?

4 **Q.** Yes.

5 **A.** Right.

6 **Q.** We can check, but --

7 **A.** Right, okay. If she was, she was pretty new to it.

8 I think most ministers would have queried that
 9 particular sentence. I think the even more basic
 10 thing here is, which affected everyone, it affected
 11 all haemophiliacs, is the idea that negligence had to
 12 be proved. Well, that's all very well if you're
 13 dealing with a well-established disease where, you
 14 know, a doctor has made, I don't know, a fundamental
 15 mistake. I don't quite see in the medical treatment
 16 of HIV and AIDS how you can actually pinpoint
 17 negligence. I don't think -- I can't think of anyone
 18 who has tried to do it negligently.

19 What they were trying to do was to find a way of
 20 treating this unknown disease. Again, I come back to
 21 the point, you know, in the early '80s we didn't even
 22 know it was a virus.

23 So it's -- that is a much more fundamental error,
 24 I think, in our attitude. It meant that we should
 25 have looked at the whole thing rather more

115

1 cases where negligence has been proved. It would, of
 2 course, be improper to prejudge any case which
 3 a haemophiliac might bring, but no suggestion has been
 4 made that the doctors treating haemophiliacs have
 5 acted negligently. Before the availability of
 6 heat-treated Factor VIII, the possible risks of
 7 unheated Factor VIII had to be weighed against the
 8 effects on the lives of haemophiliacs of ceasing to
 9 have treatment."

10 Then this sentence, which is what I wanted to ask
 11 you about, Lord Fowler:

12 "Doctors treating haemophiliacs were, we believe,
 13 careful in explaining these risks to their patients."

14 Now, that's an articulation of a positive belief
 15 held on the part of the Department that the doctors
 16 carefully explained the risks to their patients. The
 17 evidence the Inquiry has heard is very much to the
 18 contrary, Lord Fowler. But if this was to appear in
 19 a letter from the minister responsible on behalf of
 20 the Department, should there have been some inquiry or
 21 investigation before setting out a positive
 22 affirmation of that kind; and, if so, do you know
 23 whether one was undertaken?

24 **A.** Yes, I don't know where that phrase came from. Lady
 25 Trumpington, at the time, I don't think was the

114

1 constructively and rather more widely than we did,
 2 frankly, and that was a mistake, and not only was it
 3 just a mistake for the Conservative Government but
 4 also for the following Labour Government. I remember
 5 a Labour minister saying to me that she went on to
 6 Parliamentary Questions and was told, under no
 7 circumstances, to admit that any fault had been shown.

8 Well, I mean, there is a lack of frankness in what
 9 medical knowledge there was at different stages about
 10 HIV and AIDS. It just didn't exist. How you made
 11 a -- how you could actually say that someone had been
 12 negligent, it was very difficult to tell.

13 **Q.** Just following it through by reference to
 14 an observation apparently setting out the Treasury
 15 perspective.

16 **A.** Yes.

17 **Q.** At DHSC0014947_034, this is a minute of
 18 15 January 1987 from an RF Tooher to Mr Harris, it
 19 refers to an earlier minute which you've also
 20 exhibited but I don't think we need to go to that. It
 21 says at paragraph 2:

22 "You can expect strong Treasury objections to any
 23 suggestion that a special compensation scheme should
 24 be set up for haemophiliacs because of repercussions
 25 for other medical accidents. The Treasury have given

116

1 approval to medical compensation arrangements in very
2 restricted circumstances. This is where the medical
3 risk is assessed as being so slight that it virtually
4 does not exist and where there is a special motive.
5 An example of the latter has the Treasury's recent
6 approval for compensation arrangements in respect of
7 clinical trials on a new whooping cough vaccine at the
8 PHLSB. This was agreed on the grounds that it was
9 desirable to encourage the proposed clinical trials
10 and the risk involved was considered to be
11 negligible."

12 It may well be this a question that has to be
13 posed to the Treasury rather than to you, Lord Fowler.
14 But are you able to assist us in understanding what's
15 being said in that second paragraph, which appears to
16 be the Treasury will approve compensation arrangements
17 only in cases where the risk is so small it virtually
18 doesn't exist --

19 **A.** Yes.

20 **Q.** -- in other words, we'll never have to pay out? Is
21 that the right way to read it?

22 **A.** I don't know. It's a very convoluted argument.
23 I mean, the real thing is that the Treasury had
24 objected to any suggestion that a special compensation
25 scheme should be set up for haemophiliacs because of

117

1 the repercussions -- well, rather medical accidents,
2 it wasn't repercussions of that. It was that it would
3 set a precedent for other claims. That was their
4 fear. I think the rest is high class flam, really.
5 **Q.** If we go to SCGV0000014_044, this a letter passing on
6 to Lord Glenarthur a letter from Dr Ludlam who was
7 a Haemophilia Centre Reference Director in Edinburgh.
8 If we go over the page, it's a letter which, in turn,
9 refers to and encloses a copy of a letter published in
10 The Times by Dr Peter Jones, outlining the case for
11 compensation for haemophiliacs. If we go to the third
12 page, we'll see Dr Jones' letter.

13 He talks in the first paragraph about how:
14 "[HIV] has added an intolerable burden to the
15 lives of many families with husbands or sons already
16 incapacitated by haemophilia."

17 He refers in the second paragraph to a hope
18 that:

19 "... time will be found to consider the special
20 needs of these families."

21 Then he talks about difficulties with insurance
22 and mortgage. In the last paragraph, he says this:

23 "I believe that these families form a well defined
24 group with a special call for State help. In the case
25 of haemophilia, the Government should argue neither

118

1 precedent nor an open-ended commitment, because of the
2 iatrogenic nature of infection and the small and
3 finite numbers involved. It would be of great and
4 immediate benefit if some form of no-fault
5 compensation could be provided to them."

6 There is certainly, I think -- I'm not sure
7 whether Dr Jones' letter made its way directly to you,
8 but there is a letter at LOTH0000009_022, which
9 suggests a further correspondence from Dr Ludlam was
10 passed on to you. Leaving that, in a sense, to one
11 side, the case that was being articulated by some of
12 the haemophilia clinicians to regard those infected as
13 a special case, not least because of the route of
14 infection through their NHS treatment, was that ever
15 substantively considered by the Department, with or
16 without the Treasury, during your remaining time in
17 office, which I think was now a few further months?

18 **A.** So was what considered?

19 **Q.** So the case that was being put forward by, we see,
20 Dr Jones and Dr Ludlam for compensation or some form
21 of special support for haemophiliacs infected with
22 HIV, was that and those arguments ever substantively
23 considered by you, as far as you can recall, in the
24 remaining months of your time at the Department?

25 **A.** I think we may have talked about it, but I think it

119

1 was doomed to failure. There was no chance that I was
2 going to get permission to do that, no chance
3 whatsoever. The Treasury were against it, the Prime
4 Minister would have been against it because it would
5 have -- she would have been told that it would have
6 other effects. I can't think of anyone, with the
7 exception of, you know, one or two members of the
8 Cabinet, who might just have been -- might just have
9 had some sympathy.

10 It was a hopeless case, I'm afraid, because they
11 took in the view that, if we agreed to this, then the
12 floodgates would be open. That was the argument and
13 it was as crude as that, I'm afraid.

14 **Q.** If we just, then, go to a couple more documents on
15 this issue, DHSC0001383.

16 This is a minute dated 17 February 1987 from
17 Dr Smithies to Mr Harris?

18 **A.** Yes.

19 **Q.** We can see she says in second sentence:

20 "Some background information about the treatment
21 of haemophilia may help to provide perspective to the
22 question of whether or not haemophiliacs have
23 a special case for compensation for the tragedy of
24 having had the AIDS virus transmitted to them as
25 a result of their treatment."

120

1 Then if we go over the page, she sets out various
2 matters, I'm not going to go through the detail of it.
3 I just wanted to ask you, before we return to the
4 question of compensation, about what she says at the
5 top of that second page, "Transmission of Infection".
6 She talks there about:

7 "In 1974 ... recognised in the UK that hepatitis
8 was being transmitted through the use of commercial
9 Factor VIII concentrates."

10 She describes non-A, non-B hepatitis about halfway
11 down that paragraph. She says:

12 "... a chronic hepatitis may develop which may
13 proceed to cirrhosis."

14 In the next paragraph:

15 "Apart from non-A non-B hepatitis there are
16 a number of viral infections which may be transmitted
17 through unheated coagulation factors."

18 I just flag that up because I then want to ask you
19 to look at the third page. Under the heading
20 "Compensation", she says:

21 "It seems likely that we have a finite number of
22 haemophiliacs who have contracted HIV infection.
23 Their position is pitiful and has attracted great
24 sympathy in particular because of the perceived stigma
25 of the disease which is associated with promiscuous

121

1 special circumstances surrounding the care of
2 haemophilia which makes their case for compensation
3 greater than that of other patients who take medicines
4 which kill them. That is, of course, provided that
5 doctors caring for the patients have prescribed their
6 treatment in a proper manner."

7 We'll leave aside that proviso which is about what
8 doctors did or didn't do. So we see Dr Smithies
9 saying we can't advocate any special circumstances.
10 It doesn't appear from this or any of the other
11 documents that there was any soul searching on the
12 part of the Department to consider whether there had
13 been, not necessarily negligence, but fault or
14 wrongdoing by governments, successive governments, the
15 failure to achieve self-sufficiency in the 1970s or to
16 recommission BPL at a sufficiently early stage, or
17 anything, of that matter, that might have made the
18 case for compensation stand out from others. Do you
19 know why that was the case?

20 **A.** I am guessing, I would have thought that the case was
21 that they regarded it as a pretty hopeless case to put
22 forward, because you had the Chancellor of the
23 Exchequer against you, you had the Prime Minister
24 against you and you had most of the Cabinet against
25 you, where on earth were you going to get

123

1 sexual activity. The equally sad fact that a number
2 of haemophiliacs will undoubtedly die of chronic
3 hepatitis as a result of non-A non-B infection has not
4 been recognised publicly."

5 Now, just pausing there, Lord Fowler, obviously
6 much of my questioning has focused on AIDS because
7 that's the particular issue with which you became
8 associated in 1985 onwards. I don't know whether you
9 saw this document, I'm not sure that there is any
10 evidence to suggest that you did.

11 **A.** I have seen it since, but I don't think I probably saw
12 it at the time.

13 **Q.** Yes. Are you able to assist in understanding why
14 there had been no public recognition of the fact that
15 a number of haemophiliacs will die of chronic
16 hepatitis?

17 **A.** No, I can't really. My memory was that there were
18 some, but obviously it was not remotely enough. But
19 I can't really help you very much on what happened,
20 I'm afraid.

21 **Q.** Then just the next paragraph:

22 "Some patients are relieved of their symptoms (say
23 of arthritis) by taking non-steroidal
24 anti-inflammatory drugs which can and do cause death.
25 I find it difficult to advocate that there are any

122

1 a compensation scheme? You just weren't.

2 **Q.** So hopeless not because it was an unmeritorious
3 argument?

4 **A.** No, absolutely.

5 **Q.** But because the political, financial commitment
6 wouldn't be there --

7 **A.** There wasn't the commitment and they were all -- I'm
8 not saying everybody was like this -- but we as
9 a Cabinet had been far -- we were far too influenced
10 by the argument which -- you know, from lawyers as
11 well, which was if we give way on this, you're giving
12 way on an awful lot of other things.

13 **Q.** Now, we looked earlier at the Social Services Select
14 Committee report and what they'd said about
15 counselling, but they also talked about compensation.
16 I'm not going to trouble you with looking at the
17 detail of that but the position when you left office
18 then in 1987 was essentially that which had been
19 maintained throughout, which was no compensation?

20 **A.** I'm afraid it was, and there wasn't much -- I mean,
21 therefore was absolutely no chance of me changing that
22 policy, even though it did manage to get slightly
23 changed after I left, for various reasons I can
24 explain. But I had used up all my available capital
25 by this stage, to be frank, and there was no other

124

1 progress that I can make. It was just after the Prime
2 Minister had rejected the absolutely free public
3 message that we could have made as a Government. We
4 had used up all the available resources there were for
5 various other pieces of expenditure, and it needed
6 a new -- it needed -- well, it certainly didn't --
7 certainly there was no chance that I could have
8 persuaded anyone.

9 **Q.** You say, I think again, for the sake of completeness,
10 you say in your statement that the move taken later,
11 in 1987, towards making a special case for infected
12 haemophiliacs in providing the form of finance support
13 was the right thing to do. But you've observed in
14 your statement in terms of the political realities
15 you're doubtful you would have succeeded in obtaining
16 any level of funding in the way your successor because
17 you had largely expended your political capital with
18 Number 10 and the Treasury at that time?

19 **A.** Yes, it was quite interesting that John Moore did,
20 because John Moore immediately issued -- well not
21 immediately but a few weeks afterwards issued
22 a statement of some kind saying that he entirely
23 backed what the previous Government and Ministers had
24 been doing because he had Tony Newton with him.
25 I don't think Tony -- Tony's views and mine were

125

1 pretty similar.

2 Then two months later we had this 10 million
3 scheme which was announced, and that, I think, was
4 because the -- that Tony was meeting The Haemophilia
5 Society and they were very worried about what they
6 were going to say. The only trouble with it was,
7 self-evidently, otherwise we wouldn't be here -- well,
8 perhaps we would, but we wouldn't be here on this
9 issue 40 years later -- it wasn't an adequate scheme.
10 It was a scheme, that can't be denied, but it wasn't
11 a very good one.

12 **Q.** Now, just two or three remaining points from me --

13 **A.** Yes.

14 **Q.** -- Lord Fowler. If we go to your statement, so,
15 Soumik, if we can look at Lord Fowler's statement and
16 go to page 18. In paragraph 0.36 of your statement
17 you've described an occasion when you were, I think,
18 writing a book on AIDS and you asked to see your own
19 papers, turned up at Department of Health, taken to
20 a side room presented with three unsorted bundles of
21 papers in no order, and you noted a secretary had been
22 taken away from her duties to watch you work. You
23 say:

24 "[This] was the first time in my experience of
25 writing three books that this procedure had been

126

1 decreed: normally it was assumed if an ex-Cabinet
2 minister had been trusted with the secrets of the
3 Falklands, he could be trusted not to make off with
4 what were arguably his own papers."

5 Did you enquire at the time or did you ever
6 enquire subsequently why this arrangement had been put
7 in place?

8 **A.** I made a comment in passing to a Health minister, and
9 said that I thought this was a pretty extraordinary.
10 I also thought it was pretty deficient as well.
11 Because I literally went along, expecting, as I had
12 for a previous -- on a previous occasion, expecting
13 the papers to be sorted out and in order, et cetera,
14 and it was ridiculous. I mean, I had three great
15 bundles of papers which were completely unsorted.
16 Some of them were quite interesting, some of them were
17 not and some of them obviously had -- were altogether
18 missing, which it seemed to me that we had no system
19 for storing such things.

20 This was meant to be a campaign that had been
21 successful, so goodness knows what we did for ones
22 which they thought had been unsuccessful. So it was
23 quite evident that they didn't have a system for
24 looking after it. I said to the Minister that this
25 was what had happened, and I mentioned the secretary,

127

1 because I'm not particularly a sensitive guy but the
2 fact that a secretary looks over me to see what I'm
3 going to do with them, it seemed to me pretty kind of
4 extraordinary. And he said, yes, yes, he agreed with
5 that. The worst thing was that we were taking the
6 secretary away from her other work.

7 Well, you know, that didn't actually seem to me
8 to be the reply to the issue that I was making, but
9 I don't think there was any kind of great concern
10 about this. Departments, let's face it, Government
11 Departments are not concerned about ex-ministers
12 writing memoirs which might contain themselves, and
13 they're not very interested in history, in any event,
14 if that history happens to be beyond the public
15 relations issues. So I think that all that kind of
16 comes together to run a pretty awful system.

17 **Q.** Were you aware then, or have you ever become aware of
18 any rule or policy regarding the maintenance or
19 destruction of ministerial papers and private --

20 **A.** No, I don't know anything of it, and it's not
21 altogether surprising because it's not really
22 something which comes up when you're actually in
23 office, and you only see it after you are in office,
24 and perhaps I should have actually raised it with the
25 Secretary of State -- I don't know who that was at

128

1 that particular time -- or the Permanent Secretary,
 2 but I didn't, and perhaps it's all changed now, and
 3 perhaps with the advances in technology it's not quite
 4 so difficult any more.

5 **Q.** Just turning to the question of an inquiry, you've
 6 said in your statement that you advocated for
 7 an inquiry into AIDS in 1991?

8 **A.** Yes.

9 **Q.** To whom did you advocate that and what was the
 10 response?

11 **A.** I wrote a book and, if you'll excuse me, can I perhaps
 12 ask for the copy of it.

13 **Q.** Yes, of course.

14 **A.** There we are. Thank you very much. Thanks.

15 It was a memoir of my days as a Cabinet Minister
 16 with Margaret Thatcher, and I wrote a book, one of the
 17 chapters of which was "Don't Die of Ignorance", and
 18 what I advocated there was that there should be
 19 an inquiry into the whole area of health education,
 20 which would examine the effectiveness of our current
 21 approaches.

22 I made the point that it might seem curious for
 23 a sexually transmitted disease like AIDS to be at the
 24 forefront of a much more general policy but we might
 25 remember that in 1916, the 1916 Royal Commission on

1 because at the moment, I mean, you know, it affected
 2 those who were affected by it, the people who died,
 3 their families and that, of which you're very well
 4 aware of, but it also affected witnesses as well.

5 I mean, you've been asking me questions for
 6 a couple of days now on things which would have been
 7 better answered by ministers who were actually in
 8 power at the time. But, you know, they're not all
 9 dead but an awful lot of them are. I mean,
 10 Donald Acheson is dead, Tony Newton is dead, and so --
 11 you know, John Moore is dead -- and so the list goes
 12 on. Sometimes it's inevitable that you have
 13 an inquiry, you know, later on, because you had no
 14 alternative. But this wasn't the case here. You
 15 could have had an inquiry in, you know, 10 years
 16 afterwards, 20 years afterwards, 30 years afterwards.

17 In fact we're having an inquiry 40 years
 18 afterwards, which is the worst of every conceivable
 19 world. If I may say so, on behalf of the witnesses,
 20 I mean it's one thing to give evidence at the age of
 21 53, or 63, or 73, 83 you're beginning to push it a bit
 22 with witnesses. Apart from anything else, remembering
 23 what the hell was taking place 40 years previously.
 24 So I'm afraid to say I think that there are
 25 deficiencies in the system, but I do underline the

1 Venereal Disease led to a free public medical service.
 2 So these advances do take rather curious turns.

3 But the idea, and it was just an idea which I set
 4 out, and I think I set it out in a later work as well,
 5 was that one should have an inquiry not necessarily to
 6 find fault, but just to see what had happened. And,
 7 actually, I would claim with AIDS we got much of it
 8 right. So you could look at what went wrong and you
 9 could look at what went right but it should be
 10 a matter of course that, when it came to the end of
 11 that, that an inquiry was set up.

12 What you didn't want was exactly what's happened
 13 in this case, is that you went through year, after
 14 year, after year of people pressing for an inquiry,
 15 and then, frankly, because of a political convenience,
 16 the Government set up the Inquiry. I'm making no,
 17 Sir Brian, criticism of the way this Inquiry has been
 18 handled, which I think has been handled impeccably, if
 19 I may say so. But it's a very curious way of going
 20 about things. But that has been the way that it has
 21 happened.

22 There should be -- for some of these inquiries, it
 23 should be automatic, there should have been
 24 an automatic inquiry into the handling of AIDS, and
 25 how it was done, and its pluses and its minuses,

1 point that I'm making no complaint about this
 2 particular Inquiry, which I support, and which has
 3 been impeccable in its dealings with me.

4 **Q.** You've said in your statement that there was
 5 prevarication over many years over the holding of this
 6 Inquiry. Was there anything in particular you had in
 7 mind when you used the word "prevarication" or was it
 8 just the number of times successive governments -- not
 9 just Tory governments --

10 **A.** Yes, successive governments.

11 **Q.** -- said no?

12 **A.** No, I mean, I just think that, you know -- I just
 13 think that it would have been in the public interest
 14 and it would certainly have been in the interests of
 15 those who had been affected to have had the Inquiry
 16 much earlier. I don't know how many people died in
 17 the interim between 1985 and today, who would have
 18 been entirely -- been entirely uncovered by anything
 19 that can come out of an Inquiry. So I think there is
 20 a question of justice here which should be addressed,
 21 and I hope will be addressed because it can't be
 22 a satisfactory position for anyone.

23 **Q.** You, I think, left office, in terms of the Department
 24 of Health in June 1987. Had there been any
 25 consideration given by you or others, as far as you

1 can recall, to the holding of a public inquiry at that
2 point?

3 **A.** No, not by me. I thought it was a mission impossible,
4 mission hopeless.

5 **Q.** Then I think you remained in that Government until
6 January 1990 as Secretary of State for Employment.
7 Did you raise the issue of holding a public inquiry or
8 anyone else raise it whilst -- in that period of time
9 whilst you remained in Government?

10 **A.** Well, 1991 I did, but I don't think I did beforehand,
11 and I certainly wouldn't have done it as another
12 Minister. I mean, that was -- by this stage, I had
13 handed over to John Moore.

14 **Q.** Then the last matter I want to explore with you,
15 before others have the opportunity to suggest any
16 further questions to me, is in the question I have
17 been asked by others to ask you. It refers to just
18 looking to a passage of Lord Clarke's evidence,
19 INQY1000140, please.

20 It's page 207, which electronically is probably
21 about page 52, or so, Soumik. Yes.

22 So if we look at the bottom half of the page,
23 left-hand side, picking it up at line 10, this is what
24 Lord Clarke said to the Inquiry:
25 "What I've had to put up with, and it exasperates

133

1 me at times, is, purely by chance, I have remained the
2 best-known person of all those people involved.
3 I'm the kind of aging, fading B-list celebrity now.
4 The only people that the general public have heard of
5 who were involved are Norman Fowler and myself. So
6 there's a tendency for the campaigners and for the
7 press to try to want to attach everything to do with
8 this to me as though, because I was in the Department
9 at the time, I took all the decisions. If not me,
10 Norman will have to do, you know. And that the people
11 tried to influence inquiries -- are always trying to
12 steer them to try to find some celebrity whose fault
13 it was."

14 Then he goes on to deal with a particular response
15 that he'd made.

16 It might be said that Lord Clarke was complaining
17 that he and, to an extent, you, were celebrity
18 scapegoats for decisions in which you had little
19 involvement. Do you regard that as an accurate
20 characterisation?

21 **A.** No, but I regard it as an accurate portrayal of Ken's
22 views.

23 **Q.** And I think then just finally linking that back to
24 something you said towards the beginning of your
25 evidence yesterday, Lord Fowler: whatever your

134

1 day-to-day personal involvement or, indeed, that of
2 Lord Clarke or any of the other Ministers in the
3 decisions, actions or omissions, I understand you to
4 accept that ultimately responsibility for the
5 Department's decisions should rest with Ministers,
6 which would include, obviously, both the junior
7 ministers, Lord Clarke, and ultimately yourself?

8 **A.** Yes, and ultimately I was the Secretary of State,
9 I was the head of the Department, and, you know, if it
10 had ever come up -- and I was responsible to
11 Parliament. If it had ever come up in the time that
12 I was sitting, then I would have been accountable to
13 that Parliament. There was no question about -- there
14 should be no question about that.

15 I mean, there was -- it was the famous case,
16 which I can't now remember, the Minister of
17 Agriculture or someone of that sort, who established
18 this. But, I mean, there shouldn't be any question
19 about it. Ministers -- it's a great privilege to be
20 a minister, but if you're Secretary of State you take
21 on the responsibility of answering for the whole of
22 the Department, even though you may not have any
23 knowledge of that particular point. That's the whole
24 point about Ministerial responsibility.

25 **MS RICHARDS:** Sir, those are the end of the questions

135

1 I was proposing to ask, but we do need to afford Core
2 Participants the opportunity to suggest any further
3 questions, and I would want a little time to consider
4 that. So we could come back at, at, say, half past
5 and finish Lord Fowler's evidence.

6 **SIR BRIAN LANGSTAFF:** Well, I think we will give you
7 a little bit longer than that but -- subject to
8 Lord Fowler's views.

9 Let me tell you, Lord Fowler, what happens now.
10 I don't know if you've seen any of the Inquiry
11 proceedings before?

12 **A.** Yes, I have.

13 **SIR BRIAN LANGSTAFF:** Then you may know that the
14 Core Participants are not only entitled, but exercise
15 the entitlement, to ask questions, through counsel for
16 the Inquiry, of their own for a witness, and we must
17 give that opportunity for them to do so.

18 **A.** Of course.

19 **SIR BRIAN LANGSTAFF:** Particularly after having heard what
20 you've said as a total to her.

21 **A.** Yes.

22 **SIR BRIAN LANGSTAFF:** So I don't know how many questions
23 there will be or how long they'll be. There may be
24 none -- that's unlikely -- there may be a great
25 number. I don't know. It will take as long as it

136

1 takes. So if we come back at, let us say, at
2 45 minutes from now, let's say 3.40.
3 **A.** Yes.
4 **SIR BRIAN LANGSTAFF:** I can't promise that you'll be
5 finished by 4.30. You may well be.
6 **A.** It doesn't matter. It's only a -- I think, the end,
7 that I think it's ridiculous to --
8 **SIR BRIAN LANGSTAFF:** Well, thank you for that, but it's
9 your decision and you're entirely free to choose.
10 **A.** Absolutely.
11 **SIR BRIAN LANGSTAFF:** Then we'll do that. 3.40.
12 **MS RICHARDS:** Thank you.
13 **A.** Thank you very much.
14 **(2.54 pm)**
15 **(A short break)**
16 **(3.40 pm)**
17 **MS RICHARDS:** Lord Fowler, a number of questions proposed
18 by Core Participants, so we're going to leap around
19 from subject to subject, rather than be thematic.
20 First is this: in relation to the position of
21 Dr Galbraith, who as you'll recall, wrote that report
22 with a recommendation addressed to Dr Field in
23 May 1983. You referred on a number of occasions
24 during your evidence to Dr Galbraith being "just one
25 man", however Dr Galbraith was in fact the director of

137

1 the Communicable Disease Surveillance Centre,
2 a Governmental body with responsibility at the
3 national level for prevention and control of
4 infectious disease. Would you accept, therefore, that
5 he was someone whose view ought to have carried
6 significant weight in the Department's decision-making
7 process?
8 **A.** Yes, and I think he did. I don't in any way denigrate
9 Dr Galbraith, who had a very high reputation and was
10 obviously a very distinguished medical man. No
11 question of that whatsoever.
12 I think the question was whether his one
13 decision was going to be the thing which determined
14 policy, and we came to the conclusion that it would be
15 better to wait until there was a more collective view
16 on that subject.
17 **Q.** Now, the next question, we'll be assisted if we look
18 at a passage from Lord Glenarthur's evidence. I don't
19 know if it's a passage that you've looked up before,
20 but I'll put it up on the screen.
21 **A.** Thank you.
22 **Q.** INQY1000139, please, Soumik.
23 Then if we go to -- it's page 145 of the
24 internal pagination, so if we try, I think, page 35 or
25 something, electronically, and see where that takes us

138

1 to. If we go on a couple of pages. That's it.
2 If we look at the top half of the page, please.
3 So I'm going to read out a passage from
4 Lord Glenarthur's evidence, Lord Fowler, but just
5 before I do so, just to put it in context, what I was
6 asking Lord Glenarthur about at this point in his
7 evidence was the decision-making process in 1983,
8 weighing the risks of AIDS, on the one hand, against
9 the risks to haemophiliacs in relation to non-use of
10 factor concentrates on the other.
11 If we pick it up at line 12 on the left-hand side,
12 I've said:
13 "So that was one side of the balance. Then you
14 put, or you described being put on the other side of
15 the balance, the risk of haemophiliacs from AIDS?"
16 I think that should be "the risk to haemophiliacs
17 from AIDS".
18 **Answer:** Yes.
19 **Question:** Which was described to you in the
20 various materials we've looked at as small, or
21 sometimes very small."
22 And then the question:
23 "It doesn't appear that the risk from non-A, non-B
24 hepatitis, which itself could be fatal, either in
25 short-term ... or the longer term ... was put into the

139

1 balance at that point. In other words, you weren't
2 just dealing with what was believed, rightly or
3 wrongly, to be a small risk of infection with AIDS;
4 you were also dealing with a very high risk, some
5 describe it as a near inevitability of infection with
6 non-A, non-B hepatitis.
7 **"Now, I should say, in the interests of
8 fairness, non-A, non-B hepatitis is also a significant
9 problem in terms of the domestic blood supply."**
10 Then this question:
11 "Do you know why, in undertaking that balance, the
12 issue of non-A, non-B hepatitis doesn't appear to have
13 factored in, in the Department's decision-making
14 process? Specifically in 1983, I'm talking about."
15 Lord Glenarthur's answer:
16 "No, I don't know, and I'm quite surprised that it
17 wasn't flagged up, for example, in the first briefing
18 I had from Dr Walford, or highlighted in some way.
19 I can't recall without looking at it whether or not it
20 referred to it at all. But, you know, if it was so
21 serious, then I'm quite surprised it wasn't flagged
22 up."
23 So that's the passage from Lord Glenarthur's
24 evidence, looking at the issue of whether, in 1983, as
25 it were the question that was being asked was

140

1 incomplete, because it looked at AIDS, rather than
2 AIDS plus non-A non-B hepatitis, on one side of the
3 balance. Do you have any reflection on that, or are
4 you able to assist us in understanding why non-A non-B
5 hepatitis wasn't part of the explicit decision-making
6 process in 1983?

7 **A.** I don't, I'm afraid. I can't really help you very
8 much more than Simon Glenarthur has on that, which
9 isn't very far. It was not something which came to me
10 in any event, and so it was -- it's difficult for me
11 to judge. I can by all means make enquiries about
12 that and see if there is anything I can add to that,
13 but at the moment I really can't.

14 **Q.** We can take that down, thank you.

15 I think you told us yesterday, when I was asking
16 you about the information that you had as
17 Secretary of State, you mentioned a knowledge, as
18 the 80s went on, that hepatitis was potentially
19 serious?

20 **A.** Yes.

21 **Q.** Are you able to elaborate at all as to how your
22 knowledge of the seriousness of hepatitis developed?

23 **A.** What, over the 1980s?

24 **Q.** Over the 1980s.

25 **A.** Not really. It developed to some extent, but I mean,

141

1 I was almost totally concentrating on HIV throughout
2 the 1980s.

3 **Q.** And then --

4 **A.** That would not have been the case in the -- I hope --
5 in the medical division. But, you know, that was --
6 the Medical Division was just one part of this
7 enormous DHSS empire.

8 **Q.** Then I asked you yesterday about whether you would
9 have been concerned if the Department was relying
10 largely on the opinion of a single haematology expert,
11 and I think we -- it was my fault, Lord Fowler,
12 because I didn't then follow through the question with
13 you. I think there may have been a degree of
14 confusion as to who I was referring to.

15 It may be submitted to the inquiry that the
16 Department was over recently upon the evidence of
17 a particular haemophilia clinician, Professor Bloom.
18 I'm not asking you to comment on that as a matter of
19 fact because I don't think that's something you had
20 direct involvement with, but if it were the case that
21 the Department was largely or entirely taking its
22 advice about haemophilia care from one clinician,
23 would that concern you as a matter of the Department's
24 decision-making process?

25 **A.** Yes, I don't think it would have been good practice

142

1 and I think it would have concerned the Chief Medical
2 Officer as well and he would have wished to prevent
3 that. And there is no point in me arguing against one
4 person, you know, however distinguished, saying, you
5 know, "You can't just take his view, I mean, you have
6 to take a rather more consensus, collective view than
7 that", and my answer would be the same for both.

8 **Q.** Then, picking up on the issue of the Chief Medical
9 Officer, and you've described the contrast between
10 Sir Henry Yellowlees and Sir Donald Acheson.

11 **A.** Yes.

12 **Q.** Can you assist more generally with what the process
13 was for appointing a Chief Medical Officer?

14 **A.** It's a very, very good question, and I'm not sure that
15 I can, really. I can't remember how that was done.
16 I think it was probably done as a Civil Service
17 appointment, just as you would appoint the permanent
18 secretary, because that's, in effect, what they were.
19 I mean, it was sometimes said I had two permanent
20 secretaries, actually I had three: I had the permanent
21 secretary, Ken Stowe, then I had the one for social
22 security, Geoffrey Otton, and then of course I had
23 Donald, who was the Chief Medical Officer. I think
24 I'm right in saying that would be done, that would be
25 an appointment carried out in the normal Civil Service

143

1 way, although it obviously didn't arise very much.
2 I can check that, but I think that is my reply.

3 **Q.** Once a Chief Medical Officer was in post, if there
4 were concerns about how that Chief Medical Officer was
5 discharging their responsibilities, were there any
6 mechanisms for addressing that?

7 **A.** I think it's always quite difficult to move on someone
8 you're not satisfied with -- and rightly so, because,
9 you -- you know, we're politicians, we come in and --
10 you don't want a political Civil Service, in the sense
11 that a guy comes from the Conservatives and takes one
12 view and then from Labour takes another view, which
13 has practically nothing to do with their professional
14 capabilities.

15 It is very difficult to move senior civil
16 servants and it's very, very rarely done, in my
17 experience. It's perhaps been done more in recent
18 years than certainly in my period, in the 1980s.

19 And as for Henry Yellowlees, I don't think we
20 would have thought of doing that because he had been
21 there for some time before I arrived. So in a sense
22 he was more experienced than I was. It wasn't his
23 experience that I was worried about, it was his
24 energy, I think, in going into the public health area.
25 I don't think -- I mean, I -- you know, looking back

144

1 on it, I don't think that would be remotely a good
2 reason for moving him out. And, as it happened, we
3 had Donald Acheson behind, and then he took over from
4 that.

5 I think it's quite a good idea not to actually
6 have sudden changes which might look as they were on
7 a political whim. We have a non-political Civil
8 Service, and remember that the medical division is
9 part of the Civil Service and I think we should keep
10 to that.

11 **Q.** In 1983, '84, or indeed, in fact, earlier than that,
12 from 1981, really, through to the mid-1980s, were you
13 aware that factor concentrates imported from the
14 US were made or may have been made using what is
15 sometimes referred to as "skid row" donations, or
16 donations from prisoners in American prisons?

17 **A.** Yes, I learnt that as I went along, but, I mean,
18 I don't know at what point I learnt it.

19 **Q.** That was something that was well-known within the
20 Department?

21 **A.** Oh, yes, it was well-known within the Department, and
22 well-known particularly within the Health division, no
23 question.

24 **Q.** Then, moving to an entirely different topic, when we
25 were looking at the public education campaign and the

1 issue of stigma earlier today --

2 **A.** Yes.

3 **Q.** -- I drew attention to those passages in your
4 statement in which you identified individuals who had
5 expressed views that might be said to be, amongst
6 other things, hostile to the gay community?

7 **A.** Very hostile.

8 **Q.** Did the Prime Minister, as far as you know, share
9 those views?

10 **A.** I don't -- well, I hope -- I don't think so. I think
11 she had a certain -- she had a certain amount of
12 sympathy, I think, but I never really discovered this,
13 with the Chief Rabbi, who had a long criticism of the
14 campaign. But that was mainly on the grounds that we
15 were running the wrong campaign; we should be running
16 a moral campaign, we should be teaching people about
17 morality, and what we were doing was in fact teaching
18 them -- I forget the phrase he used, but teaching them
19 how to avoid being taken to law and how to avoid that
20 by using protective clothing. I mean, it was that
21 kind of view that Rabbi Jacobovits had. I think he
22 was quite close to the Prime Minister on that.

23 But she never -- to be fair, she never actually
24 talked to me about it. Except there is a view that
25 kept on coming out that if we ran a public health

1 campaign we were going to -- a tighter public health
2 campaign, we were going to teach children and young
3 people things that they had never dreamt of and you
4 pays your money and takes your choice on that. But it
5 seemed to me not a very strong argument and not backed
6 up with any evidence that it led to the kind of
7 consequences that she was fearing, which I assume was
8 that there would be an increase. There wasn't an
9 increase and nor was there any evidence of it being an
10 encouragement.

11 **Q.** Now, I just want to ask you a little, in quite general
12 terms, about your witness statement and some of the
13 documents referred into that.

14 In answering my question I'm not asking you to go
15 into the content of discussions that you may have had
16 with your legal team.

17 **A.** Yes.

18 **Q.** As we've explored in the course of your evidence over
19 the last two days, in the period up until 1985, you
20 had comparatively limited direct involvement with
21 matters relating to blood, blood products, hepatitis
22 or HIV. But you've set out in your statement
23 a number of documents which you wouldn't have seen,
24 I think, at the time, and we tried to make that clear
25 as you've gone through your evidence.

1 Would it be right to understand that -- sorry: did
2 you go through those documents yourself and put
3 together the narrative, or was that undertaken with
4 the assistance of your legal team?

5 **A.** Sorry, the narrative of?

6 **Q.** The narrative of your statement of matters in which
7 you had no direct involvement at the time?

8 **A.** It was a mixture, but my legal team certainly helped.

9 **Q.** In terms of those documents that you've referred to,
10 and there are obviously a very large number that
11 you've referred to in your witness statement, and
12 which you've commented on on a number of occasions,
13 have you, yourself, for the purpose of preparing and
14 signing your statement, reviewed those documents?

15 **A.** I think I fully reviewed all the evidence -- reviewed
16 all the documents that we put in, yes.

17 **Q.** And where you've made observations about matters that
18 you didn't know at the time, that's your perspective,
19 being asked about it for the first time some 40 years
20 later?

21 **A.** Yes. And there is a difficulty here because, as
22 I said during the hearing, it is quite difficult to
23 distinguish between what you knew then and what you
24 know now, 40 years on. I mean, it is the difficulty
25 with this Inquiry. And one tries to distinguish

1 between the two; it is not always possible to do.
 2 **Q.** Again, going back to some of the general observations
 3 you made about some of the difficulties facing
 4 a Secretary of State for Health in the 1980s, you
 5 mentioned it could be a rough ride on Health in the
 6 context of dealing with the Prime Minister. Can you
 7 just elaborate on what you mean by that, in particular
 8 by reference to any matters that the Inquiry is
 9 investigating?
 10 **A.** I'm not sure how relevant it is to the Inquiry in the
 11 sense of having direct influence but, I mean,
 12 Margaret Thatcher always wanted some sort of solution
 13 to the financial issues of the National Health
 14 Service, and I think she had a longing for a -- if you
 15 like, an insurance-based system of some kind. The
 16 trouble, of course, with an insurance-based system was
 17 that you then had a two-tier health system and we
 18 never pursued that, although Patrick, my predecessor
 19 did do a certain amount of work looking at alternative
 20 health systems.
 21 So she, I think she -- it was the relationship of
 22 public spending and health which actually was the
 23 thing which really most worried her, and she thought
 24 there must be a solution to this. I think she was
 25 probably persuaded in the end that that wasn't right.

1 **A.** Yes.
 2 **Q.** So it's -- I think, because we don't have a clear
 3 factual position to put before you, Lord Fowler, it's
 4 a hypothetical question. If, say, Scotland had
 5 decided to take a different course from the Department
 6 on big issues, such as introducing testing regime
 7 earlier, or taking a different course in terms of the
 8 banning of commercial concentrates, to the extent that
 9 they were used in Scotland, would Scotland have been
 10 free to take that separate course, or do you think the
 11 Department would have tried to put pressure on
 12 Scotland to adopt the Department's own approach?
 13 **A.** Well, the Department might have -- probably would have
 14 put pressure on to try and get a uniform approach. It
 15 doesn't seem to me too much sense to have one system
 16 in England and another system in Scotland. But it
 17 didn't always work, and wouldn't always work, but
 18 I think they would try to get a kind of uniform
 19 system.
 20 But the best example of it not working
 21 particularly well was the injecting drugs, and the
 22 fact that we supplied free needles, and they were
 23 reluctant to go into free needles. They did, in the
 24 end, but that was only -- I think from memory, that
 25 was only when Michael Forsyth took over in 1980 --

1 I mean, I always took the view that the National
 2 Health Service was actually about the best system that
 3 there was for us. We'd all -- well, most of us --
 4 that been brought up on it, it was well established,
 5 and it created a sense of fairness, and also good
 6 health as well. And the trouble -- I mean, one
 7 mustn't overstate the American experience, but the
 8 trouble with the American experience is that, you
 9 know, money can buy anything. In this country, we
 10 can -- and if you do become a member of a private
 11 health scheme -- but the Government have never
 12 remotely -- well, in my time -- have never remotely
 13 come to a position where we're arguing for
 14 an alternative health same.
 15 So I think, Margaret was concerned on that and
 16 then I think she was concerned that here was a big
 17 nationalised service, I use the expression, not mine,
 18 and that it was bureaucratic and it was unmanageable
 19 and unmanaged and, therefore, there were all kinds of
 20 problems inherent in it, and if only you had it
 21 differently organised, then all would be clear. That
 22 actually didn't work particularly well either.
 23 **Q.** The next question relates to the extent to which the
 24 Scottish Office of the Scottish Home and Health
 25 Department was free to plough its own furrow?

1 well, I can't remember the date, but when he became
 2 Secretary of State.
 3 To begin with, they were very antagonistic
 4 towards it, because they said, "Look, if you give out
 5 these free needles, this is condoning crime and there
 6 is no way". And I remember a Scottish -- he was
 7 actually, by this stage, an ex-Scottish Secretary,
 8 saying at one of our meetings, he said "There is no
 9 way known to man that I'm going to support that
 10 policy, it is just condoning crime". So if you have
 11 people taking that view and, for some reason, it was
 12 very prevalent in Scotland, which also, ironically,
 13 had the worst problem, that, yes, they could take
 14 their own view. So it was possible to take their own
 15 view, but we didn't particularly like it.
 16 **Q.** Now, you said in the course of your evidence in
 17 relation to Sir Henry Yellowlees that if he'd taken
 18 a grip of this thing we might have had a better
 19 picture, and I'm afraid I don't have the reference to
 20 precisely what point we were talking about then but
 21 I think we must have been talking about 1983 and AIDS.
 22 **A.** Yes.
 23 **Q.** Can you elaborate upon that at all? What do you think
 24 Sir Henry Yellowlees could have done that wasn't done?
 25 **A.** I think it was just a matter of him being rather more

1 hands on. He was a remote figure, I didn't see him
2 very often, hardly at all, frankly. I don't think
3 anybody else on the political side did, there was that
4 quote that Donald has in his book about his view of
5 politicians, which probably expresses more clearly
6 than I his view of politicians. So he wasn't -- he
7 wasn't working in the same way that Donald was
8 working, which was as a partnership and working
9 together. That wasn't remotely his -- it seemed to
10 me, his attitude.

11 He was a traditional Chief Medical Officer,
12 traditional medic, who regarded politics and
13 politicians with some distaste, which is all very
14 well, except that it meant he didn't make many changes
15 or he wasn't in a position to make many changes or
16 even look for many changes. So it's quite difficult
17 to put one's hand on it, but he wasn't as involved.
18 Donald was involved right from the -- almost right
19 from the beginning in the Health Department. He did
20 his homework and he involved us all in it, and his
21 enthusiasm, and knowledge, and involvement took policy
22 through, which was just what we wanted.

23 That wasn't the case remotely with Henry, I'm
24 afraid, who was a remote person -- remote person --
25 and perhaps that was how CMOs were when he took over.

153

1 same thing, I think, at the Middlesex Hospital, but
2 that was a young beautiful princess doing it, rather
3 than a middle-aged health minister.

4 But, I mean, I can't tell you -- we all -- all
5 of the ministers, I mean, myself, Tony Newton, we all
6 bent over backwards to actually try and fight stigma.
7 I did debates on the subject, I remember at a Young
8 Conservative conference, at National Conference,
9 facing a hostile motion on the subject, with people --
10 with the proposer saying that he was backing one of
11 the chief proponents of discrimination, and there was,
12 I thought, a thunderous roar of applause for this
13 speech, but in fact when it came to the vote he was
14 heavily out voted.

15 So if you stood up to it, actually, the British
16 public are quite sensible and they will follow the
17 lead. But you had to try and give a lead.

18 **Q.** The next question is about the Council of Europe
19 recommendation and it's not about the detailed content
20 of the recommendation --

21 **A.** Yes.

22 **Q.** -- it's just about a question of process.

23 **A.** Yes.

24 **Q.** I asked you about the issue of reliance on the US
25 imports and the connection with the first part of the

155

1 **Q.** Next question is about the issue of stigma relating to
2 HIV.

3 **A.** Yes.

4 **Q.** Were there any particular steps taken by the
5 Department in the 1980s that you can recall to combat
6 that stigma; and, if so, what were they?

7 **A.** Well, we were forever doing things to try to combat
8 it. We tried to put our advertising in phrases which
9 didn't condemn, at any stage, gay or straight, you
10 know. This was a Government advertisement, well,
11 no-one had ever seen anything like that before in this
12 country. I mean, it seems pretty normal now. I mean,
13 I give you one other example of it: I mean, when
14 I went to the United States I was going around a ward
15 which was absolutely full of AIDS patients, absolutely
16 full, young men, and it wasn't my idea, it was the
17 idea of some enterprising television reporter there
18 who said would I like to come and shake hands with
19 an AIDS patient. So I did, and I mean, you know,
20 because all what we were saying was you don't get AIDS
21 from shaking hands or drinking out of the same mug,
22 all that sort of stuff, and that -- a photograph of
23 that got a lot of coverage, actually, in the UK, and
24 indeed in the States -- not, of course, as much as
25 coverage as Princess Diana when she did very much the

154

1 recommendation. It's been quite correctly pointed out
2 to me that, in terms of -- that might be true for
3 England but, for example, in terms of Scotland, the
4 position was rather different in terms of reliance on
5 imported concentrates.

6 Would you expect the Health Departments or the
7 territorial departments, to have been consulted or to
8 be part of the decision-making process in terms of
9 either what recommendations should be made, or how
10 they should be responded to in the Council of Europe?

11 **A.** In the Council of Europe?

12 **Q.** Yes.

13 **A.** Yes, I would have thought they would have been.

14 I think they would have been and I think that they
15 would have provided the briefing beforehand. We had
16 someone -- we had someone, we had a little section--
17 inside the DHSS that did do a European policy,
18 including the Council of Europe, and -- no, I think
19 that there was no lack of briefing.

20 **Q.** But you'd expect there to have been some form of
21 liaison between whichever was the right division and
22 the Welsh Office, Northern Irish Office and Scottish
23 Office?

24 **A.** Oh, I think so, I mean, I haven't got any evidence on
25 that, but that would be my guess.

156

1 Q. The next question, we're nearly at the end,
 2 Lord Fowler. It goes back to the question of "no
 3 conclusive proof" and, as you know and we've explored
 4 it in some detail, you addressed it in your statement,
 5 and we explored it with Dr Walford, but the qualifying
 6 part that was in that original briefing didn't then
 7 make it into the public statements --

8 A. Yes.

9 Q. -- in their various forms.

10 We don't know who took it out, I should say, or
 11 precisely what the drafting process was.

12 A. We're assuming it was in. I mean, I'm assuming it
 13 was.

14 Q. Well, certainly an early formulation contains it.

15 Can you assist, from your own knowledge of the
 16 Department, in understanding whether there might have
 17 been any reasons for not including that qualification
 18 and for removing it?

19 A. I think --

20 Q. If that was --

21 A. Yes, I think the only reason for removing it would
 22 have been that, if you did do that, then it could
 23 increase concern, it could conceivably increase panic,
 24 but I think that that not -- I mean, in my view,
 25 that's not a good reason, but if you asked me what the

157

1 reason is, I would have thought that that was the
 2 reason, but who was responsible for that, I'm afraid
 3 I just don't know.

4 Q. Then you talked about the importance of openness in
 5 Government --

6 A. Yes.

7 Q. -- and the importance of the Government being as open
 8 as possible. Did you take any steps, as far as you
 9 can recall, when you were at the Department of Health
 10 to communicate your support for openness and
 11 transparency, in relation to matters of health and
 12 public health, to those working in the Department?

13 A. Yes, I think if I was asked that would be the point,
 14 and I certainly would have made my own views known in
 15 the relevant Cabinet Committees that there were.

16 I mean, I was well-known as an ex-journalist, so it
 17 would come as no surprise to anybody that that was my
 18 basic view.

19 Q. You told us about the experience of visiting
 20 a children's hospital early in your years as Secretary
 21 of State and seeing the babies with whooping cough.

22 A. Yes.

23 Q. Do you -- as a matter of fact, did you ever, during
 24 the time you were Secretary of State for Health, did
 25 you meet with any patients with bleeding disorders?

158

1 A. Well, I think I did, and I was thinking about that and
 2 I think I did, but not a specific meeting of that
 3 kind. I mean, it was -- and this was -- it was the
 4 whole problem of being Secretary of State in this
 5 massive department. I started with best intentions of
 6 going around. I started with the children's hospital,
 7 I went to Rampton Special Hospital, but that's, you
 8 know, two days out of your working week, and it just
 9 becomes impossible to keep it up. Because, you know,
 10 for the rest of 1982, we had -- well, going into
 11 1983 -- we had -- what was it, '82, '83, whatever.

12 '82 we had the Falklands which required me to
 13 just stay where I was and go to the Cabinet meetings,
 14 and that was followed by an industrial dispute, which
 15 rather understates its seriousness, which kept me
 16 absolutely fully employed until the end of the year.

17 It was also at a stage when there were demonstrations
 18 against conservative ministers, it was a period of
 19 demonstrations, in any event. So it was always a bit
 20 counter productive, actually, paying visits.

21 Q. I think I've reminded myself, as you were answering,
 22 Lord Fowler, that your statement does make reference
 23 to -- although you've no independent recollection of
 24 it, I think -- a meeting you had probably with
 25 constituents you were family members of those who had

159

1 been --

2 A. Exactly right, two constituents came to see me in
 3 Sutton Coldfield, it wasn't the most successful of
 4 meetings because once gets out of the -- I mean there
 5 was an official with me, so it was a meeting just
 6 between me and the two constituents and it probably
 7 would have been much more effective had it been done
 8 with the official coming to Sutton Coldfield or them
 9 coming to London. But that meeting did take, and they
 10 expressed their concerns.

11 Q. Then my last question, Lord Fowler, really calls upon
 12 your expertise, your experience, as a parliamentarian.
 13 Is there, to your knowledge, a convention that if
 14 Parliament is being led by a ministerial statement to
 15 expect a particular event, it should be informed if
 16 the expectation is not fulfilled?

17 A. Wow. Say that again.

18 Q. Yes, I'm not asking about any particular statement,
 19 I should say. It's a general question.

20 A. No.

21 Q. Is there a convention, to your knowledge, that if
 22 Parliament has been led by a ministerial statement to
 23 expect a particular event, Parliament should be
 24 informed if that expectation is not fulfilled?

25 A. Yes, in one way or another. I mean, it most certainly

160

1 would be, because it might not be -- if it was done in
2 a parliamentary statement, it might not be that it was
3 countered by another parliamentary statement, but it
4 might be countered by a parliamentary question by
5 putting -- by having a parliamentary question put down
6 and making it clear that, although you had said this
7 in the statement, in fact, it never took -- it has
8 never taken place and the reason for that is this and
9 that.

10 I doubt if you would make a second statement on
11 the subject. Well, you might do, it depended how
12 serious it was but you certainly would make it clear
13 if the promise had not been fulfilled.

14 **MS RICHARDS:** Sir, those are the questions I'm proposing
15 to ask from those that were suggested on behalf of
16 Core Participants. I'm just going to see if there are
17 any questions -- no, there are none from those
18 representing Lord Fowler. Do you have questions?

19 **Questioned by SIR BRIAN LANGSTAFF**

20 **SIR BRIAN LANGSTAFF:** Well, I do, I have a couple of
21 questions for you, Lord Fowler. They're both rather
22 loosely linked. But the first picks up on a question
23 which counsel was asking you just towards the end
24 about the no conclusive proof line that was taken --

25 **A.** Yes.

161

1 between the view we dare not risk alarm, assuming that
2 to have been the view, and we don't way and at all if
3 we do, even though that's not the purpose?

4 **A.** Yes, well, we didn't actually think that when we were
5 doing the second one, that it was quite going to have
6 impact that it did have. I mean that came as slightly
7 a surprise to us, it did have a major impact. But
8 I think that, you know, we had been struggling to get
9 our message into the media, and then suddenly it kind
10 of splurged in that way.

11 But the only thing I would say about the two,
12 the alarm on the advertisements, every advertisement
13 which went out, literally every one which went out,
14 was checked by myself, it was checked by
15 Donald Acheson, and it was checked by Tony Newton, so
16 there was absolutely no excuse for getting it wrong.
17 I mean, it was just a fact of life, I'm afraid, or a
18 fact of death, I fear, that HIV was a risk to life,
19 and that was the message that we were trying to get
20 out. But it was exactly that was totally accurate.

21 The other -- the contrast is a piece of what, in
22 my journalistic days, would be called "news
23 management". They were saying, "Well, that might be
24 the case, but it would be rather a bad idea if we let
25 everyone know that", and I'm not in favour of that.

163

1 **SIR BRIAN LANGSTAFF:** -- and the absence from it of any
2 qualification, which you thought and you may well be
3 right -- I have yet to hear all of the evidence from
4 departmental officials about it -- that the reason was
5 to avoid panic, and alarm amongst the public. It may
6 be said that there was a degree of contrast between
7 that approach to communication with the public and the
8 approach which you and the Department took shortly
9 after, when the tombstone advert and that campaign was
10 issued, where, although the purpose was not to alarm
11 but to inform emphatically, it was well understood
12 that a consequence might be alarm and that would be
13 perhaps no bad thing, I suspect, in the view of the
14 Department, if I'm right.

15 So between the two, there has been a change of
16 approach and I appreciate that your view would be that
17 a communication should always be open and full and
18 informative, at least to the best of one's ability,
19 and presumably that would include telling the public
20 if you just don't know because the information hasn't
21 got to that stage.

22 **A.** Yes, and I agree with all of that.

23 **SIR BRIAN LANGSTAFF:** But, at what stage is there the
24 tipping point or was there the tipping point, do you
25 think, between those two views, looking back on it,

162

1 I just think you get -- I mean, even from the point of
2 view of those people who take that view. It often
3 means that you get into more trouble than you might
4 otherwise do.

5 But one was an honest approach, the other was
6 a public relations, okay, you can -- a patrician
7 approach as well, rather. You know, you're just the
8 public, we can tell you what's good for you and we --
9 it was a very different kind of approach and one that,
10 personally, I don't share, and which I think, I hope,
11 has now gone entirely out of fashion, although it was,
12 I think, a bit in fashion in the '70s and '80s.

13 **SIR BRIAN LANGSTAFF:** The link that I would make between
14 that question, which was really addressing the way in
15 which there should be a reaction or may be a reaction
16 to what is an emerging threat, and it may be said that
17 there was a difference between the reaction that was
18 actually taken, albeit you wouldn't have approved of
19 it, to what was emerging and later on what had
20 emerged. But if this Inquiry had taken place 20 or so
21 years ago, as you would have wanted, it might have
22 made recommendations which would have affected or, one
23 would hope, improved the ability at least to public
24 health to respond to whatever new threat there might
25 be.

164

1 How best would you have seen, or do you see,
2 these processes being adopted which best identify
3 an emerging and serious risk, before it becomes an
4 emerged and serious risk?

5 **A.** Again, so much -- it depends a bit on the
6 circumstances, but I think the only rule I would make
7 is that you want to be honest about the position. And
8 if you have a genuine belief, a genuine honest belief,
9 that there is a serious risk emerging, then you should
10 say so, and you shouldn't actually keep that secret.
11 I think you get into -- I mean, even if you don't
12 believe in that, I think you get into much more
13 trouble if you try to push it under the carpet.

14 So, I think -- you know, honesty and openness is
15 the only thing -- at least I hope that doesn't sound
16 too pie, but I mean that is about the only way you can
17 do it.

18 I mean, the other thing, of course, about emerging
19 risks -- and I think, I suppose, in Covid in
20 particular -- is you've got to decide, you know, what
21 your standpoint is. It seems to me a bit of the
22 difficulty with Covid was that, you know, half of the
23 people were saying business is the standpoint, the
24 other half were saying public health was the
25 standpoint. But it does help matters if you have one

165

1 I think that the more information you get, the
2 quicker -- and the quicker you get it, then it makes
3 it less likely that things will happen.

4 I mean, my major criticism of what has happened
5 over the last 40 years is that it is -- this
6 Inquiry -- is, I won't say too late, but it is very
7 late. I mean, your counsel has been urging me for
8 most of two days on issues saying: couldn't it be done
9 earlier? And she's quite right to have done so. But
10 you might actually make the same criticism of the
11 Inquiry itself.

12 That's not -- if I -- with respect, Brian, it's
13 not your fault and it's not counsel's fault, but
14 I mean we have messed about for 40 years before
15 setting up this Inquiry. It's been rejected about,
16 I don't know, two or three times -- well, no, it must
17 be more than that -- over those years, and then
18 finally, frankly because of rather dubious -- for
19 dubious political reasons, I suspect, but I may be
20 wrong about that, it was brought forward.

21 I think it would be very useful if we could say
22 delays of this kind in setting up an Inquiry are not
23 acceptable. And it's easy to say that. But you
24 should also say at the same time that there are -- if
25 you're faced with a pandemic, as you were -- as you

167

1 standpoint, otherwise people get confused.

2 **SIR BRIAN LANGSTAFF:** Would your standpoint -- I'm talking
3 generally, I'm not talking specifically about Covid --

4 **A.** Yes, yes.

5 **SIR BRIAN LANGSTAFF:** -- although it would apply -- would
6 your standpoint have been that keeping the public safe
7 is one of the first, if not the first, duty of
8 Government?

9 **A.** I think it is the first duty of Government, and so
10 I would take public health as being the first.

11 **SIR BRIAN LANGSTAFF:** And therefore everything ought to
12 depend, first of all, upon: does this protect or help
13 protect the safety of the public?

14 **A.** Exactly.

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

16 Finally, if this Inquiry had -- well, this Inquiry
17 is now in process. I may make no recommendations,
18 I think that's unlikely, but I might, but if I do make
19 recommendations, would you have any recommendation you
20 would suggest I would make which, from your
21 standpoint, given your knowledge of the political
22 realities, would be likely to avoid something like
23 this -- I have to put that very generally -- happening
24 again?

25 **A.** Yes. Happening again is -- it is difficult. But

166

1 are today and you were with AIDS, then it should be
2 automatic. It shouldn't be for a public relations
3 campaign or solicitors or anyone like that to have to
4 work a year after year to get the Inquiry, it should
5 just come automatically, and the only question would
6 be when it comes.

7 Now, to some extent I think this is the
8 territory on which the Government is now on, but it's
9 taken a hell of a long time to get there. So the more
10 automaticity you can get into this, the better.

11 I mean, I think there are other questions about
12 the Inquiry. I mean, I don't think they should be set
13 up for political purposes as well. But it takes us
14 into reform of the public inquiry process, which
15 I think is beyond my scope at the moment, and
16 certainly beyond the scope of this Inquiry. I'm not
17 at the moment urging an inquiry into the Inquiries!
18 But I think at some stage we should look at it again
19 and see if there are better things.

20 But, you know, from my point of view -- and it's
21 been extremely hard work, all this, but from my point
22 of view everyone has helped and has been -- and I've
23 been treated with courtesy and fairness throughout,
24 and that's, I think, as much as one can expect as
25 a politician.

168

1 **MS RICHARDS:** Lord Fowler, is there anything else that you
 2 would wish to add?
 3 **A.** No. I thought I just added that!
 4 **MS RICHARDS:** Sir.
 5 **SIR BRIAN LANGSTAFF:** Well, I have to particularly thank
 6 you, that although you make the point that you may be
 7 83 and you could, if this Inquiry had been held
 8 earlier, have been a bit younger, but despite your
 9 age, you've shown a vigour, a clarity and an ability
 10 to emphasise what are your independent views before
 11 us. And you have in my view set out to be helpful to
 12 the Inquiry, and I thank you for that.
 13 But you may not perhaps realise just how helpful
 14 it's been to have the unvarnished views of the Cabinet
 15 Minister who was responsible between '81 and '87, the
 16 years of significant interest to this Inquiry, who can
 17 articulate the pressures on and the practicalities of
 18 decision-making in the political field for those who
 19 have responsibility for what happened. You can cast
 20 light on why, how and when decisions were made, or
 21 weren't made, by others, and indicate something of the
 22 personalities of others who have helped in one way or
 23 the other frame what happened or what didn't happen,
 24 so can I just thank you very much for that. You have
 25 our appreciation.

1 **A.** Thank you very much indeed. That's very kind of you
 2 indeed. Thank you.
 3 **MS RICHARDS:** Sir, that's it for today. We obviously will
 4 be coming back in later hearings to Government action
 5 and Government decision-making.
 6 **SIR BRIAN LANGSTAFF:** Yes.
 7 **MS RICHARDS:** But we return tomorrow to start looking at
 8 material relevant to pharmaceutical companies.
 9 **SIR BRIAN LANGSTAFF:** Yes. So tomorrow, 10 o'clock,
 10 pharmaceutical companies.

11 **(4.32 pm)**
 12 **(The hearing adjourned to 10 am on Thursday,**
 13 **23 September 2021)**
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I N D E X

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 3
 4 LORD NORMAN FOWLER (continued) 1
 5 Questioned by MS RICHARDS (continued) 1
 6 Questioned by SIR BRIAN LANGSTAFF 161
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

	1 September [1] 29/10 1 September 1983 [2] 26/9 46/25 1.05 pm [1] 103/8 10 [16] 24/7 87/19 88/13 89/10 89/12 91/4 103/17 104/16 105/3 105/8 107/19 107/25 109/8 125/18 133/23 170/12 10 million [1] 126/2 10 o'clock [1] 170/9 10 years [1] 131/15 10.00 [1] 1/2 100 [1] 68/18 100 miles [1] 70/9 100 per cent [1] 77/2 11 [1] 45/21 11.14 [1] 53/21 11.15 [1] 53/18 11.50 [2] 53/20 53/23 111 [2] 4/15 7/12 112 [1] 23/15 12 [1] 139/11 126 [2] 75/2 75/3 13 [3] 18/25 44/24 84/14 14 [2] 76/21 78/8 14 November 1983 [1] 38/5 14 October 1985 [1] 64/20 142 [1] 51/4 145 [1] 138/23 149 [1] 67/7 15 January 1987 [1] 116/18 162 [1] 84/21 163 [1] 80/21 164 [1] 80/22 165 [1] 87/8 168 [1] 23/16 169 [1] 25/9 17 [1] 120/16 18 [2] 25/2 126/16 18 October [1] 76/22 18 October 1985 [1] 72/12 19 [1] 42/18 19 November 1984 [1] 44/18 1916 [2] 129/25 129/25 1970s [1] 123/15 1974 [1] 121/7 1980 [1] 151/25 1980s [7] 141/23 141/24 142/2 144/18 145/12 149/4 154/5 1981 [1] 145/12 1982 [2] 18/1 159/10	1983 [41] 1/6 1/24 4/10 10/6 21/13 22/10 22/13 24/4 25/20 26/6 26/9 26/18 32/14 35/2 36/23 37/13 38/3 38/5 38/24 38/25 39/4 39/7 39/19 40/12 40/25 41/25 41/25 46/25 47/4 50/4 50/9 52/15 57/1 137/23 139/7 140/14 140/24 141/6 145/11 152/21 159/11 1984 [17] 41/16 41/17 42/14 42/18 44/3 44/18 45/25 47/5 47/9 47/25 48/1 50/4 50/10 50/15 54/1 62/21 63/12 1985 [33] 47/11 47/12 48/24 50/15 50/22 50/24 52/5 52/14 54/3 54/7 56/22 59/3 63/9 64/16 64/20 65/6 65/19 69/10 69/22 70/20 70/22 72/12 76/21 79/12 82/19 92/22 94/6 103/16 111/3 111/6 122/8 132/17 147/19 1986 [7] 92/18 92/19 93/13 105/14 109/6 113/14 113/17 1987 [7] 84/14 111/3 116/18 120/16 124/18 125/11 132/24 1990 [1] 133/6 1991 [3] 83/20 129/7 133/10	3 3.40 [2] 137/2 137/11 3.40 pm [1] 137/16 30 [1] 131/16 30 July [1] 62/15 30 million Blood [1] 103/23 31 October 1985 [1] 79/12 35 [2] 43/12 138/24 38 [1] 92/1	4 4 July 1983 [1] 57/1 4.30 [1] 137/5 4.32 pm [1] 170/11 40 [2] 43/8 131/17 40 years [6] 126/9 131/23 148/19 148/24 167/5 167/14 40-45,000 [1] 84/24 42 [1] 23/19 44 per cent [1] 91/23 45 minutes [1] 137/2 45,000 [1] 84/24	5 50 per cent [6] 9/11 9/12 9/13 12/14 12/18 13/6 52 [1] 133/21 53 [1] 131/21	6 6 July 1983 [1] 26/18 6.100 [1] 67/8 6.127 [1] 80/23 6.128 [1] 87/8 6.144 [1] 87/5 6.23 [2] 4/19 7/13 6.88 [1] 51/6 63 [1] 131/21	7 7 March 1986 [1] 93/13 70 [1] 92/1 73 [1] 131/21	8 8 July [1] 58/11 8 October 1985 [1] 70/22 80s [1] 141/18 83 [2] 131/21 169/7 85 [1] 106/12	9 90,000 [2] 81/9 81/15 94 per cent [1] 91/23 99 [1] 84/18	A ability [3] 162/18 164/23 169/9 able [19] 5/2 44/11 47/16 48/3 52/10 57/23 59/14 67/24 68/6 71/15 85/23 87/20 93/2 93/6 110/10 117/14 122/13 141/4 141/21 about [202] above [3] 24/10 111/10 111/11 absence [2] 93/21 162/1 absolute [1] 42/9 absolutely [20] 20/13 31/19 31/25 50/19 66/21 69/2 72/5 77/25 79/5 89/9 95/10 108/13 124/4 124/21 125/2 137/10 154/15 154/15 159/16 163/16 abusers [1] 90/21 accept [9] 2/21 8/14 9/22 17/9 24/9 72/19 74/3 135/4 138/4 acceptable [1] 167/23 accepts [1] 74/23 access [1] 1/8 accidents [2] 116/25 118/1 account [5] 16/9 52/13 97/7 97/9 99/10 accountable [1] 135/12 accurate [7] 2/8 2/23 15/24 77/2 134/19 134/21 163/20 accused [1] 49/25 Acheson [10] 42/1 44/10 53/2 95/21 109/15 110/1 131/10 143/10 145/3 163/15 Acheson's [1] 51/18 achieve [2] 34/2 123/15 achieved [7] 7/10 11/14 12/7 58/17 59/23 92/3 101/2 achievement [1] 73/11 achievements [2] 73/6 75/7 Acquired [1] 6/18 across [3] 13/25 32/13 40/9 act [1] 24/10 acted [1] 114/5 action [9] 2/13 32/17 37/13 44/4 44/6 60/22	62/9 77/6 170/4 actions [1] 135/3 actively [1] 41/18 activity [5] 33/1 49/11 84/1 95/5 122/1 actual [1] 15/17 actually [65] 6/9 14/21 19/18 19/19 20/15 27/19 29/14 30/1 30/5 31/8 31/14 31/15 34/19 35/22 37/5 44/12 46/7 46/11 48/15 56/8 56/12 69/17 73/24 74/23 79/3 83/18 84/3 86/12 87/24 88/17 89/3 91/12 95/8 96/25 97/2 98/7 98/8 99/15 99/24 102/14 102/21 108/6 112/25 115/16 116/11 128/7 128/22 128/24 130/7 131/7 143/20 145/5 146/23 149/22 150/2 150/22 152/7 154/23 155/6 155/15 159/20 163/4 164/18 165/10 167/10 add [3] 76/6 141/12 169/2 added [3] 63/2 118/14 169/3 addicts [1] 90/3 Addison [1] 104/20 addition [2] 61/3 68/3 additional [2] 87/12 87/15 address [1] 71/3 addressed [8] 4/23 10/24 33/14 44/18 132/20 132/21 137/22 157/4 addressing [4] 13/1 13/2 144/6 164/14 adds [1] 12/9 adequate [1] 126/9 adjourned [1] 170/12 adjournment [1] 103/9 administered [1] 58/14 admit [1] 116/7 admits [1] 105/24 adopt [2] 37/15 151/12 adopted [1] 165/2 advances [2] 129/3 130/2 advantage [2] 89/25 109/1 advantages [1] 2/13 advent [3] 34/8 35/5 35/7
MS RICHARDS: [19] 1/5 14/2 53/17 53/24 76/16 76/24 77/14 79/10 103/2 103/6 103/11 135/25 137/12 137/17 161/14 169/1 169/4 170/3 170/7 SIR BRIAN LANGSTAFF: [38] 10/20 11/4 11/16 11/20 12/10 12/22 13/12 14/1 53/19 76/15 76/17 76/25 77/17 78/6 78/10 78/13 78/23 79/6 103/5 103/7 136/6 136/13 136/19 136/22 137/4 137/8 137/11 161/20 162/1 162/23 164/13 166/2 166/5 166/11 166/15 169/5 170/6 170/9	70s [1] 164/12 80s [3] 18/14 115/21 164/12 81 [1] 169/15 81 and [1] 169/15 82 [2] 159/11 159/12 83 [4] 21/22 53/6 53/7 159/11 83 or [1] 53/6 84 [5] 44/9 44/16 53/6 53/9 145/11 85 [2] 60/20 81/14 86 [2] 91/20 92/23 87 [2] 91/20 169/15 risky [1] 107/10 swirling [1] 90/4 The [1] 90/12 undesirable [1] 90/20 unreliable [1] 75/13 wherever [1] 7/14	0 0.36 [1] 126/16 0.42 [1] 89/19 009 [1] 42/16 022 [2] 48/23 119/8 028 [1] 28/6 032 [1] 60/20 034 [1] 116/17 044 [1] 118/5 053 [1] 44/16 061 [1] 58/9 063 [1] 56/24	1 1 October 1985 [1] 82/19								

<p>A</p> <p>adverse [4] 111/22 111/25 112/5 113/23</p> <p>advert [4] 97/25 99/1 101/16 162/9</p> <p>advertisement [8] 95/23 97/1 106/13 106/21 107/9 107/14 154/10 163/12</p> <p>advertisements [12] 92/23 97/13 97/18 98/9 98/12 100/5 105/18 105/22 105/24 106/9 106/16 163/12</p> <p>advertising [12] 91/24 92/2 93/7 95/13 95/19 95/21 96/4 101/14 102/17 102/19 102/21 154/8</p> <p>advice [14] 1/17 1/24 18/12 38/15 52/3 52/17 52/20 53/16 67/12 75/10 76/1 82/4 82/7 142/22</p> <p>advise [1] 33/22</p> <p>advised [1] 33/4</p> <p>adviser [1] 105/3</p> <p>advisers [2] 3/3 3/6</p> <p>advisory [3] 51/11 52/4 96/10</p> <p>advocate [3] 122/25 123/9 129/9</p> <p>advocated [4] 83/20 93/25 129/6 129/18</p> <p>advocating [1] 78/15</p> <p>Affairs [1] 56/3</p> <p>affect [1] 2/12</p> <p>affected [8] 85/22 115/10 115/10 131/1 131/2 131/4 132/15 164/22</p> <p>affirmation [1] 114/22</p> <p>afford [1] 136/1</p> <p>afraid [19] 4/10 13/22 27/7 30/7 36/3 36/4 36/13 88/2 110/16 120/10 120/13 122/20 124/20 131/24 141/7 152/19 153/24 158/2 163/17</p> <p>African [1] 52/8</p> <p>after [26] 15/3 31/1 37/8 44/9 44/25 46/25 50/24 52/18 53/11 60/15 63/10 69/7 73/4 76/23 87/1 91/17 107/8 124/23 125/1 127/24 128/23 130/13 130/14 136/19 162/9 168/4</p> <p>afterwards [6] 56/1</p>	<p>125/21 131/16 131/16 131/16 131/18</p> <p>again [50] 3/7 9/2 9/6 14/4 15/14 16/10 17/1 18/19 19/4 19/23 20/1 20/18 22/7 22/20 22/22 44/17 45/13 46/19 47/12 47/18 52/10 53/19 58/19 60/11 60/21 62/16 64/2 72/12 74/11 74/11 77/21 79/1 80/2 81/5 83/10 89/18 90/18 92/21 93/8 100/21 112/20 113/3 115/20 125/9 149/2 160/17 165/5 166/24 166/25 168/18</p> <p>against [12] 9/20 9/25 104/25 114/7 120/3 120/4 123/23 123/24 123/24 139/8 143/3 159/18</p> <p>age [2] 131/20 169/9</p> <p>aged [1] 155/3</p> <p>agenda [1] 41/7</p> <p>aging [1] 134/3</p> <p>ago [2] 92/1 164/21</p> <p>agonising [1] 107/8</p> <p>agree [7] 2/3 2/11 6/9 21/4 21/10 29/8 162/22</p> <p>agreed [8] 20/18 88/25 89/8 104/4 109/18 117/8 120/11 128/4</p> <p>Agriculture [1] 135/17</p> <p>ahead [1] 70/10</p> <p>aid [1] 86/20</p> <p>AIDS [115] 1/7 6/23 22/14 28/17 28/18 33/2 34/8 34/16 35/5 35/8 37/23 37/24 38/11 38/17 39/2 39/24 39/25 40/5 41/7 41/18 42/6 42/22 43/4 43/7 43/10 43/18 44/20 44/25 45/4 45/9 49/2 49/18 51/11 51/22 52/4 52/7 53/13 54/2 54/8 54/11 54/16 56/2 58/24 60/22 63/19 65/21 66/24 70/4 70/24 71/12 73/7 80/9 80/19 83/25 83/25 84/12 85/15 85/17 87/18 87/21 88/5 88/23 89/23 90/4 90/12 90/14 90/19 91/6 91/17 91/22 91/25 94/16 96/10 97/10 98/4 99/12</p>	<p>99/19 99/23 102/4 102/10 102/24 104/2 104/6 104/17 104/22 105/17 106/12 106/19 109/16 110/1 111/15 111/19 112/15 113/9 113/10 115/16 116/10 120/24 122/6 126/18 129/7 129/23 130/7 130/24 139/8 139/15 139/17 140/3 141/1 141/2 152/21 154/15 154/19 154/20 168/1</p> <p>aim [1] 40/17</p> <p>aimed [3] 59/22 94/12 98/2</p> <p>alarm [6] 15/11 162/5 162/10 162/12 163/1 163/12</p> <p>albeit [1] 164/18</p> <p>alert [1] 94/17</p> <p>Alfred [1] 90/17</p> <p>alienate [1] 95/9</p> <p>alighted [1] 70/8</p> <p>all [100] 1/22 5/17 6/17 6/22 8/10 8/17 9/21 13/15 15/10 16/21 18/7 18/21 20/10 27/3 27/8 29/19 30/1 30/10 35/19 36/12 37/8 38/16 39/15 40/23 42/11 44/22 45/11 46/11 51/1 52/21 56/14 56/19 61/14 61/24 62/11 62/17 64/15 68/2 69/21 70/1 72/20 74/19 75/7 78/15 81/12 83/17 85/13 86/18 88/10 88/24 89/4 90/8 91/14 93/9 93/17 95/16 96/5 99/6 99/18 100/14 101/25 102/3 104/8 104/22 105/16 106/13 108/23 113/7 115/11 115/12 124/7 124/24 125/4 128/15 129/2 131/8 134/2 134/9 140/20 141/11 141/21 148/15 148/16 150/3 150/19 150/21 152/23 153/2 153/13 153/20 154/20 154/22 155/4 155/4 155/5 162/3 162/22 163/2 166/12 168/21</p> <p>allegations [1] 10/2</p> <p>alleges [1] 91/14</p> <p>allow [2] 94/9 113/6</p> <p>almost [6] 19/24 30/25 38/13 39/17 142/1 153/18</p>	<p>along [8] 56/6 73/23 84/16 91/9 106/17 110/1 127/11 145/17</p> <p>already [12] 24/14 24/19 51/23 51/25 59/9 63/5 96/18 96/21 98/25 99/4 106/2 118/15</p> <p>also [33] 6/3 25/15 25/17 29/6 29/24 30/11 32/22 34/9 34/24 36/16 58/3 58/14 60/5 68/24 72/2 84/3 84/4 94/3 96/3 108/17 108/18 112/7 116/4 116/19 124/15 127/10 131/4 140/4 140/8 150/5 152/12 159/17 167/24</p> <p>alternative [5] 57/13 107/1 131/14 149/19 150/14</p> <p>alternatives [2] 10/8 20/22</p> <p>although [14] 4/23 34/11 35/13 64/2 67/10 84/3 144/1 149/18 159/23 161/6 162/10 164/11 166/5 169/6</p> <p>altogether [3] 36/5 127/17 128/21</p> <p>always [12] 72/4 86/2 86/7 134/11 144/7 149/1 149/12 150/1 151/17 151/17 159/19 162/17</p> <p>am [17] 1/2 23/1 41/21 53/21 53/23 62/17 62/22 67/24 70/1 71/2 75/5 77/8 93/17 100/23 110/10 123/20 170/12</p> <p>amended [1] 107/15</p> <p>amendments [2] 26/23 107/12</p> <p>American [4] 66/18 145/16 150/7 150/8</p> <p>among [1] 33/2</p> <p>amongst [2] 146/5 162/5</p> <p>amount [5] 9/19 9/23 21/8 146/11 149/19</p> <p>an AIDS [2] 49/18 154/19</p> <p>an alternative [1] 150/14</p> <p>an answer [1] 38/9</p> <p>an argument [1] 66/20</p> <p>an automatic [1] 130/24</p>	<p>an EAGA [2] 82/16 82/18</p> <p>an earlier [1] 116/19</p> <p>an early [1] 157/14</p> <p>an emerging [2] 164/16 165/3</p> <p>an ex-Scottish [1] 152/7</p> <p>an example [4] 17/25 18/13 18/15 117/5</p> <p>an exercise [1] 92/17</p> <p>an extract [1] 51/17</p> <p>an honest [1] 164/5</p> <p>an important [1] 17/14</p> <p>an increased [1] 35/3</p> <p>an independent [2] 20/9 21/2</p> <p>an industrial [1] 159/14</p> <p>an inquiry [4] 83/21 129/7 129/19 131/13</p> <p>an instructing [1] 18/10</p> <p>an insurance-based [2] 149/15 149/16</p> <p>an interdepartmental [1] 71/7</p> <p>an intolerable [1] 118/14</p> <p>an observation [1] 116/14</p> <p>an unfolding [1] 50/10</p> <p>an unmeritorious [1] 124/2</p> <p>an update [1] 45/5</p> <p>anal [1] 106/11</p> <p>analysing [1] 112/11</p> <p>Anderton [1] 90/3</p> <p>announced [3] 26/7 94/6 126/3</p> <p>announcement [1] 64/18</p> <p>another [12] 32/5 60/14 73/9 73/24 97/8 102/20 105/4 133/11 144/12 151/16 160/25 161/3</p> <p>answer [13] 17/8 29/23 30/16 36/10 38/9 38/10 43/6 44/11 81/20 92/12 111/17 140/15 143/7</p> <p>answered [2] 24/16 131/7</p> <p>answering [3] 135/21 147/14 159/21</p> <p>antagonistic [1] 152/3</p> <p>anti [1] 122/24</p> <p>anti-inflammatory [1] 122/24</p>	<p>antibody [1] 43/11</p> <p>anxieties [1] 106/8</p> <p>any [86] 1/23 4/7 9/4 14/19 19/11 20/25 22/25 27/2 32/12 33/22 36/22 39/5 39/6 40/23 41/14 46/19 47/15 52/8 56/5 57/15 59/16 62/20 62/24 63/24 70/4 70/6 81/25 82/17 86/21 89/9 89/16 91/9 96/1 96/19 98/22 100/3 100/8 100/8 100/9 100/16 102/1 108/14 108/14 108/14 110/6 111/14 112/8 114/2 116/7 116/22 117/24 122/9 122/25 123/9 123/10 123/11 125/16 128/9 128/13 128/18 129/4 132/24 133/15 135/2 135/18 135/22 136/2 136/10 138/8 141/3 141/10 144/5 147/6 147/9 149/8 154/4 154/9 156/24 157/17 158/8 158/25 159/19 160/18 161/17 162/1 166/19</p> <p>anybody [3] 66/25 153/3 158/17</p> <p>anyone [9] 40/2 98/10 99/23 115/17 120/6 125/8 132/22 133/8 168/3</p> <p>anyone's [1] 98/14</p> <p>anything [20] 3/24 17/16 27/6 29/13 47/20 57/19 59/1 80/15 91/21 98/21 113/2 123/17 128/20 131/22 132/6 132/18 141/12 150/9 154/11 169/1</p> <p>anyway [1] 42/8</p> <p>anywhere [1] 9/4</p> <p>apart [3] 35/18 121/15 131/22</p> <p>apologise [2] 92/8 100/21</p> <p>apology [1] 101/5</p> <p>apparently [3] 35/9 43/2 116/14</p> <p>appear [11] 19/11 24/14 25/20 35/4 52/16 65/15 85/19 114/18 123/10 139/23 140/12</p> <p>appeared [1] 100/1</p> <p>appears [6] 33/9 73/16 98/15 104/15</p>
---	---	---	--	--	--

(45) adverse - appears

<p>A</p> <p>appears... [2] 112/1 117/15</p> <p>applause [1] 155/12</p> <p>application [1] 66/12</p> <p>apply [1] 166/5</p> <p>appoint [1] 143/17</p> <p>appointed [2] 5/24 6/1</p> <p>appointing [1] 143/13</p> <p>appointment [3] 51/25 143/17 143/25</p> <p>appreciate [3] 13/14 47/18 162/16</p> <p>appreciation [1] 169/25</p> <p>approach [11] 20/19 28/13 28/16 151/12 151/14 162/7 162/8 162/16 164/5 164/7 164/9</p> <p>approaches [2] 83/24 129/21</p> <p>appropriate [1] 78/11</p> <p>approval [2] 117/1 117/6</p> <p>approve [1] 117/16</p> <p>approved [1] 164/18</p> <p>apt [1] 112/3</p> <p>ARCH0000068 [2] 72/11 74/15</p> <p>are [89] 5/2 5/8 6/15 6/20 7/24 8/25 11/21 11/24 20/10 20/17 20/23 24/20 24/21 26/10 26/20 26/21 27/9 28/5 28/11 30/2 31/7 32/9 34/1 35/1 35/19 37/9 37/22 38/15 39/1 43/8 43/9 45/3 45/22 48/11 50/25 54/20 55/14 57/24 58/21 60/23 61/22 63/5 66/21 66/22 69/7 77/3 79/1 80/1 85/23 86/2 86/19 87/20 89/23 90/13 93/4 93/24 94/12 94/13 102/1 105/18 105/24 107/14 117/14 121/15 122/13 122/22 122/25 128/11 128/23 129/14 131/9 131/24 134/5 134/11 135/25 136/14 141/3 141/21 148/10 155/16 161/14 161/16 161/17 167/22 167/24 168/1 168/11 168/19 169/10</p> <p>area [14] 16/8 28/2 67/11 68/10 75/7 83/21 83/23 86/1</p>	<p>102/1 110/12 113/11 113/13 129/19 144/24</p> <p>areas [1] 101/21</p> <p>aren't [1] 20/23</p> <p>arguably [2] 13/18 127/4</p> <p>argue [3] 87/15 104/24 118/25</p> <p>argued [2] 69/15 90/6</p> <p>arguing [2] 143/3 150/13</p> <p>argument [11] 15/12 65/25 66/20 66/22 91/9 108/3 117/22 120/12 124/3 124/10 147/5</p> <p>arguments [1] 119/22</p> <p>arise [3] 111/23 113/24 144/1</p> <p>arisen [1] 66/10</p> <p>around [20] 24/1 25/10 28/12 29/22 36/2 38/24 44/13 45/25 54/3 56/10 58/25 64/15 69/10 83/16 94/4 97/3 102/11 137/18 154/14 159/6</p> <p>arrangement [1] 127/6</p> <p>arrangements [4] 55/25 117/1 117/6 117/16</p> <p>arranging [1] 62/17</p> <p>arrived [1] 144/21</p> <p>arthritis [1] 122/23</p> <p>Arthur [1] 62/10</p> <p>Arthur Bloom [1] 62/10</p> <p>articulate [1] 169/17</p> <p>articulated [1] 119/11</p> <p>articulation [1] 114/14</p> <p>as [250]</p> <p>aside [1] 123/7</p> <p>ask [41] 1/5 2/1 3/23 7/1 10/21 13/22 19/3 20/20 26/14 28/14 32/5 32/9 34/21 38/21 41/10 41/20 43/25 46/8 46/21 51/1 57/12 62/10 73/1 81/22 86/7 86/12 87/2 89/14 89/17 92/11 103/11 110/18 114/10 121/3 121/18 129/12 133/17 136/1 136/15 147/11 161/15</p> <p>asked [23] 24/1 24/13 26/17 33/4 37/2 43/2 44/19 49/7 80/3 83/8 89/2 89/3 91/17</p>	<p>110/13 111/13 126/18 133/17 140/25 142/8 148/19 155/24 157/25 158/13</p> <p>asking [14] 4/5 41/13 44/3 77/17 78/24 86/10 101/5 131/5 139/6 141/15 142/18 147/14 160/18 161/23</p> <p>asks [2] 51/9 110/2</p> <p>aspects [6] 56/17 56/20 61/4 71/13 89/16 92/11</p> <p>assess [1] 90/5</p> <p>assessed [1] 117/3</p> <p>assist [10] 5/2 52/10 53/5 85/24 87/20 117/14 122/13 141/4 143/12 157/15</p> <p>assistance [1] 148/4</p> <p>assisted [1] 138/17</p> <p>assisting [1] 86/20</p> <p>associate [1] 90/22</p> <p>associated [4] 51/24 84/11 121/25 122/8</p> <p>assume [1] 147/7</p> <p>assumed [1] 127/1</p> <p>assumes [1] 63/2</p> <p>assuming [4] 8/8 157/12 157/12 163/1</p> <p>assurance [2] 57/7 58/17</p> <p>attach [3] 5/11 93/14 134/7</p> <p>attendance [1] 80/11</p> <p>attended [2] 82/21 87/12</p> <p>attendees [1] 82/20</p> <p>attending [2] 14/6 82/24</p> <p>attention [9] 52/12 62/19 73/1 79/15 98/7 98/13 98/14 98/17 146/3</p> <p>attitude [5] 16/7 104/22 104/23 115/24 153/10</p> <p>attitudes [3] 73/11 91/23 105/7</p> <p>attracted [1] 121/23</p> <p>Aug [1] 61/24</p> <p>August [18] 29/11 29/15 29/24 29/25 30/3 30/7 30/21 30/25 31/6 31/13 31/24 32/3 33/19 33/19 35/2 37/13 47/8 61/25</p> <p>August 1983 [1] 35/2</p> <p>Australia [3] 44/23 64/21 69/21</p> <p>authored [1] 66/6</p> <p>authoritative [1]</p>	<p>31/10</p> <p>authority [2] 89/5 106/13</p> <p>autobiography [1] 51/18</p> <p>automatic [3] 130/23 130/24 168/2</p> <p>automatically [1] 168/5</p> <p>automaticity [1] 168/10</p> <p>autonomy [1] 17/12</p> <p>availability [3] 62/12 62/19 114/5</p> <p>available [16] 19/14 22/12 26/8 38/16 51/14 61/14 61/19 61/21 63/18 80/18 80/24 82/13 83/12 93/23 124/24 125/4</p> <p>avoid [15] 7/4 8/15 11/4 11/21 12/19 62/20 65/2 73/15 81/11 83/14 112/8 146/19 146/19 162/5 166/22</p> <p>avoided [2] 12/4 112/19</p> <p>avoiding [3] 8/18 11/9 16/6</p> <p>await [1] 66/14</p> <p>awarded [1] 113/25</p> <p>awards [1] 80/25</p> <p>aware [6] 14/19 34/5 128/17 128/17 131/4 145/13</p> <p>away [5] 38/3 90/7 108/12 126/22 128/6</p> <p>awful [3] 124/12 128/16 131/9</p>	<p>68/8 95/3 96/2 109/20 139/13 139/15 140/1 140/11 141/3</p> <p>balanced [2] 65/9 94/24</p> <p>balancing [1] 62/2</p> <p>ban [4] 1/21 1/22 8/10 8/17</p> <p>banned [1] 21/16</p> <p>banning [1] 151/8</p> <p>Barney [3] 64/19 82/20 87/11</p> <p>Barney Heyhoe [3] 64/19 82/20 87/11</p> <p>Baroness [2] 107/7 113/15</p> <p>Baroness Trumpington [2] 107/7 113/15</p> <p>based [5] 75/10 75/15 76/1 149/15 149/16</p> <p>basic [4] 94/15 94/24 115/9 158/18</p> <p>basically [8] 5/20 26/3 27/17 59/20 74/18 74/23 77/19 83/5</p> <p>basis [9] 2/2 3/11 10/16 15/15 16/4 21/14 22/9 77/20 92/5</p> <p>batches [1] 43/15</p> <p>be [231]</p> <p>beaches [1] 30/4</p> <p>bearing [2] 29/8 63/11</p> <p>beat [1] 88/17</p> <p>beautiful [1] 155/2</p> <p>became [6] 22/12 41/9 50/22 64/3 122/7 152/1</p> <p>because [91] 2/11 3/16 5/16 9/10 11/6 12/13 12/25 15/17 19/4 19/21 20/12 22/1 26/17 29/11 30/3 30/14 31/15 32/25 34/8 35/5 35/7 36/1 40/13 41/2 42/4 49/9 52/21 55/25 58/1 59/19 63/15 67/3 68/17 68/22 69/8 77/10 77/19 77/21 78/16 79/4 79/16 80/4 80/6 80/14 86/1 92/9 93/3 95/14 101/11 102/2 109/9 113/10 116/24 117/25 119/1 119/13 120/4 120/10 121/18 121/24 122/6 123/22 124/2 124/5 125/16 125/20 125/24 126/4 127/11 128/1 128/21 130/15 131/1</p>	<p>131/13 132/21 134/8 141/1 142/12 142/19 143/18 144/8 144/20 148/21 151/2 152/4 154/20 159/9 160/4 161/1 162/20 167/18</p> <p>become [6] 41/17 46/3 59/2 73/12 128/17 150/10</p> <p>becomes [2] 159/9 165/3</p> <p>becoming [3] 22/16 42/15 104/2</p> <p>been [172]</p> <p>before [32] 7/12 10/20 19/6 21/14 31/24 35/5 39/9 39/17 50/25 53/24 55/20 57/12 74/12 84/15 89/16 92/12 96/9 100/23 103/11 114/5 114/21 121/3 133/15 136/11 138/19 139/5 144/21 151/3 154/11 165/3 167/14 169/10</p> <p>beforehand [3] 90/1 133/10 156/15</p> <p>beg [1] 59/24</p> <p>begin [1] 152/3</p> <p>beginning [10] 24/18 25/11 30/25 32/2 47/3 74/17 92/21 131/21 134/24 153/19</p> <p>begins [1] 54/3</p> <p>behalf [5] 33/18 33/21 114/19 131/19 161/15</p> <p>behaviour [3] 92/5 98/3 110/13</p> <p>behind [4] 51/15 70/8 91/14 145/3</p> <p>being [55] 5/17 8/5 8/14 11/21 14/19 16/5 17/18 19/12 20/23 28/10 30/5 33/10 35/10 36/23 37/7 40/19 43/15 45/5 45/7 45/9 45/9 45/22 49/22 50/14 57/15 63/13 63/15 67/12 73/16 76/1 76/12 78/17 79/25 83/16 90/23 91/8 99/3 106/18 117/3 117/15 119/11 119/19 121/8 137/24 139/14 140/25 146/19 147/9 148/19 152/25 158/7 159/4 160/14 165/2 166/10</p> <p>Belfast [1] 85/5</p> <p>belief [3] 114/14 165/8 165/8</p> <p>believe [3] 114/12</p>
--	--	--	---	--	--

<p>B</p> <p>believe... [2] 118/23 165/12</p> <p>believed [2] 74/8 140/2</p> <p>below [4] 102/24 102/25 107/5 111/7</p> <p>benefit [1] 119/4</p> <p>benefits [1] 68/2</p> <p>bent [1] 155/6</p> <p>best [21] 12/1 12/3 12/4 15/5 15/10 17/15 30/11 69/6 77/11 77/13 78/19 99/9 99/22 110/13 134/2 150/2 151/20 159/5 162/18 165/1 165/2</p> <p>best-known [1] 134/2</p> <p>better [15] 9/21 47/17 48/4 69/15 70/6 72/20 74/19 75/13 77/4 78/14 131/7 138/15 152/18 168/10 168/19</p> <p>between [26] 28/7 30/23 67/13 70/16 71/11 71/16 74/7 79/17 80/8 91/20 107/6 109/20 110/7 132/17 143/9 148/23 149/1 156/21 160/6 162/6 162/15 162/25 163/1 164/13 164/17 169/15</p> <p>beyond [4] 109/1 128/14 168/15 168/16</p> <p>bid [1] 61/4</p> <p>big [3] 41/11 150/16 151/6</p> <p>bigotry [2] 89/20 91/1</p> <p>Biological [1] 19/10</p> <p>Biologicals [4] 18/24 21/22 22/2 22/23</p> <p>birds [1] 40/22</p> <p>bisexual [1] 49/4</p> <p>bisexuals [1] 90/14</p> <p>bit [11] 11/24 14/22 53/12 77/10 131/21 136/7 159/19 164/12 165/5 165/21 169/8</p> <p>blamed [1] 86/8</p> <p>blanket [1] 17/8</p> <p>bleeding [7] 1/8 1/14 1/15 2/15 2/24 81/2 158/25</p> <p>bleeds [1] 2/19</p> <p>blood [63] 6/22 7/1 7/16 7/18 14/13 15/21 22/15 22/16 23/7 24/22 25/4 28/19 31/9 32/6 32/7 32/14 32/18 32/19 32/22 33/5</p> <p>33/23 34/11 34/25 35/3 35/9 36/14 36/24 37/1 37/1 37/16 38/4 38/7 38/12 40/6 42/22 43/3 43/8 43/17 43/17 44/25 45/10 45/10 51/24 54/25 54/25 65/7 65/22 82/14 82/15 96/16 96/17 98/22 103/23 104/1 111/16 111/19 113/16 113/17 115/1 115/3 140/9 147/21 147/21</p> <p>blood donations [1] 42/22</p> <p>Bloom [4] 4/3 62/10 65/18 142/17</p> <p>Board [1] 85/7</p> <p>bodies [1] 97/4</p> <p>body [2] 97/6 138/2</p> <p>boil [1] 29/13</p> <p>bold [1] 101/4</p> <p>bolted [1] 63/10</p> <p>book [8] 53/13 82/5 83/20 89/23 126/18 129/11 129/16 153/4</p> <p>books [1] 126/25</p> <p>borstal [1] 32/18</p> <p>borstals [3] 33/6 33/24 35/10</p> <p>both [14] 10/25 14/11 14/14 16/5 31/19 46/13 47/6 58/4 58/5 71/12 84/15 135/6 143/7 161/21</p> <p>bottom [25] 23/22 23/25 24/6 42/25 45/5 45/6 57/3 61/11 62/1 66/8 66/16 80/21 81/4 81/6 82/22 84/13 84/20 87/10 93/20 104/19 106/6 109/17 111/7 113/19 133/22</p> <p>bound [1] 29/23</p> <p>box [1] 49/1</p> <p>BPL [3] 45/15 61/18 123/16</p> <p>break [6] 50/25 53/18 53/22 53/24 100/23 137/15</p> <p>Brian [4] 130/17 161/19 167/12 171/5</p> <p>bridled [1] 100/18</p> <p>briefed [4] 19/12 19/13 20/7 20/8</p> <p>briefing [6] 93/14 109/25 140/17 156/15 156/19 157/6</p> <p>briefly [3] 18/23 43/24 49/6</p> <p>bring [4] 35/16 60/1 86/11 114/3</p>	<p>British [3] 31/18 91/18 155/15</p> <p>broadcast [1] 88/23</p> <p>broadcasts [1] 89/1</p> <p>broadest [1] 82/3</p> <p>broadly [1] 55/15</p> <p>brought [3] 15/2 150/4 167/20</p> <p>Brown [1] 33/12</p> <p>brush [2] 27/23 28/1</p> <p>BTS [1] 79/20</p> <p>bundles [2] 126/20 127/15</p> <p>burden [3] 18/21 84/25 118/14</p> <p>bureau [2] 91/18 98/18</p> <p>bureaucratic [1] 150/18</p> <p>bush [1] 88/17</p> <p>business [2] 87/24 165/23</p> <p>but [311]</p> <p>button [1] 8/3</p> <p>buy [1] 150/9</p> <p>by [115] 1/4 1/15 1/17 1/18 3/8 4/13 10/12 14/19 15/23 16/2 17/20 21/23 23/11 25/3 25/11 27/19 28/16 29/16 34/25 35/1 37/14 38/5 38/12 39/4 39/5 39/11 39/18 39/22 40/25 41/21 42/17 45/10 49/7 51/13 55/9 58/16 60/8 61/24 64/19 66/1 66/6 66/18 67/15 69/22 72/16 73/14 73/17 73/18 75/24 76/2 76/13 81/25 84/13 84/25 85/8 87/21 88/12 89/10 89/21 91/8 92/14 93/3 93/25 95/23 96/15 96/21 97/22 98/9 103/14 107/23 111/16 112/1 112/13 113/25 116/13 118/10 118/16 119/11 119/15 119/19 119/23 122/23 123/14 124/10 124/25 131/2 131/7 132/18 132/25 133/3 133/12 133/17 134/1 137/5 137/18 141/11 146/20 149/7 149/8 152/7 154/4 159/14 160/14 160/22 161/3 161/4 161/4 161/5 161/19 163/14 163/14 163/15 169/21 171/4 171/5</p>	<p>C</p> <p>Cabinet [22] 41/6 55/24 56/3 56/14 56/15 59/6 59/7 59/14 59/18 59/19 80/10 88/24 93/1 110/1 120/8 123/24 124/9 127/1 129/15 158/15 159/13 169/14</p> <p>calamitous [1] 55/14</p> <p>call [2] 77/11 118/24</p> <p>called [4] 8/23 34/16 60/14 163/22</p> <p>calls [1] 160/11</p> <p>came [18] 5/20 9/4 13/25 19/25 32/13 52/18 57/19 69/11 87/1 92/20 101/14 114/24 130/10 138/14 141/9 155/13 160/2 163/6</p> <p>campaign [44] 17/22 55/7 55/8 55/18 56/20 88/5 89/15 91/13 91/15 91/17 92/2 92/8 92/17 92/20 93/12 93/19 94/2 94/7 94/8 94/14 94/23 96/13 96/22 96/24 97/14 97/16 98/2 98/2 99/14 100/22 101/3 101/15 102/2 103/12 105/10 127/20 145/25 146/14 146/15 146/16 147/1 147/2 162/9 168/3</p> <p>campaigners [1] 134/6</p> <p>campaigns [2] 92/10 94/12</p> <p>can [127] 4/10 10/5 10/20 10/21 17/24 18/6 18/7 18/22 19/13 20/15 23/7 24/7 24/9 25/9 25/21 27/11 30/4 31/10 32/5 33/7 34/10 41/18 42/15 42/18 44/15 44/22 45/24 48/19 49/25 50/2 50/7 51/18 52/23 54/9 54/13 55/7 56/24 57/3 57/6 57/7 57/14 58/15 58/16 59/13 61/10 65/24 66/8 68/16 70/9 70/21 71/18 72/3 72/10 72/22 72/22 73/11 74/11 75/1 76/15 76/18 77/8 78/19 79/22 79/24 80/17 80/22 81/9 81/16 82/16 84/12 84/18 85/2 87/1 87/25</p>	<p>89/17 92/14 93/10 96/9 97/5 97/20 98/8 98/8 100/5 103/3 103/25 104/18 105/15 107/4 109/3 110/5 110/6 110/22 111/23 113/23 115/6 115/16 116/22 119/23 120/19 122/24 124/23 125/1 126/15 129/11 132/19 133/1 141/11 141/12 141/14 143/12 143/15 144/2 149/6 150/9 150/10 152/23 154/5 157/15 158/9 164/6 164/8 165/16 168/10 168/24 169/16 169/19 169/24</p> <p>can't [29] 5/5 14/21 33/12 35/19 47/24 48/15 48/15 50/21 53/5 59/11 88/20 96/23 101/1 115/17 120/6 122/17 122/19 123/9 126/10 132/21 135/16 137/4 140/19 141/7 141/13 143/5 143/15 152/1 155/4</p> <p>capabilities [1] 144/14</p> <p>capital [2] 124/24 125/17</p> <p>Cardiff [1] 85/5</p> <p>care [2] 123/1 142/22</p> <p>careful [2] 10/23 114/13</p> <p>carefully [3] 5/17 95/6 114/16</p> <p>caring [1] 123/5</p> <p>carpet [1] 165/13</p> <p>carried [3] 70/7 138/5 143/25</p> <p>cartoon [1] 66/15</p> <p>case [34] 19/21 30/9 31/9 43/7 55/20 59/14 65/21 65/22 68/20 86/9 87/12 87/14 108/10 114/2 118/10 118/24 119/11 119/13 119/19 120/10 120/23 123/2 123/18 123/19 123/20 123/21 125/11 130/13 131/14 135/15 142/4 142/20 153/23 163/24</p> <p>cases [13] 28/17 43/8 43/9 43/14 45/4 51/22 55/1 65/22 67/21 106/12 113/24 114/1 117/17</p> <p>cast [2] 70/15 169/19</p> <p>casts [1] 82/17</p>	<p>categories [1] 8/21</p> <p>cause [2] 34/8 122/24</p> <p>caused [1] 102/3</p> <p>causing [1] 109/21</p> <p>CBLA0002374 [1] 84/10</p> <p>ceasing [1] 114/8</p> <p>celebrity [3] 134/3 134/12 134/17</p> <p>cent [14] 9/11 9/12 9/13 12/14 12/18 13/6 43/12 68/18 77/2 91/23 91/23 92/1 92/1 106/12</p> <p>centre [9] 16/25 62/11 62/18 63/8 66/7 85/6 85/7 118/7 138/1</p> <p>centres [21] 26/8 32/19 32/22 38/14 38/16 80/18 81/1 81/8 81/10 81/15 81/18 82/23 84/7 84/23 85/4 85/13 85/20 85/22 85/25 86/4 87/10</p> <p>cerebral [1] 2/16</p> <p>certain [8] 9/23 21/8 70/1 89/15 106/15 146/11 146/11 149/19</p> <p>certainly [41] 3/5 5/22 16/13 18/16 20/5 22/25 37/18 37/20 39/4 42/2 42/7 50/15 57/19 64/18 65/3 68/14 72/1 74/4 77/14 83/20 96/25 97/4 97/6 97/8 99/22 100/8 102/4 102/18 102/25 119/6 125/6 125/7 132/14 133/11 144/18 148/8 157/14 158/14 160/25 161/12 168/16</p> <p>cetera [3] 15/12 15/12 127/13</p> <p>Chair [2] 3/9 75/24</p> <p>Chairman [1] 62/10</p> <p>challenge [3] 20/20 73/6 77/20</p> <p>challenged [2] 69/17 69/18</p> <p>challenges [1] 59/10</p> <p>challenging [1] 21/9</p> <p>chance [7] 3/17 111/18 120/1 120/2 124/21 125/7 134/1</p> <p>Chancellor [1] 123/22</p> <p>change [6] 48/5 59/21 94/18 95/17 110/16 162/15</p> <p>changed [10] 16/24 22/18 39/18 41/22 41/23 41/25 56/13 60/18 124/23 129/2</p>
---	--	---	---	---

(47) believe... - changed

<p>C</p> <p>changes [4] 145/6 153/14 153/15 153/16</p> <p>changing [2] 41/24 124/21</p> <p>chapters [1] 129/17</p> <p>characterisation [1] 134/20</p> <p>characterise [1] 112/3</p> <p>charge [1] 59/7</p> <p>check [4] 79/3 85/2 115/6 144/2</p> <p>checked [3] 163/14 163/14 163/15</p> <p>checking [1] 23/20</p> <p>chief [45] 2/5 18/3 41/22 42/5 42/14 42/19 43/1 44/2 44/6 46/15 50/18 51/13 52/15 53/2 55/16 56/25 57/4 57/22 58/10 60/12 60/12 60/21 62/15 63/21 65/5 65/8 68/10 68/14 69/2 76/4 76/4 86/12 90/2 105/23 107/7 108/17 143/1 143/8 143/13 143/23 144/3 144/4 146/13 153/11 155/11</p> <p>Chief Rabbi [1] 108/17</p> <p>Chief Secretaries [1] 86/12</p> <p>children [4] 101/8 104/11 106/3 147/2</p> <p>children's [2] 158/20 159/6</p> <p>choice [3] 12/25 102/14 147/4</p> <p>choices [1] 102/13</p> <p>choose [2] 29/24 137/9</p> <p>Chope [1] 111/12</p> <p>Christmas [1] 61/19</p> <p>chronic [3] 121/12 122/2 122/15</p> <p>chronological [2] 38/2 44/1</p> <p>chronology [1] 55/22</p> <p>circumstances [8] 31/1 35/25 59/3 116/7 117/2 123/1 123/9 165/6</p> <p>cirrhosis [1] 121/13</p> <p>civil [8] 31/13 33/15 143/16 143/25 144/10 144/15 145/7 145/9</p> <p>claim [1] 130/7</p> <p>claimed [1] 91/21</p> <p>claiming [1] 91/25</p>	<p>claims [2] 113/7 118/3</p> <p>clarification [1] 7/17</p> <p>clarity [1] 169/9</p> <p>Clarke [12] 25/17 26/2 38/6 38/9 41/2 60/15 111/9 111/17 133/24 134/16 135/2 135/7</p> <p>Clarke's [2] 38/10 133/18</p> <p>class [1] 118/4</p> <p>clause [4] 12/24 13/3 13/4 13/5</p> <p>clear [19] 2/8 14/24 18/10 22/6 34/20 35/7 36/8 38/20 46/9 59/5 79/5 82/25 104/6 104/17 147/24 150/21 151/2 161/6 161/12</p> <p>clearly [6] 7/15 7/23 37/11 55/21 113/18 153/5</p> <p>climate [1] 92/4</p> <p>clinical [3] 62/2 117/7 117/9</p> <p>clinician [4] 66/7 66/13 142/17 142/22</p> <p>clinician's [1] 66/3</p> <p>clinicians [1] 119/12</p> <p>close [4] 71/11 90/10 90/18 146/22</p> <p>closely [2] 17/24 34/23</p> <p>closing [1] 63/9</p> <p>clothing [1] 146/20</p> <p>CMO [15] 15/23 16/19 16/20 16/21 16/23 17/25 18/3 18/14 19/24 20/3 20/6 20/16 42/21 54/7 54/10</p> <p>CMO's [1] 18/2</p> <p>CMOs [2] 16/23 153/25</p> <p>coagulation [8] 7/5 8/16 10/9 11/5 11/10 11/21 12/2 121/17</p> <p>cohort [1] 98/25</p> <p>cohorts [1] 14/12</p> <p>Coldfield [2] 160/3 160/8</p> <p>colleagues [1] 107/24</p> <p>collect [1] 36/13</p> <p>collected [1] 35/10</p> <p>collecting [2] 33/5 36/24</p> <p>collection [3] 32/18 33/23 40/6</p> <p>collective [2] 138/15 143/6</p> <p>column [2] 24/5 111/7</p> <p>combat [2] 154/5 154/7</p>	<p>combination [1] 97/3</p> <p>combining [1] 104/14</p> <p>come [34] 4/10 4/17 6/8 6/25 18/23 29/23 34/14 41/4 41/6 42/24 43/24 48/14 48/14 49/13 49/19 56/6 60/11 89/14 99/16 101/15 101/16 110/18 113/3 115/20 132/19 135/10 135/11 136/4 137/1 144/9 150/13 154/18 158/17 168/5</p> <p>comes [9] 9/23 14/22 20/14 70/5 91/9 128/16 128/22 144/11 168/6</p> <p>coming [8] 40/8 60/17 105/7 107/2 146/25 160/8 160/9 170/4</p> <p>commented [1] 92/17</p> <p>comment [6] 47/19 50/8 67/24 68/6 127/8 142/18</p> <p>commented [1] 148/12</p> <p>comments [1] 24/10</p> <p>commercial [3] 62/20 121/8 151/8</p> <p>Commission [1] 129/25</p> <p>commitment [3] 119/1 124/5 124/7</p> <p>committed [1] 53/3</p> <p>committee [26] 1/12 1/19 2/6 3/10 3/25 5/9 5/12 8/9 18/24 19/6 19/9 20/9 21/2 21/3 21/23 22/19 22/21 23/1 40/7 56/3 56/14 84/11 84/16 88/23 93/1 124/14</p> <p>Committee's [2] 20/3 21/12</p> <p>committees [5] 20/13 21/5 21/5 21/6 158/15</p> <p>Commons [1] 84/13</p> <p>Communicable [1] 138/1</p> <p>communicate [1] 158/10</p> <p>communication [4] 15/24 93/5 162/7 162/17</p> <p>community [2] 98/25 146/6</p> <p>companies [2] 170/8 170/10</p> <p>comparable [1] 85/9</p> <p>comparatively [1] 147/20</p> <p>compare [1] 70/3</p>	<p>comparisons [2] 70/3 100/18</p> <p>compensate [3] 111/22 112/18 113/22</p> <p>compensation [23] 110/19 110/24 111/3 111/14 112/9 112/14 113/25 116/23 117/1 117/6 117/16 117/24 118/11 119/5 119/20 120/23 121/4 121/20 123/2 123/18 124/1 124/15 124/19</p> <p>complaining [1] 134/16</p> <p>complaint [1] 132/1</p> <p>complete [6] 18/20 23/3 38/2 64/11 75/14 84/6</p> <p>completely [4] 68/11 69/5 88/10 127/15</p> <p>completeness [2] 79/11 125/9</p> <p>completion [1] 70/11</p> <p>comply [2] 7/21 14/20</p> <p>comprehensive [1] 55/8</p> <p>concede [1] 88/19</p> <p>conceivable [1] 131/18</p> <p>conceivably [1] 157/23</p> <p>concentrate [2] 10/5 21/16</p> <p>concentrates [12] 1/9 2/17 3/13 8/11 38/13 57/14 63/12 121/9 139/10 145/13 151/8 156/5</p> <p>concentrating [1] 142/1</p> <p>concern [17] 3/14 3/15 19/14 28/2 32/17 34/8 35/8 36/25 67/16 69/19 73/16 108/5 108/6 108/7 128/9 142/23 157/23</p> <p>concerned [16] 24/15 27/22 30/5 51/22 53/16 57/24 63/19 72/1 75/5 88/11 88/18 128/11 142/9 143/1 150/15 150/16</p> <p>concerns [4] 73/18 108/16 144/4 160/10</p> <p>concluded [2] 92/2 107/8</p> <p>conclusion [3] 52/18 109/18 138/14</p> <p>conclusive [7] 14/23 38/11 38/25 39/8 39/10 157/3 161/24</p>	<p>concrete [1] 71/15</p> <p>condemn [1] 154/9</p> <p>condemning [1] 96/5</p> <p>condition [1] 82/4</p> <p>conditions [1] 21/17</p> <p>condoning [2] 152/5 152/10</p> <p>conference [2] 155/8 155/8</p> <p>confidence [4] 68/22 68/22 73/15 77/12</p> <p>Confidentiality [1] 61/1</p> <p>confined [2] 35/24 38/13</p> <p>confused [1] 166/1</p> <p>confusion [1] 142/14</p> <p>congregation [1] 97/2</p> <p>connected [1] 34/9</p> <p>connection [1] 155/25</p> <p>conscious [2] 71/2 98/23</p> <p>consensus [1] 143/6</p> <p>consequence [2] 30/20 162/12</p> <p>consequences [2] 55/12 147/7</p> <p>conservative [3] 116/3 155/8 159/18</p> <p>Conservatives [1] 144/11</p> <p>consider [4] 91/1 118/19 123/12 136/3</p> <p>considerable [2] 3/14 65/20</p> <p>consideration [9] 3/15 5/3 10/24 31/2 52/19 98/23 98/23 110/21 132/25</p> <p>considered [11] 15/10 32/24 83/16 99/6 99/7 99/8 106/8 117/10 119/15 119/18 119/23</p> <p>considering [1] 3/18</p> <p>consisted [1] 83/5</p> <p>consistent [2] 52/16 69/18</p> <p>conspiracy [1] 10/3</p> <p>conspiring [2] 9/20 9/25</p> <p>Constable [1] 90/2</p> <p>constant [2] 71/23 71/24</p> <p>constituents [3] 159/25 160/2 160/6</p> <p>constructively [1] 116/1</p> <p>consulted [1] 156/7</p> <p>contact [2] 62/11 94/21</p> <p>contain [1] 128/12</p> <p>contains [1] 157/14</p>	<p>contaminated [1] 111/16</p> <p>contending [1] 90/25</p> <p>content [11] 31/25 32/1 47/6 47/10 73/12 80/4 96/12 96/22 107/14 147/15 155/19</p> <p>context [8] 6/10 44/2 76/18 76/18 79/21 105/9 139/5 149/6</p> <p>continent [1] 52/9</p> <p>continue [4] 81/18 87/15 102/10 102/11</p> <p>continued [4] 1/3 1/4 171/3 171/4</p> <p>continuing [2] 34/17 39/7</p> <p>contract [1] 111/15</p> <p>contracted [3] 43/10 112/14 121/22</p> <p>contracting [2] 43/18 111/18</p> <p>contrary [1] 114/18</p> <p>contrast [3] 143/9 162/6 163/21</p> <p>contributed [1] 101/17</p> <p>contribution [1] 35/17</p> <p>control [5] 52/7 54/11 60/24 93/23 138/3</p> <p>controls [1] 43/5</p> <p>convened [1] 51/13</p> <p>convenience [1] 130/15</p> <p>convention [2] 160/13 160/21</p> <p>conversations [1] 71/25</p> <p>conviction [1] 75/15</p> <p>convoluted [1] 117/22</p> <p>cope [3] 82/4 84/24 85/14</p> <p>copied [2] 4/24 40/10</p> <p>copy [2] 118/9 129/12</p> <p>Core [5] 49/8 136/1 136/14 137/18 161/16</p> <p>Core Participants [1] 136/14</p> <p>correct [8] 1/25 32/1 64/9 64/10 69/3 69/5 69/6 69/12</p> <p>correctly [5] 68/1 68/7 68/8 89/22 156/1</p> <p>correspondence [14] 30/22 30/23 35/7 64/3 69/9 70/12 73/13 74/23 76/17 77/15 78/21 79/3 105/15 119/9</p> <p>cost [1] 88/22</p> <p>cosy [1] 84/1</p> <p>cough [3] 17/22 117/7</p>
---	--	---	--	---	---

<p>C</p> <p>cough... [1] 158/21</p> <p>could [67] 8/20 8/22 10/14 14/15 16/4 16/12 16/12 16/17 16/17 16/19 16/20 16/24 18/14 30/10 35/17 36/7 36/8 37/25 40/25 41/1 48/1 51/2 53/8 56/4 58/12 59/17 59/17 60/1 60/4 67/6 73/14 74/10 77/13 83/8 86/4 91/12 99/9 99/20 99/22 100/6 100/12 100/15 101/2 102/16 102/17 102/17 103/14 104/12 105/11 112/25 116/11 119/5 125/3 125/7 127/3 130/8 130/9 131/15 136/4 139/24 149/5 152/13 152/24 157/22 157/23 167/21 169/7</p> <p>couldn't [5] 8/3 8/10 16/11 16/13 167/8</p> <p>Council [12] 4/11 4/18 4/22 5/9 5/12 5/19 5/23 5/24 155/18 156/10 156/11 156/18</p> <p>counsel [6] 10/24 12/11 13/14 136/15 161/23 167/7</p> <p>counsel's [1] 167/13</p> <p>counselling [19] 61/4 80/19 81/3 81/8 81/19 81/24 82/1 82/10 82/23 83/3 83/4 83/9 83/12 83/14 84/4 84/8 85/8 85/17 124/15</p> <p>counter [1] 159/20</p> <p>counterargument [2] 65/25 67/2</p> <p>countered [2] 161/3 161/4</p> <p>counterproductive [1] 31/7</p> <p>countries [11] 7/8 11/12 11/17 11/20 12/5 12/17 12/24 64/20 69/20 70/4 102/25</p> <p>country [6] 5/20 52/8 66/13 100/17 150/9 154/12</p> <p>couple [11] 19/6 28/11 41/19 54/4 64/12 69/4 91/25 120/14 131/6 139/1 161/20</p> <p>course [29] 3/9 3/25 17/2 29/24 69/25 70/1</p>	<p>75/23 79/7 83/4 88/12 97/10 99/9 102/16 108/23 110/15 114/2 123/4 129/13 130/10 136/18 143/22 147/18 149/16 151/5 151/7 151/10 152/16 154/24 165/18</p> <p>courtesy [1] 168/23</p> <p>Courts [1] 113/25</p> <p>coverage [2] 154/23 154/25</p> <p>Covid [3] 165/19 165/22 166/3</p> <p>create [1] 97/10</p> <p>created [1] 150/5</p> <p>creation [1] 93/1</p> <p>credibility [1] 106/14</p> <p>credit [3] 52/21 88/3 89/8</p> <p>crime [2] 152/5 152/10</p> <p>crises [1] 50/11</p> <p>crisis [2] 50/10 50/16</p> <p>criteria [1] 8/5</p> <p>criticised [2] 30/3 106/14</p> <p>criticism [4] 130/17 146/13 167/4 167/10</p> <p>criticisms [1] 73/18</p> <p>cross [1] 13/15</p> <p>crucial [3] 20/13 29/12 42/9</p> <p>crude [1] 120/13</p> <p>cryoprecipitate [3] 8/21 57/11 57/13</p> <p>culpability [1] 113/12</p> <p>cure [3] 93/21 100/8 106/4</p> <p>curious [3] 129/22 130/2 130/19</p> <p>current [5] 44/20 58/13 61/4 83/24 129/20</p> <p>currently [2] 49/11 80/7</p> <p>Currie [2] 38/8 39/14</p> <p>cut [3] 89/9 95/24 95/25</p>	<p>46/21 64/14 92/13</p> <p>David [2] 103/22 105/1</p> <p>David Willetts [2] 103/22 105/1</p> <p>day [5] 25/3 31/6 63/11 135/1 135/1</p> <p>day-to-day [1] 135/1</p> <p>days [8] 76/23 98/14 129/15 131/6 147/19 159/8 163/22 167/8</p> <p>DDAVP [1] 8/23</p> <p>dead [4] 131/9 131/10 131/10 131/11</p> <p>deal [7] 15/14 20/1 56/5 80/23 105/25 112/25 134/14</p> <p>dealing [10] 26/2 31/22 40/17 47/22 112/21 112/24 115/13 140/2 140/4 149/6</p> <p>dealings [1] 132/3</p> <p>deals [1] 72/24</p> <p>dealt [3] 13/16 31/24 56/15</p> <p>Dear [3] 18/2 18/4 18/4</p> <p>death [8] 22/13 45/1 99/2 99/3 100/6 100/6 122/24 163/18</p> <p>debates [1] 155/7</p> <p>debating [1] 32/2</p> <p>decade [1] 15/2</p> <p>December [2] 47/4 94/6</p> <p>December 1983 [1] 47/4</p> <p>December 1985 [1] 94/6</p> <p>decide [2] 18/12 165/20</p> <p>decided [2] 52/1 151/5</p> <p>decision [30] 1/12 2/4 2/25 3/8 3/9 8/10 15/18 19/4 19/9 21/12 21/23 22/8 40/8 51/9 64/8 64/23 65/9 69/11 75/24 91/2 137/9 138/6 138/13 139/7 140/13 141/5 142/24 156/8 169/18 170/5</p> <p>decision-making [14] 2/4 2/25 15/18 19/9 64/8 91/2 138/6 139/7 140/13 141/5 142/24 156/8 169/18 170/5</p> <p>decisions [8] 17/11 20/23 52/24 134/9 134/18 135/3 135/5 169/20</p> <p>decreed [1] 127/1</p>	<p>dedicated [1] 68/11</p> <p>deepest [1] 113/20</p> <p>defending [2] 102/9 102/9</p> <p>deficiencies [1] 131/25</p> <p>Deficiency [1] 6/18</p> <p>deficient [2] 112/23 127/10</p> <p>defined [1] 118/23</p> <p>Definitely [1] 103/20</p> <p>degree [3] 41/9 142/13 162/6</p> <p>delay [2] 24/11 69/3</p> <p>delayed [1] 75/18</p> <p>delays [1] 167/22</p> <p>delegated [1] 46/1</p> <p>demonising [1] 99/23</p> <p>demonstrations [2] 159/17 159/19</p> <p>denied [1] 126/10</p> <p>denigrate [1] 138/8</p> <p>department [79] 5/11 9/24 10/6 10/12 14/20 15/19 16/4 16/10 16/17 17/6 17/10 17/21 26/16 28/25 29/20 33/14 36/16 37/6 37/7 37/14 38/24 39/1 39/3 39/6 41/12 44/13 47/21 50/9 53/10 64/23 69/17 70/16 70/25 71/16 72/23 73/21 74/7 74/8 77/22 77/22 78/10 80/8 83/17 85/20 88/1 88/7 88/8 93/9 95/18 109/8 111/4 112/2 114/15 114/20 119/15 119/24 123/12 126/19 132/23 134/8 135/9 135/22 142/9 142/16 142/21 145/20 145/21 150/25 151/5 151/11 151/13 153/19 154/5 157/16 158/9 158/12 159/5 162/8 162/14</p> <p>Department's [7] 33/10 77/9 135/5 138/6 140/13 142/23 151/12</p> <p>departmental [3] 33/4 33/23 162/4</p> <p>departments [7] 46/8 71/11 74/20 128/10 128/11 156/6 156/7</p> <p>depend [1] 166/12</p> <p>depended [2] 50/13 161/11</p> <p>dependence [1] 7/16</p> <p>dependent [2] 9/13 13/6</p>	<p>depends [2] 49/20 165/5</p> <p>Depo [1] 111/8</p> <p>Depo-Provera [1] 111/8</p> <p>Deputy [1] 76/4</p> <p>describe [3] 81/20 89/19 140/5</p> <p>described [6] 96/18 101/13 126/17 139/14 139/19 143/9</p> <p>describes [2] 107/22 121/10</p> <p>description [1] 82/22</p> <p>designated [1] 38/14</p> <p>desirable [1] 117/9</p> <p>desk [5] 13/15 13/25 32/13 40/9 57/19</p> <p>despite [2] 66/10 169/8</p> <p>destruction [1] 128/19</p> <p>detail [8] 25/22 45/14 47/19 67/10 67/25 121/2 124/17 157/4</p> <p>detailed [2] 3/4 155/19</p> <p>determine [1] 33/25</p> <p>determined [1] 138/13</p> <p>detering [1] 98/3</p> <p>develop [3] 65/21 93/22 121/12</p> <p>developed [4] 50/12 82/6 141/22 141/25</p> <p>development [2] 66/14 94/8</p> <p>developments [1] 22/25</p> <p>develops [1] 65/21</p> <p>devolve [2] 40/25 41/10</p> <p>DHSC0000194 [1] 113/14</p> <p>DHSC0000514 [1] 62/14</p> <p>DHSC0001383 [1] 120/15</p> <p>DHSC0002114 [1] 54/6</p> <p>DHSC0002309 [1] 44/16</p> <p>DHSC0002321 [1] 28/6</p> <p>DHSC0002323 [1] 42/16</p> <p>DHSC0002327 [1] 60/20</p> <p>DHSC0002482 [2] 75/2 75/3</p> <p>DHSC0002484 [2] 56/24 58/9</p>	<p>DHSC0014947 [1] 116/17</p> <p>DHSC0044118 [1] 70/17</p> <p>DHSC010103 [1] 79/13</p> <p>DHSC0105117 [1] 93/13</p> <p>DHSS [5] 26/22 60/7 84/22 142/7 156/17</p> <p>Diana [1] 154/25</p> <p>diary [2] 104/4 109/22</p> <p>did [69] 1/15 4/6 4/9 17/21 30/16 44/14 46/8 53/10 60/5 67/18 69/13 74/3 74/4 74/20 76/7 79/24 81/24 83/22 91/10 91/15 91/16 91/17 92/25 95/16 95/25 97/6 97/9 98/16 98/17 99/18 99/19 100/5 100/12 100/13 108/21 111/1 112/11 116/1 122/10 123/8 124/22 125/19 127/5 127/5 127/21 129/9 133/7 133/10 133/10 138/8 146/8 148/1 149/19 151/23 153/3 153/19 154/19 154/25 155/7 156/17 157/22 158/8 158/23 158/24 159/1 159/2 160/9 163/6 163/7</p> <p>did -- I [1] 74/3</p> <p>didn't [41] 8/5 13/15 15/11 19/19 19/19 19/20 20/11 36/13 40/20 50/6 56/10 74/24 85/23 86/13 88/8 88/13 88/16 89/9 95/24 102/4 110/16 115/21 116/10 123/8 125/6 127/23 128/7 129/2 130/12 142/12 144/1 148/18 150/22 151/17 152/15 153/1 153/14 154/9 157/6 163/4 169/23</p> <p>die [8] 2/15 89/24 97/15 97/24 99/3 122/2 122/15 129/17 44/24 131/2 132/16</p> <p>difference [1] 164/17</p> <p>different [14] 28/22 65/15 66/23 69/25 88/16 105/2 112/10 112/21 116/9 145/24 151/5 151/7 156/4 164/9</p> <p>differently [2] 37/17</p>
---	--	---	---	--	--

<p>D</p> <p>differently... [1] 150/21</p> <p>difficult [19] 29/14 33/22 36/1 37/22 37/22 56/11 96/25 97/1 98/14 100/2 116/12 122/25 129/4 141/10 144/7 144/15 148/22 153/16 166/25</p> <p>difficulties [4] 66/10 107/21 118/21 149/3</p> <p>difficulty [5] 107/25 108/2 148/21 148/24 165/22</p> <p>dilemma [1] 66/4</p> <p>direct [9] 39/23 46/19 54/1 70/24 86/17 142/20 147/20 148/7 149/11</p> <p>directed [3] 49/10 54/7 55/9</p> <p>directly [7] 42/15 46/3 58/22 59/2 59/25 105/13 119/7</p> <p>director [3] 66/7 118/7 137/25</p> <p>directors [8] 33/25 34/5 34/18 38/14 62/11 62/12 62/18 63/8</p> <p>disadvantages [1] 2/13</p> <p>disagreed [1] 15/9</p> <p>disagreement [2] 21/7 21/8</p> <p>disaster [1] 84/2</p> <p>disastrous [1] 75/16</p> <p>discharging [1] 144/5</p> <p>discovered [1] 146/12</p> <p>discrepancy [1] 85/10</p> <p>discrete [1] 80/17</p> <p>discrimination [1] 155/11</p> <p>discuss [3] 54/4 104/3 109/15</p> <p>discussed [1] 63/12</p> <p>discussing [2] 26/18 34/18</p> <p>discussion [8] 37/19 45/19 55/16 57/16 57/18 60/23 110/7 110/22</p> <p>discussions [4] 86/21 96/12 96/20 147/15</p> <p>disease [15] 61/20 66/24 84/5 93/24 109/21 110/3 112/4 112/22 115/13 115/20 121/25 129/23 130/1 138/1 138/4</p>	<p>diseases [1] 104/11</p> <p>disorders [5] 1/8 2/15 2/24 81/2 158/25</p> <p>dispel [1] 94/15</p> <p>dispute [1] 159/14</p> <p>disputed [2] 74/19 74/20</p> <p>dissimilar [3] 6/1 6/3 27/24</p> <p>distance [1] 5/4</p> <p>distaste [1] 153/13</p> <p>distinct [1] 97/5</p> <p>distinguish [2] 148/23 148/25</p> <p>distinguished [3] 68/13 138/10 143/4</p> <p>distributed [2] 46/24 47/7</p> <p>distribution [1] 24/12</p> <p>division [13] 13/18 13/23 28/8 28/8 33/13 33/16 33/20 109/1 142/5 142/6 145/8 145/22 156/21</p> <p>Division's [1] 32/16</p> <p>do [93] 6/5 6/6 7/19 8/4 16/12 16/17 16/20 20/23 31/6 31/8 32/23 34/17 36/1 36/21 41/1 41/15 47/16 50/8 50/25 51/14 55/21 55/23 56/9 63/13 67/24 69/5 78/19 79/7 81/22 83/16 86/6 86/14 86/19 86/21 88/6 88/22 91/1 91/18 92/12 93/6 96/19 97/11 99/20 99/21 100/11 101/7 101/12 101/20 102/10 102/11 104/9 104/12 104/15 108/12 112/2 114/22 115/18 115/19 120/2 122/24 123/8 123/18 125/13 128/3 130/2 131/25 134/7 134/10 134/19 136/1 136/17 137/11 139/5 140/11 141/3 144/13 149/1 149/19 150/10 151/10 152/23 156/17 157/22 158/23 161/11 161/18 161/20 162/24 163/3 164/4 165/1 165/17 166/18</p> <p>doctor [5] 16/3 18/2 18/4 18/12 115/14</p> <p>doctors [6] 14/11 114/4 114/12 114/15 123/5 123/8</p> <p>document [17] 4/20 18/10 26/14 26/16</p>	<p>28/6 44/1 51/19 60/21 61/9 66/1 66/2 93/10 98/1 103/16 103/17 107/4 122/9</p> <p>documents [24] 5/6 25/23 28/5 32/9 41/19 50/4 50/24 54/4 60/19 64/21 67/4 81/12 86/20 89/17 92/14 92/15 120/14 123/11 147/13 147/23 148/2 148/9 148/14 148/16</p> <p> dodging [1] 106/15</p> <p>does [15] 13/12 19/14 35/8 36/25 40/11 49/5 52/17 59/24 68/5 69/19 74/16 117/4 159/22 165/25 166/12</p> <p>doesn't [13] 16/14 19/10 19/16 21/2 32/3 52/16 117/18 123/10 137/6 139/23 140/12 151/15 165/15</p> <p>doing [19] 9/15 15/5 23/1 29/12 48/17 52/21 53/1 66/22 74/9 95/14 95/17 99/25 104/22 125/24 144/20 146/17 154/7 155/2 163/5</p> <p>domestic [4] 22/14 22/16 28/19 140/9</p> <p>don't [91] 1/23 3/3 5/21 9/4 9/10 11/25 13/3 17/3 18/6 20/11 20/24 23/3 23/4 27/5 28/22 30/19 31/16 32/12 40/2 41/14 46/19 47/10 49/21 49/24 53/7 58/6 59/13 60/5 62/5 68/12 74/6 81/20 86/19 86/24 86/24 87/1 89/24 91/5 92/7 92/13 95/24 97/15 97/24 98/10 99/3 99/17 111/1 114/24 114/25 115/14 115/15 115/17 116/20 117/22 122/8 122/11 125/25 128/9 128/20 128/25 129/17 132/16 133/10 136/10 136/22 136/25 138/8 138/18 140/16 141/7 142/19 142/25 144/10 144/19 144/25 145/1 145/18 146/10 146/10 151/2 152/19 153/2 154/20 157/10 158/3 162/20 163/2 164/10 165/11 167/16 168/12</p> <p>Donald [22] 16/23</p>	<p>42/1 44/10 50/18 51/18 51/20 52/14 53/2 57/23 60/18 63/2 95/21 109/15 110/1 131/10 143/10 143/23 145/3 153/4 153/7 153/18 163/15</p> <p>Donald Acheson [5] 95/21 110/1 131/10 145/3 163/15</p> <p>Donald's [1] 52/12</p> <p>donation [2] 34/25 96/17</p> <p>donations [8] 34/1 34/7 34/15 42/22 65/8 66/21 145/15 145/16</p> <p>done [33] 9/8 10/6 19/12 45/6 45/9 48/3 51/12 59/17 59/18 60/4 63/13 63/15 77/13 86/5 95/19 98/21 98/22 102/18 105/6 110/4 130/25 133/11 143/15 143/16 143/24 144/16 144/17 152/24 152/24 160/7 161/1 167/8 167/9</p> <p>donor [4] 7/1 23/7 25/3 25/4</p> <p>donors [6] 6/22 24/22 31/9 34/3 34/13 43/18</p> <p>doomed [1] 120/1</p> <p>door [1] 63/10</p> <p>doubled [1] 91/22</p> <p>doubt [4] 44/10 85/2 104/23 161/10</p> <p>doubtful [1] 125/15</p> <p>doubtless [3] 9/15 10/8 88/15</p> <p>down [16] 10/4 18/22 30/15 39/17 49/25 50/2 62/16 67/9 81/9 104/19 106/23 110/5 112/13 121/11 141/14 161/5</p> <p>Dr [43] 1/11 1/11 1/21 4/2 23/12 23/25 24/1 24/13 24/16 24/18 25/2 25/12 25/19 29/5 40/7 42/17 42/17 44/17 46/14 47/5 56/25 57/5 58/10 66/6 67/5 68/5 68/12 118/6 118/10 118/12 119/7 119/9 119/20 119/20 120/17 123/8 137/21 137/22 137/24 137/25 138/9 140/18 157/5</p> <p>Dr Field [1] 137/22</p> <p>Dr Galbraith [6] 1/21 4/2 137/21 137/24 137/25 138/9</p>	<p>Dr Galbraith's [2] 1/11 40/7</p> <p>Dr Harris [3] 56/25 57/5 58/10</p> <p>Dr Jones [3] 67/5 68/5 119/20</p> <p>Dr Jones' [2] 118/12 119/7</p> <p>Dr Ludlam [3] 118/6 119/9 119/20</p> <p>Dr Peter [2] 68/12 118/10</p> <p>Dr Smithies [5] 42/17 44/17 47/5 120/17 123/8</p> <p>Dr Smithies' [1] 46/14</p> <p>Dr Walford [10] 23/25 24/1 24/13 24/16 24/18 25/2 25/12 42/17 140/18 157/5</p> <p>Dr Walford's [4] 1/11 23/12 25/19 29/5</p> <p>draft [5] 24/4 72/24 79/19 93/14 107/14</p> <p>drafted [3] 39/14 39/16 39/16</p> <p>drafting [2] 12/1 157/11</p> <p>dramatic [2] 101/4 108/4</p> <p>dramatically [1] 2/12</p> <p>draw [2] 62/18 73/1</p> <p>drawn [2] 52/12 89/23</p> <p>dreadful [1] 93/23</p> <p>dreamt [1] 147/3</p> <p>drew [2] 79/15 146/3</p> <p>drinking [1] 154/21</p> <p>drug [3] 90/3 90/20 94/12</p> <p>drugs [4] 100/9 100/10 122/24 151/21</p> <p>dry [1] 89/10</p> <p>dubious [2] 167/18 167/19</p> <p>due [7] 3/9 3/25 17/2 46/25 63/5 75/23 79/7</p> <p>during [5] 50/22 119/16 137/24 148/22 158/23</p> <p>duties [1] 126/22</p> <p>duty [2] 166/7 166/9</p>	<p>116/19 124/13 132/16 145/11 146/1 151/7 167/9 169/8</p> <p>early [6] 29/9 50/22 115/21 123/16 157/14 158/20</p> <p>earth [1] 123/25</p> <p>easily [1] 73/11</p> <p>easy [2] 66/17 167/23</p> <p>Edinburgh [2] 85/6 118/7</p> <p>educate [1] 45/22</p> <p>educating [1] 92/3</p> <p>education [20] 45/20 55/7 55/9 55/17 56/20 61/5 71/1 82/7 83/23 84/1 89/15 92/10 92/16 93/12 103/3 103/12 105/10 106/5 129/19 145/25</p> <p>Edwards [12] 64/4 69/10 69/13 70/12 70/21 72/13 73/15 76/22 78/13 79/19 79/24 80/10</p> <p>Edwina [1] 39/14</p> <p>Edwina Currie [1] 39/14</p> <p>effect [9] 8/11 26/8 27/18 63/17 69/16 82/9 100/19 107/10 143/18</p> <p>effective [8] 52/7 54/21 93/8 100/9 102/17 102/20 102/22 160/7</p> <p>effectively [4] 26/7 39/19 46/1 99/1</p> <p>effectiveness [2] 83/24 129/20</p> <p>effects [6] 111/23 112/1 112/5 113/23 114/8 120/6</p> <p>either [10] 6/4 28/25 48/2 82/14 88/14 93/21 112/2 139/24 150/22 156/9</p> <p>elaborate [3] 141/21 149/7 152/23</p> <p>elected [1] 5/23</p> <p>elective [1] 8/24</p> <p>electronically [3] 23/19 133/20 138/25</p> <p>element [1] 17/14</p> <p>elephant [1] 9/9</p> <p>else [10] 3/25 12/9 50/1 63/23 63/24 104/14 131/22 133/8 153/3 169/1</p> <p>Elstree [4] 61/18 103/24 104/13 104/25</p> <p>emerged [2] 164/20</p>
--	---	---	---	--	--

(50) differently... - emerged

F:

<p>E</p> <p>emerged... [1] 165/4</p> <p>emergency [1] 99/11</p> <p>emerging [5] 164/16 164/19 165/3 165/9 165/18</p> <p>emphasise [2] 94/20 169/10</p> <p>emphasises [1] 13/13</p> <p>emphatically [1] 162/11</p> <p>empire [1] 142/7</p> <p>employed [1] 159/16</p> <p>employment [2] 71/1 133/6</p> <p>enable [1] 85/14</p> <p>encloses [1] 118/9</p> <p>enclosing [1] 54/8</p> <p>enclosures [1] 18/7</p> <p>encountered [1] 66/18</p> <p>encourage [3] 13/19 94/18 117/9</p> <p>encouragement [1] 147/10</p> <p>end [20] 20/15 27/16 39/19 41/17 54/16 58/19 61/24 63/8 63/12 74/22 78/3 97/22 130/10 135/25 137/6 149/25 151/24 157/1 159/16 161/23</p> <p>ended [1] 119/1</p> <p>endorsed [2] 21/23 107/23</p> <p>energies [1] 60/1</p> <p>energy [1] 144/24</p> <p>engaged [1] 50/23</p> <p>engaging [1] 49/11</p> <p>engender [1] 75/17</p> <p>engendering [1] 67/17</p> <p>England [3] 84/23 151/16 156/3</p> <p>English [1] 32/22</p> <p>enormous [3] 9/18 44/13 142/7</p> <p>enough [5] 77/7 94/13 96/25 97/1 122/18</p> <p>enquire [2] 127/5 127/6</p> <p>enquiries [1] 141/11</p> <p>ensure [2] 58/15 103/25</p> <p>ensuring [3] 15/20 16/2 16/4</p> <p>entail [1] 85/15</p> <p>entered [2] 22/14 22/15</p> <p>entering [1] 28/18</p> <p>enterprising [1]</p>	<p>154/17</p> <p>entertain [1] 104/12</p> <p>enthusiasm [2] 91/3 153/21</p> <p>entirely [15] 38/20 49/14 78/4 78/18 82/25 101/23 101/23 108/15 125/22 132/18 132/18 137/9 142/21 145/24 164/11</p> <p>entitled [2] 66/2 136/14</p> <p>entitlement [1] 136/15</p> <p>entries [1] 61/22</p> <p>entry [2] 57/2 109/22</p> <p>epidemic [4] 54/8 54/11 100/15 102/15</p> <p>equally [1] 122/1</p> <p>eradicate [1] 70/2</p> <p>error [1] 115/23</p> <p>especially [5] 7/8 11/12 12/15 12/16 34/12</p> <p>essential [1] 24/10</p> <p>essentially [6] 14/11 76/1 76/3 81/14 92/17 124/18</p> <p>established [3] 115/13 135/17 150/4</p> <p>establishment [1] 71/6</p> <p>estimate [1] 54/18</p> <p>estimated [1] 100/19</p> <p>et [3] 15/12 15/12 127/13</p> <p>et cetera [3] 15/12 15/12 127/13</p> <p>etc [1] 104/11</p> <p>Europe [11] 4/11 4/18 4/23 5/9 5/19 5/24 100/17 155/18 156/10 156/11 156/18</p> <p>Europe's [1] 5/12</p> <p>European [5] 5/15 5/16 6/4 102/24 156/17</p> <p>evaluated [1] 77/1</p> <p>evaluation [7] 64/24 64/25 72/15 72/25 73/5 75/21 79/20</p> <p>Eve [1] 89/3</p> <p>even [17] 27/9 27/11 35/4 72/19 82/6 88/21 102/15 104/6 108/4 115/9 115/21 124/22 135/22 153/16 163/3 164/1 165/11</p> <p>event [7] 63/24 69/8 128/13 141/10 159/19 160/15 160/23</p> <p>ever [15] 9/19 12/1 41/15 95/19 95/24</p>	<p>110/6 110/22 119/14 119/22 127/5 128/17 135/10 135/11 154/11 158/23</p> <p>every [7] 25/3 35/15 41/13 95/22 131/18 163/12 163/13</p> <p>everybody [4] 27/22 28/1 63/18 124/8</p> <p>everyone [12] 28/23 28/24 28/24 30/4 31/2 35/21 63/23 63/24 102/18 115/10 163/25 168/22</p> <p>everything [6] 31/24 53/3 58/24 98/15 134/7 166/11</p> <p>evidence [5] 1/10 1/23 2/14 2/18 3/20 4/2 13/10 17/7 19/2 19/14 23/12 23/24 25/15 25/17 27/8 29/5 36/22 38/11 39/8 39/10 39/11 39/21 44/2 46/19 82/9 83/10 84/15 101/17 102/23 108/13 108/14 114/17 122/10 131/20 133/18 134/25 136/5 137/24 138/18 139/4 139/7 140/24 142/16 147/6 147/9 147/18 147/25 148/15 152/16 156/24 162/3</p> <p>evident [1] 127/23</p> <p>evidently [1] 126/7</p> <p>evolved [1] 56/16</p> <p>ex [5] 29/25 127/1 128/11 152/7 158/16</p> <p>ex-Cabinet [1] 127/1</p> <p>ex-journalist [2] 29/25 158/16</p> <p>ex-ministers [1] 128/11</p> <p>exact [1] 50/21</p> <p>exactly [12] 14/17 16/22 31/17 51/15 52/22 86/9 89/13 97/11 130/12 160/2 163/20 166/14</p> <p>exaggerated [1] 60/7</p> <p>examine [2] 83/24 129/20</p> <p>example [23] 2/14 8/19 8/24 17/25 18/13 18/15 18/16 22/12 28/6 53/6 56/7 64/22 71/15 88/21 97/6 106/10 107/21 108/4 117/5 140/17 151/20 154/13 156/3</p> <p>examples [4] 17/20</p>	<p>80/6 89/22 89/23</p> <p>exasperates [1] 133/25</p> <p>except [2] 146/24 153/14</p> <p>exception [1] 120/7</p> <p>exchange [4] 10/25 12/11 64/3 107/18</p> <p>exchanges [1] 80/7</p> <p>Exchequer [1] 123/23</p> <p>exclusively [1] 38/13</p> <p>excuse [3] 112/16 129/11 163/16</p> <p>exercise [3] 17/12 92/17 136/14</p> <p>exerted [1] 16/25</p> <p>exhibited [7] 42/13 47/9 47/13 48/22 64/21 109/22 116/20</p> <p>exist [3] 116/10 117/4 117/18</p> <p>expect [16] 3/4 3/5 20/2 20/6 20/8 21/25 22/4 22/24 74/7 102/4 116/22 156/6 156/20 160/15 160/23 168/24</p> <p>expectation [2] 160/16 160/24</p> <p>expected [6] 21/15 21/19 22/19 37/13 37/18 61/18</p> <p>expecting [3] 9/2 127/11 127/12</p> <p>expended [1] 125/17</p> <p>expenditure [1] 125/5</p> <p>experience [11] 5/25 37/21 41/15 60/8 126/24 144/17 144/23 150/7 150/8 158/19 160/12</p> <p>experienced [1] 144/22</p> <p>expert [12] 22/25 29/22 38/15 51/11 52/3 52/3 52/16 52/19 67/12 68/10 96/10 142/10</p> <p>expertise [2] 56/5 160/12</p> <p>experts [4] 1/18 3/18 45/16 93/25</p> <p>explain [4] 4/21 51/15 105/20 124/24</p> <p>explained [4] 71/4 86/17 87/14 114/16</p> <p>explaining [1] 114/13</p> <p>explains [3] 34/16 65/12 72/16</p> <p>explanation [4] 13/5 30/17 51/21 83/5</p> <p>explicit [1] 141/5</p> <p>explore [5] 8/12 9/7</p>	<p>20/22 49/6 133/14</p> <p>explored [4] 8/25 147/18 157/3 157/5</p> <p>exploring [2] 101/5 112/25</p> <p>exports [1] 13/7</p> <p>expose [1] 98/3</p> <p>exposition [1] 53/4</p> <p>express [1] 74/5</p> <p>expressed [7] 32/17 71/23 73/17 73/18 112/9 146/5 160/10</p> <p>expresses [1] 153/5</p> <p>expressing [1] 77/5</p> <p>expression [1] 150/17</p> <p>extend [1] 59/21</p> <p>extent [6] 83/11 134/17 141/25 150/23 151/8 168/7</p> <p>extra [3] 84/25 85/15 88/9</p> <p>extract [1] 51/17</p> <p>extraordinarily [1] 36/1</p> <p>extraordinary [3] 63/21 127/9 128/4</p> <p>extremely [4] 41/5 62/24 102/21 168/21</p>	<p>63/17 114/7 121/9</p> <p>factored [1] 140/13</p> <p>factors [4] 8/2 11/10 11/21 121/17</p> <p>facts [1] 94/15</p> <p>factual [2] 33/9 151/3</p> <p>factually [1] 3/11</p> <p>fading [1] 134/3</p> <p>failing [1] 17/6</p> <p>failure [3] 73/14 120/1 123/15</p> <p>faint [1] 73/14</p> <p>fair [5] 27/19 29/16 72/5 112/3 146/23</p> <p>fairly [6] 18/16 71/17 73/3 74/1 76/8 97/20</p> <p>fairness [3] 140/8 150/5 168/23</p> <p>Falklands [2] 127/3 159/12</p> <p>fall [1] 97/23</p> <p>falls [1] 97/22</p> <p>false [4] 66/17 67/17 67/21 75/17</p> <p>families [6] 29/20 61/11 118/15 118/20 118/23 131/3</p> <p>family [4] 29/17 29/18 55/13 159/25</p> <p>famous [2] 100/5 135/15</p> <p>far [19] 10/14 13/21 19/13 47/15 51/22 53/15 55/2 63/19 71/17 88/10 88/17 106/12 119/23 124/9 124/9 132/25 141/9 146/8 158/8</p> <p>fashion [2] 164/11 164/12</p> <p>fatal [3] 51/23 54/21 139/24</p> <p>fate [2] 102/6 102/7</p> <p>fathers [1] 101/10</p> <p>fault [14] 95/10 101/24 101/24 102/2 112/17 112/24 116/7 119/4 123/13 130/6 134/12 142/11 167/13 167/13</p> <p>favour [6] 31/24 34/25 65/10 65/25 68/18 163/25</p> <p>favourable [1] 91/24</p> <p>fear [4] 101/13 101/18 118/4 163/18</p> <p>fearing [1] 147/7</p> <p>February [4] 47/5 47/12 111/6 120/16</p> <p>February 1985 [2] 47/12 111/6</p> <p>February 1987 [1]</p>
--	--	--	---	---	---

F	140/21 flam [1] 118/4 floodgates [1] 120/12 fly [1] 74/3 focused [3] 10/25 11/1 122/6 follow [2] 142/12 155/16 followed [2] 43/15 159/14 following [3] 97/13 116/4 116/13 follows [3] 12/8 53/3 107/6 foolish [1] 113/12 forceful [1] 76/8 forcefully [1] 74/5 forces [1] 67/18 forefront [1] 129/24 foreign [2] 61/13 61/20 foremost [1] 102/14 forever [2] 102/9 154/7 forget [1] 146/18 form [9] 51/9 60/7 82/10 94/25 118/23 119/4 119/20 125/12 156/20 formal [3] 5/11 55/19 86/25 formation [2] 51/16 51/21 former [1] 41/5 formidable [1] 41/3 forms [1] 157/9 formulation [1] 157/14 Forsyth [1] 151/25 forthright [2] 71/20 71/21 forthwith [1] 58/18 forums [1] 75/9 forward [4] 52/25 119/19 123/22 167/20 found [2] 66/20 118/19 four [3] 76/23 81/9 91/19 four days [1] 76/23 fourth [1] 48/17 FOWLER [56] 1/3 1/5 3/23 4/14 9/2 9/7 14/3 19/2 23/25 25/22 27/1 31/20 32/13 38/19 42/25 45/14 52/11 53/24 59/24 62/4 67/2 73/2 75/23 80/3 80/20 82/20 83/10 85/18 86/14 87/5 92/12 100/24 103/11 104/9 107/6 107/11 109/19	114/11 114/18 117/13 122/5 126/14 134/5 134/25 136/9 137/17 139/4 142/11 151/3 157/2 159/22 160/11 161/18 161/21 169/1 171/3 Fowler's [7] 26/20 67/7 79/15 107/5 126/15 136/5 136/8 frame [1] 169/23 France [1] 69/22 frank [1] 124/25 frankly [11] 5/5 11/25 28/4 29/2 74/22 86/5 92/6 116/2 130/15 153/2 167/18 frankness [1] 116/8 free [8] 125/2 130/1 137/9 150/25 151/10 151/22 151/23 152/5 frequent [1] 27/18 friend [2] 69/14 90/10 from [161] 2/16 3/13 5/20 6/2 6/8 7/7 9/23 10/2 12/3 12/8 13/7 16/25 21/18 24/2 26/8 28/18 28/21 30/24 32/14 32/18 33/6 33/11 33/12 33/19 33/23 34/1 35/3 35/10 35/18 36/14 36/24 38/4 38/8 38/9 38/17 38/23 39/17 39/20 39/21 40/6 42/13 42/16 42/19 43/18 43/18 43/20 44/17 44/23 44/24 48/5 49/2 49/14 50/4 50/15 50/20 50/24 51/17 51/19 53/4 53/12 54/7 55/4 56/25 57/4 57/9 58/10 58/20 59/6 60/21 62/21 64/18 65/17 67/5 68/4 68/15 72/3 72/12 72/23 74/7 74/13 74/14 75/5 78/5 80/17 82/19 82/25 85/7 85/19 85/19 88/8 88/9 89/23 90/7 91/3 91/22 92/1 92/15 95/15 96/4 98/3 99/12 101/9 101/14 103/25 104/2 104/18 104/19 105/13 105/15 109/6 111/3 111/12 111/17 111/19 111/23 113/15 113/24 114/19 114/24 116/18 118/6 119/9 120/16 121/15 123/10 123/18 124/10 126/12 126/22 128/6 131/22	137/2 137/19 138/18 139/3 139/15 139/17 139/23 140/18 140/23 142/22 144/11 144/12 145/3 145/12 145/13 145/16 151/5 151/24 153/18 153/19 154/21 157/15 161/15 161/17 162/1 162/3 164/1 166/20 168/20 168/21 from 1984 [1] 62/21 front [1] 86/12 fronts [1] 108/21 fuelled [1] 89/21 fulfilled [3] 160/16 160/24 161/13 full [7] 17/11 46/11 50/19 64/13 154/15 154/16 162/17 full-informed [1] 17/11 fully [7] 20/7 20/8 73/21 75/9 85/17 148/15 159/16 fund [1] 83/18 fundamental [2] 115/14 115/23 fundamentally [2] 46/5 46/5 funded [1] 85/8 funding [19] 80/18 80/24 81/5 81/7 81/14 81/16 81/23 81/24 84/7 85/4 85/14 85/19 85/23 85/24 87/9 87/13 91/3 91/4 125/16 funds [1] 86/3 furrow [1] 150/25 further [18] 26/22 45/1 57/25 58/9 60/19 60/24 61/3 61/15 63/18 83/9 102/15 102/15 106/23 109/3 119/9 119/17 133/16 136/2 Furthermore [1] 104/12 future [1] 63/1	15/15 16/7 16/7 16/8 17/18 19/7 20/2 20/19 22/7 23/5 35/12 35/14 46/22 49/21 56/2 56/6 87/16 90/7 94/20 96/23 111/21 112/12 112/17 113/6 113/22 129/24 134/4 147/11 149/2 160/19 generalisations [1] 35/21 generalised [3] 49/22 49/23 49/24 generality [1] 28/15 generally [8] 21/6 27/21 47/20 81/3 91/24 143/12 166/3 166/23 genuine [2] 165/8 165/8 Geoffrey [1] 143/22 Geoffrey Otton [1] 143/22 Germany [1] 69/22 get [41] 12/24 13/3 13/4 13/5 30/11 31/4 40/10 40/20 55/24 64/12 69/6 74/22 79/4 80/9 86/8 87/6 88/8 93/2 93/2 93/4 96/2 98/14 102/4 120/2 123/25 124/22 151/14 151/18 154/20 163/8 163/19 164/1 164/3 165/11 165/12 166/1 167/1 167/2 168/4 168/9 168/10 get-out [2] 13/3 13/5 gets [2] 35/25 160/4 getting [5] 31/24 63/23 98/7 107/22 163/16 give [23] 13/19 18/11 18/12 25/21 28/5 36/7 36/8 46/21 50/21 57/7 66/24 70/9 71/15 89/4 92/13 97/5 124/11 131/20 136/6 136/17 152/4 154/13 155/17 given [27] 1/17 1/18 5/3 10/12 13/17 23/20 28/16 28/17 30/17 31/21 31/21 35/1 37/11 39/21 43/19 50/14 52/11 67/12 76/2 82/5 89/22 98/24 106/3 110/21 116/25 132/25 166/21 giving [6] 17/8 25/4 50/18 96/4 99/24 124/11 Glasgow [1] 85/7	Glenarthur [9] 25/16 26/1 26/2 29/5 41/4 46/2 118/6 139/6 141/8 Glenarthur's [4] 138/18 139/4 140/15 140/23 go [65] 7/11 8/6 23/18 23/22 24/5 25/8 30/8 36/2 40/14 41/12 43/15 44/21 44/21 45/12 45/13 48/25 51/2 54/8 54/13 56/24 61/8 61/8 62/8 62/14 62/17 66/7 68/16 70/16 71/10 72/22 77/24 79/11 80/20 81/12 82/5 82/21 84/10 84/18 89/17 92/14 93/13 93/16 94/5 94/22 96/7 104/19 105/10 106/23 107/13 113/6 116/20 118/5 118/8 118/11 120/14 121/1 121/2 126/14 126/16 138/23 139/1 147/14 148/2 151/23 159/13 goes [9] 18/12 20/15 29/4 56/10 108/2 110/2 131/11 134/14 157/2 going [58] 2/1 2/15 13/22 15/14 19/3 22/5 23/24 29/15 32/9 34/20 35/20 37/12 40/22 42/12 44/21 45/6 45/13 46/20 47/19 50/15 59/8 59/16 59/20 59/21 74/3 78/1 78/2 86/2 89/24 93/4 95/3 96/1 102/15 104/9 104/25 110/18 112/14 113/7 120/2 121/2 123/25 124/16 126/6 128/3 130/19 137/18 138/13 139/3 144/24 147/1 147/2 149/2 152/9 154/14 159/6 159/10 161/16 163/5 gone [3] 53/18 147/25 164/11 good [21] 15/13 30/15 35/18 41/5 46/10 53/17 80/12 98/11 105/4 105/5 110/2 110/12 110/14 126/11 142/25 143/14 145/1 145/5 150/5 157/25 164/8 goodness [1] 127/21
----------	--	---	--	--	--

<p>G</p> <p>goodwill [2] 9/19 9/23</p> <p>got [23] 1/14 5/25 9/22 19/6 27/1 27/16 27/20 29/1 29/15 31/5 46/11 58/1 58/2 58/8 76/10 77/11 78/25 108/15 130/7 154/23 156/24 162/21 165/20</p> <p>government [38] 5/11 10/13 10/24 13/16 13/18 14/10 15/1 15/4 15/6 21/4 30/7 39/13 55/24 73/10 79/17 95/18 95/18 100/11 100/11 113/20 116/3 116/4 118/25 125/3 125/23 128/10 130/16 133/5 133/9 150/11 154/10 158/5 158/7 166/8 166/9 168/8 170/4 170/5</p> <p>Government's [2] 73/5 75/7</p> <p>Governmental [1] 138/2</p> <p>governments [8] 21/7 30/2 94/3 123/14 123/14 132/8 132/9 132/10</p> <p>governors [2] 36/6 37/9</p> <p>grab [1] 98/17</p> <p>grabbed [1] 98/13</p> <p>grateful [1] 33/6</p> <p>grave [1] 105/25</p> <p>great [11] 60/14 69/14 89/8 97/2 97/3 119/3 121/23 127/14 128/9 135/19 136/24</p> <p>greater [6] 1/13 1/15 1/19 8/20 15/13 123/3</p> <p>greatest [1] 102/13</p> <p>grip [1] 152/18</p> <p>grounds [2] 117/8 146/14</p> <p>group [18] 3/18 32/17 32/24 33/2 33/4 45/17 51/11 51/16 51/21 52/4 61/7 61/15 70/21 70/24 71/8 73/22 96/10 118/24</p> <p>groups [8] 43/20 45/23 60/2 94/11 94/17 96/11 96/18 106/3</p> <p>growing [1] 46/4</p> <p>guarantees [1] 36/8</p> <p>guess [2] 36/5 156/25</p> <p>guessing [1] 123/20</p> <p>guy [2] 128/1 144/11</p>	<p>H</p> <p>had [197]</p> <p>hadn't [3] 41/23 59/3 63/22</p> <p>haematology [1] 142/10</p> <p>haemophilia [31] 38/14 39/2 55/3 62/18 62/25 63/8 66/3 66/6 80/18 81/1 81/8 81/10 81/15 81/18 82/23 84/7 84/23 85/13 85/21 86/4 87/9 97/7 118/7 118/16 118/25 119/12 120/21 123/2 126/4 142/17 142/22</p> <p>haemophiliac [7] 14/17 22/13 45/2 62/11 63/5 101/11 114/3</p> <p>haemophiliacs [40] 2/9 3/13 4/5 8/21 8/23 14/7 27/25 43/10 43/12 57/8 57/24 58/23 60/3 61/11 61/15 62/9 68/25 81/6 82/1 101/22 103/25 112/21 113/10 113/21 114/4 114/8 114/12 115/11 116/24 117/25 118/11 119/21 120/22 121/22 122/2 122/15 125/12 139/9 139/15 139/16</p> <p>haemorrhages [1] 2/16</p> <p>haemotherapy [1] 14/8</p> <p>half [7] 23/22 111/7 133/22 136/4 139/2 165/22 165/24</p> <p>halfway [2] 62/16 121/10</p> <p>hand [11] 2/18 24/1 24/6 38/6 39/17 105/1 111/7 133/23 139/8 139/11 153/17</p> <p>handed [1] 133/13</p> <p>handful [2] 92/13 103/13</p> <p>handle [1] 74/4</p> <p>handled [2] 130/18 130/18</p> <p>handling [1] 130/24</p> <p>hands [5] 9/3 42/5 153/1 154/18 154/21</p> <p>hands-on [1] 9/3</p> <p>handwriting [3] 62/5 63/3 107/17</p> <p>handwritten [3] 57/2 57/21 61/22</p>	<p>happen [4] 1/20 44/14 167/3 169/23</p> <p>happened [12] 16/22 28/23 34/20 122/19 127/25 130/6 130/12 130/21 145/2 167/4 169/19 169/23</p> <p>happening [5] 3/17 47/25 50/14 166/23 166/25</p> <p>happens [3] 6/7 128/14 136/9</p> <p>happy [3] 27/8 49/16 78/4</p> <p>hard [1] 168/21</p> <p>hardly [1] 153/2</p> <p>harm [1] 96/1</p> <p>Harris [5] 56/25 57/5 58/10 116/18 120/17</p> <p>Harris' [1] 79/12</p> <p>has [67] 7/10 10/2 10/2 10/24 12/4 12/6 20/16 34/14 34/16 35/18 38/16 39/2 39/14 41/15 42/21 43/1 43/10 44/19 63/2 63/10 67/18 70/25 75/10 82/9 83/10 84/22 85/6 85/8 85/9 94/7 101/16 101/17 103/22 106/12 107/11 111/14 111/21 113/5 113/17 113/21 114/1 114/3 114/17 115/14 115/18 117/5 117/12 118/14 121/23 122/3 122/6 130/17 130/18 130/20 130/20 132/2 141/8 144/13 153/4 160/22 161/7 162/15 164/11 167/4 167/7 168/22 168/22</p> <p>hasn't [1] 162/20</p> <p>have [298]</p> <p>haven't [2] 89/25 156/24</p> <p>having [17] 1/8 22/14 22/15 30/21 45/16 46/1 52/4 58/2 58/3 68/3 97/2 110/22 120/24 131/17 136/19 149/11 161/5</p> <p>hazards [1] 14/8</p> <p>he [101] 29/17 29/18 33/21 41/3 42/7 44/12 44/14 44/14 52/18 52/18 52/19 52/20 52/24 52/25 53/2 53/8 53/8 53/10 53/11 53/13 53/14 54/14 55/11 65/6 65/12 66/9 66/15 69/5 69/15 71/4</p>	<p>71/5 71/21 71/22 72/1 72/2 72/14 72/18 72/21 74/2 74/3 74/4 74/16 74/23 74/24 74/24 76/7 76/7 76/9 76/9 76/13 76/23 77/3 77/4 77/5 77/6 77/19 78/15 78/17 79/25 83/3 83/4 87/14 89/8 104/22 105/2 105/3 111/14 118/13 118/17 118/21 118/22 125/22 125/24 127/3 128/4 128/4 134/14 134/17 138/5 138/8 143/2 144/20 144/22 145/3 146/18 146/21 152/1 152/6 152/8 153/1 153/6 153/6 153/11 153/14 153/15 153/17 153/19 153/20 153/25 155/10 155/13</p> <p>he'd [2] 134/15 152/17</p> <p>he's [3] 68/13 72/16 74/18</p> <p>head [4] 33/13 100/16 100/16 135/9</p> <p>head-on [2] 100/16 100/16</p> <p>headed [1] 60/22</p> <p>heading [4] 38/7 45/8 111/8 121/19</p> <p>headline [3] 26/12 46/21 68/21</p> <p>health [74] 9/24 14/8 19/20 21/5 26/16 29/20 30/13 31/23 33/15 33/20 35/9 36/16 37/7 40/15 41/12 46/2 47/25 48/2 50/10 50/11 53/10 53/15 56/17 56/20 60/15 61/5 71/2 71/13 74/8 77/22 80/8 82/21 83/6 83/23 83/25 85/7 86/8 86/8 89/15 94/1 94/2 95/18 95/19 109/8 109/13 126/19 127/8 129/19 132/24 144/24 145/22 146/25 147/1 149/4 149/5 149/13 149/17 149/20 149/22 150/2 150/6 150/11 150/14 150/24 153/19 155/3 156/6 158/9 158/11 158/12 158/24 164/24 165/24 166/10</p> <p>hear [2] 19/18 162/3</p> <p>heard [9] 72/4 82/9 83/11 101/17 108/9</p>	<p>108/11 114/17 134/4 136/19</p> <p>hearing [2] 148/22 170/12</p> <p>hearings [1] 170/4</p> <p>hearsay [2] 27/4 27/7</p> <p>heat [14] 45/18 57/1 58/3 58/8 61/13 61/17 61/17 61/20 62/12 62/19 63/9 63/11 63/17 114/6</p> <p>heat-treated [6] 57/1 61/13 63/9 63/11 63/17 114/6</p> <p>heavily [2] 34/6 155/14</p> <p>heavy [1] 7/15</p> <p>held [4] 93/3 96/20 114/15 169/7</p> <p>hell [2] 131/23 168/9</p> <p>help [8] 51/15 104/7 118/24 120/21 122/19 141/7 165/25 166/12</p> <p>helped [3] 148/8 168/22 169/22</p> <p>helpful [4] 79/6 107/1 169/11 169/13</p> <p>helpfully [1] 52/12</p> <p>Henry [5] 143/10 144/19 152/17 152/24 153/23</p> <p>Henry Yellowlees [1] 144/19</p> <p>hepatitis [18] 18/1 34/9 35/6 121/7 121/10 121/12 121/15 122/3 122/16 139/24 140/6 140/8 140/12 141/2 141/5 141/18 141/22 147/21</p> <p>hepatitis B [1] 18/1</p> <p>her [14] 46/14 46/14 55/13 89/1 104/21 104/23 104/25 108/2 108/6 110/16 126/22 128/6 136/20 149/23</p> <p>here [19] 8/14 21/7 23/24 31/22 38/1 39/8 51/19 58/16 75/25 76/9 82/8 112/22 115/10 126/7 126/8 131/14 132/20 148/21 150/16</p> <p>herself [1] 88/19</p> <p>heterosexual [1] 55/5</p> <p>Heyhoe [3] 64/19 82/20 87/11</p> <p>hide [1] 30/4</p> <p>Higgins [1] 97/8</p> <p>high [10] 25/4 43/20 63/4 94/1 94/17 106/2 112/4 118/4 138/9</p>	<p>140/4</p> <p>high-risk [1] 94/17</p> <p>higher [1] 34/10</p> <p>highlighted [1] 140/18</p> <p>highly [2] 32/24 73/9</p> <p>him [8] 20/8 52/21 58/19 76/12 125/24 145/2 152/25 153/1</p> <p>himself [2] 74/5 83/3</p> <p>hindsight [1] 68/2</p> <p>his [32] 2/5 37/2 44/13 52/14 53/13 53/13 55/13 65/12 66/8 69/5 71/20 72/10 72/16 74/10 78/16 80/1 89/8 90/11 104/24 127/4 138/12 139/6 143/5 144/22 144/23 153/4 153/4 153/6 153/9 153/10 153/20 153/20</p> <p>history [2] 128/13 128/14</p> <p>HIV [31] 51/22 52/7 53/13 82/1 84/25 85/15 85/23 90/4 90/6 90/8 91/15 95/10 96/6 96/16 98/20 99/5 99/12 99/23 100/2 101/9 102/1 102/10 115/16 116/10 118/14 119/22 121/22 142/1 147/22 154/2 163/18</p> <p>HIV victims [1] 102/1</p> <p>HIV/Aids [4] 51/22 52/7 53/13 90/4</p> <p>holding [4] 91/7 132/5 133/1 133/7</p> <p>holiday [1] 29/15</p> <p>home [10] 26/15 34/24 36/17 37/5 37/22 56/2 98/25 101/8 104/11 150/24</p> <p>homework [1] 153/20</p> <p>homosexual [4] 33/1 49/4 55/2 90/12</p> <p>homosexuality [1] 34/10</p> <p>homosexuals [9] 27/15 27/17 27/21 32/25 48/8 48/10 49/15 90/3 94/12</p> <p>honest [5] 80/16 91/10 164/5 165/7 165/8</p> <p>honesty [1] 165/14</p> <p>hope [13] 10/4 76/12 84/6 85/10 86/11 107/1 118/17 132/21 142/4 146/10 164/10 164/23 165/15</p>
--	--	--	--	--	---

H	103/3 124/23 125/1 141/11 141/12 143/15 144/2 I can't [13] 5/5 14/21 47/24 48/15 115/17 120/6 122/19 135/16 137/4 140/19 141/7 143/15 155/4 I come [1] 4/10 I could [3] 40/25 74/10 91/12 I decided [1] 52/1 I did [12] 46/8 60/5 69/13 79/24 83/22 111/1 133/10 133/10 154/19 155/7 159/1 159/2 I didn't [3] 129/2 142/12 153/1 I do [5] 7/19 67/24 86/6 104/12 139/5 I don't [58] 1/23 3/3 5/21 9/4 11/25 17/3 20/11 27/5 28/22 32/12 40/2 41/14 47/10 49/21 49/24 53/7 59/13 60/5 68/12 74/6 81/20 86/19 86/24 91/5 92/7 92/13 95/24 98/10 111/1 114/24 115/14 115/15 115/17 116/20 117/22 122/8 122/11 125/25 128/9 128/25 132/16 133/10 136/10 136/22 138/8 138/18 140/16 141/7 142/19 144/19 144/25 145/1 145/18 146/10 152/19 153/2 167/16 168/12 I feel [1] 92/8 I gather [1] 27/10 I got [2] 46/11 76/10 I guess [1] 36/5 I had [6] 60/7 107/25 108/1 140/18 143/21 143/22 I have [4] 18/20 27/10 105/7 134/1 I imagine [1] 63/23 I just [8] 10/21 48/19 76/15 121/3 147/11 158/3 164/1 169/24 I know [3] 25/15 29/14 83/19 I may [4] 42/25 49/7 92/6 100/24 I mean [129] 5/14 5/25 6/4 8/4 9/16 9/18 9/18 9/21 9/25 10/14 11/25 13/7 14/24 17/13 20/9 21/1 21/4	27/7 27/14 28/20 29/14 29/16 29/17 30/2 30/21 35/19 35/20 37/8 37/20 37/21 39/12 39/14 40/13 40/14 40/22 41/6 42/2 42/2 42/3 44/6 44/8 44/12 47/24 49/12 52/23 56/7 57/17 60/4 63/16 64/14 68/20 74/1 74/2 74/6 76/6 80/2 80/12 86/2 86/5 86/6 86/7 86/11 88/2 88/5 88/21 89/11 91/5 91/5 91/13 95/15 95/17 96/23 96/24 97/5 98/7 98/19 100/4 100/12 101/21 101/22 102/12 102/13 108/2 110/11 112/6 116/8 117/23 124/20 127/14 131/1 131/5 131/9 131/20 132/12 133/12 135/15 135/18 141/25 143/19 144/25 146/20 148/24 149/11 150/1 150/6 154/12 154/12 154/13 154/19 155/4 155/5 156/24 157/12 157/24 158/16 159/3 160/4 160/25 163/6 163/17 164/1 165/11 165/16 165/18 167/4 167/7 167/14 168/11 168/12 I move [1] 80/17 I perhaps [1] 129/11 I raise [1] 67/3 I said [3] 88/2 127/24 148/22 I say [2] 36/3 69/20 I see [4] 74/11 74/18 101/20 107/1 I should [9] 22/16 38/19 52/2 76/19 104/10 128/24 140/7 157/10 160/19 I showed [1] 29/5 I suggested [1] 104/3 I suppose [3] 49/20 78/19 165/19 I suspect [6] 15/9 50/11 50/13 77/2 162/13 167/19 I tell [1] 76/18 I then [2] 23/7 32/5 I think [228] I think -- you [1] 165/14 I thought [4] 127/9 133/3 155/12 169/3 I took [1] 134/9	I tried [1] 13/10 I understand [12] 4/6 7/20 11/6 17/5 27/1 52/13 62/4 64/2 69/7 75/24 95/2 135/3 I wanted [3] 28/14 81/22 114/10 I was [13] 15/2 60/8 95/12 95/13 134/8 135/9 135/10 135/12 136/1 139/5 141/15 142/1 142/14 I went [1] 154/14 I won't [1] 71/24 I would [5] 19/21 49/13 49/18 165/6 166/10 I wouldn't [1] 110/10 I'd [2] 37/4 79/2 I'll [10] 23/17 28/5 41/19 42/24 43/24 50/24 51/3 87/6 92/21 138/20 I'm [99] 1/6 2/1 4/10 9/2 9/6 10/16 12/9 13/22 15/14 17/7 19/3 19/17 19/18 20/1 21/25 22/6 23/20 23/24 27/7 27/7 30/7 30/25 32/9 34/20 36/3 36/4 36/10 36/13 38/21 41/21 42/12 44/1 44/5 44/21 45/13 46/20 48/16 49/21 49/25 55/22 68/11 68/13 76/12 77/16 77/17 78/20 78/24 79/1 79/2 81/11 83/19 88/2 89/24 91/7 91/10 100/21 102/11 105/16 110/16 110/18 119/6 120/10 120/13 121/2 122/9 122/20 124/7 124/16 124/20 128/1 128/2 130/16 131/24 132/1 134/3 139/3 140/14 140/16 140/21 141/7 142/18 143/14 143/24 147/14 149/10 152/9 152/19 153/23 157/12 158/2 160/18 161/14 161/16 162/14 163/17 163/25 166/2 166/3 168/16 I'm the [1] 134/3 I've [16] 5/25 6/8 12/1 16/15 17/13 18/16 19/6 23/20 59/9 78/24 80/3 89/11 133/25 139/12 159/21 168/22 i.e [1] 34/7 iatrogenic [1] 119/2	idea [12] 28/4 30/15 104/13 105/5 105/5 115/11 130/3 130/3 145/5 154/16 154/17 163/24 Ideally [1] 85/15 identification [1] 22/17 identified [2] 47/5 146/4 identify [1] 165/2 if [213] Ignorance [4] 97/15 97/24 99/4 129/17 ignored [1] 30/10 Ill [6] 22/18 43/11 60/24 61/1 63/1 66/12 illogical [1] 20/17 imagine [5] 53/9 53/11 63/15 63/23 103/18 imagine -- I [1] 53/9 immediate [2] 8/11 119/4 immediately [2] 125/20 125/21 Immune [1] 6/18 impact [6] 30/1 98/24 99/5 99/7 163/6 163/7 impeccable [1] 132/3 impeccably [1] 130/18 impending [1] 50/16 imperative [1] 66/24 implementation [1] 67/13 implication [1] 108/10 implications [4] 52/1 70/24 71/12 83/7 import [6] 11/7 11/18 11/20 12/13 12/18 12/25 importance [6] 25/1 28/18 42/6 53/1 158/4 158/7 important [30] 2/3 2/7 3/1 3/2 5/14 6/9 7/8 11/12 12/2 12/16 12/16 12/17 17/14 30/11 30/12 30/13 31/3 40/18 40/20 41/8 42/3 42/9 46/5 46/6 48/5 48/13 58/1 82/4 95/8 109/19 importation [1] 13/1 imported [4] 7/16 7/18 145/13 156/5 imports [4] 1/22 9/13 38/7 155/25 impossible [3] 5/3 133/3 159/9 impression [2] 75/6	96/5 improper [1] 114/2 improved [1] 164/23 inaccurate [3] 3/12 4/3 100/3 incapacitated [1] 118/16 incidence [5] 32/25 33/2 34/10 66/19 102/24 incidentally [1] 90/8 inclined [2] 92/8 100/21 include [3] 85/16 135/6 162/19 including [7] 4/24 44/24 54/24 60/3 108/25 156/18 157/17 incoming [1] 13/9 incomplete [3] 3/11 4/4 141/1 increase [4] 147/8 147/9 157/23 157/23 increased [1] 35/3 incredible [1] 100/14 incubation [1] 54/22 incurable [2] 104/11 112/4 indeed [15] 10/25 22/17 25/16 26/4 82/14 87/22 95/22 101/25 105/23 113/9 135/1 145/11 154/24 170/1 170/2 independence [1] 20/12 independent [6] 20/9 21/2 21/3 105/3 159/23 169/10 indicate [3] 54/5 79/17 169/21 indicates [1] 79/18 individual [5] 16/3 17/12 18/11 33/25 66/21 individuals [3] 81/2 85/22 146/4 industrial [1] 159/14 inevitability [1] 140/5 inevitable [2] 30/20 131/12 infected [25] 35/20 51/24 54/19 55/3 55/13 57/8 58/15 63/1 63/5 82/1 82/14 94/21 96/16 96/19 96/21 98/20 99/4 101/9 101/10 101/11 101/23 110/8 119/12 119/21 125/11 infection [22] 51/23 52/1 54/10 54/16
----------	---	---	---	--	---

<p>I</p> <p>infection... [18] 54/20 55/1 55/9 55/13 60/25 61/15 63/19 94/16 94/18 106/1 112/3 119/2 119/14 121/5 121/22 122/3 140/3 140/5</p> <p>infections [2] 57/25 121/16</p> <p>infectious [1] 138/4</p> <p>infectivity [1] 58/13</p> <p>infer [1] 57/3</p> <p>inflammatory [1] 122/24</p> <p>influence [3] 31/10 134/11 149/11</p> <p>influenced [2] 91/8 124/9</p> <p>influencing [1] 92/4</p> <p>influential [1] 90/17</p> <p>inform [2] 14/6 162/11</p> <p>information [26] 3/24 6/22 14/11 15/25 18/8 18/13 19/23 21/14 22/9 22/12 22/14 28/7 30/11 39/3 42/19 42/21 44/3 93/18 94/1 94/13 94/24 108/19 120/20 141/16 162/20 167/1</p> <p>informative [1] 162/18</p> <p>informed [6] 17/11 26/20 36/23 37/10 160/15 160/24</p> <p>informing [2] 15/6 62/12</p> <p>inherent [1] 150/20</p> <p>initiative [1] 70/23</p> <p>injecting [1] 151/21</p> <p>innocent [2] 104/2 104/7</p> <p>inquiries [4] 27/10 130/22 134/11 168/17</p> <p>inquiry [52] 10/1 23/12 31/15 51/9 82/9 83/10 83/21 83/21 83/22 101/17 114/17 114/20 129/5 129/7 129/19 130/5 130/11 130/14 130/16 130/17 130/24 131/13 131/15 131/17 132/2 132/6 132/15 132/19 133/1 133/7 133/24 136/10 136/16 142/15 148/25 149/8 149/10 164/20 166/16 166/16 167/6 167/11 167/15 167/22 168/4 168/12 168/14</p>	<p>168/16 168/17 169/7 169/12 169/16</p> <p>INQY1000137 [1] 23/14</p> <p>INQY1000139 [1] 138/22</p> <p>INQY1000140 [1] 133/19</p> <p>inserted [1] 95/25</p> <p>inside [4] 9/16 88/6 93/9 156/17</p> <p>insofar [1] 57/24</p> <p>Inspection [1] 32/17</p> <p>institution [1] 32/19</p> <p>instruct [2] 16/11 16/13</p> <p>instructing [1] 18/10</p> <p>instruction [1] 6/5</p> <p>insufficient [1] 61/14</p> <p>insurance [3] 118/21 149/15 149/16</p> <p>intend [1] 13/3</p> <p>intended [1] 105/24</p> <p>intention [1] 94/7</p> <p>intentions [1] 159/5</p> <p>interactions [3] 58/21 70/15 103/13</p> <p>intercourse [2] 51/24 106/11</p> <p>interdepartmental [1] 71/7</p> <p>interest [3] 36/11 132/13 169/16</p> <p>interested [1] 128/13</p> <p>interesting [3] 36/19 125/19 127/16</p> <p>interests [2] 132/14 140/7</p> <p>interfering [1] 16/2</p> <p>interim [2] 77/24 132/17</p> <p>internal [3] 26/15 103/17 138/24</p> <p>international [2] 70/3 100/18</p> <p>interpreting [2] 73/20 73/21</p> <p>interrupted [1] 42/9</p> <p>intervene [1] 76/15</p> <p>intervened [2] 29/11 56/8</p> <p>intervention [2] 22/3 74/10</p> <p>interventions [1] 59/12</p> <p>interviewing [1] 91/20</p> <p>interviews [2] 50/18 99/24</p> <p>into [37] 15/3 30/14 30/25 31/15 34/17 35/6 35/20 40/10 41/12 50/15 57/6</p>	<p>58/18 80/1 83/21 83/23 92/23 95/16 97/6 97/9 99/9 129/7 129/19 130/24 139/25 144/24 147/13 147/15 151/23 157/7 159/10 163/9 164/3 165/11 165/12 168/10 168/14 168/17</p> <p>intolerable [1] 118/14</p> <p>intrigued [1] 79/25</p> <p>introduce [3] 68/15 69/20 69/23</p> <p>introduced [8] 64/15 64/22 69/21 76/22 76/25 78/7 108/8 108/11</p> <p>introducing [3] 65/25 67/19 151/6</p> <p>introduction [6] 64/9 67/16 73/4 75/18 78/15 105/23</p> <p>investigating [1] 149/9</p> <p>investigation [3] 21/9 21/9 114/21</p> <p>invite [1] 50/7</p> <p>invited [1] 45/16</p> <p>involved [26] 2/4 15/17 15/20 17/24 19/4 19/17 35/13 36/18 41/18 42/15 46/3 58/22 59/2 59/25 62/3 64/3 64/7 67/10 96/12 117/10 119/3 134/2 134/5 153/17 153/18 153/20</p> <p>involvement [15] 4/7 19/11 26/13 39/23 40/11 44/15 46/20 54/1 94/10 134/19 135/1 142/20 147/20 148/7 153/21</p> <p>involving [2] 67/19 106/1</p> <p>Ireland [1] 85/3</p> <p>Irish [1] 156/22</p> <p>ironically [1] 152/12</p> <p>is: [1] 78/18</p> <p>is: the [1] 78/18</p> <p>isn't [13] 5/16 10/3 12/23 12/23 27/4 30/19 37/24 77/7 78/18 84/3 100/8 107/17 141/9</p> <p>isolation [1] 101/18</p> <p>issue [45] 1/24 7/1 27/24 28/20 31/22 32/5 37/19 39/23 39/25 41/13 41/18 46/6 47/8 50/6 52/25 53/14 55/6 58/24 59/2</p>	<p>60/2 64/5 64/10 65/7 70/8 72/24 76/10 80/17 87/9 103/3 106/15 107/19 108/20 110/19 110/23 120/15 122/7 126/9 128/8 133/7 140/12 140/24 143/8 146/1 154/1 155/24</p> <p>issued [5] 46/24 47/14 125/20 125/21 162/10</p> <p>issues [24] 40/5 40/5 40/6 40/18 41/6 46/12 47/25 48/2 53/12 56/2 56/4 59/9 71/3 71/22 72/14 74/5 76/8 80/9 99/8 113/18 128/15 149/13 151/6 167/8</p> <p>it's [126] 4/15 5/7 5/14 6/1 6/5 6/9 11/24 12/1 12/4 12/15 12/21 13/1 13/1 13/3 13/5 13/15 14/10 18/1 18/2 18/2 18/10 18/15 19/18 23/14 23/16 24/15 24/19 25/10 26/18 26/18 27/4 27/7 27/24 29/11 29/13 30/20 31/17 32/14 33/12 33/14 33/19 34/19 37/21 38/5 38/6 38/19 39/20 40/9 41/13 41/14 41/16 42/18 44/17 47/11 47/14 47/16 49/7 49/22 51/4 52/22 54/7 55/19 62/7 63/10 64/19 66/2 66/6 69/5 72/12 74/17 77/7 78/19 78/23 79/13 79/14 80/6 82/18 82/25 84/18 86/7 87/5 87/6 95/3 100/19 103/17 103/21 104/18 104/19 109/6 115/23 117/22 118/8 128/20 128/21 129/2 129/3 130/19 131/12 131/20 133/20 135/19 137/6 137/7 137/8 138/19 138/23 141/10 143/14 144/7 144/16 144/17 145/5 151/2 151/3 153/16 155/19 155/22 156/1 160/19 167/12 167/13 167/15 167/23 168/8 168/20 169/14</p> <p>itemised [1] 80/24</p> <p>items [1] 60/23</p> <p>its [19] 19/10 21/23 22/23 42/12 43/4 47/21 54/11 64/24</p>	<p>83/6 106/13 107/9 110/4 119/7 130/25 130/25 132/3 142/21 150/25 159/15</p> <p>itself [10] 1/19 4/20 21/24 29/3 37/20 64/25 91/13 95/21 139/24 167/11</p> <p>IX [2] 61/18 61/20</p>	<p>25/20</p> <p>June 1985 [3] 65/6 65/19 69/22</p> <p>June 1987 [1] 132/24</p> <p>junior [1] 135/6</p> <p>just [146] 1/5 3/22 3/24 5/10 6/10 7/1 7/11 8/3 8/6 9/24 10/5 10/20 10/21 10/23 12/8 12/11 12/16 13/15 14/2 16/15 17/13 17/20 18/6 19/6 21/10 23/11 23/20 23/24 24/7 25/18 25/21 26/14 27/4 27/20 28/5 35/19 36/15 38/2 39/16 41/4 41/19 44/1 45/6 48/9 48/19 49/6 50/25 53/18 54/3 56/21 57/2 57/12 60/19 61/8 62/14 63/7 64/14 66/1 68/23 70/4 70/11 71/14 72/22 72/25 74/6 75/1 76/6 76/15 76/20 79/4 79/11 81/22 82/16 84/6 84/20 87/4 89/24 92/12 93/10 93/10 96/7 99/17 100/23 101/5 101/21 103/11 105/6 107/3 108/5 108/15 109/3 111/2 111/7 111/10 113/5 113/14 113/18 116/3 116/10 116/13 120/8 120/8 120/14 121/3 121/18 122/5 122/21 124/1 125/1 126/12 129/5 130/3 130/6 132/8 132/9 132/12 132/12 133/17 134/23 137/24 139/4 139/5 140/2 142/6 143/5 143/17 147/11 149/7 152/10 152/25 153/22 155/22 158/3 159/8 159/13 160/5 161/16 161/23 162/20 163/17 164/1 164/7 168/5 169/3 169/13 169/24</p> <p>justice [1] 132/20</p> <p>justifiably [1] 67/11</p> <p>justification [2] 39/5 39/6</p> <p>justified [1] 22/3</p>
					<p>J</p> <p>Jacobovits [1] 146/21</p> <p>James [1] 90/2</p> <p>January [5] 47/11 48/24 52/14 116/18 133/6</p> <p>January 1985 [2] 47/11 48/24</p> <p>January 1990 [1] 133/6</p> <p>JB [1] 33/12</p> <p>JEVA0000096 [1] 103/15</p> <p>JEVA0000097 [1] 105/10</p> <p>job [2] 40/24 60/9</p> <p>John [7] 41/5 65/7 97/22 125/19 125/20 131/11 133/13</p> <p>John Hurt [1] 97/22</p> <p>John Patten [2] 41/5 65/7</p> <p>join [1] 45/17</p> <p>Jones [6] 66/6 67/5 68/5 68/12 118/10 119/20</p> <p>Jones' [2] 118/12 119/7</p> <p>journalist [3] 15/2 29/25 158/16</p> <p>journalistic [1] 163/22</p> <p>journals [1] 65/18</p> <p>judge [1] 141/11</p> <p>judged [1] 76/13</p> <p>judgement [1] 62/2</p> <p>judgment [4] 3/19 28/20 68/9 75/22</p> <p>July [14] 18/25 21/13 21/22 22/10 26/6 26/18 30/24 32/14 37/13 57/1 58/11 60/19 62/15 63/9</p> <p>July 1983 [3] 21/13 26/6 32/14</p> <p>July 1985 [1] 63/9</p> <p>July/August 1983 [1] 37/13</p> <p>June [10] 24/4 24/18 25/20 29/9 54/3 54/7 65/6 65/19 69/22 132/24</p> <p>June 1983 [2] 24/4</p>
					<p>K</p> <p>keen [1] 28/10</p> <p>keep [5] 22/24 28/10 145/9 159/9 165/10</p> <p>keeping [1] 166/6</p>

<p>K</p> <p>Ken [8] 26/2 29/15 29/17 41/2 41/2 60/15 107/7 143/21</p> <p>Ken Clarke [3] 26/2 41/2 60/15</p> <p>Ken Stowe [2] 107/7 143/21</p> <p>Ken's [3] 28/20 112/7 134/21</p> <p>Kenneth [3] 38/6 38/10 111/9</p> <p>Kenneth Clarke [1] 38/6</p> <p>Kenneth Clarke's [1] 38/10</p> <p>kept [4] 28/23 90/7 146/25 159/15</p> <p>kettle [1] 105/2</p> <p>key [8] 2/24 28/11 28/13 28/16 28/23 49/9 49/12 60/23</p> <p>kill [1] 123/4</p> <p>kind [36] 3/4 5/10 15/12 15/18 17/16 18/13 20/13 27/6 27/24 60/16 86/19 93/6 95/16 97/2 97/11 98/17 99/8 105/4 107/21 112/23 113/13 114/22 125/22 128/3 128/9 128/15 134/3 146/21 147/6 149/15 151/18 159/3 163/9 164/9 167/22 170/1</p> <p>kinds [2] 113/7 150/19</p> <p>kits [3] 72/8 72/14 72/15</p> <p>knew [6] 37/11 37/12 102/3 104/21 108/19 148/23</p> <p>knocked [1] 10/4</p> <p>know [124] 5/21 9/16 9/18 9/22 10/14 13/21 16/14 17/3 19/20 19/24 20/22 21/1 21/1 25/15 27/5 27/8 29/14 29/19 30/14 31/14 33/15 35/20 36/19 40/13 40/21 41/13 46/24 49/17 50/13 53/10 56/9 56/11 58/3 58/4 58/22 59/6 59/10 59/13 60/5 60/16 62/5 63/13 63/25 64/13 68/12 68/12 72/2 83/19 85/21 88/2 91/5 91/21 91/25 95/14 96/19 96/24 98/8 98/13 99/15 100/4</p>	<p>100/10 100/21 102/16 102/19 104/15 108/21 110/14 114/22 114/24 115/14 115/14 115/21 115/22 117/22 120/7 122/8 123/19 124/10 128/7 128/20 128/25 131/1 131/8 131/11 131/13 131/15 132/12 132/16 134/10 135/9 136/10 136/13 136/22 136/25 138/19 140/11 140/16 140/20 142/5 143/4 143/5 144/9 144/25 145/18 146/8 148/18 148/24 150/9 154/10 154/19 157/3 157/10 158/3 159/8 159/9 162/20 163/8 163/25 164/7 165/14 165/20 165/22 167/16 168/20</p> <p>knowing [1] 79/24</p> <p>knowledge [17] 3/5 9/3 10/15 52/2 57/16 57/17 99/19 99/20 116/9 135/23 141/17 141/22 153/21 157/15 160/13 160/21 166/21</p> <p>known [13] 28/16 31/21 35/4 39/2 43/7 108/23 134/2 145/19 145/21 145/22 152/9 158/14 158/16</p> <p>knows [2] 39/1 127/21</p>	<p>53/7 63/11 167/6 167/7</p> <p>later [19] 21/20 22/13 39/15 41/3 41/9 42/24 43/24 56/21 65/23 69/9 72/10 125/10 126/2 126/9 130/4 131/13 148/20 164/19 170/4</p> <p>latter [1] 117/5</p> <p>launch [1] 94/9</p> <p>launched [1] 93/19</p> <p>law [1] 146/19</p> <p>lawyers [4] 31/14 31/16 31/20 124/10</p> <p>layman's [1] 94/14</p> <p>lead [5] 49/9 50/14 73/14 155/17 155/17</p> <p>leadership [1] 16/24</p> <p>leaflet [37] 7/1 16/18 23/7 23/9 24/5 24/21 24/22 24/23 24/24 25/11 26/6 26/18 26/21 27/13 27/15 28/10 29/1 29/3 29/21 31/3 31/5 40/5 43/21 43/22 43/23 43/23 45/11 46/16 46/17 46/23 47/6 47/11 48/13 48/20 50/2 56/10 99/16</p> <p>leaflets [5] 92/18 92/19 92/22 92/24 97/13</p> <p>leap [1] 137/18</p> <p>learned [1] 74/10</p> <p>learning [1] 60/9</p> <p>learnt [2] 145/17 145/18</p> <p>least [11] 12/20 32/21 34/13 50/12 82/13 98/23 101/13 119/13 162/18 164/23 165/15</p> <p>leave [2] 103/12 123/7</p> <p>Leaving [1] 119/10</p> <p>led [7] 45/24 52/6 91/15 130/1 147/6 160/14 160/22</p> <p>left [9] 24/1 60/15 87/1 111/4 124/17 124/23 132/23 133/23 139/11</p> <p>left-hand [3] 24/1 133/23 139/11</p> <p>legal [3] 147/16 148/4 148/8</p> <p>legible [1] 62/7</p> <p>lengthy [1] 47/16</p> <p>less [9] 3/17 13/20 67/19 80/4 80/15 101/3 101/4 102/17 167/3</p>	<p>let [9] 33/7 35/12 42/2 58/12 72/1 77/21 136/9 137/1 163/24</p> <p>let's [3] 12/18 128/10 137/2</p> <p>lethal [1] 106/1</p> <p>letter [22] 1/11 15/23 17/25 62/17 65/17 70/18 71/6 72/10 72/21 74/13 80/1 93/14 105/13 113/15 114/19 118/5 118/6 118/8 118/9 118/12 119/7 119/8</p> <p>letterbox [1] 93/5</p> <p>letters [3] 18/4 30/22 76/19</p> <p>level [7] 23/6 59/17 59/18 71/10 80/7 125/16 138/3</p> <p>levels [1] 85/4</p> <p>liaise [1] 34/23</p> <p>liaison [2] 71/11 156/21</p> <p>licensing [1] 21/18</p> <p>life [5] 2/19 15/3 35/16 163/17 163/18</p> <p>lifestyles [1] 94/19</p> <p>light [5] 34/1 70/15 82/17 106/8 169/20</p> <p>like [24] 6/4 17/7 22/25 49/22 50/11 59/7 59/10 66/24 69/4 77/24 79/1 79/3 95/15 95/20 103/23 110/10 124/8 129/23 149/15 152/15 154/11 154/18 166/22 168/3</p> <p>likely [9] 32/3 43/12 54/18 65/15 65/23 77/11 121/21 166/22 167/3</p> <p>lilies [1] 97/23</p> <p>limitations [1] 21/17</p> <p>limited [5] 52/2 85/24 86/3 93/24 147/20</p> <p>line [10] 24/1 24/7 25/10 39/7 65/10 95/23 95/23 133/23 139/11 161/24</p> <p>line 10 [2] 24/7 133/23</p> <p>line 12 [1] 139/11</p> <p>line 20 [1] 24/1</p> <p>line 7 [1] 25/10</p> <p>line-by-line [1] 95/23</p> <p>lines [6] 25/2 66/9 67/9 81/9 82/24 83/1</p> <p>lines 18 [1] 25/2</p> <p>link [1] 164/13</p> <p>linked [2] 106/12 161/22</p>	<p>linking [1] 134/23</p> <p>links [1] 52/8</p> <p>list [4] 14/21 82/19 131/11 134/3</p> <p>literally [2] 127/11 163/13</p> <p>littered [1] 21/5</p> <p>little [14] 1/6 7/2 39/23 56/21 73/25 79/21 89/14 92/11 110/18 134/18 136/3 136/7 147/11 156/16</p> <p>live [1] 84/4</p> <p>lives [4] 67/15 100/20 114/8 118/15</p> <p>London [1] 160/9</p> <p>long [22] 24/15 24/19 25/12 25/14 25/21 29/6 29/10 30/17 30/20 32/1 36/10 47/15 56/4 91/7 94/1 98/9 102/11 107/6 136/23 136/25 146/13 168/9</p> <p>long-term [1] 94/1</p> <p>longer [2] 136/7 139/25</p> <p>longing [1] 149/14</p> <p>look [42] 4/20 5/6 6/11 6/25 10/19 10/20 13/12 14/2 18/6 18/6 22/20 22/22 32/9 47/10 53/11 54/4 54/15 56/17 56/19 57/2 58/9 58/18 60/19 65/5 67/6 70/11 89/16 93/10 101/25 111/6 113/18 121/19 126/15 130/8 130/9 133/22 138/17 139/2 145/6 152/4 153/16 168/18</p> <p>looked [13] 9/15 10/10 10/11 10/12 38/23 51/20 53/24 113/9 115/25 124/13 138/19 139/20 141/1</p> <p>looked at [1] 139/20</p> <p>looking [20] 40/11 49/20 57/21 67/14 73/22 78/20 81/11 97/25 97/25 103/15 124/16 127/24 133/18 140/19 140/24 144/25 145/25 149/19 162/25 170/7</p> <p>looks [2] 57/22 128/2</p> <p>loosely [1] 161/22</p> <p>LORD [74] 1/3 1/5 3/23 4/14 9/2 9/7 14/3 19/2 23/25 25/16 25/17 25/22 26/1 27/1 29/5 31/20 32/13</p>	<p>38/19 42/25 45/14 46/2 52/11 53/24 59/24 62/4 67/2 67/7 73/2 75/23 79/15 80/3 80/20 82/20 83/10 85/18 86/14 87/5 90/6 92/12 100/24 103/11 109/11 114/11 114/18 117/13 118/6 122/5 126/14 126/15 133/18 133/24 134/16 134/25 135/2 135/7 136/5 136/8 136/9 137/17 138/18 139/4 139/4 139/6 140/15 140/23 142/11 151/3 157/2 159/22 160/11 161/18 161/21 169/1 171/3</p> <p>Lord Clarke [5] 25/17 133/24 134/16 135/2 135/7</p> <p>Lord Fowler [45] 3/23 4/14 9/2 9/7 14/3 19/2 23/25 25/22 27/1 31/20 32/13 38/19 42/25 45/14 52/11 53/24 59/24 62/4 67/2 73/2 75/23 80/3 80/20 82/20 83/10 85/18 86/14 87/5 92/12 100/24 103/11 114/11 114/18 117/13 122/5 126/14 134/25 136/9 151/3 157/2 159/22 160/11 161/18 161/21 169/1</p> <p>Lord Fowler's [5] 67/7 79/15 126/15 136/5 136/8</p> <p>Lord Glenarthur [6] 25/16 26/1 29/5 46/2 118/6 139/6</p> <p>Lord Glenarthur's [3] 139/4 140/15 140/23</p> <p>Lords [2] 5/22 6/2</p> <p>lose [4] 68/21 68/22 106/13 107/9</p> <p>lost [1] 106/17</p> <p>lot [11] 5/25 29/19 40/16 40/21 50/4 60/7 68/21 82/9 124/12 131/9 154/23</p> <p>LOTH000009 [1] 119/8</p> <p>Lothian [1] 85/7</p> <p>love [2] 90/12 90/13</p> <p>loving [1] 48/11</p> <p>low [7] 28/11 28/13 28/15 28/23 49/9 49/12 66/19</p> <p>Ludlam [3] 118/6 119/9 119/20</p>
---	--	---	--	---	---

<p>L</p> <p>luncheon [1] 103/9</p> <p>M</p> <p>made [40] 16/15 26/7 37/25 37/25 38/16 43/21 44/14 52/6 63/22 76/7 80/24 80/25 83/12 86/3 87/4 87/14 89/5 92/6 102/17 106/25 112/20 112/20 114/4 115/14 116/10 119/7 123/17 125/3 127/8 129/22 134/15 145/14 145/14 148/17 149/3 156/9 158/14 164/22 169/20 169/21</p> <p>main [2] 50/13 75/3</p> <p>mainly [3] 90/20 92/19 146/14</p> <p>maintain [1] 109/19</p> <p>maintained [1] 124/19</p> <p>maintenance [1] 128/18</p> <p>major [6] 27/14 34/14 56/14 102/22 163/7 167/4</p> <p>make [30] 9/21 20/25 31/16 35/15 35/17 40/23 59/8 59/14 59/16 71/7 87/25 91/12 102/13 125/1 127/3 141/11 147/24 153/14 153/15 157/7 159/22 161/10 161/12 164/13 165/6 166/17 166/18 166/20 167/10 169/6</p> <p>makes [4] 18/10 35/7 123/2 167/2</p> <p>making [29] 2/4 2/25 3/9 15/18 16/14 19/9 26/22 32/20 50/17 52/24 64/8 80/18 86/9 90/12 90/13 91/2 125/11 128/8 130/16 132/1 138/6 139/7 140/13 141/5 142/24 156/8 161/6 169/18 170/5</p> <p>making' [1] 90/5</p> <p>males [1] 55/2</p> <p>man [6] 3/19 4/2 60/14 137/25 138/10 152/9</p> <p>manage [1] 124/22</p> <p>managed [1] 108/24</p> <p>management [1] 163/23</p> <p>managing [1] 2/20</p>	<p>Manchester [1] 90/2</p> <p>manner [1] 123/6</p> <p>manoeuvre [1] 106/10</p> <p>many [17] 48/8 50/11 83/8 85/21 86/20 93/22 101/14 101/14 111/23 113/1 118/15 132/5 132/16 136/22 153/14 153/15 153/16</p> <p>March [3] 93/13 105/14 113/17</p> <p>March 1986 [1] 105/14</p> <p>Margaret [4] 108/1 129/16 149/12 150/15</p> <p>Margaret Thatcher [3] 108/1 129/16 149/12</p> <p>marginal [1] 84/1</p> <p>Mark [1] 104/20</p> <p>Mark Addison [1] 104/20</p> <p>marked [1] 107/12</p> <p>market [2] 91/18 98/18</p> <p>Mary's [1] 83/4</p> <p>massive [1] 159/5</p> <p>material [7] 19/5 38/18 40/10 42/12 61/17 105/21 170/8</p> <p>materials [2] 17/20 139/20</p> <p>matter [32] 2/21 2/22 3/8 3/14 3/15 4/7 8/4 9/11 13/8 13/15 17/2 20/18 28/14 36/15 36/16 53/5 67/1 69/11 75/23 82/17 83/16 87/19 89/12 102/20 123/17 130/10 133/14 137/6 142/18 142/23 152/25 158/23</p> <p>matters [10] 6/20 46/1 81/23 121/2 147/21 148/6 148/17 149/8 158/11 165/25</p> <p>may [53] 3/25 12/10 13/21 17/14 18/20 26/22 34/13 42/25 44/8 49/7 52/10 57/18 62/21 67/14 67/15 72/19 73/2 76/14 83/1 84/14 85/18 92/6 92/6 93/22 94/21 100/24 103/23 117/12 119/25 120/21 121/12 121/12 121/16 130/19 131/19 135/22 136/13 136/23 136/24 137/5 137/23 142/13 142/15 145/14 147/15 162/2 162/5 164/15 164/16 166/17 167/19 169/6 169/13</p>	<p>May 1983 [1] 137/23</p> <p>May 1987 [1] 84/14</p> <p>MB2 [1] 33/12</p> <p>me [56] 1/17 1/18 3/16 9/10 13/13 14/22 19/16 23/4 27/14 29/16 32/3 32/10 33/7 35/12 42/2 42/8 58/12 72/1 77/21 89/2 89/2 101/21 104/18 107/5 116/5 124/21 126/12 127/18 128/2 128/3 128/7 129/11 131/5 132/3 133/3 133/16 134/1 134/8 134/9 136/9 141/9 141/10 143/3 146/24 147/5 151/15 153/10 156/2 157/25 159/12 159/15 160/2 160/5 160/6 165/21 167/7</p> <p>Meacher [1] 89/8</p> <p>mean [142] 1/15 5/14 5/25 6/4 7/17 8/4 9/16 9/18 9/18 9/21 9/25 10/14 11/25 12/21 13/7 14/24 17/3 17/13 20/9 21/1 21/2 21/4 27/4 27/7 27/14 28/20 29/14 29/16 29/17 30/2 30/21 30/22 35/19 35/20 37/8 37/20 37/21 39/12 39/14 40/13 40/14 40/15 40/22 41/6 42/2 42/2 42/3 44/6 44/8 44/12 47/24 49/12 52/23 53/9 56/7 57/17 60/4 60/5 63/16 64/14 68/20 74/1 74/2 74/6 76/6 80/2 80/12 86/2 86/5 86/6 86/7 86/11 88/2 88/5 88/21 89/11 91/5 91/5 91/13 95/15 95/17 96/23 96/24 97/5 98/7 98/19 100/4 100/12 101/21 101/22 102/12 102/13 108/2 110/11 112/6 116/8 117/23 124/20 127/14 131/1 131/5 131/9 131/20 132/12 133/12 135/15 135/18 141/25 143/5 143/19 144/25 145/17 146/20 148/24 149/7 149/11 150/1 150/6 154/12 154/12 154/13 154/19 155/4 155/5 156/24 157/12 157/24 158/16 159/3 160/4 160/25 163/6 163/17 164/1 165/11</p>	<p>165/16 165/18 167/4 167/17 167/14 168/11 168/12</p> <p>meaningfully [2] 67/25 68/6</p> <p>means [9] 15/6 15/23 54/24 55/9 57/14 68/17 83/13 141/11 164/3</p> <p>meant [6] 35/16 36/13 81/25 115/24 127/20 153/14</p> <p>meantime [1] 65/21</p> <p>measure [4] 66/25 67/1 69/6 93/24</p> <p>measures [3] 61/7 45/22 93/22</p> <p>mechanisms [1] 144/6</p> <p>media [2] 106/15 163/9</p> <p>medic [1] 153/12</p> <p>medical [66] 1/18 2/5 2/5 3/2 3/6 13/18 13/22 28/8 41/22 42/5 42/14 42/20 43/1 44/2 44/6 46/15 50/19 51/13 52/15 53/2 53/15 55/17 56/25 57/4 57/22 58/10 60/12 60/12 60/21 62/15 63/21 65/5 65/8 65/16 65/18 67/12 68/10 68/14 69/2 75/9 76/4 76/4 104/9 105/23 106/13 107/7 111/23 113/24 115/15 116/9 116/25 117/1 117/2 118/1 130/1 138/10 142/5 142/6 143/1 143/8 143/13 143/23 144/3 144/4 145/8 153/11</p> <p>Medicine [1] 32/16</p> <p>medicines [11] 1/13 2/6 3/10 4/1 8/9 18/25 19/10 22/19 22/21 40/8 123/3</p> <p>medics [1] 68/23</p> <p>meet [4] 8/5 34/15 53/19 158/25</p> <p>meeting [21] 18/23 20/4 20/7 32/16 34/19 52/13 82/16 82/18 82/21 82/25 87/11 104/4 107/6 109/4 109/10 110/12 126/4 159/2 159/24 160/5 160/9</p> <p>meetings [4] 83/19 152/8 159/13 160/4</p> <p>member [2] 73/9</p>	<p>150/10</p> <p>members [11] 5/19 5/20 5/21 5/22 6/1 23/1 56/14 93/17 96/10 120/7 159/25</p> <p>memo [1] 24/8</p> <p>memoir [1] 129/15</p> <p>memoirs [1] 128/12</p> <p>memorandum [1] 24/2</p> <p>memory [4] 78/4 86/21 122/17 151/24</p> <p>men [2] 49/4 154/16</p> <p>men' [1] 90/15</p> <p>mention [2] 16/9 29/17</p> <p>mentioned [7] 10/23 59/9 70/5 71/6 127/25 141/17 149/5</p> <p>message [7] 97/23 100/2 100/3 107/22 125/3 163/9 163/19</p> <p>messages [2] 98/16 98/17</p> <p>messed [1] 167/14</p> <p>met [1] 52/5</p> <p>Michael [2] 89/7 151/25</p> <p>mid [1] 145/12</p> <p>mid-1980s [1] 145/12</p> <p>middle [5] 38/24 58/7 64/16 101/2 155/3</p> <p>Middlesex [1] 155/1</p> <p>might [65] 1/20 2/7 2/12 2/17 2/20 4/1 7/25 8/19 8/19 8/22 8/24 10/15 12/12 13/8 15/9 16/16 17/1 25/4 29/25 36/7 39/12 49/9 63/7 71/21 74/7 78/3 79/2 79/16 79/16 83/14 83/18 96/17 98/3 98/24 99/2 101/25 105/22 106/9 108/9 112/16 114/3 120/8 120/8 123/17 128/12 129/22 129/24 134/16 145/6 146/5 151/13 152/18 156/2 157/16 161/1 161/2 161/4 161/11 162/12 163/23 164/3 164/21 164/24 166/18 167/10 8/23</p> <p>mildly [1] 40/16</p> <p>miles [1] 70/9</p> <p>milestone [1] 63/16</p> <p>militate [1] 31/23</p> <p>million [2] 103/23 126/2</p> <p>mind [6] 9/10 17/10 29/8 63/11 95/11</p>	<p>132/7</p> <p>mine [4] 35/24 62/7 125/25 150/17</p> <p>minimised [1] 14/15</p> <p>minimising [1] 14/9</p> <p>minister [57] 19/12 19/16 19/19 19/20 20/2 20/6 28/10 30/12 36/23 37/1 41/6 46/2 56/8 59/7 59/17 60/15 70/18 82/21 87/22 88/13 88/14 89/1 90/11 90/18 103/14 103/23 104/3 104/6 104/16 105/14 108/22 109/4 109/10 109/13 109/18 109/25 110/7 110/23 113/16 114/19 115/1 116/5 120/4 123/23 125/2 127/2 127/8 127/24 129/15 133/12 135/16 135/20 146/8 146/22 149/6 155/3 169/15</p> <p>Minister's [3] 59/12 91/6 107/16</p> <p>ministerial [15] 19/11 55/24 64/8 64/18 70/20 70/23 80/7 88/23 89/1 89/5 89/6 128/19 135/24 160/14 160/22</p> <p>ministers [38] 3/4 5/9 5/13 9/5 19/19 20/10 20/16 20/19 25/23 26/6 29/1 30/23 31/13 40/25 42/7 47/8 48/16 59/19 65/14 73/19 79/18 86/8 86/8 88/3 88/24 112/2 112/9 112/11 115/8 125/23 128/11 131/7 135/2 135/5 135/7 135/19 155/5 159/18</p> <p>minorities [1] 90/20</p> <p>minuses [1] 130/25</p> <p>minute [12] 4/22 32/14 42/16 44/17 54/6 58/10 79/12 107/5 109/25 116/17 116/19 120/16</p> <p>minutes [4] 82/16 82/18 82/25 137/2</p> <p>misconception [1] 75/12</p> <p>miss [1] 12/14</p> <p>missing [2] 9/9 127/18</p> <p>mission [2] 133/3 133/4</p> <p>mistake [3] 115/15 116/2 116/3</p>
--	---	---	---	--	--

<p>M</p> <p>mistakes [2] 65/2 92/7</p> <p>misunderstanding [2] 3/22 80/3</p> <p>mixture [1] 148/8</p> <p>Mm [1] 10/18</p> <p>modification [1] 92/5</p> <p>modified [1] 106/9</p> <p>moment [16] 4/17 4/20 13/12 23/3 33/24 38/20 46/7 50/20 50/21 53/12 78/20 108/19 131/1 141/13 168/15 168/17</p> <p>money [12] 83/18 85/16 86/4 86/6 86/13 87/25 88/4 88/7 88/9 88/22 147/4 150/9</p> <p>monies [1] 87/15</p> <p>Monkton [1] 90/6</p> <p>month [1] 30/8</p> <p>months [11] 47/1 52/23 56/1 64/12 66/11 69/4 78/3 92/1 119/17 119/24 126/2</p> <p>Moore [4] 125/19 125/20 131/11 133/13</p> <p>moral [1] 146/16</p> <p>morality [1] 146/17</p> <p>more [54] 12/18 22/12 22/17 37/25 42/15 43/13 47/20 52/6 66/14 67/21 67/24 67/25 68/6 75/8 79/21 80/6 81/2 82/6 86/4 86/5 87/16 87/25 89/15 91/7 91/22 91/25 92/11 95/8 100/16 103/2 105/2 108/4 112/1 115/9 115/23 115/25 116/1 120/14 129/4 129/24 138/15 141/8 143/6 143/12 144/17 144/22 152/25 153/5 160/7 164/3 165/12 167/1 167/17 168/9</p> <p>morning [2] 39/22 107/6</p> <p>mortality [1] 112/4</p> <p>mortgage [1] 118/22</p> <p>most [33] 2/18 6/7 10/1 15/24 16/21 29/19 31/10 34/12 40/19 42/3 48/5 49/19 50/6 55/1 65/1 67/15 73/5 75/12 82/13 83/11 88/5 92/9 99/23 100/4 100/14 102/24 115/8 123/24 149/23</p> <p>150/3 160/3 160/25 167/8</p> <p>most -- you [1] 29/19</p> <p>motion [1] 155/9</p> <p>motive [1] 117/4</p> <p>mount [1] 94/7</p> <p>move [5] 80/17 113/14 125/10 144/7 144/15</p> <p>moved [1] 92/23</p> <p>moving [3] 38/3 145/2 145/24</p> <p>MP [1] 113/17</p> <p>MPs [1] 93/15</p> <p>Mr [30] 4/24 24/2 24/8 24/14 25/19 26/4 26/5 26/20 33/14 33/18 33/20 33/21 38/9 70/12 70/21 72/13 73/15 78/13 79/12 79/19 80/10 107/5 107/6 107/11 109/19 111/9 111/12 111/17 116/18 120/17</p> <p>Mr Chope [1] 111/12</p> <p>Mr Clarke [2] 38/9 111/17</p> <p>Mr Edwards [7] 70/12 70/21 72/13 73/15 78/13 79/19 80/10</p> <p>Mr Fowler [2] 107/11 109/19</p> <p>Mr Fowler's [2] 26/20 107/5</p> <p>Mr Harris [2] 116/18 120/17</p> <p>Mr Harris' [1] 79/12</p> <p>Mr Kenneth Clarke [1] 111/9</p> <p>Mr Parker [3] 33/14 33/18 33/21</p> <p>Mr Patten [3] 4/24 26/4 26/5</p> <p>Mr Winstanley [2] 24/2 33/20</p> <p>Mr Winstanley's [3] 24/8 24/14 25/19</p> <p>Mrs [2] 38/8 103/14</p> <p>Mrs Currie [1] 38/8</p> <p>Mrs Thatcher [1] 103/14</p> <p>MS [2] 1/4 171/4</p> <p>much [44] 14/1 16/4 16/11 25/14 31/16 34/25 41/14 55/25 59/8 62/7 68/18 70/14 79/9 79/25 92/7 92/14 95/8 104/24 105/2 105/24 107/8 107/9 112/7 114/17 115/23 122/6 122/19 124/20 129/14 129/24 130/7</p> <p>132/16 137/13 141/8 144/1 151/15 154/24 154/25 160/7 165/5 165/12 168/24 169/24 170/1</p> <p>mug [1] 154/21</p> <p>multidisciplinary [1] 61/7</p> <p>must [6] 36/11 100/1 136/16 149/24 152/21 167/16</p> <p>mustn't [1] 150/7</p> <p>my [66] 1/17 3/2 3/20 13/10 13/25 14/24 15/3 15/4 22/6 28/2 28/21 30/16 31/20 33/12 35/12 35/14 40/16 40/24 41/15 51/25 57/17 57/17 57/19 60/6 66/12 67/11 69/18 70/25 78/3 78/6 78/7 82/5 83/20 87/16 94/6 99/24 101/4 104/5 108/5 110/11 122/6 122/17 124/24 126/24 129/15 142/11 143/7 144/2 144/16 144/18 147/14 148/8 149/18 150/12 154/16 156/25 157/24 158/14 158/17 160/11 163/22 167/4 168/15 168/20 168/21 169/11</p> <p>myself [7] 59/7 60/18 89/3 134/5 155/5 159/21 163/14</p> <p>myths [1] 94/15</p>	<p>N</p> <p>named [1] 61/21</p> <p>narrative [3] 148/3 148/5 148/6</p> <p>national [6] 97/10 99/11 138/3 149/13 150/1 155/8</p> <p>nationalised [1] 150/17</p> <p>natural [1] 60/10</p> <p>nature [1] 119/2</p> <p>near [3] 9/5 108/16 140/5</p> <p>nearly [1] 157/1</p> <p>necessarily [5] 3/3 11/17 38/19 123/13 130/5</p> <p>necessary [2] 6/17 49/23</p> <p>need [23] 18/6 20/22 20/25 21/1 23/4 23/5 27/12 34/2 34/13 34/23 47/6 47/10</p> <p>54/15 62/20 71/3 71/9 81/12 81/21 87/16 92/13 98/16 116/20 136/1</p> <p>needed [16] 10/23 44/12 46/6 52/19 55/10 55/21 55/23 55/24 59/12 59/20 71/11 88/25 94/13 95/5 125/5 125/6</p> <p>needles [3] 151/22 151/23 152/5</p> <p>needs [2] 89/1 118/20</p> <p>negative [2] 73/10 75/6</p> <p>negatives [1] 67/21</p> <p>negligence [4] 114/1 115/11 115/17 123/13</p> <p>negligent [1] 116/12</p> <p>negligently [2] 114/5 115/18</p> <p>negligible [1] 117/11</p> <p>neither [1] 118/25</p> <p>nervous [1] 29/1</p> <p>net [1] 67/22</p> <p>Netherlands [2] 64/22 69/21</p> <p>never [20] 13/4 80/15 108/9 108/14 111/21 112/17 113/4 113/5 113/9 113/21 117/20 146/12 146/23 146/23 147/3 149/18 150/11 150/12 161/7 161/8</p> <p>Nevertheless [1] 34/11</p> <p>new [9] 51/16 60/12 60/12 89/3 112/22 115/7 117/7 125/6 164/24</p> <p>Newcastle [1] 45/3</p> <p>news [4] 44/23 68/21 90/11 163/22</p> <p>Newton [7] 60/14 84/15 95/22 125/24 131/10 155/5 163/15</p> <p>next [27] 24/5 25/8 30/15 34/19 54/1 57/7 58/19 62/8 62/23 65/12 72/7 90/23 94/5 97/14 101/4 103/24 104/4 106/20 107/13 110/18 121/14 122/21 138/17 150/23 154/1 155/18 157/1</p> <p>NHBT0096480 [1] 48/23</p> <p>NHS [4] 99/5 110/9 111/16 119/14</p> <p>nice [1] 102/19</p> <p>Nick [16] 64/4 69/9 69/13 69/14 71/19</p> <p>71/20 72/1 73/25 74/2 74/14 76/7 76/22 78/4 79/24 80/14 81/24</p> <p>Nick Edwards [2] 76/22 79/24</p> <p>nine [1] 66/9</p> <p>no [127] 3/22 7/23 8/2 9/16 9/19 10/15 10/16 12/25 14/1 14/23 16/25 17/1 17/5 17/13 20/5 20/8 22/5 22/6 23/16 27/2 27/10 28/4 29/12 30/1 30/8 31/19 31/19 34/12 36/22 38/11 38/24 39/8 39/10 40/13 42/11 43/7 43/25 44/12 47/24 50/16 52/18 54/21 56/19 56/19 57/8 57/17 57/25 58/15 62/7 66/25 69/13 69/16 72/20 74/11 74/19 75/13 77/4 78/14 79/13 80/2 85/2 85/9 86/11 86/18 86/24 86/24 87/6 88/16 89/5 95/10 95/17 95/18 101/24 102/3 106/3 106/4 107/1 108/1 111/10 112/6 112/17 112/17 114/3 116/6 119/4 120/1 120/2 122/14 122/17 124/4 124/19 124/21 124/25 125/7 126/21 127/18 128/20 130/16 131/13 132/1 132/11 132/12 133/3 134/21 135/13 135/14 138/10 140/16 143/3 145/22 148/7 152/6 152/8 154/11 156/18 156/19 157/2 158/17 159/23 160/20 161/17 161/24 162/13 163/16 166/17 167/16 169/3</p> <p>no-fault [1] 119/4</p> <p>no-one [5] 9/16 9/19 29/12 102/3 154/11</p> <p>non [23] 22/3 61/17 121/10 121/10 121/15 121/15 122/3 122/3 122/23 139/9 139/23 139/23 140/6 140/6 140/8 140/8 140/12 140/12 141/2 141/2 141/4 141/4 145/7</p> <p>non-A [9] 121/10 121/15 122/3 139/23 140/6 140/8 140/12 141/2 141/4</p> <p>non-B [9] 121/10</p> <p>121/15 122/3 139/23 140/6 140/8 140/12 141/2 141/4</p> <p>non-heat treated [1] 61/17</p> <p>non-intervention [1] 22/3</p> <p>non-steroidal [1] 122/23</p> <p>non-use [1] 139/9</p> <p>none [3] 40/8 136/24 161/17</p> <p>nor [2] 119/1 147/9</p> <p>normal [4] 35/16 90/15 143/25 154/12</p> <p>normally [1] 127/1</p> <p>NORMAN [5] 1/3 104/9 134/5 134/10 171/3</p> <p>Norman Fowler [2] 104/9 134/5</p> <p>Northern [2] 85/3 156/22</p> <p>Northern Ireland [1] 85/3</p> <p>not [205]</p> <p>notable [1] 73/6</p> <p>note [9] 33/7 44/19 46/14 46/14 53/25 57/22 58/12 63/22 103/2</p> <p>noted [1] 126/21</p> <p>notes [1] 46/14</p> <p>nothing [3] 100/14 108/20 144/13</p> <p>notice [2] 99/13 99/16</p> <p>November [9] 38/5 38/25 39/7 44/16 44/18 45/25 45/25 54/1 109/6</p> <p>November '84 [1] 44/16</p> <p>November 1983 [2] 38/25 39/7</p> <p>November 1984 [1] 54/1</p> <p>now [68] 1/7 5/9 6/20 7/11 8/8 9/2 9/14 13/8 15/7 18/22 24/21 25/15 26/13 26/24 34/16 35/1 35/21 38/4 38/23 38/25 39/1 39/13 39/19 40/11 41/16 44/7 46/13 47/24 49/14 55/15 57/9 58/22 63/17 64/1 65/5 65/24 67/14 68/3 75/22 78/1 86/15 88/20 96/15 97/25 100/9 103/16 113/16 114/14 119/17 122/5 124/13 126/12 129/2</p>
--	--

<p>N</p> <p>now... [15] 131/6 134/3 135/16 136/9 137/2 138/17 140/7 147/11 148/24 152/16 154/12 164/11 166/17 168/7 168/8</p> <p>number [37] 16/16 40/24 53/14 55/21 67/4 70/9 84/16 87/19 88/13 89/10 89/12 89/21 91/4 99/7 99/10 101/21 102/5 103/17 104/16 105/3 105/8 107/19 107/25 109/8 113/18 121/16 121/21 122/1 122/15 125/18 132/8 136/25 137/17 137/23 147/23 148/10 148/12</p> <p>number 1 [4] 40/24 53/14 99/10 102/5</p> <p>number 10 [13] 87/19 88/13 89/10 89/12 91/4 103/17 104/16 105/3 105/8 107/19 107/25 109/8 125/18</p> <p>number of [3] 122/15 132/8 137/17</p> <p>number that [1] 148/10</p> <p>numbered [1] 6/16</p> <p>numbers [6] 2/15 34/2 45/3 54/18 90/21 119/3</p> <p>Nursing [2] 18/3 18/4</p> <p>nutshell [1] 98/4</p>	<p>135/6 138/10 144/1 148/10 170/3</p> <p>occasion [3] 27/6 126/17 127/12</p> <p>occasionally [1] 40/10</p> <p>occasions [2] 137/23 148/12</p> <p>occur [1] 65/23</p> <p>occurred [2] 51/25 55/2</p> <p>October [18] 18/1 41/25 42/18 44/3 44/9 52/15 58/7 61/19 64/16 64/20 69/10 70/22 72/12 76/21 76/22 78/8 79/12 82/19</p> <p>October '84 [1] 44/9</p> <p>October 1982 [1] 18/1</p> <p>October 1983 [2] 41/25 52/15</p> <p>October 1984 [2] 42/18 44/3</p> <p>October 1985 [2] 64/16 76/21</p> <p>odd [1] 108/7</p> <p>of: [1] 9/8</p> <p>of: should [1] 9/8</p> <p>off [7] 14/21 29/13 33/12 47/12 74/3 95/7 127/3</p> <p>offend [2] 95/6 95/9</p> <p>offended [1] 93/4</p> <p>offending [1] 95/13</p> <p>offer [5] 89/6 106/21 111/14 112/8 112/14</p> <p>office [22] 4/25 34/24 36/17 37/5 37/22 44/18 70/16 71/4 71/9 71/17 80/8 87/1 107/5 119/17 124/17 128/23 128/23 132/23 150/24 156/22 156/22 156/23</p> <p>Officer [40] 2/5 18/3 18/4 41/22 42/5 42/15 42/20 43/1 44/3 44/6 46/15 50/19 51/13 52/15 53/2 55/17 56/25 57/4 57/22 58/10 60/12 60/13 60/22 62/15 63/22 65/5 65/8 68/10 68/14 69/2 76/4 76/5 107/8 143/2 143/9 143/13 143/23 144/3 144/4 153/11</p> <p>Officers' [1] 105/23</p> <p>Offices [1] 85/3</p> <p>official [2] 160/5 160/8</p> <p>Officially [1] 43/9</p>	<p>officials [10] 29/8 30/14 37/11 71/7 72/17 73/17 75/6 75/8 76/2 162/4</p> <p>often [4] 30/8 86/9 153/2 164/2</p> <p>oh [6] 23/17 23/17 32/8 104/21 145/21 156/24</p> <p>okay [9] 23/17 23/17 23/18 58/8 77/3 113/1 113/2 115/7 164/6</p> <p>omissions [1] 135/3</p> <p>omitted [1] 107/10</p> <p>once [3] 112/1 144/3 160/4</p> <p>one [95] 2/17 3/19 4/2 9/16 9/19 10/1 12/10 16/3 16/3 17/9 18/2 18/3 18/19 20/11 26/14 28/6 29/12 34/14 35/15 35/15 37/23 39/2 40/14 41/10 42/3 43/10 48/6 48/9 48/19 49/7 50/12 55/23 58/4 60/4 61/23 63/2 66/1 67/5 70/8 71/14 71/20 73/5 73/20 77/9 77/14 80/6 82/24 91/11 92/9 93/10 93/24 97/6 97/7 97/8 98/12 102/3 105/4 106/18 109/3 112/11 113/6 114/23 119/10 120/7 126/11 129/16 130/5 131/20 137/24 138/12 139/8 139/13 141/2 142/6 142/22 143/3 143/21 144/11 148/25 150/6 151/15 152/8 154/11 154/13 155/10 160/25 163/5 163/13 164/5 164/9 164/22 165/25 166/7 168/24 169/22</p> <p>one's [2] 153/17 162/18</p> <p>ones [1] 127/21</p> <p>ongoing [3] 36/24 82/10 83/15</p> <p>only [33] 8/18 9/12 15/5 27/11 29/18 43/17 49/10 54/14 59/18 63/13 85/6 91/16 96/23 106/4 106/14 107/18 111/18 116/2 117/17 126/6 128/23 134/4 136/14 137/6 150/20 151/24 151/25 157/21 163/11 165/6 165/15 165/16 168/5</p>	<p>onto [1] 97/23</p> <p>onwards [4] 50/20 53/4 53/13 122/8</p> <p>open [14] 14/25 15/1 15/4 15/5 15/13 17/18 39/12 80/15 103/23 106/4 119/1 120/12 158/7 162/17</p> <p>open-ended [1] 119/1</p> <p>opening [4] 14/4 104/7 104/10 105/15</p> <p>openness [3] 158/4 158/10 165/14</p> <p>operated [2] 47/21 110/14</p> <p>operation [1] 28/11</p> <p>operative [1] 7/14</p> <p>opinion [3] 91/19 92/4 142/10</p> <p>opportunity [4] 35/15 133/15 136/2 136/17 106/2 157/6</p> <p>opposite [1] 75/14</p> <p>opposition [1] 89/7</p> <p>option [1] 106/4</p> <p>or [159] 2/2 2/5 2/6 2/19 3/10 3/11 4/3 5/3 5/11 5/22 8/22 8/23 10/10 12/18 15/23 16/19 16/20 17/3 17/16 18/11 19/14 20/2 20/16 21/8 21/16 21/17 22/3 22/8 22/13 22/15 22/16 22/17 22/23 25/3 27/6 27/18 28/25 34/20 35/8 35/10 36/25 39/4 40/9 41/8 41/23 45/10 45/25 46/2 46/16 48/2 49/22 50/8 50/10 50/10 50/11 53/6 55/13 57/19 59/10 61/22 64/11 65/22 65/23 66/9 67/25 68/1 69/16 72/8 76/4 79/16 81/1 82/15 86/22 87/18 87/22 89/12 91/4 93/11 93/21 95/4 95/6 95/9 96/16 96/17 99/2 100/15 102/20 104/10 105/4 112/15 112/23 113/9 114/20 118/15 119/15 119/20 120/7 120/22 123/8 123/10 123/13 123/15 123/16 126/12 127/5 128/17 128/18 128/18 129/1 131/21 131/21 132/7 132/25 133/7 133/21 135/1 135/2 135/3 135/17 136/23 138/24 139/14 139/20 139/25 140/2 140/18</p>	<p>140/19 141/3 142/21 145/11 145/14 145/15 147/22 148/3 151/7 151/10 153/15 153/15 154/9 154/21 156/6 156/7 156/9 157/10 160/8 160/25 162/24 163/17 164/15 164/20 164/22 165/1 166/12 167/16 168/3 168/3 169/20 169/22 169/23</p> <p>or week [1] 25/3</p> <p>order [8] 5/15 20/23 34/15 53/12 62/18 83/13 126/21 127/13</p> <p>Ordered [1] 84/13</p> <p>ordinary [1] 111/19</p> <p>organ [1] 96/17</p> <p>Organisation [1] 94/3</p> <p>organised [1] 150/21</p> <p>original [3] 46/23 106/2 157/6</p> <p>other [57] 2/18 2/20 8/19 9/1 9/14 12/25 15/23 26/24 28/12 46/8 49/14 52/8 59/18 61/4 64/20 68/24 69/1 69/20 73/18 73/20 74/20 77/1 83/7 85/21 88/24 93/17 95/17 95/18 99/7 100/17 102/6 102/8 102/24 105/1 108/24 116/25 117/20 118/3 120/6 123/3 123/10 124/12 124/25 125/5 128/6 135/2 139/10 139/14 140/1 146/6 154/13 163/21 164/5 165/18 165/24 168/11 169/23</p> <p>others [9] 3/10 4/24 84/16 123/18 132/25 133/15 133/17 169/21 169/22</p> <p>otherwise [5] 30/14 95/9 126/7 164/4 166/1</p> <p>Otton [1] 143/22</p> <p>ought [2] 138/5 166/11</p> <p>our [21] 14/12 16/23 40/16 52/2 52/12 70/3 70/5 71/11 75/10 75/14 82/7 83/24 104/1 106/9 106/10 115/24 129/20 152/8 154/8 163/9 169/25</p> <p>ourselves [2] 88/6 96/4</p> <p>out [58] 5/17 6/20 8/17 12/24 13/3 13/4 13/5 17/21 19/25 25/1</p>	<p>29/21 30/2 30/3 30/6 30/12 35/2 46/11 46/12 55/20 70/5 70/7 72/14 76/20 87/3 88/6 89/25 95/24 95/25 99/1 99/2 105/7 105/18 106/16 114/21 116/14 117/20 121/1 127/13 130/4 130/4 132/19 139/3 143/25 145/2 146/25 147/22 152/4 154/21 155/14 156/1 157/10 159/8 160/4 163/13 163/13 163/20 164/11 169/11</p> <p>outcome [2] 19/13 19/20</p> <p>outline [1] 18/9</p> <p>outlining [1] 118/10</p> <p>outside [3] 10/2 96/2 106/2</p> <p>over [33] 6/11 20/10 21/6 39/9 42/1 44/10 44/21 45/19 48/25 54/13 57/19 61/8 62/8 71/21 89/6 93/16 106/18 118/8 121/1 128/2 132/5 132/5 133/13 141/23 141/24 142/16 145/3 147/18 151/25 153/25 155/6 167/5 167/17</p> <p>overriding [1] 36/11</p> <p>overstate [1] 150/7</p> <p>overtaking [2] 102/6 102/7</p> <p>overwhelming [1] 36/11</p> <p>own [21] 1/18 26/13 44/15 64/24 66/12 90/5 95/10 97/5 104/1 104/5 108/5 108/6 126/18 127/4 136/16 150/25 151/12 152/14 152/14 157/15 158/14</p>
<p>P</p>					
<p>pace [1] 22/24</p> <p>package [1] 93/14</p> <p>page [68] 4/15 6/11 6/12 7/12 8/7 23/15 23/16 23/19 23/22 25/8 25/9 38/7 42/25 44/21 45/5 45/6 45/19 48/25 51/3 51/4 54/9 54/13 57/3 61/8 61/9 61/12 62/8 66/8 66/9 66/16 67/7 80/21 80/21 81/4 81/7 82/22 82/22 84/13 84/18 84/19 84/21 87/6 87/8 87/11 89/19 93/16</p>					

<p>P</p> <p>page... [22] 93/20 94/5 96/7 104/19 105/11 106/18 106/23 107/3 109/17 111/7 118/8 118/12 121/1 121/5 121/19 126/16 133/20 133/21 133/22 138/23 138/24 139/2</p> <p>page 111 [2] 4/15 7/12</p> <p>page 112 [1] 23/15</p> <p>page 142 [1] 51/4</p> <p>page 145 [1] 138/23</p> <p>page 149 [1] 67/7</p> <p>page 163 [1] 80/21</p> <p>Page 165 [1] 87/8</p> <p>page 168 [1] 23/16</p> <p>page 169 [1] 25/9</p> <p>page 18 [1] 126/16</p> <p>page 20 [1] 89/19</p> <p>page 207 [1] 133/20</p> <p>page 35 [1] 138/24</p> <p>page 42 [1] 23/19</p> <p>page 5 [1] 82/22</p> <p>page 52 [1] 133/21</p> <p>page 8 [1] 66/8</p> <p>page of [1] 107/3</p> <p>page we [1] 54/13</p> <p>page you [1] 106/23</p> <p>pages [1] 139/1</p> <p>pagination [1] 138/24</p> <p>paid [1] 48/12</p> <p>painfully [1] 24/12</p> <p>painting [2] 27/22 28/1</p> <p>pandemic [1] 167/25</p> <p>panels [1] 34/3</p> <p>panic [5] 17/16 17/17 109/21 157/23 162/5</p> <p>paper [1] 25/10</p> <p>paper trail [1] 25/10</p> <p>papers [10] 18/16 18/19 18/20 54/2 126/19 126/21 127/4 127/13 127/15 128/19</p> <p>parade [1] 108/18</p> <p>paragraph [63] 4/19 4/21 6/16 7/12 7/13 14/5 18/8 18/9 26/19 33/21 34/4 34/16 34/22 43/16 44/23 45/1 45/4 45/12 45/12 45/15 45/16 45/18 45/21 51/6 62/16 62/23 65/13 65/13 67/8 70/22 72/7 72/16 72/18 72/24 73/2 74/17 75/4 79/16 79/18 80/23 84/21 87/5 87/7 87/8 89/19</p>	<p>90/23 95/2 105/16 106/6 106/20 106/24 107/13 111/10 113/19 116/21 117/15 118/13 118/17 118/22 121/11 121/14 122/21 126/16</p> <p>paragraph 0.36 [1] 126/16</p> <p>paragraph 0.42 [1] 89/19</p> <p>paragraph 1 [2] 14/5 44/23</p> <p>Paragraph 11 [1] 45/21</p> <p>paragraph 162 [1] 84/21</p> <p>paragraph 2 [4] 33/21 45/1 72/24 116/21</p> <p>paragraph 3 [2] 45/4 73/2</p> <p>paragraph 4 [1] 34/16</p> <p>paragraph 5 [1] 34/22</p> <p>paragraph 6 [1] 45/12</p> <p>paragraph 6.100 [1] 67/8</p> <p>paragraph 6.127 [1] 80/23</p> <p>paragraph 6.128 [1] 87/8</p> <p>paragraph 6.144 [1] 87/5</p> <p>paragraph 6.23 [2] 4/19 7/13</p> <p>paragraph 6.88 [1] 51/6</p> <p>Paragraph 7 [1] 45/15</p> <p>Paragraph 8 [1] 45/16</p> <p>paragraph 9 [1] 45/18</p> <p>paragraph as [1] 7/12</p> <p>paragraph he [1] 72/18</p> <p>paragraph indicates [1] 79/18</p> <p>paragraph it [1] 62/16</p> <p>paragraph numbered [1] 6/16</p> <p>paragraph of [1] 4/21</p> <p>paragraph says [1] 26/19</p> <p>paragraph that [1] 106/6</p> <p>paragraph you [1] 106/20</p> <p>parents [1] 101/8</p> <p>Parker [3] 33/14 33/18 33/21</p> <p>Parliament [7] 5/21 5/23 135/11 135/13 160/14 160/22 160/23</p> <p>parliamentarian [1] 160/12</p> <p>parliamentary [6]</p>	<p>81/20 116/6 161/2 161/3 161/4 161/5</p> <p>part [27] 3/1 3/2 11/1 11/8 12/14 17/6 20/19 46/20 50/22 57/21 65/3 73/21 73/24 82/13 83/11 102/22 104/24 106/21 108/17 114/15 123/12 141/5 142/6 145/9 155/25 156/8 157/6</p> <p>partial [1] 30/17</p> <p>Participants [5] 49/8 136/2 136/14 137/18 161/16</p> <p>participated [1] 75/8</p> <p>participating [1] 20/3</p> <p>particular [35] 6/19 7/24 9/13 12/4 14/4 18/21 21/13 28/2 30/9 33/22 36/6 43/25 56/16 59/1 67/5 70/8 71/22 76/14 110/8 113/5 115/9 121/24 122/7 129/1 132/2 132/6 134/14 135/23 142/17 149/7 154/4 160/15 160/18 160/23 165/20</p> <p>particularly [13] 21/6 32/21 49/22 67/20 71/2 93/8 128/1 136/19 145/22 150/22 151/21 152/15 169/5</p> <p>partners [3] 27/18 48/8 101/10</p> <p>partnership [1] 153/8</p> <p>parts [1] 88/8</p> <p>pass [4] 33/8 76/10 90/14 99/17</p> <p>passage [6] 107/10 133/18 138/18 138/19 139/3 140/23</p> <p>passages [1] 146/3</p> <p>passed [2] 19/23 119/10</p> <p>passing [3] 83/14 118/5 127/8</p> <p>past [6] 34/24 37/21 53/18 95/12 113/4 136/4</p> <p>patient [4] 16/3 45/2 45/2 154/19</p> <p>patients [19] 9/17 9/20 14/12 14/17 16/5 17/11 39/1 55/3 61/21 62/25 69/1 83/8 114/13 114/16 122/22 123/3 123/5 154/15 158/25</p> <p>patrician [1] 164/6</p> <p>Patrick [1] 149/18</p>	<p>Patten [5] 4/24 26/4 26/5 41/5 65/7</p> <p>pausing [3] 63/7 71/14 122/5</p> <p>pay [1] 117/20</p> <p>paying [1] 159/20</p> <p>pays [1] 147/4</p> <p>penultimate [1] 106/24</p> <p>people [60] 2/14 9/25 15/6 15/8 15/11 15/21 16/11 17/15 26/24 28/25 29/19 29/22 29/22 33/3 44/24 48/10 49/9 49/15 56/6 59/19 83/7 84/4 91/15 91/16 91/21 93/3 93/4 94/21 94/25 95/7 95/9 95/13 96/1 97/3 97/3 98/3 98/5 98/10 99/15 102/7 102/8 102/10 105/22 108/7 108/19 112/14 112/24 130/14 131/2 132/16 134/2 134/4 134/10 146/16 147/3 152/11 155/9 164/2 165/23 166/1</p> <p>people's [1] 98/13</p> <p>per [14] 9/11 9/12 9/13 12/14 12/18 13/6 43/12 68/18 77/2 91/23 91/23 92/1 92/1 106/12</p> <p>perceived [1] 121/24</p> <p>perception [1] 73/10</p> <p>perfectly [2] 91/10 104/21</p> <p>perhaps [17] 20/7 23/11 28/21 65/24 75/12 79/4 79/22 91/12 126/8 128/24 129/2 129/3 129/11 144/17 153/25 162/13 169/13</p> <p>period [7] 54/23 87/17 88/20 133/8 144/18 147/19 159/18</p> <p>periods [1] 102/2</p> <p>permanent [4] 129/1 143/17 143/19 143/20</p> <p>permission [1] 120/2</p> <p>person [6] 29/18 55/13 134/2 143/4 153/24 153/24</p> <p>personal [2] 55/12 135/1</p> <p>personalities [1] 169/22</p> <p>personally [1] 164/10</p> <p>persons [1] 111/15</p> <p>perspective [6] 21/18 28/21 101/7 116/15</p>	<p>120/21 148/18</p> <p>persuade [2] 31/8 31/9</p> <p>persuaded [2] 125/8 149/25</p> <p>persuasion [1] 104/24</p> <p>PESC [1] 61/4</p> <p>Peter [3] 66/6 68/12 118/10</p> <p>pharmaceutical [2] 170/8 170/10</p> <p>PHLSB [1] 117/8</p> <p>photograph [1] 154/22</p> <p>phrase [6] 1/9 1/13 7/14 111/25 114/24 146/18</p> <p>phrases [1] 154/8</p> <p>physicians [2] 14/6 14/16</p> <p>pick [21] 23/11 23/24 24/7 25/10 42/16 44/15 48/19 50/24 64/1 65/24 66/8 67/8 72/10 76/8 80/22 84/20 87/8 103/4 109/3 111/2 139/11</p> <p>picking [2] 133/23 143/8</p> <p>picks [3] 55/6 87/4 161/22</p> <p>picture [5] 23/3 38/3 66/23 84/6 152/19</p> <p>pie [1] 165/16</p> <p>piece [2] 12/1 163/21</p> <p>pieces [1] 125/5</p> <p>pinpoint [1] 115/16</p> <p>pit [1] 90/5</p> <p>pitiful [1] 121/23</p> <p>pity [1] 29/11</p> <p>place [12] 10/3 20/16 21/4 44/7 44/9 56/4 61/16 68/19 127/7 131/23 161/8 164/20</p> <p>placed [2] 21/18 84/25</p> <p>plainly [1] 10/22</p> <p>plans [2] 111/14 112/8</p> <p>plasma [5] 7/7 12/3 43/4 55/4 104/1</p> <p>plate [1] 40/16</p> <p>played [2] 91/2 102/22</p> <p>playing [2] 49/25 68/16</p> <p>please [13] 23/14 24/6 48/23 51/3 57/6 70/17 87/8 105/11 111/5 111/10 133/19 138/22 139/2</p> <p>plight [2] 110/8</p>	<p>113/21</p> <p>plodding [1] 20/10</p> <p>plough [1] 150/25</p> <p>plus [1] 141/2</p> <p>pluses [1] 130/25</p> <p>pm [5] 103/8 103/10 137/14 137/16 170/11</p> <p>point [59] 3/20 3/21 5/15 6/2 7/17 7/25 8/2 9/14 12/21 12/22 13/13 20/14 21/13 21/15 27/21 29/4 31/16 31/20 35/10 39/18 39/22 46/5 48/19 53/17 56/13 60/9 62/9 63/13 66/17 68/15 76/2 76/7 78/6 82/2 86/15 87/4 91/12 96/15 113/5 113/9 113/10 115/21 129/22 132/1 133/2 135/23 135/24 139/6 140/1 143/3 145/18 152/20 158/13 162/24 162/24 164/1 168/20 168/21 169/6</p> <p>pointed [1] 156/1</p> <p>points [6] 16/14 42/4 51/1 57/13 59/15 126/12</p> <p>policies [1] 37/7</p> <p>policy [29] 16/8 17/19 21/25 22/3 22/4 33/5 33/10 33/23 36/3 36/4 36/21 37/15 59/21 59/22 70/7 73/22 75/10 75/15 78/16 112/12 112/13 112/16 124/22 128/18 129/24 138/14 152/10 153/21 156/17</p> <p>political [16] 48/2 90/10 90/17 107/23 124/5 125/14 125/17 130/15 144/10 145/7 145/7 153/3 166/21 167/19 168/13 169/18</p> <p>politician [2] 80/14 168/25</p> <p>politicians [5] 31/20 144/9 153/5 153/6 153/13</p> <p>politics [2] 15/4 153/12</p> <p>pooled [1] 55/4</p> <p>pools [2] 7/7 12/3</p> <p>poor [5] 77/7 77/11 78/14 78/16 78/17</p> <p>population [1] 63/5</p> <p>portrayal [1] 134/21</p> <p>portrays [1] 105/6</p> <p>posed [2] 45/7 117/13</p>
--	--	--	---	--	---

<p>P</p> <p>posed: [1] 33/10</p> <p>posed: what's [1] 33/10</p> <p>position [34] 1/14 2/3 13/6 13/9 13/24 16/11 25/1 27/15 27/16 27/20 33/9 35/12 35/14 35/24 37/12 41/1 41/22 43/3 46/7 47/19 53/15 58/13 58/23 89/13 102/9 121/23 124/17 132/22 137/20 150/13 151/3 153/15 156/4 165/7</p> <p>positions [1] 86/22</p> <p>positive [4] 66/19 83/6 114/14 114/21</p> <p>possibilities [1] 14/8</p> <p>possibility [2] 43/19 55/5</p> <p>possible [30] 7/4 7/15 7/21 7/23 7/25 8/5 8/15 8/18 10/10 11/4 11/6 11/9 11/22 12/12 12/13 12/23 13/20 14/14 14/25 17/17 30/11 38/17 52/3 52/17 58/12 85/11 114/6 149/1 152/14 158/8</p> <p>possible' [1] 7/14</p> <p>possibly [1] 22/15</p> <p>post [1] 144/3</p> <p>poster [1] 92/20</p> <p>postering [1] 93/7</p> <p>posters [3] 92/18 92/24 97/14</p> <p>postpone [1] 8/24</p> <p>potential [1] 14/7</p> <p>potentially [4] 31/12 54/20 106/1 141/18</p> <p>power [1] 131/8</p> <p>practicalities [1] 169/17</p> <p>practically [1] 144/13</p> <p>practice [7] 16/16 32/7 32/24 33/5 36/23 37/15 142/25</p> <p>Practicing [1] 49/4</p> <p>practising [2] 49/9 49/15</p> <p>praise [1] 73/14</p> <p>precedence [1] 48/3</p> <p>precedent [2] 118/3 119/1</p> <p>precisely [3] 23/2 152/20 157/11</p> <p>preclude [1] 16/14</p> <p>predecessor [1] 149/18</p>	<p>prefer [1] 104/10</p> <p>prejudge [1] 114/2</p> <p>prejudice [4] 89/20 89/24 90/24 91/1</p> <p>preliminary [1] 27/13</p> <p>premise [1] 8/12</p> <p>preparations [1] 58/14</p> <p>prepared [4] 7/7 12/3 89/4 94/25</p> <p>preparing [2] 72/23 148/13</p> <p>prescribed [1] 123/5</p> <p>prescription [1] 61/21</p> <p>present [2] 33/1 61/20</p> <p>presentation [2] 31/4 72/16</p> <p>presented [1] 126/20</p> <p>President [1] 109/11</p> <p>press [5] 8/3 47/13 65/16 68/17 134/7</p> <p>pressing [1] 130/14</p> <p>pressure [3] 65/20 151/11 151/14</p> <p>pressures [1] 169/17</p> <p>presumably [4] 26/7 61/25 107/16 162/19</p> <p>pretty [8] 115/7 123/21 126/1 127/9 127/10 128/3 128/16 154/12</p> <p>prevalence [1] 43/11</p> <p>prevalent [1] 152/12</p> <p>prevarication [2] 132/5 132/7</p> <p>prevent [10] 17/16 17/17 45/9 96/4 96/4 102/6 102/7 102/15 110/4 143/2</p> <p>preventing [3] 28/18 84/2 109/20</p> <p>prevention [1] 138/3</p> <p>previous [5] 63/6 84/19 125/23 127/12 127/12</p> <p>previously [5] 46/1 59/3 93/3 108/3 131/23</p> <p>price [1] 48/12</p> <p>primarily [2] 4/23 71/13</p> <p>Prime [30] 56/8 59/11 70/18 87/22 88/13 88/14 88/25 90/11 90/18 91/6 103/14 103/22 104/3 104/5 104/16 105/14 107/16 108/22 109/4 109/10 109/18 109/25 110/7 110/23 120/3 123/23 125/1 146/8 146/22 149/6</p>	<p>Prime Minister [3] 56/8 103/14 105/14</p> <p>princess [2] 154/25 155/2</p> <p>Princess Diana [1] 154/25</p> <p>principal [1] 54/16</p> <p>principally [1] 55/9</p> <p>principle [7] 2/21 2/22 15/15 17/9 19/8 77/5 77/6</p> <p>print [1] 97/13</p> <p>printed [1] 84/14</p> <p>printing [1] 24/11</p> <p>prior [4] 34/7 51/25 57/16 110/1</p> <p>priorities [1] 86/3</p> <p>priority [8] 87/18 87/21 88/14 88/15 89/11 99/10 99/21 102/5</p> <p>prison [4] 35/25 36/6 37/8 38/4</p> <p>prisoners [7] 34/25 35/3 35/14 35/19 36/14 36/24 145/16</p> <p>prisons [14] 32/7 32/15 32/19 32/21 33/1 33/6 33/24 34/6 34/9 34/13 35/10 37/21 40/6 145/16</p> <p>private [6] 4/25 44/18 73/11 104/20 128/19 150/10</p> <p>privilege [1] 135/19</p> <p>probably [23] 1/25 9/6 25/17 39/16 50/22 53/17 54/14 70/6 84/18 87/4 92/9 97/20 100/16 109/23 112/7 122/11 133/20 143/16 149/25 151/13 153/5 159/24 160/6</p> <p>problem [7] 22/7 90/19 105/25 109/15 140/9 152/13 159/4</p> <p>problems [3] 42/21 84/11 150/20</p> <p>procedure [1] 126/25</p> <p>procedures [2] 111/24 113/25</p> <p>proceed [1] 121/13</p> <p>proceeded [2] 3/11 4/1</p> <p>proceeding [1] 107/2</p> <p>proceedings [1] 136/11</p> <p>process [20] 2/25 4/8 19/7 19/17 41/23 46/20 48/18 78/1 78/2 138/7 139/7 140/14 141/6 142/24 143/12</p>	<p>155/22 156/8 157/11 166/17 168/14</p> <p>processes [2] 47/22 165/2</p> <p>produce [1] 16/17</p> <p>produced [1] 61/18</p> <p>producing [1] 50/3</p> <p>product [3] 8/23 12/19 12/19</p> <p>production [3] 7/9 11/13 12/6</p> <p>productive [1] 159/20</p> <p>products [24] 7/5 7/9 7/18 8/16 10/9 11/5 11/14 12/3 12/6 14/13 15/21 37/2 38/7 38/12 43/18 45/10 54/25 82/15 96/16 98/22 103/24 113/17 115/3 147/21</p> <p>profession [2] 9/16 10/11</p> <p>professional [2] 38/15 144/13</p> <p>Professor [5] 4/3 62/10 65/17 83/1 142/17</p> <p>Professor Bloom [2] 4/3 142/17</p> <p>profile [1] 94/1</p> <p>programme [1] 82/8</p> <p>progress [5] 37/25 40/23 59/8 59/16 125/1</p> <p>progressing [1] 94/8</p> <p>progression [1] 60/10</p> <p>project [1] 85/8</p> <p>prolonged [1] 54/22</p> <p>promiscuous [3] 90/13 90/14 121/25</p> <p>promise [2] 137/4 161/13</p> <p>promote [1] 71/10</p> <p>promoted [1] 60/16</p> <p>proof [4] 14/24 38/25 157/3 161/24</p> <p>proper [3] 48/7 64/13 123/6</p> <p>proponents [1] 155/11</p> <p>proportion [3] 63/4 91/22 91/24</p> <p>proposal [1] 93/2</p> <p>proposals [2] 9/4 94/8</p> <p>propose [1] 16/13</p> <p>proposed [9] 46/16 73/3 74/1 105/17 105/22 107/9 107/11 117/9 137/17</p> <p>proposer [1] 155/10</p> <p>proposing [4] 1/22 38/21 136/1 161/14</p>	<p>prospect [1] 32/4</p> <p>prostitutes [1] 90/4</p> <p>protect [3] 104/2 166/12 166/13</p> <p>protection [2] 43/17 66/25</p> <p>protective [1] 146/20</p> <p>proved [2] 114/1 115/12</p> <p>Provera [1] 111/8</p> <p>provide [6] 6/22 14/11 86/13 94/15 94/24 120/21</p> <p>provided [8] 22/9 61/16 81/17 84/22 85/4 119/5 123/4 156/15</p> <p>provides [2] 18/7 79/21</p> <p>providing [1] 125/12</p> <p>provision [3] 61/3 81/23 85/16</p> <p>proviso [1] 123/7</p> <p>PRSE0000049 [1] 26/15</p> <p>PRSE0000372 [2] 5/7 8/7</p> <p>PRSE0000886 [1] 38/4</p> <p>PRSE0003350 [1] 111/4</p> <p>PRSE0004345 [1] 32/11</p> <p>PRSE0004729 [1] 33/19</p> <p>prudence [1] 70/7</p> <p>psychological [2] 82/10 83/15</p> <p>public [62] 31/8 31/22 31/23 40/18 40/20 50/10 55/6 55/17 56/17 56/20 65/20 68/22 68/25 73/13 73/15 83/21 89/21 89/21 90/7 91/19 92/4 92/10 92/16 93/12 93/18 94/1 94/13 94/20 96/3 99/11 103/3 103/12 105/9 106/4 122/14 125/2 128/14 130/1 132/13 133/1 133/7 134/4 144/24 145/25 146/25 147/1 149/22 155/16 157/7 158/12 162/5 162/7 162/19 164/6 164/8 164/23 165/24 166/6 166/10 166/13 168/2 168/14</p> <p>publication [1] 107/2</p> <p>publicity [1] 43/19</p> <p>publicly [2] 73/18</p>	<p>122/4</p> <p>publish [2] 79/7 107/23</p> <p>published [2] 65/18 118/9</p> <p>Punch [1] 66/15</p> <p>pure [1] 104/1</p> <p>purely [1] 134/1</p> <p>purpose [9] 8/8 93/11 93/12 98/2 99/14 99/25 148/13 162/10 163/3</p> <p>purposes [3] 14/12 50/3 168/13</p> <p>pursue [1] 76/11</p> <p>pursued [2] 37/8 149/18</p> <p>push [2] 131/21 165/13</p> <p>put [42] 6/10 9/17 17/21 21/14 23/5 25/2 25/12 29/21 30/1 30/6 37/14 37/17 40/16 44/1 55/7 59/13 59/15 64/14 74/25 89/18 95/4 95/6 101/21 110/11 119/19 123/21 127/6 133/25 138/20 139/5 139/14 139/14 139/25 148/2 148/16 151/3 151/11 151/14 153/17 154/8 161/5 166/23</p> <p>putting [7] 10/16 13/14 27/25 30/3 54/10 95/4 161/5</p>
Q					
				<p>qualification [2] 157/17 162/2</p> <p>qualified [1] 39/11</p> <p>qualifying [1] 157/5</p> <p>quantity [2] 1/20 61/14</p> <p>quarantined [1] 90/7</p> <p>queried [1] 115/8</p> <p>question [70] 8/3 8/8 8/17 9/8 10/5 10/8 10/17 16/25 21/16 22/6 24/13 27/14 30/16 33/10 34/17 38/8 42/10 42/23 43/1 43/25 44/8 44/11 45/7 48/25 50/16 57/10 58/4 59/24 64/1 80/23 100/23 101/4 104/7 107/13 108/1 111/12 112/22 117/12 120/22 121/4 129/5 132/20 133/16 135/13 135/14 135/18 138/11 138/12 138/17 139/22 140/10</p>	

(61) posed: - question

<p>Q</p> <p>question... [19] 140/25 142/12 143/14 145/23 147/14 150/23 151/4 154/1 155/18 155/22 157/1 157/2 160/11 160/19 161/4 161/5 161/22 164/14 168/5</p> <p>questionable [1] 32/25</p> <p>questioned [5] 1/4 78/24 161/19 171/4 171/5</p> <p>questioning [1] 122/6</p> <p>questions [26] 2/1 3/23 4/6 19/7 20/20 22/8 29/23 49/7 85/18 86/6 103/3 110/2 110/14 116/6 131/5 133/16 135/25 136/3 136/15 136/22 137/17 161/14 161/17 161/18 161/21 168/11</p> <p>queue [1] 56/4</p> <p>quibble [1] 52/23</p> <p>quicker [3] 48/15 167/2 167/2</p> <p>quickly [1] 47/23</p> <p>quite [42] 5/25 14/24 28/22 29/14 37/22 40/16 42/11 49/25 55/22 56/11 56/19 59/5 68/12 68/21 70/9 74/25 78/23 80/12 92/20 98/19 100/2 107/11 108/16 110/12 110/16 115/15 125/19 127/16 127/23 129/3 140/16 140/21 144/7 145/5 146/22 147/11 148/22 153/16 155/16 156/1 163/5 167/9</p> <p>quote [3] 74/11 74/11 153/4</p>	<p>rarely [1] 144/16</p> <p>rate [1] 112/4</p> <p>rather [31] 3/24 28/21 29/1 29/2 31/23 37/17 48/7 50/12 51/19 71/21 82/4 84/1 108/7 112/10 113/11 115/25 116/1 117/13 118/1 130/2 137/19 141/1 143/6 152/25 155/2 163/24 164/7 167/18</p> <p>reach [2] 20/14 26/21</p> <p>reaction [6] 26/25 27/2 77/9 164/15 164/15 164/17</p> <p>read [12] 12/10 29/2 80/1 89/24 94/25 96/9 98/11 99/15 99/15 108/8 117/21 139/3</p> <p>readers [1] 90/11</p> <p>reading [2] 21/10 89/25</p> <p>ready [1] 25/12</p> <p>Reagan [1] 100/13</p> <p>real [3] 50/9 92/20 117/23</p> <p>realisation [1] 46/4</p> <p>realise [1] 169/13</p> <p>realities [2] 125/14 166/22</p> <p>really [33] 3/20 3/24 9/6 13/1 16/8 19/7 29/13 29/21 40/13 41/16 46/9 47/18 60/18 77/5 77/18 80/4 81/11 86/6 95/11 100/9 118/4 122/17 122/19 128/21 141/7 141/13 141/25 143/15 145/12 146/12 149/23 160/11 164/14</p> <p>reason [15] 2/11 4/5 58/21 75/18 88/17 92/25 112/15 145/2 152/11 157/21 157/25 158/1 158/2 161/8 162/4</p> <p>reasons [6] 15/11 36/6 86/16 124/23 157/17 167/19</p> <p>reassured [1] 88/12</p> <p>recall [14] 45/24 57/15 71/18 83/16 86/19 86/21 110/6 110/22 119/23 133/1 137/21 140/19 154/5 158/9</p> <p>receive [1] 85/23</p> <p>received [4] 1/24 4/3 53/25 85/6</p> <p>receiving [3] 14/13</p>	<p>44/25 111/15</p> <p>recent [3] 32/16 117/5 144/17</p> <p>recently [2] 91/22 142/16</p> <p>recess [1] 31/15</p> <p>recipient [1] 65/22</p> <p>recipients [4] 14/7 14/16 43/14 43/17</p> <p>recognise [2] 65/14 105/21</p> <p>recognised [3] 42/6 121/17 122/4</p> <p>recognition [1] 122/14</p> <p>recollection [4] 27/2 27/11 87/16 159/23</p> <p>recommend [1] 85/13</p> <p>recommendation [22] 6/6 7/22 7/23 8/7 10/13 10/22 11/2 12/15 13/17 14/3 14/4 14/10 14/20 15/20 52/6 61/6 85/12 137/22 155/19 155/20 156/1 166/19</p> <p>recommendations [15] 4/11 4/18 4/23 5/8 5/12 5/18 6/7 6/14 6/15 7/3 7/18 156/9 164/22 166/17 166/19</p> <p>recommended [1] 11/21</p> <p>recommending [1] 94/3</p> <p>recommission [1] 123/16</p> <p>record [2] 70/3 70/5</p> <p>records [2] 38/8 51/14</p> <p>rectified [1] 85/11</p> <p>redraft [1] 43/23</p> <p>redrafted [1] 46/16</p> <p>reduce [1] 55/8</p> <p>reduced [1] 63/20</p> <p>reducing [2] 91/9 102/23</p> <p>reductions [1] 87/25</p> <p>reel [1] 14/21</p> <p>refer [5] 67/8 81/5 81/12 81/16 87/10</p> <p>reference [37] 4/13 4/18 23/11 23/21 25/9 28/9 43/21 45/11 46/13 46/16 48/8 51/4 51/14 65/17 66/1 66/7 72/7 81/8 81/10 81/15 81/18 84/23 85/1 85/20 85/25 87/6 87/10 94/10 103/21 106/11 109/3 109/12 116/13 118/7 149/8 152/19 159/22</p>	<p>references [4] 28/12 45/3 95/4 95/5</p> <p>referred [14] 4/22 19/2 26/16 48/9 51/17 64/20 80/10 92/15 137/23 140/20 145/15 147/13 148/9 148/11</p> <p>referring [3] 38/21 48/6 142/14</p> <p>refers [16] 43/14 43/22 44/22 45/1 45/12 45/15 45/16 45/18 54/24 55/5 66/15 106/21 116/19 118/9 118/17 133/17</p> <p>reflected [1] 73/12</p> <p>reflection [1] 141/3</p> <p>reform [1] 168/14</p> <p>regard [4] 86/21 119/12 134/19 134/21</p> <p>regarded [3] 74/9 123/21 153/12</p> <p>regarding [1] 128/18</p> <p>regime [1] 151/6</p> <p>Regional [1] 33/25</p> <p>regions [3] 8/20 34/12 81/5</p> <p>regret [1] 13/8</p> <p>regrettable [1] 8/1</p> <p>regular [1] 71/24</p> <p>regularly [1] 52/5</p> <p>reign [1] 60/6</p> <p>rejected [2] 125/2 167/15</p> <p>related [3] 32/5 43/4 43/8</p> <p>relates [2] 28/3 150/23</p> <p>relating [5] 71/13 80/9 89/17 147/21 154/1</p> <p>relation [17] 25/16 38/3 38/17 48/19 52/11 54/2 62/9 64/8 80/19 81/22 84/6 86/15 86/22 137/20 139/9 152/17 158/11</p> <p>relations [3] 128/15 164/6 168/2</p> <p>relationship [7] 16/3 71/16 71/19 79/17 80/12 80/13 149/21</p> <p>relationships [4] 48/11 49/16 49/16 49/17</p> <p>relatives [1] 83/9</p> <p>release [1] 47/13</p> <p>relevant [5] 14/12 47/13 149/10 158/15 170/8</p> <p>reliability [1] 67/14</p> <p>reliable [6] 65/1 66/14 67/19 75/20 77/7</p>	<p>78/18</p> <p>reliably [1] 43/7</p> <p>reliance [2] 155/24 156/4</p> <p>relied [2] 67/12 76/3</p> <p>relief [1] 35/6</p> <p>relieved [1] 122/22</p> <p>reluctance [1] 36/4</p> <p>reluctant [1] 151/23</p> <p>relying [3] 3/19 34/6 142/9</p> <p>remain [2] 62/21 68/5</p> <p>remained [4] 102/5 133/5 133/9 134/1</p> <p>remaining [3] 119/16 119/24 126/12</p> <p>remember [20] 1/18 5/5 30/21 30/24 33/13 47/24 68/17 88/5 88/20 88/21 88/22 112/12 116/4 129/25 135/16 143/15 145/8 152/1 152/6 155/7</p> <p>remembering [1] 131/22</p> <p>remind [2] 4/13 25/18</p> <p>reminded [1] 159/21</p> <p>remote [4] 111/18 153/1 153/24 153/24</p> <p>remotely [7] 27/12 122/18 145/1 150/12 150/12 153/9 153/23</p> <p>removing [2] 157/18 157/21</p> <p>repercussions [3] 116/24 118/1 118/2</p> <p>replaying [1] 104/23</p> <p>reply [6] 46/10 46/11 72/24 89/9 128/8 144/2</p> <p>report [10] 19/25 21/10 54/9 79/19 84/10 86/25 98/18 98/18 124/14 137/21</p> <p>reporter [1] 154/17</p> <p>reports [1] 46/9</p> <p>representation [1] 71/5</p> <p>representations [1] 86/22</p> <p>representatives [3] 94/11 96/11 96/20</p> <p>represented [2] 71/9 72/4</p> <p>representing [1] 161/18</p> <p>reputation [1] 138/9</p> <p>request [1] 42/19</p> <p>requested [2] 42/21 53/25</p> <p>required [4] 20/25 94/14 104/24 159/12</p>	<p>requisite [1] 85/14</p> <p>research [2] 85/8 91/18</p> <p>resent [1] 35/22</p> <p>reservations [2] 105/7 105/17</p> <p>resources [4] 61/3 87/16 88/6 125/4</p> <p>respect [3] 6/18 117/6 167/12</p> <p>respecting [1] 102/8</p> <p>respond [1] 164/24</p> <p>responded [1] 156/10</p> <p>response [15] 1/12 15/19 33/18 42/19 70/17 72/23 73/3 73/6 74/1 75/2 86/25 107/4 107/17 129/10 134/14</p> <p>responsibilities [2] 70/25 144/5</p> <p>responsibility [8] 37/1 86/17 113/16 135/4 135/21 135/24 138/2 169/19</p> <p>responsible [6] 52/20 114/19 115/1 135/10 158/2 169/15</p> <p>rest [7] 36/2 85/10 95/2 102/3 118/4 135/5 159/10</p> <p>restricted [1] 117/2</p> <p>result [9] 20/8 98/20 98/21 100/15 100/20 102/4 111/15 120/25 122/3</p> <p>results [4] 54/20 61/1 66/17 67/17</p> <p>return [3] 83/8 121/3 170/7</p> <p>revert [1] 8/20</p> <p>reverting [1] 15/7</p> <p>reviewed [6] 22/1 46/25 50/2 148/14 148/15 148/15</p> <p>revisited [1] 21/19</p> <p>RF [1] 116/18</p> <p>RICHARDS [2] 1/4 171/4</p> <p>ride [1] 149/5</p> <p>ridiculous [2] 127/14 137/7</p> <p>right [51] 7/22 8/9 8/10 9/6 17/11 19/18 20/1 23/18 23/20 24/6 28/15 31/5 31/19 38/6 39/20 40/2 41/21 42/11 52/24 55/15 55/18 56/19 58/20 68/14 68/15 73/19 74/24 75/22 76/10 77/16 78/25 79/1 90/18 101/24 111/7</p>
--	---	---	--	---	--

<p>R</p> <p>right... [16] 115/5 115/7 117/21 125/13 130/8 130/9 143/24 148/1 149/25 153/18 153/18 156/21 160/2 162/3 162/14 167/9</p> <p>right-hand [3] 24/6 38/6 111/7</p> <p>rightly [7] 13/24 16/9 35/13 36/18 92/24 140/2 144/8</p> <p>rigorous [1] 73/4</p> <p>risk [36] 1/6 1/14 1/15 1/19 9/17 25/4 34/9 35/3 43/20 45/22 49/2 49/18 55/10 60/3 63/18 66/25 67/21 70/2 94/11 94/17 96/11 96/18 106/2 117/3 117/10 117/17 139/15 139/16 139/23 140/3 140/4 163/1 163/18 165/3 165/4 165/9</p> <p>risks [22] 1/7 1/7 2/8 2/23 3/12 4/4 14/9 14/14 14/15 15/25 16/6 18/8 35/5 38/17 60/2 83/7 114/6 114/13 114/16 139/8 139/9 165/19</p> <p>risky [5] 56/8 56/11 95/15 106/22 108/3</p> <p>roar [1] 155/12</p> <p>robust [5] 73/3 74/1 74/2 80/13 80/14</p> <p>role [2] 20/19 91/2</p> <p>Ronald [1] 100/13</p> <p>room [3] 9/10 106/10 126/20</p> <p>rose [1] 92/1</p> <p>rough [1] 149/5</p> <p>round [3] 16/19 16/22 66/22</p> <p>route [2] 96/21 119/13</p> <p>row [1] 145/15</p> <p>Royal [1] 129/25</p> <p>rule [4] 20/12 27/10 128/18 165/6</p> <p>rumours [1] 36/2</p> <p>run [1] 128/16</p> <p>running [4] 96/24 97/1 146/15 146/15</p>	<p>36/20</p> <p>safety [15] 1/13 2/6 3/10 4/1 8/9 18/25 19/9 22/19 22/21 31/23 32/6 36/12 36/12 40/8 166/13</p> <p>said [51] 3/25 8/14 11/5 11/11 27/5 27/17 35/18 39/13 39/17 40/19 56/9 58/5 63/7 67/15 77/4 88/2 89/4 89/11 90/3 93/4 93/11 97/20 98/1 100/4 100/5 102/19 111/2 112/1 117/15 124/14 127/9 127/24 128/4 129/6 132/4 132/11 133/24 134/16 134/24 136/20 139/12 143/19 146/5 148/22 152/4 152/8 152/16 154/18 161/6 162/6 164/16</p> <p>said: [1] 113/5</p> <p>said: there [1] 113/5</p> <p>sake [3] 70/11 79/11 125/9</p> <p>same [14] 7/12 17/17 27/23 28/1 68/12 98/15 102/8 143/7 150/14 153/7 154/21 155/1 167/10 167/24</p> <p>satisfactory [2] 77/1 132/22</p> <p>satisfied [5] 62/22 75/19 77/25 78/11 144/8</p> <p>satisfy [1] 64/25</p> <p>saved [2] 67/15 100/19</p> <p>saw [4] 68/3 97/21 122/9 122/11</p> <p>say [81] 7/13 9/14 10/8 11/25 12/18 12/24 13/25 15/7 15/8 18/15 21/2 22/16 29/9 29/25 30/19 31/12 35/12 35/13 35/19 36/3 36/18 37/20 38/19 41/7 42/2 50/1 51/8 51/20 57/23 67/23 69/20 71/24 74/2 74/3 74/16 75/3 75/11 75/25 76/2 76/6 76/10 79/8 83/22 87/13 88/25 89/2 89/22 92/24 93/8 94/22 100/14 101/1 101/25 106/6 106/9 106/23 109/24 112/16 116/11 122/22 125/9 125/10 126/6 126/23 130/19 131/19 131/24</p>	<p>136/4 137/1 137/2 140/7 151/4 157/10 160/17 160/19 163/11 165/10 167/6 167/21 167/23 167/24</p> <p>say -- I [1] 76/6</p> <p>saying [43] 3/21 7/21 7/24 9/10 11/16 11/23 12/12 17/13 22/2 31/1 39/11 41/21 49/14 49/17 54/14 63/16 70/22 74/18 77/3 77/5 77/20 77/22 77/23 78/14 78/18 86/10 90/19 99/14 99/17 99/24 107/17 116/5 123/9 124/8 125/22 143/4 143/24 152/8 154/20 155/10 163/23 165/23 165/24</p> <p>saying: [2] 77/6 167/8</p> <p>saying: couldn't [1] 167/8</p> <p>saying: this [1] 77/6</p> <p>says [33] 12/15 24/8 25/5 25/13 26/19 33/21 34/4 34/22 43/16 53/13 61/23 62/1 62/16 65/13 66/9 71/5 72/18 73/2 83/2 84/21 93/16 93/20 96/9 109/9 109/17 111/8 113/19 116/21 118/22 120/19 121/4 121/11 121/20</p> <p>scapegoats [1] 134/18</p> <p>sceptic [1] 108/23</p> <p>sceptics [1] 108/25</p> <p>SCGV0000014 [1] 118/5</p> <p>scheme [12] 111/21 112/17 112/18 113/6 113/22 116/23 117/25 124/1 126/3 126/9 126/10 150/11</p> <p>scientific [1] 75/10</p> <p>scientist [1] 110/15</p> <p>scope [2] 168/15 168/16</p> <p>Scotland [11] 32/20 85/5 86/15 86/16 151/4 151/9 151/9 151/12 151/16 152/12 156/3</p> <p>Scottish [7] 26/15 86/23 150/24 150/24 152/6 152/7 156/22</p> <p>screen [4] 4/17 89/18 98/1 138/20</p> <p>screening [17] 45/13 58/2 58/6 64/1 64/9</p>	<p>64/15 64/23 64/25 65/7 70/14 72/8 73/4 75/18 76/21 78/7 79/20 80/17</p> <p>scribbles [1] 61/23</p> <p>searching [2] 83/22 123/11</p> <p>second [31] 6/11 6/11 7/2 8/7 10/19 10/21 11/8 12/14 14/2 18/8 26/19 27/19 29/4 34/22 43/1 43/23 48/6 49/1 62/16 70/22 72/18 74/17 79/18 86/15 105/11 117/15 118/17 120/19 121/5 161/10 163/5</p> <p>secondly [1] 83/7</p> <p>secretary [1] 20/15</p> <p>secret [1] 165/10</p> <p>secretaries [2] 86/12 143/20</p> <p>secretary [39] 13/9 35/8 40/4 40/12 40/14 41/11 41/14 42/8 44/19 57/7 58/17 64/4 71/25 71/25 72/5 72/13 73/24 93/15 104/20 109/11 111/13 126/21 127/25 128/2 128/6 128/25 129/1 133/6 135/8 135/20 141/17 143/18 143/21 149/4 152/2 152/7 158/20 158/24 159/4</p> <p>Secretary of [3] 40/14 41/14 71/25</p> <p>secrets [1] 127/2</p> <p>section [1] 156/16</p> <p>sections [1] 89/20</p> <p>security [5] 40/15 41/12 67/18 75/17 143/22</p> <p>see [72] 4/17 5/17 6/14 13/23 17/7 17/24 18/7 19/13 23/17 25/1 25/9 27/12 28/9 28/22 30/19 32/13 38/9 39/7 39/14 41/17 42/18 42/23 43/16 44/7 44/22 45/7 48/24 50/6 54/9 54/13 61/10 70/21 72/3 72/22 74/10 74/11 74/18 75/1 76/17 79/25 81/9 81/16 82/5 82/17 82/19 84/12 92/15 93/11 96/9 101/20 101/20 105/15 107/1 107/4 109/17 111/25 115/15 118/12 119/19 120/19 123/8 126/18</p>	<p>128/2 128/23 130/6 138/25 141/12 153/1 160/2 161/16 165/1 168/19</p> <p>seeing [4] 21/10 58/19 99/1 158/21</p> <p>seek [1] 52/3</p> <p>seeking [2] 13/19 52/16</p> <p>seem [5] 3/16 32/3 128/7 129/22 151/15</p> <p>seemed [5] 65/8 127/18 128/3 147/5 153/9</p> <p>seems [9] 11/22 12/20 14/22 20/17 24/12 65/3 121/21 154/12 165/21</p> <p>seen [24] 6/8 12/1 18/17 18/20 19/5 25/15 28/7 36/22 40/4 46/13 46/15 51/23 67/4 68/3 87/18 87/21 89/11 99/2 103/18 122/11 136/10 147/23 154/11 165/1</p> <p>Select [1] 124/13</p> <p>selected [2] 14/6 14/16</p> <p>self [5] 7/9 11/13 12/5 123/15 126/7</p> <p>self-evidently [1] 126/7</p> <p>self-sufficiency [4] 7/9 11/13 12/5 123/15</p> <p>send [1] 93/15</p> <p>senior [3] 71/7 71/10 144/15</p> <p>seniority [1] 60/2</p> <p>sense [21] 2/1 12/9 22/2 50/9 67/17 68/9 75/17 83/15 95/13 96/23 101/13 101/18 101/18 101/18 104/22 119/10 144/10 144/21 149/11 150/5 151/15</p> <p>sensible [5] 16/21 41/9 52/19 100/11 155/16</p> <p>sensibly [1] 87/2</p> <p>sensitive [4] 16/10 72/2 95/3 128/1</p> <p>sensitively [1] 94/23</p> <p>sensitivity [1] 95/11</p> <p>sentence [11] 7/13 28/9 34/22 38/20 43/22 96/9 99/2 99/3 114/10 115/9 120/19</p> <p>sentences [1] 38/10</p> <p>separate [1] 151/10</p> <p>September [12] 1/1 25/11 26/9 29/10 31/6</p>	<p>34/19 39/4 46/25 70/20 81/14 103/16 170/13</p> <p>September '85 [1] 81/14</p> <p>September 2021 [1] 1/1</p> <p>series [1] 52/6</p> <p>serious [7] 52/2 140/21 141/19 161/12 165/3 165/4 165/9</p> <p>seriousness [2] 141/22 159/15</p> <p>sero [1] 61/24</p> <p>servant [1] 33/15</p> <p>servants [2] 31/13 144/16</p> <p>service [10] 85/17 130/1 143/16 143/25 144/10 145/8 145/9 149/14 150/2 150/17</p> <p>services [10] 33/15 33/20 71/2 71/13 81/3 81/19 84/11 84/15 111/14 124/13</p> <p>set [24] 5/17 6/20 25/1 46/11 46/12 52/4 53/6 53/8 53/8 70/23 76/20 81/19 87/3 105/18 116/24 117/25 118/3 130/3 130/4 130/11 130/16 147/22 168/12 169/11</p> <p>sets [4] 35/2 55/20 72/14 121/1</p> <p>setting [7] 52/20 61/6 70/20 114/21 116/14 167/15 167/22</p> <p>seven [2] 52/5 84/22</p> <p>several [3] 78/2 78/3 108/21</p> <p>sex [5] 56/8 56/11 95/15 106/22 108/3</p> <p>sex' [1] 107/10</p> <p>sexual [7] 49/11 51/24 90/22 94/21 95/5 102/1 122/1</p> <p>sexually [1] 129/23</p> <p>shake [1] 154/18</p> <p>shaking [1] 154/21</p> <p>shall [3] 33/6 34/23 53/19</p> <p>shape [1] 56/16</p> <p>share [2] 146/8 164/10</p> <p>sharper [2] 35/6 55/25</p> <p>she [40] 25/5 25/12 88/16 88/18 89/2 89/4 91/7 104/4 104/9 105/5 108/15 110/2 110/13 110/14 110/15 115/1 115/2 115/7</p>
---	--	--	---	---	---

<p>S</p> <p>she... [22] 115/7 116/5 120/5 120/19 121/1 121/4 121/6 121/10 121/11 121/20 146/11 146/11 146/23 146/23 147/7 149/14 149/21 149/21 149/23 149/24 150/16 154/25</p> <p>she's [1] 167/9</p> <p>sheet [1] 36/8</p> <p>Sherman [1] 90/17</p> <p>SHHD [1] 85/9</p> <p>shock [1] 105/22</p> <p>short [4] 53/22 61/10 137/15 139/25</p> <p>short-term [1] 139/25</p> <p>shortage [1] 34/12</p> <p>shortly [3] 6/25 93/19 162/8</p> <p>should [101] 2/2 2/7 9/8 10/6 10/10 10/11 13/17 14/10 14/25 15/1 15/19 17/10 17/18 20/11 20/12 21/16 21/17 22/16 27/9 27/17 28/22 35/15 35/15 37/24 38/19 39/9 39/10 39/13 39/18 41/10 47/16 48/3 48/13 48/14 49/24 52/2 57/24 58/4 58/5 59/25 61/15 63/24 65/14 69/5 72/3 72/4 72/6 73/10 73/17 76/19 77/23 77/23 77/24 82/6 83/22 85/16 86/6 90/6 99/13 102/6 104/6 104/10 104/16 106/14 110/3 112/8 112/11 114/20 115/24 116/23 117/25 118/25 128/24 129/18 130/5 130/9 130/22 130/23 130/23 132/20 135/5 135/14 139/16 140/7 145/9 146/15 146/16 156/9 156/10 157/10 160/15 160/19 160/23 162/17 164/15 165/9 167/24 168/1 168/4 168/12 168/18</p> <p>shouldn't [5] 27/25 95/8 135/18 165/10 168/2</p> <p>show [4] 42/12 82/16 99/19 104/18</p> <p>showed [3] 29/5 41/3 91/20</p> <p>shown [3] 79/19</p>	<p>116/7 169/9</p> <p>shows [4] 42/14 83/25 98/19 110/2</p> <p>side [14] 24/1 24/6 38/6 49/14 59/20 82/7 119/11 126/20 133/23 139/11 139/13 139/14 141/2 153/3</p> <p>signed [1] 47/12</p> <p>significance [2] 5/10 83/6</p> <p>significant [4] 63/16 138/6 140/8 169/16</p> <p>signing [1] 148/14</p> <p>similar [2] 85/4 126/1</p> <p>Simon [3] 26/2 41/4 141/8</p> <p>since [6] 34/24 70/25 75/8 92/10 94/6 122/11</p> <p>single [1] 142/10</p> <p>sir [22] 51/18 51/20 52/12 52/14 53/17 57/23 63/2 77/15 79/15 103/2 109/15 130/17 135/25 143/10 143/10 152/17 152/24 161/14 161/19 169/4 170/3 171/5</p> <p>Sir Brian [1] 130/17</p> <p>Sir Donald [4] 51/20 52/14 57/23 63/2</p> <p>Sir Donald Acheson [2] 109/15 143/10</p> <p>Sir Donald Acheson's [1] 51/18</p> <p>Sir Donald's [1] 52/12</p> <p>Sir Henry Yellowlees [3] 143/10 152/17 152/24</p> <p>sitting [3] 98/25 101/8 135/12</p> <p>situation [3] 44/20 46/9 112/20</p> <p>six [1] 81/17</p> <p>skid [1] 145/15</p> <p>slight [1] 117/3</p> <p>slightly [7] 16/10 19/17 88/16 95/12 100/17 124/22 163/6</p> <p>slipping [1] 67/21</p> <p>slow [1] 24/12</p> <p>slower [2] 69/19 69/24</p> <p>small [10] 61/7 67/1 85/8 106/10 107/11 117/17 119/2 139/20 139/21 140/3</p> <p>smaller [1] 85/21</p> <p>Smithies [5] 42/17 44/17 47/5 120/17 123/8</p>	<p>Smithies' [1] 46/14</p> <p>so [201]</p> <p>social [9] 40/15 41/12 55/12 84/11 84/15 88/1 111/13 124/13 143/21</p> <p>Society [2] 97/7 126/5</p> <p>sodomites [1] 90/20</p> <p>solely [1] 85/20</p> <p>solicitors [1] 168/3</p> <p>solution [2] 149/12 149/24</p> <p>some [93] 2/1 8/1 8/21 8/25 10/3 15/23 17/20 21/17 28/25 30/13 32/21 34/7 36/3 36/6 37/13 37/23 44/3 50/24 56/17 56/19 59/9 59/10 59/11 59/11 59/13 59/13 64/14 66/25 67/16 69/15 70/15 71/10 72/14 77/4 84/1 88/3 88/3 89/20 89/22 92/11 92/22 95/23 97/4 98/10 98/16 98/17 99/13 99/16 100/1 100/4 101/12 101/16 102/13 102/23 105/6 105/14 105/21 105/22 107/11 112/23 113/1 113/24 114/20 119/4 119/11 119/20 120/9 120/20 122/18 122/22 125/22 127/16 127/16 127/17 130/22 134/12 140/4 140/18 141/25 144/21 147/12 148/19 149/2 149/3 149/12 149/15 152/11 153/13 154/17 156/20 157/4 168/7 168/18</p> <p>somehow [1] 96/2</p> <p>someone [10] 53/1 59/6 59/12 112/23 116/11 135/17 138/5 144/7 156/16 156/16</p> <p>something [22] 13/25 21/3 35/4 41/11 46/8 57/15 59/16 69/4 69/23 88/18 94/2 103/18 104/8 104/14 128/22 134/24 138/25 141/9 142/19 145/19 166/22 169/21</p> <p>sometimes [6] 22/7 71/20 131/12 139/21 143/19 145/15</p> <p>somewhat [1] 63/11</p> <p>sons [1] 118/15</p> <p>soon [5] 19/24 52/3 52/17 58/12 85/11</p>	<p>sooner [2] 51/12 65/23</p> <p>sorry [15] 18/2 22/6 23/20 36/10 38/3 42/9 44/5 56/18 75/2 79/13 84/19 87/7 92/21 148/1 148/5</p> <p>sort [9] 10/3 15/1 16/7 30/21 78/19 98/16 135/17 149/12 154/22</p> <p>sorted [1] 127/13</p> <p>sought [1] 34/1</p> <p>soul [1] 123/11</p> <p>Soumik [18] 5/7 8/7 23/14 23/19 23/23 24/6 32/11 48/23 51/3 61/9 66/2 67/7 84/18 105/12 111/10 126/15 133/21 138/22</p> <p>sound [1] 165/15</p> <p>source [2] 34/7 34/14</p> <p>sources [3] 32/20 101/14 104/1</p> <p>speaking [1] 27/5</p> <p>special [14] 93/1 104/1 116/23 117/4 117/24 118/19 118/24 119/13 119/21 120/23 123/1 123/9 125/11 159/7</p> <p>specialist [2] 56/14 81/19</p> <p>specially [1] 55/10</p> <p>specific [7] 81/6 82/23 84/7 85/16 87/17 95/5 159/2</p> <p>specifically [4] 81/1 105/9 140/14 166/3</p> <p>speech [1] 155/13</p> <p>speeches [1] 50/17</p> <p>speed [1] 67/13</p> <p>speeded [1] 48/18</p> <p>spell [1] 99/1</p> <p>spelling [1] 99/2</p> <p>spending [6] 40/19 40/20 87/25 88/4 91/9 149/22</p> <p>spent [1] 99/23</p> <p>spirit [1] 10/23</p> <p>splurged [1] 163/10</p> <p>spread [7] 34/10 54/11 55/8 60/24 93/23 109/20 110/4</p> <p>spreading [2] 106/2 108/18</p> <p>spreads [1] 106/19</p> <p>Spring [1] 94/9</p> <p>square [1] 40/14</p> <p>St [1] 83/4</p> <p>St Mary's [1] 83/4</p> <p>stable [1] 63/10</p> <p>staff [2] 2/5 38/15</p>	<p>stage [35] 5/5 14/13 21/20 22/5 29/12 30/15 41/21 42/4 42/18 53/11 54/16 58/1 58/2 60/1 60/8 64/24 67/5 73/5 75/21 76/15 78/10 78/13 95/12 97/14 100/7 108/14 123/16 124/25 133/12 152/7 154/9 159/17 162/21 162/23 168/18</p> <p>stages [1] 116/9</p> <p>standout [1] 123/18</p> <p>standpoint [7] 165/21 165/23 165/25 166/1 166/2 166/6 166/21</p> <p>start [12] 28/1 55/16 55/19 77/21 90/12 92/21 103/14 105/11 106/16 111/4 113/12 170/7</p> <p>started [5] 52/14 92/22 98/9 159/5 159/6</p> <p>starting [1] 41/17</p> <p>starts [1] 80/21</p> <p>state [37] 13/9 13/11 35/9 40/4 40/12 40/15 41/11 41/15 42/8 44/19 46/2 57/7 58/17 59/17 64/4 71/25 71/25 72/6 72/13 73/24 93/15 109/11 111/13 111/21 112/18 113/22 118/24 128/25 133/6 135/8 135/20 141/17 149/4 152/2 158/21 158/24 159/4</p> <p>statement [61] 4/14 4/19 4/21 7/11 20/25 26/17 27/1 38/5 39/15 39/20 42/13 47/9 47/14 48/22 50/3 51/2 51/3 62/4 64/2 67/4 67/6 67/7 68/4 71/16 75/13 75/25 76/3 76/14 80/20 81/11 87/3 89/5 89/6 89/18 90/1 92/16 101/1 107/22 125/10 125/14 125/22 126/14 126/15 126/16 129/6 132/4 146/4 147/12 147/22 148/6 148/11 148/14 157/4 159/22 160/14 160/18 160/22 161/2 161/3 161/7 161/10</p> <p>statements [4] 38/23 39/5 73/13 157/7</p> <p>States [9] 13/7 64/22 66/11 66/20 100/13</p>	<p>100/13 103/1 154/14 154/24</p> <p>status [1] 6/3</p> <p>stay [3] 104/6 104/17 159/13</p> <p>steer [1] 134/12</p> <p>steering [4] 61/7 70/21 70/23 71/8</p> <p>Steering Group [1] 70/21</p> <p>step [1] 77/24</p> <p>steps [8] 6/17 8/22 14/19 15/18 17/1 17/5 154/4 158/8</p> <p>steroidal [1] 122/23</p> <p>sticking [1] 56/21</p> <p>stigma [7] 90/24 91/15 121/24 146/1 154/1 154/6 155/6</p> <p>still [6] 4/10 32/2 35/9 36/24 49/9 86/1</p> <p>stony [1] 88/10</p> <p>stood [1] 155/15</p> <p>stop [2] 36/5 37/15</p> <p>storing [1] 127/19</p> <p>story [1] 42/4</p> <p>Stowe [2] 107/7 143/21</p> <p>straight [1] 154/9</p> <p>strategies [1] 8/25</p> <p>strength [1] 12/4</p> <p>strengthen [1] 47/6</p> <p>stress [2] 3/7 95/20</p> <p>strictly [1] 40/22</p> <p>striking [1] 98/12</p> <p>strong [7] 15/4 26/22 28/3 28/3 87/14 116/22 147/5</p> <p>strongly [3] 36/7 71/22 102/12</p> <p>struck [4] 67/13 68/1 68/7 68/8</p> <p>struggling [3] 18/19 18/21 163/8</p> <p>stuff [1] 154/22</p> <p>style [2] 96/12 96/22</p> <p>subcommittee [6] 18/24 19/10 21/22 22/2 22/23 80/10</p> <p>subject [11] 24/9 69/8 106/25 110/17 136/7 137/19 137/19 138/16 155/7 155/9 161/11</p> <p>subjects [1] 37/23</p> <p>submission [5] 3/8 17/2 25/23 47/7 75/23</p> <p>submitted [1] 142/15</p> <p>subparagraph [3] 61/10 81/4 81/17</p> <p>subparagraph on [1] 61/10</p> <p>subsequently [2]</p>
---	---	--	--	--	---

(64) she... - subsequently

<p>S</p> <p>subsequently... [2] 81/16 127/6</p> <p>substance [1] 19/3</p> <p>substantial [1] 99/12</p> <p>substantially [2] 63/20 92/3</p> <p>substantive [1] 80/4</p> <p>substantively [2] 119/15 119/22</p> <p>succeeded [2] 42/17 125/15</p> <p>successful [4] 92/10 98/19 127/21 160/3</p> <p>successive [3] 123/14 132/8 132/10</p> <p>successor [1] 125/16</p> <p>such [16] 3/6 7/9 11/13 11/17 12/6 14/7 17/1 17/5 27/8 38/16 65/22 73/10 75/6 94/23 127/19 151/6</p> <p>sudden [1] 145/6</p> <p>suddenly [2] 76/7 163/9</p> <p>suffer [2] 111/22 113/23</p> <p>sufferers [1] 61/19</p> <p>sufficiency [4] 7/9 11/13 12/5 123/15</p> <p>sufficient [1] 9/12</p> <p>sufficiently [3] 22/6 75/20 123/16</p> <p>suggest [8] 16/12 39/12 54/2 104/10 122/10 133/15 136/2 166/20</p> <p>suggested [6] 2/14 2/18 65/10 103/22 104/3 161/15</p> <p>suggestion [6] 32/12 34/18 40/7 114/3 116/23 117/24</p> <p>suggestions [2] 106/20 106/25</p> <p>suggests [1] 119/9</p> <p>sum [1] 79/22</p> <p>summarising [1] 44/20</p> <p>summary [3] 46/6 54/13 54/15</p> <p>summer [1] 56/21</p> <p>supplied [3] 103/25 111/16 151/22</p> <p>supply [5] 22/15 22/16 28/19 32/6 140/9</p> <p>support [15] 50/19 65/14 81/7 81/18 82/11 83/15 83/15 85/6 85/9 108/24</p>	<p>119/21 125/12 132/2 152/9 158/10</p> <p>supported [1] 108/24</p> <p>suppose [5] 49/20 53/9 78/19 100/1 165/19</p> <p>sure [20] 12/9 19/18 21/25 23/1 48/17 50/1 55/22 66/22 68/13 77/16 79/1 79/2 83/19 91/7 91/10 110/10 119/6 122/9 143/14 149/10</p> <p>Surely [1] 66/23</p> <p>surgery [1] 8/24</p> <p>surprise [7] 19/14 19/16 35/8 36/25 40/12 158/17 163/7</p> <p>surprised [6] 19/17 19/21 37/4 37/9 140/16 140/21</p> <p>surprising [3] 73/25 75/8 128/21</p> <p>surrounding [1] 123/1</p> <p>Surveillance [1] 138/1</p> <p>survey [1] 91/18</p> <p>suspect [6] 15/9 50/11 50/13 77/2 162/13 167/19</p> <p>Sutton [2] 160/3 160/8</p> <p>sympathy [4] 113/20 120/9 121/24 146/12</p> <p>symptoms [1] 122/22</p> <p>Syndrome [1] 6/18</p> <p>system [15] 31/18 36/12 67/19 68/23 127/18 127/23 128/16 131/25 149/15 149/16 149/17 150/2 151/15 151/16 151/19</p> <p>systems [2] 47/22 149/20</p>	<p>17/1 17/5 20/16 20/23 21/12 21/13 37/14 44/10 63/22 88/15 102/16 125/10 126/19 126/22 146/19 152/17 154/4 161/8 161/24 164/18 164/20 168/9</p> <p>takes [7] 39/19 137/1 138/25 144/11 144/12 147/4 168/13</p> <p>taking [29] 2/13 10/3 15/10 15/19 16/9 24/15 24/19 25/20 25/22 32/7 35/3 37/16 44/7 44/9 48/2 52/25 53/12 68/19 69/24 70/1 73/24 105/16 109/1 122/23 128/5 131/23 142/21 151/7 152/11</p> <p>talk [6] 37/22 75/21 87/12 90/23 95/3 106/18</p> <p>talked [7] 17/21 57/20 110/11 119/25 124/15 146/24 158/4</p> <p>talking [24] 1/7 1/11 14/23 24/4 24/20 24/20 24/21 24/22 26/24 40/21 55/20 56/12 68/23 68/24 68/24 68/25 69/1 97/12 113/12 140/14 152/20 152/21 166/2 166/3</p> <p>talks [4] 81/24 118/13 118/21 121/6</p> <p>tandem [1] 60/13</p> <p>tangentially [1] 40/9</p> <p>targets [2] 34/2 34/15</p> <p>teach [1] 147/2</p> <p>teaching [3] 146/16 146/17 146/18</p> <p>team [4] 71/7 147/16 148/4 148/8</p> <p>technology [1] 129/3</p> <p>television [4] 89/7 97/18 98/15 154/17</p> <p>tell [10] 20/15 20/16 23/4 76/18 93/18 99/15 116/12 136/9 155/4 164/8</p> <p>telling [2] 76/5 162/19</p> <p>tells [2] 70/14 107/5</p> <p>temporary [1] 85/6</p> <p>tend [1] 76/8</p> <p>tendency [2] 67/20 134/6</p> <p>term [3] 94/1 139/25 139/25</p> <p>terms [25] 1/20 5/10 18/9 20/2 26/13 26/21</p>	<p>30/8 31/19 44/15 46/22 51/14 57/13 82/3 91/2 95/19 125/14 132/23 140/9 147/12 148/9 151/7 156/2 156/3 156/4 156/8</p> <p>Terrence [1] 97/8</p> <p>Terrence Higgins Trust [1] 97/8</p> <p>territorial [1] 156/7</p> <p>territory [1] 168/8</p> <p>test [29] 45/13 64/9 64/11 64/13 64/13 66/14 68/16 69/15 69/16 72/14 72/15 73/4 73/14 76/23 76/25 77/4 77/4 77/6 77/7 77/11 78/11 78/14 78/15 78/16 78/16 78/17 78/18 83/6 83/13</p> <p>tested [1] 61/24</p> <p>testing [18] 42/24 61/2 66/1 66/21 67/16 67/19 67/20 69/20 69/22 72/8 72/20 72/20 74/18 74/19 75/13 75/16 77/12 151/6</p> <p>testing' [1] 75/14</p> <p>tests [9] 64/25 65/1 66/12 66/18 66/19 72/25 75/19 77/3 79/20</p> <p>text [2] 8/6 24/9</p> <p>texturally [1] 112/10</p> <p>Thames [1] 81/5</p> <p>than [37] 1/21 3/18 3/24 47/17 48/4 48/7 51/19 52/7 55/25 69/16 69/19 70/6 74/19 75/13 77/4 78/14 80/15 91/7 91/22 91/25 112/1 112/10 116/1 117/13 123/3 136/7 137/19 141/1 141/8 143/6 144/18 144/22 145/11 153/6 155/3 164/3 167/17</p> <p>thank [19] 14/1 18/22 23/23 24/25 79/9 79/14 110/5 129/14 137/8 137/12 137/13 138/21 141/14 166/15 169/5 169/12 169/24 170/1 170/2</p> <p>Thanks [1] 129/14</p> <p>that [977]</p> <p>that - I [1] 22/4</p> <p>that's [61] 1/25 4/5</p>	<p>8/11 9/6 10/16 11/25 14/15 17/13 24/23 25/12 26/14 29/14 37/8 39/13 40/2 42/2 42/11 43/21 43/23 44/10 49/18 51/11 56/19 58/6 59/22 59/22 62/5 64/18 67/2 72/5 72/21 73/20 74/4 74/15 77/14 77/17 78/19 81/5 85/1 99/16 101/15 102/19 112/2 114/14 115/12 122/7 135/23 136/24 139/1 140/23 142/19 143/18 148/18 157/25 159/7 163/3 166/18 167/12 168/24 170/1 170/3</p> <p>Thatcher [4] 103/14 108/1 129/16 149/12</p> <p>their [41] 11/22 12/18 21/18 26/25 34/3 36/17 36/20 56/6 61/11 62/18 66/11 83/8 90/5 94/18 95/10 97/5 97/9 98/7 98/17 99/5 101/9 101/11 110/8 113/8 114/13 114/16 118/3 119/14 120/25 121/23 122/22 123/2 123/5 131/3 136/16 144/5 144/13 152/14 152/14 157/9 160/10</p> <p>them [41] 2/20 9/21 16/6 22/9 22/24 34/14 35/16 37/24 62/12 66/18 70/6 76/9 84/25 85/14 85/15 86/13 89/24 94/18 97/21 98/4 98/22 98/24 99/3 101/13 101/25 104/2 108/11 108/12 119/5 120/24 123/4 127/16 127/16 127/17 128/3 131/9 134/12 136/17 146/18 146/18 160/8</p> <p>thematic [1] 137/19</p> <p>theme [2] 101/15 101/16</p> <p>themselves [4] 5/6 16/5 101/11 128/12</p> <p>then [166] 5/6 8/6 10/19 13/18 14/2 15/3 18/9 18/12 18/22 18/23 21/23 23/7 24/5 24/13 25/8 25/21 26/6 29/4 30/2 30/4 32/5 33/18 34/4 34/16 34/22 35/17 38/2 38/8 40/20 41/13 41/19 42/5 42/25 43/14</p>	<p>43/15 43/21 43/22 44/15 44/21 45/3 45/4 45/12 45/18 45/19 46/21 47/11 48/25 51/17 53/3 53/4 53/8 53/20 54/13 54/18 55/5 55/6 55/11 55/17 56/15 57/10 57/21 58/9 60/19 61/6 61/8 61/22 62/1 62/8 62/14 63/2 65/12 65/13 66/15 66/15 67/5 67/23 68/16 69/9 71/5 72/7 72/18 72/22 73/8 73/23 75/11 75/21 76/8 77/9 80/17 81/3 81/6 81/15 81/19 85/12 86/25 86/25 87/10 90/2 90/14 90/16 92/23 94/5 94/22 97/15 98/16 105/9 105/10 106/6 106/18 106/23 107/3 107/13 107/16 109/3 109/17 110/13 111/2 111/3 111/20 113/7 114/10 118/21 120/11 120/14 121/1 121/18 122/21 124/18 126/2 128/17 130/15 133/5 133/14 134/14 134/23 135/12 136/13 137/11 138/23 139/13 139/22 140/10 140/21 142/3 142/8 142/12 143/8 143/21 143/22 144/12 145/3 145/24 148/23 149/17 150/16 150/21 152/20 157/6 157/22 158/4 160/11 163/9 165/9 167/2 167/17 168/1</p> <p>theoretical [1] 35/23</p> <p>there [217]</p> <p>there's [1] 134/6</p> <p>thereafter [1] 52/5</p> <p>therefore [7] 26/22 61/16 107/11 124/21 138/4 150/19 166/11</p> <p>these [22] 3/23 5/8 14/9 32/20 37/23 40/17 41/6 58/13 58/20 67/4 71/3 74/5 86/5 89/23 98/14 114/13 118/20 118/23 130/2 130/22 152/5 165/2</p> <p>they [94] 2/7 5/21 5/23 5/24 9/8 11/18 11/24 13/21 15/10 15/11 16/11 16/12 16/12 16/13 17/3</p>
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(65) subsequently... - they

<p>T</p> <p>they... [79] 20/11 20/12 22/5 22/8 30/4 31/2 31/5 32/1 34/2 34/24 35/17 36/8 48/1 49/18 54/5 55/25 56/4 56/5 59/19 63/23 74/9 74/9 77/10 83/8 86/13 87/24 87/25 88/1 88/4 88/12 90/14 91/10 96/18 98/11 98/11 99/13 99/18 99/19 100/12 101/13 101/19 102/4 104/21 107/8 108/8 108/9 108/11 108/12 112/25 113/5 113/8 115/19 120/10 123/21 124/7 124/15 126/5 126/5 127/22 127/23 143/18 145/6 147/3 151/9 151/18 151/22 151/23 152/3 152/4 152/13 154/6 155/16 156/10 156/13 156/14 156/14 160/9 163/23 168/12</p> <p>they'd [5] 77/11 81/19 98/21 108/11 124/14</p> <p>they'll [1] 136/23</p> <p>they're [6] 30/5 64/20 88/1 128/13 131/8 161/21</p> <p>they've [1] 99/4</p> <p>thing [19] 15/1 16/21 20/10 27/11 35/25 115/10 115/25 117/23 125/13 128/5 131/20 138/13 149/23 152/18 155/1 162/13 163/11 165/15 165/18</p> <p>things [28] 10/1 22/18 30/3 47/22 55/22 55/23 60/18 86/5 86/9 88/15 88/21 93/5 95/15 95/16 95/17 95/23 95/25 97/11 108/8 124/12 127/19 130/20 131/6 146/6 147/3 154/7 167/3 168/19</p> <p>think [295]</p> <p>thinking [6] 51/15 65/4 65/12 75/15 108/5 159/1</p> <p>thinks [1] 24/19</p> <p>third [10] 6/21 18/9 34/4 38/20 54/9 61/9 65/13 79/15 118/11 121/19</p> <p>this [308]</p> <p>thoroughly [1] 50/23</p>	<p>those [60] 1/8 2/4 2/23 4/5 7/2 7/8 8/25 9/4 11/12 12/5 12/17 14/13 14/15 15/20 15/25 26/10 31/1 34/12 37/14 49/10 55/10 69/7 71/12 72/15 74/25 82/14 82/24 89/25 90/6 90/8 96/5 96/15 96/20 97/21 98/20 101/7 103/4 110/8 111/22 113/22 119/12 119/22 131/2 132/15 134/2 135/25 146/3 146/9 148/2 148/9 148/14 158/12 159/25 161/14 161/15 161/17 162/25 164/2 167/17 169/18</p> <p>though [6] 13/13 57/22 124/22 134/8 135/22 163/3</p> <p>thought [21] 19/22 19/24 36/20 37/4 49/12 49/13 49/19 71/21 77/10 123/20 127/9 127/10 127/22 133/3 144/20 149/23 155/12 156/13 158/1 162/2 169/3</p> <p>thoughts [1] 66/8</p> <p>thousands [1] 100/20</p> <p>threat [2] 164/16 164/24</p> <p>threatening [1] 2/19</p> <p>three [16] 6/14 6/15 6/20 32/9 38/9 43/9 47/1 48/16 60/16 60/23 126/12 126/20 126/25 127/14 143/20 167/16</p> <p>three months [1] 47/1</p> <p>through [33] 8/1 34/11 44/22 45/14 67/22 82/14 82/15 93/2 93/2 93/5 95/9 95/22 96/16 96/16 96/17 98/22 99/4 99/16 110/8 111/3 113/7 116/13 119/14 121/2 121/8 121/17 130/13 136/15 142/12 145/12 147/25 148/2 153/22</p> <p>throughout [4] 30/24 124/19 142/1 168/23</p> <p>thrown [1] 35/6</p> <p>thunderous [1] 155/12</p> <p>Thursday [1] 170/12</p> <p>tied [1] 87/17</p> <p>tier [1] 149/17</p>	<p>tighter [1] 147/1</p> <p>time [68] 5/4 5/13 7/25 9/3 17/17 19/5 21/13 21/15 22/1 24/11 25/11 27/19 28/7 28/12 28/16 29/21 32/6 34/7 35/1 35/11 39/22 41/8 44/12 45/2 50/7 56/1 63/14 64/19 67/18 68/1 68/4 68/18 69/8 69/14 82/2 83/12 83/17 96/15 99/24 102/2 102/8 103/2 103/19 105/4 105/8 114/25 118/19 119/16 119/24 122/12 125/18 126/24 127/5 129/1 131/8 133/8 134/9 135/11 136/3 144/21 147/24 148/7 148/18 148/19 150/12 158/24 167/24 168/9</p> <p>timely [1] 70/25</p> <p>times [9] 29/16 52/5 89/4 90/19 100/1 118/10 132/8 134/1 167/16</p> <p>timing [1] 29/4</p> <p>tip [2] 2/17 2/20</p> <p>tipping [2] 162/24 162/24</p> <p>title [1] 54/9</p> <p>to [990]</p> <p>to Cabinet [1] 110/1</p> <p>today [5] 76/9 132/17 146/1 168/1 170/3</p> <p>together [9] 18/3 54/10 60/16 60/17 66/19 90/21 128/16 148/3 153/9</p> <p>told [10] 16/5 37/2 37/6 37/6 90/11 99/3 116/6 120/5 141/15 158/19</p> <p>tombstone [4] 97/21 97/23 101/15 162/9</p> <p>tomorrow [2] 170/7 170/9</p> <p>tone [1] 73/12</p> <p>Tony [9] 60/14 84/15 95/22 125/24 125/25 126/4 131/10 155/5 163/15</p> <p>Tony Newton [6] 60/14 84/15 95/22 125/24 131/10 155/5</p> <p>Tony's [1] 125/25</p> <p>too [29] 24/15 24/19 25/12 25/14 25/21 26/21 28/3 28/3 29/6 29/10 30/16 30/20</p>	<p>31/16 34/6 41/13 47/15 47/16 49/9 49/12 62/7 67/18 70/17 71/9 92/7 92/14 124/9 151/15 165/16 167/6</p> <p>Toofer [1] 116/18</p> <p>took [27] 8/10 21/22 29/6 30/20 31/3 42/1 56/3 59/7 64/23 87/23 88/3 88/7 88/7 89/2 97/9 99/9 100/16 120/11 134/9 145/3 150/1 151/25 153/21 153/25 157/10 161/7 162/8</p> <p>top [9] 6/11 25/8 25/8 33/12 38/6 62/8 96/7 121/5 139/2</p> <p>topic [2] 103/12 145/24</p> <p>Tory [1] 132/9</p> <p>total [2] 27/7 136/20</p> <p>totally [9] 22/1 27/24 41/7 53/3 53/14 80/15 88/12 142/1 163/20</p> <p>touch [1] 37/5</p> <p>towards [10] 41/16 45/6 58/19 66/8 67/20 84/12 125/11 134/24 152/4 161/23</p> <p>traditional [2] 153/11 153/12</p> <p>tragedy [1] 120/23</p> <p>trail [1] 25/10</p> <p>trained [1] 85/17</p> <p>transformation [1] 44/7</p> <p>transformed [1] 53/15</p> <p>transfusion [10] 26/8 33/25 34/5 34/11 43/4 43/8 44/25 66/3 82/15 96/17</p> <p>transfusion/plasma [1] 43/4</p> <p>transfusions [3] 32/19 32/22 111/19</p> <p>translate [1] 57/6</p> <p>transmission [4] 43/19 54/24 55/6 121/5</p> <p>transmitted [6] 38/12 45/10 120/24 121/8 121/16 129/23</p> <p>transparency [1] 158/11</p> <p>Treasury [28] 86/7 86/10 87/5 87/18 87/21 87/23 87/23 88/9 88/9 89/12 91/3 91/8 108/25 112/8 112/13 113/3 113/4</p>	<p>113/4 113/8 116/14 116/22 116/25 117/13 117/16 117/23 119/16 120/3 125/18</p> <p>Treasury's [1] 117/5</p> <p>treated [16] 55/3 57/1 61/13 61/17 61/17 61/20 62/13 62/19 62/21 62/25 63/6 63/9 63/11 63/17 114/6 168/23</p> <p>treating [4] 15/21 114/4 114/12 115/20</p> <p>treatment [15] 14/14 45/18 54/21 57/14 58/3 58/8 99/5 101/9 110/9 114/9 115/15 119/14 120/20 120/25 123/6</p> <p>trials [2] 117/7 117/9</p> <p>tried [10] 13/10 41/15 99/8 99/21 102/7 115/18 134/11 147/24 151/11 154/8</p> <p>tries [1] 148/25</p> <p>triggered [1] 59/1</p> <p>trouble [11] 29/24 35/23 100/7 113/3 124/16 126/6 149/16 150/6 150/8 164/3 165/13</p> <p>troubles [1] 69/24</p> <p>true [4] 10/4 74/4 98/16 156/2</p> <p>Trumpington [3] 107/7 113/15 114/25</p> <p>Trust [2] 97/8 97/10</p> <p>trusted [2] 127/2 127/3</p> <p>try [16] 23/19 41/10 66/24 79/22 96/3 100/15 102/6 134/7 134/12 138/24 151/14 151/18 154/7 155/6 155/17 165/13</p> <p>trying [14] 9/7 9/20 11/24 17/16 20/1 31/7 31/8 31/9 44/1 49/21 70/2 115/19 134/11 163/19</p> <p>turn [4] 23/7 41/16 66/22 118/8</p> <p>turned [1] 126/19</p> <p>turning [1] 129/5</p> <p>turns [1] 130/2</p> <p>two [29] 26/24 39/1 43/14 50/25 57/12 58/14 60/19 61/22 64/24 73/4 75/21 79/20 81/23 85/18 120/7 126/2 126/12 143/19 147/19 149/1</p>	<p>149/17 159/8 160/2 160/6 162/15 162/25 163/11 167/8 167/16</p> <p>two days [3] 147/19 159/8 167/8</p> <p>two months [1] 126/2</p> <p>two-stage [2] 64/24 75/21</p> <p>typical [2] 71/17 71/19</p> <hr/> <p>U</p> <p>UK [18] 28/17 43/4 52/7 54/12 54/19 55/1 57/8 58/14 61/13 61/14 62/25 65/22 69/19 69/24 85/10 93/18 121/7 154/23</p> <p>UK's [1] 7/15</p> <p>ultimately [3] 135/4 135/7 135/8</p> <p>umbrage [1] 77/10</p> <p>unanimously [1] 93/25</p> <p>unavailability [1] 31/12</p> <p>unavoidable [4] 111/22 111/25 112/5 113/23</p> <p>uncovered [1] 132/18</p> <p>under [7] 18/21 31/1 38/7 88/23 116/6 121/19 165/13</p> <p>underlies [1] 94/16</p> <p>underline [1] 131/25</p> <p>underlines [1] 12/22</p> <p>underlining [1] 12/21</p> <p>underlying [1] 110/17</p> <p>undermine [1] 77/12</p> <p>understand [24] 4/6 7/20 10/17 11/6 17/5 27/1 39/20 52/13 55/15 58/20 62/4 63/24 64/2 69/7 75/24 76/19 77/8 77/8 95/1 95/2 101/7 101/12 135/3 148/1</p> <p>understanding [16] 1/6 2/8 2/23 3/12 4/4 26/25 78/8 81/25 85/24 87/20 101/6 110/3 117/14 122/13 141/4 157/16</p> <p>understates [1] 159/15</p> <p>understood [2] 32/23 162/11</p> <p>undertake [1] 64/24</p> <p>undertaken [3] 45/22 114/23 148/3</p> <p>undertaking [1] 140/11</p>
---	---	---	--	---	--

(66) they... - undertaking

<p>U</p> <p>undertook [1] 83/3</p> <p>underworld' [1] 90/22</p> <p>undesirable [1] 73/9</p> <p>undoubtedly [1] 122/2</p> <p>unease [1] 33/2</p> <p>unfair [2] 48/10 76/12</p> <p>unfolding [1] 50/10</p> <p>unforgettable [1] 97/21</p> <p>unhappily [2] 111/23 113/24</p> <p>unhappy [1] 10/1</p> <p>unheat [2] 62/21 63/6</p> <p>unheat-treated [2] 62/21 63/6</p> <p>unheated [2] 114/7 121/17</p> <p>unhelpfully [1] 108/17</p> <p>uniform [2] 151/14 151/18</p> <p>Union [3] 5/16 5/16 6/4</p> <p>United [7] 13/7 66/11 66/20 100/13 100/13 103/1 154/14</p> <p>United States [6] 13/7 66/20 100/13 100/13 103/1 154/14</p> <p>universal [2] 66/11 76/21</p> <p>university [1] 15/3</p> <p>unknown [3] 31/17 113/11 115/20</p> <p>unless [7] 36/5 36/8 59/6 59/6 59/7 59/15 106/11</p> <p>unless -- you [1] 59/6</p> <p>unlikely [3] 62/24 136/24 166/18</p> <p>unmanageable [1] 150/18</p> <p>unmanaged [1] 150/19</p> <p>unmeritorious [1] 124/2</p> <p>unnecessarily [1] 29/2</p> <p>unnecessary [1] 9/17</p> <p>unprecedented [1] 105/25</p> <p>unreasonable [1] 31/4</p> <p>unreliable [4] 67/17 72/19 74/18 75/16</p> <p>unsorted [2] 126/20 127/15</p> <p>unsuccessful [1] 127/22</p> <p>until [10] 29/9 32/2</p>	<p>66/21 75/19 77/25 80/9 133/5 138/15 147/19 159/16</p> <p>unusual [1] 79/2</p> <p>unusually [1] 91/16</p> <p>unvarnished [1] 169/14</p> <p>up [73] 4/17 15/2 15/24 23/11 23/24 24/7 25/10 32/2 42/16 43/15 44/16 48/18 48/19 50/24 52/4 52/20 53/6 53/8 53/9 60/9 61/6 64/1 65/24 66/8 67/8 70/20 70/23 72/10 76/8 79/22 80/22 81/19 84/20 87/4 87/8 89/18 93/3 99/20 99/20 101/15 103/4 107/12 108/19 109/3 111/2 116/24 117/25 121/18 124/24 125/4 126/19 128/22 130/11 130/16 133/23 133/25 135/10 135/11 138/19 138/20 139/11 140/17 140/22 143/8 147/6 147/19 150/4 155/15 159/9 161/22 167/15 167/22 168/13</p> <p>update [3] 45/5 54/8 56/24</p> <p>upon [9] 4/1 7/16 9/13 13/7 21/18 76/1 142/16 152/23 160/11</p> <p>upon: [1] 166/12</p> <p>upon: does [1] 166/12</p> <p>urgency [1] 50/9</p> <p>urgent [2] 25/20 29/9</p> <p>urgently [1] 55/10</p> <p>urging [2] 167/7 168/17</p> <p>us [23] 12/13 39/19 43/9 47/3 53/5 70/14 75/9 85/24 87/20 117/14 137/1 138/25 141/4 141/15 145/14 150/3 150/3 153/20 155/24 158/19 163/7 168/13 169/11</p> <p>US were [1] 145/14</p> <p>USA [1] 69/21</p> <p>use [30] 7/4 8/15 8/18 8/20 8/22 10/9 11/5 11/9 11/22 12/2 12/19 13/2 13/3 13/20 21/18 32/14 32/18 32/20 34/13 38/12 39/7 60/6 63/6 66/18 77/3 80/13 91/8 121/8 139/9 150/17</p>	<p>used [14] 1/9 1/13 13/4 27/9 58/16 61/17 75/19 78/17 81/7 124/24 125/4 132/7 146/18 151/9</p> <p>useful [2] 110/16 167/21</p> <p>users [1] 94/12</p> <p>using [4] 33/5 62/20 145/14 146/20</p> <p>usually [3] 30/2 54/22 89/1</p> <p>utmost [1] 69/5</p> <p>V</p> <p>vaccine [5] 18/1 18/11 93/21 106/4 117/7</p> <p>various [8] 88/8 92/15 112/9 121/1 124/23 125/5 139/20 157/9</p> <p>vast [3] 40/18 69/3 102/2</p> <p>Venereal [1] 130/1</p> <p>very [86] 3/1 5/14 5/17 14/1 19/21 28/10 28/11 31/3 32/3 34/24 36/19 37/21 39/23 40/9 48/7 55/21 58/1 63/4 63/15 63/19 68/10 68/13 71/22 72/2 73/14 73/25 74/2 74/5 74/8 74/9 79/6 79/6 80/14 81/6 93/4 95/15 98/11 98/11 99/12 102/12 102/22 104/24 109/19 110/14 111/18 112/7 114/17 115/12 116/12 117/1 117/22 122/19 126/5 126/11 128/13 129/14 130/19 131/3 137/13 138/9 138/10 139/21 140/4 141/7 141/9 143/14 143/14 144/1 144/15 144/16 144/16 146/7 147/5 148/10 152/3 152/12 153/2 153/13 154/25 164/9 166/23 167/6 167/21 169/24 170/1 170/1</p> <p>vetoed [1] 89/10</p> <p>victims [3] 102/1 104/2 104/8</p> <p>view [50] 6/2 14/24 15/4 25/19 25/19 28/15 28/22 34/14 36/17 36/20 43/11 47/15 49/21 65/15 67/11 68/5 68/15 69/18 74/21 87/24 91/6 112/7 112/8</p>	<p>113/8 120/11 138/5 138/15 143/5 143/6 144/12 144/12 146/21 146/24 150/1 152/11 152/14 152/15 153/4 153/6 157/24 158/18 162/13 162/16 163/1 163/2 164/2 164/2 168/20 168/22 169/11</p> <p>viewed [1] 68/1</p> <p>viewing [2] 77/14 77/16</p> <p>views [16] 37/3 56/6 69/7 71/20 97/5 97/9 110/17 125/25 134/22 136/8 146/5 146/9 158/14 162/25 169/10 169/14</p> <p>vigour [1] 169/9</p> <p>VIII [13] 38/12 55/4 57/1 61/13 62/13 62/20 62/21 63/6 63/9 63/17 114/6 114/7 121/9</p> <p>vilification [1] 101/19</p> <p>vilified [1] 98/25</p> <p>viral [1] 121/16</p> <p>virtually [3] 31/5 117/3 117/17</p> <p>virus [5] 51/23 54/17 63/1 115/22 120/24</p> <p>visit [2] 104/9 104/13</p> <p>visiting [1] 158/19</p> <p>visits [1] 159/20</p> <p>voice [1] 72/4</p> <p>voiceover [1] 97/22</p> <p>voluntarily [1] 90/21</p> <p>vote [1] 155/13</p> <p>voted [1] 155/14</p> <p>vulnerable [1] 90/13</p> <p>W</p> <p>wait [2] 23/17 138/15</p> <p>waited [1] 64/12</p> <p>Wales [3] 64/4 72/3 72/13</p> <p>Walford [10] 23/25 24/1 24/13 24/16 24/18 25/2 25/12 42/17 140/18 157/5</p> <p>Walford's [4] 1/11 23/12 25/19 29/5</p> <p>want [31] 4/13 7/1 8/12 8/24 15/11 20/10 22/20 22/21 26/14 30/1 31/10 31/16 39/12 50/1 51/1 54/3 70/2 76/17 89/9 89/14 92/11 100/11 103/11 121/18 130/12 133/14 134/7 136/3 144/10 147/11 165/7</p>	<p>wanted [18] 1/5 9/17 25/18 28/14 29/21 49/6 52/22 72/25 81/22 88/22 95/4 98/12 107/23 114/10 121/3 149/12 153/22 164/21</p> <p>wanting [3] 28/12 58/22 59/2</p> <p>wants [1] 57/23</p> <p>war [1] 92/10</p> <p>ward [1] 154/14</p> <p>warn [2] 96/3 99/11</p> <p>warning [4] 27/17 27/20 48/9 98/5</p> <p>warnings [1] 108/8</p> <p>was [591]</p> <p>wasn't [53] 7/21 7/25 11/6 12/13 13/24 19/16 22/6 29/18 35/13 36/18 37/2 41/7 53/6 56/5 57/19 59/16 69/10 69/13 74/21 76/10 77/2 77/5 78/1 78/15 89/4 92/19 99/25 100/3 100/7 100/8 112/22 113/1 118/2 124/7 124/20 126/9 126/10 131/14 140/17 140/21 141/5 144/22 147/8 149/25 152/24 153/6 153/7 153/9 153/15 153/17 153/23 154/16 160/3</p> <p>watch [1] 126/22</p> <p>waves [1] 91/19</p> <p>way [59] 2/17 2/21 8/18 12/11 12/20 15/5 17/20 35/17 46/23 47/7 47/21 49/20 49/22 49/24 55/7 56/16 59/13 68/13 71/10 71/23 73/20 73/20 77/14 77/16 78/20 78/23 84/2 84/4 92/14 96/1 100/3 101/2 101/3 106/17 112/3 112/3 112/11 112/15 115/19 117/21 119/7 124/11 124/12 125/16 130/17 130/19 130/20 138/8 140/18 144/1 152/6 152/9 153/7 160/25 163/2 163/10 164/14 165/16 169/22</p> <p>ways [9] 2/19 8/19 9/14 14/14 16/6 16/16 74/25 106/19 112/10</p> <p>we [405]</p> <p>we'd [3] 8/1 58/1 150/3</p>	<p>we'll [15] 4/19 6/14 6/25 43/16 56/17 56/19 79/7 89/18 93/10 111/25 117/20 118/12 123/7 137/11 138/17</p> <p>we're [23] 9/24 15/7 18/20 24/20 24/20 24/22 31/8 31/9 35/20 38/25 68/23 68/24 68/25 69/1 77/25 99/17 113/7 131/17 137/18 144/9 150/13 157/1 157/12</p> <p>we've [11] 8/25 36/22 39/9 40/4 40/21 53/18 58/8 102/23 139/20 147/18 157/3</p> <p>Wednesday [1] 1/1</p> <p>week [4] 25/3 57/8 58/19 159/8</p> <p>weekend [1] 107/2</p> <p>weeks [1] 125/21</p> <p>weighed [2] 2/12 114/7</p> <p>weighing [1] 139/8</p> <p>weight [2] 59/14 138/6</p> <p>well [130] 1/17 5/14 6/14 9/9 9/15 10/5 12/8 12/10 12/12 12/22 12/24 13/21 14/16 15/9 17/3 17/10 19/16 26/4 27/4 28/20 28/24 29/20 30/19 31/14 31/14 31/25 35/12 37/4 37/17 39/9 40/2 40/17 41/5 42/6 42/7 42/7 46/8 48/1 49/5 50/21 52/18 53/7 56/7 56/10 57/17 57/18 57/23 60/4 63/25 65/3 68/25 69/1 70/1 71/1 71/19 74/2 74/19 75/1 77/17 78/22 79/24 80/21 87/23 89/2 92/19 92/22 96/23 97/7 97/9 98/10 98/13 99/22 100/6 101/25 108/9 108/13 108/20 108/23 110/2 115/12 115/12 115/13 116/8 117/12 118/1 118/23 124/11 125/6 125/20 126/7 127/10 128/7 130/4 131/3 131/4 133/10 136/6 137/5 137/8 143/2 145/19 145/21 145/22 146/10 150/3 150/4 150/6 150/12 150/22 151/13 151/21</p>
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<p>W</p> <p>well... [19] 152/1 153/14 154/7 154/10 157/14 158/16 159/1 159/10 161/11 161/20 162/2 162/11 163/4 163/23 164/7 166/16 167/16 168/13 169/5</p> <p>well-known [5] 108/23 145/19 145/21 145/22 158/16</p> <p>Welsh [9] 70/16 71/4 71/8 71/17 72/4 73/21 80/8 85/3 156/22</p> <p>went [28] 15/3 16/23 25/3 26/6 30/23 31/15 47/8 56/2 64/11 68/20 73/23 85/20 91/23 95/22 99/20 99/20 113/4 116/5 127/11 130/8 130/9 130/13 141/18 145/17 154/14 159/7 163/13 163/13</p> <p>were [183]</p> <p>weren't [16] 2/16 5/23 15/17 37/10 40/22 59/8 59/15 87/24 98/11 98/11 100/9 109/1 112/13 124/1 140/1 169/21</p> <p>what [174]</p> <p>what's [7] 8/14 33/10 45/5 112/1 117/14 130/12 164/8</p> <p>whatever [6] 21/14 58/21 79/7 134/25 159/11 164/24</p> <p>whatsoever [2] 120/3 138/11</p> <p>when [49] 1/10 6/25 16/23 16/23 20/14 20/14 21/22 27/5 27/6 29/2 29/12 29/22 35/24 41/8 42/1 44/14 47/11 47/14 74/22 76/22 77/4 78/13 80/10 81/24 94/6 95/2 99/4 104/6 110/11 111/3 124/17 126/17 128/22 130/10 132/7 141/15 145/24 151/25 152/1 153/25 154/13 154/25 155/13 158/9 159/17 162/9 163/4 168/6 169/20</p> <p>where [36] 1/14 7/8 10/9 11/13 12/5 21/7 25/2 27/16 27/20 34/1 38/8 49/18 51/20 58/2 59/3 67/11 70/8 70/9 74/16 83/20 85/22</p>	<p>86/2 104/13 109/23 114/1 114/24 115/13 117/2 117/4 117/17 123/25 138/25 148/17 150/13 159/13 162/10</p> <p>Whereas [1] 60/8</p> <p>wherever [11] 7/4 7/23 8/15 8/18 11/4 11/9 11/22 12/12 12/23 13/20 34/20</p> <p>whether [31] 5/2 13/23 15/23 17/3 18/10 21/16 21/17 27/2 28/3 39/4 59/24 64/11 64/12 67/25 68/1 68/6 75/22 95/12 96/19 102/19 110/6 114/23 119/7 120/22 122/8 123/12 138/12 140/19 140/24 142/8 157/16</p> <p>which [180]</p> <p>whichever [1] 156/21</p> <p>while [1] 67/14</p> <p>whilst [2] 133/8 133/9</p> <p>whim [1] 145/7</p> <p>Whitelaw [1] 88/24</p> <p>who [92] 2/4 3/18 5/19 15/8 27/5 27/17 33/11 33/14 36/6 39/13 40/25 41/2 41/4 42/5 42/5 42/6 42/17 43/10 48/8 48/10 49/2 49/10 53/1 56/8 60/2 60/14 66/6 68/11 69/14 74/8 82/14 85/23 86/8 88/3 89/25 90/4 90/21 91/16 91/21 93/3 94/21 95/9 96/15 96/20 97/21 98/20 100/2 101/8 101/10 101/10 101/23 104/18 108/17 108/18 108/19 108/25 111/15 111/22 112/14 113/15 113/17 113/22 115/18 118/6 120/8 121/22 123/3 128/25 131/2 131/2 131/7 132/15 132/17 134/5 135/17 137/21 138/9 142/14 143/23 146/4 146/13 153/12 153/24 154/18 157/10 158/2 159/25 164/2 169/15 169/16 169/18 169/22</p> <p>who'd [1] 49/15</p> <p>whoever [2] 2/6 39/15</p> <p>whole [22] 10/1 35/25 40/17 42/4 52/25 53/10 58/24 58/24 66/19 69/17 77/20</p>	<p>83/21 83/23 89/7 99/14 108/24 110/12 115/25 129/19 135/21 135/23 159/4</p> <p>whom [3] 39/2 43/10 129/9</p> <p>whooping [3] 17/22 117/7 158/21</p> <p>whose [4] 38/14 62/5 134/12 138/5</p> <p>why [24] 3/23 10/16 23/5 28/22 29/17 44/8 51/12 53/5 63/13 69/24 75/18 78/24 85/24 86/13 87/20 100/17 104/15 106/17 122/13 123/19 127/6 140/11 141/4 169/20</p> <p>wide [2] 51/14 110/3</p> <p>widely [1] 116/1</p> <p>wider [4] 70/24 71/3 71/12 94/13</p> <p>widespread [1] 22/17</p> <p>will [40] 3/8 4/17 6/5 6/6 10/4 17/15 18/11 20/20 21/4 33/7 43/13 46/15 57/8 58/18 62/17 62/25 64/1 71/4 71/9 83/23 85/10 91/8 93/19 94/23 94/25 94/25 102/11 103/25 117/16 118/19 122/2 122/15 132/21 134/10 136/6 136/23 136/25 155/16 167/3 170/3</p> <p>Willetts [2] 103/22 105/1</p> <p>Willie [1] 88/24</p> <p>Winstanley [2] 24/2 33/20</p> <p>Winstanley's [3] 24/8 24/14 25/19</p> <p>wisdom [1] 34/17</p> <p>wish [3] 76/11 76/13 169/2</p> <p>wished [1] 143/2</p> <p>wishes [1] 73/15</p> <p>with [221]</p> <p>with, [1] 142/20</p> <p>with, but [1] 142/20</p> <p>withdrawing [1] 3/13</p> <p>withdrew [1] 78/5</p> <p>within [11] 10/11 13/16 33/13 33/15 37/14 50/9 52/7 83/17 145/19 145/21 145/22</p> <p>without [9] 24/10 25/22 96/25 97/1 99/22 102/1 104/13 119/16 140/19</p> <p>WITN0771001 [1] 4/15</p> <p>WITN0771074 [1]</p>	<p>17/25</p> <p>WITN0771090 [2] 72/22 79/14</p> <p>WITN0771101 [1] 65/6</p> <p>WITN0771132 [1] 82/18</p> <p>WITN0771162 [1] 109/5</p> <p>WITN0771163 [1] 109/23</p> <p>witness [13] 4/14 4/19 4/21 26/17 50/3 51/2 71/15 75/25 80/20 92/16 136/16 147/12 148/11</p> <p>witnesses [4] 9/1 131/4 131/19 131/22</p> <p>women [4] 90/13 90/21 101/22 106/3</p> <p>won't [3] 52/10 71/24 167/6</p> <p>wonder [2] 50/7 82/15</p> <p>wonderful [1] 98/9</p> <p>Woodrow [1] 90/10</p> <p>word [4] 60/6 80/13 101/24 132/7</p> <p>worded [1] 95/6</p> <p>wording [3] 13/13 48/20 49/8</p> <p>words [7] 12/23 14/5 27/18 69/16 77/2 117/20 140/1</p> <p>work [16] 27/13 52/15 70/24 81/8 84/25 85/15 94/7 126/22 128/6 130/4 149/19 150/22 151/17 151/17 168/4 168/21</p> <p>worked [4] 42/6 42/7 60/13 60/16</p> <p>working [10] 45/17 48/16 86/1 86/2 151/20 153/7 153/8 153/8 158/12 159/8</p> <p>world [5] 17/15 90/11 94/2 94/4 131/19</p> <p>worried [3] 126/5 144/23 149/23</p> <p>worrying [2] 75/12 95/12</p> <p>worst [3] 128/5 131/18 152/13</p> <p>would [190]</p> <p>wouldn't [19] 5/14 5/15 11/18 20/2 22/4 49/12 53/7 53/8 76/11 76/13 88/22 110/10 124/6 126/7 126/8 133/11 147/23 151/17 164/18</p> <p>Wow [1] 160/17</p> <p>write [5] 16/19 69/13</p>	<p>79/4 98/8 98/8</p> <p>writes [1] 62/15</p> <p>writing [9] 63/7 65/6 70/21 76/23 93/17 98/9 126/18 126/25 128/12</p> <p>writing wonderful [1] 98/9</p> <p>written [3] 16/22 70/18 84/3</p> <p>wrong [11] 66/13 68/16 68/20 74/24 76/14 87/7 108/15 130/8 146/15 163/16 167/20</p> <p>wrongdoing [1] 123/14</p> <p>wrongly [1] 140/3</p> <p>wrote [7] 72/21 76/22 78/14 90/19 129/11 129/16 137/21</p> <p>Wyatt [1] 90/10</p>	<p>131/3 131/21 135/20 137/9 144/8 164/7 167/25</p> <p>you've [50] 9/22 10/23 10/25 11/5 12/11 19/2 19/5 25/15 27/1 28/6 30/17 39/21 42/13 47/9 47/13 48/22 50/2 51/17 52/12 64/21 76/3 78/23 80/24 86/16 87/4 89/22 92/15 97/11 98/1 106/7 109/22 116/19 125/13 126/17 129/5 131/5 132/4 136/10 136/20 138/19 143/9 147/22 147/25 148/9 148/11 148/12 148/17 159/23 165/20 169/9</p> <p>you: [1] 57/23</p> <p>you: well [1] 57/23</p> <p>young [9] 29/17 29/18 29/20 101/8 108/7 147/2 154/16 155/2 155/7</p> <p>younger [1] 169/8</p> <p>your [120] 1/10 3/5 3/24 4/13 4/19 4/21 4/24 7/11 7/20 13/15 19/2 24/9 26/13 26/17 26/25 27/1 28/15 32/13 39/20 40/9 42/9 42/13 44/15 44/18 46/20 47/9 47/14 48/22 50/3 50/7 51/2 56/3 57/16 59/20 60/1 60/1 62/4 62/5 64/2 67/3 67/6 68/4 68/5 69/7 69/11 71/6 71/15 73/1 73/17 75/1 75/5 75/8 75/25 76/2 76/3 80/20 81/11 86/17 86/20 87/3 89/18 89/23 90/1 92/16 100/18 101/1 106/8 107/22 107/23 109/11 119/16 119/24 125/10 125/14 125/16 125/17 126/14 126/16 126/18 129/6 132/4 134/24 134/25 137/9 137/24 141/21 146/3 147/4 147/4 147/12 147/16 147/18 147/22 147/25 148/4 148/6 148/11 148/14 148/18 152/16 157/4 157/15 158/10 158/20 159/8 159/22 160/12 160/12 160/13 160/21 162/16 165/21 166/2 166/6 166/20</p>
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<p>Y</p> <hr/> <p>your... [5] 166/21 167/7 167/13 169/8 169/10</p> <p>yours [1] 109/22</p> <p>yourself [11] 1/24 4/6 4/13 5/2 39/22 46/3 64/7 110/22 135/7 148/2 148/13</p> <hr/> <p>Z</p> <hr/> <p>zero [1] 108/13</p>					
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