Tuesday, 30 April 2019

2 (10.34 am)

SIR BRIAN LANGSTAFF: Today is a significant day for the Inquiry. It's the day we first hear evidence given orally.

Thank you for being here in such numbers to take part in it and by your presence in such numbers, to demonstrate the importance of this Inquiry. That together with the force of your feelings, is no doubt why the press have been attracted. I thank them too for being here. Do what the press do best, to report fairly and fearlessly.

I hope that while doing that they may help to spread the message that those who are struggling with the infections of HIV or hepatitis through blood or blood products are not alone.

Anything they can do to increase public knowledge of the symptoms, the causes, and as so many of you have told me movingly in your witness statements, the consequences of late discovery of hepatitis C in particular will be of great value to the public because so many symptoms of that disease seem to mimic a range of common conditions.

Anything that they can do to raise awareness is particularly important given that there are some

180 million people worldwide who suffer from it and the World Health Organisation has recently announced ambitious plans to eliminate hepatitis C by 2030. It may be possible, I am told, for that to happen even earlier in this country, but it depends upon people who think that they might possibly be suffering knowing enough to be tested because otherwise the risks of transmission remain and it takes longer to eliminate what has been a dreadful disease.

I want particularly to thank those of you who have given statements. I have already read a large number more than once, some a number of times. Some are harrowing, some incredibly moving and some chillingly factual. All are valuable.

There are more to come. For many making a statement has been and for some it yet will be an act of bravery. I would like to acknowledge that publicly here and now. It may have stirred up and it may yet stir up distressing memories. I understand some simply cannot bring themselves to make a statement because it is too much.

I want to acknowledge too your patience. It may have seemed a long gap between the end of the preliminary hearings and the start of these oral hearings but you have I believe understood that

gathering in witness evidence from so many, identifying repositories of documents and interrogating them and making the practical arrangements which come with such a large inquiry all take time, though I have promised you that the Inquiry will be as quick as it can. This has always been accompanied by the assurance that it will be as thorough as is reasonable and I mean to keep my promise to you, whatever your perspectives on the Inquiry.

At the preliminary hearings I set out the principles that were to guide this Inquiry. They were first and foremost putting people at its heart, being as quick as reasonable thoroughness permits, paying proper respect to a person's right to be heard, being as open and transparent as is legally possible, being independent of Government and frightened of no-one in the conclusions it draws and listening.

Though all apply, four are of particular importance now as we start hearing evidence orally. First, I promised that the Inquiry would put people at its heart. The room you are in is, I hope, visible evidence that this Inquiry honours its principles. The witness is centre stage. The public in front. Lawyers and me to the side. The Inquiry is not about them, it's not about me, it's about the evidence which the witness

can give.

There are rooms to the side and downstairs where anyone who needs space during the hearings can find it. The Red Cross are on hand to assist anyone who finds some of the evidence or their own memories difficult. But it's also about giving people time as much as physical space and practical arrangements.

You know now that the Inquiry will spend until October travelling round the UK to make it easier for many to access the hearings and you can be assured that although it will never be possible to hear orally from everyone who would wish to be heard, those affected and infected will come first and last in the Inquiry, not only in the first few weeks but the last weeks.

Every new written statement the Inquiry receives is important. Each will be read, each will be different, each has value and the evidence of those who have made or will make statements is of real value, whether or not they gave evidence orally.

Second, can I repeat what I said last September about paying respect to a person's right to be heard. Putting people at the heart of the Inquiry must recognise that people have different perspectives to bring to the Inquiry. It cannot be just a favoured few or for that matter a favoured many who are at its heart.

Those wishing to attribute blame, those wishing to escape blame, those who wish neither but just seek for an explanation, trying to understand what happened, those who received blood products, those who were transfused with infected blood, those who are patients, those who are doctors, all are people and all are entitled to be heard with respect. I would ask participants to respect that entitlement, however unpalatable they may find some of the ideas or explanations or accusations which are being expressed.

Linked with that, and third, openness demands that the statement of a witness, redacted where appropriate, be published when that witness gives oral evidence. Openness and fairness includes giving those subject to criticism a reasonable opportunity to answer that criticism. Where the response is available at the time a witness statement is published, so too will the responses of any criticised individuals.

There may be moments in the testimonies you are about to hear, now and over the coming days, which may bring you close to tears or they may excite indignation in any reasonable person. That is only human and I do not ask you to be anything else. But do please respect the fact that a witness will be giving evidence. It is never easy to give evidence. Please bear that in mind.

Although breaks are always available for witnesses when needed, they will not want to be so overcome themselves by the reaction around them that they cannot bring themselves to finish.

Finally, I am here to listen. From reading both witness statements and documents, I know more now than I did last September and more then than I did when the terms of reference were finalised. Thank you for that. But I know enough to realise that I have much more to learn and that the oral evidence will be an important part of that.

I would ask you now for your part, having listened to me so patiently, to listen to what counsel to the Inquiry, Jenni Richards QC, has to say before our first witness, Derek Martindale, comes to be heard. Thank you.

Opening statement by MS RICHARDS

MS RICHARDS: Sir, over the 11 weeks of hearings between now and mid-October you will hear and the world will hear evidence from some of the thousands of individuals who were infected with HIV, with hepatitis C, in some cases with other infections in direct consequence of being treated with infected blood or infected blood products by the National Health Service.

You will hear from people whose spouse or partner

died, whose parents died, whose sibling died, whose child died in direct consequence of being treated with infected blood or infected blood products by the National Health Service.

You will hear how lives have been cut short or irrevocably damaged or altered. You will hear how, in a phrase used in one of the many statements received by the Inquiry, people have been forced to live a life that was not the life they were meant to lead.

It is important that this evidence is heard and brought out into the open. Firstly, sir, because as you have said you have pledged to put people at the heart of the Inquiry and that means hearing directly from those who have suffered and doing so before any other evidence is heard.

Secondly, because the fulfilment of the Inquiry's terms of reference requires the Inquiry to examine the treatment of men, women and children who were given infected blood or infected blood products, to examine the extent of any warnings or advice provided to them about the risks, to examine the impact of infection from blood or blood products on those who were infected, their partners, children, parents and others close to them, to examine the adequacy of the information that was or was not provided to them and to consider the

nature and adequacy of the treatment, care and support that was or was not provided in response. The evidence that you will hear, sir, over the coming weeks touches on all of those matters.

Thirdly, it is important that this evidence is heard not only by you, sir, and by the Inquiry team but that it should be heard by others including those in Government and in the NHS, pharmaceutical companies, medical practitioners and those who regulate them and by the general public.

As one of the witnesses whom you will hear this week says in her statement, "I'm angry that I haven't been heard for all these years". The witnesses who tell their stories over the coming weeks will be heard.

As Sir Brian has said, it will not be possible to hear orally from every witness who was given a statement to the Inquiry. There are simply too many for that to be achievable, but those who are not being called to give oral evidence should know that every statement is read and considered by you, sir, and by the Inquiry team. Every statement forms part of the material which will in due course inform your recommendations and findings and every statement will in due course be published by the Inquiry.

I should say a little about how the evidence will

be heard and how these hearings are structured. As many of you already know, over the next three months the Inquiry will be hearing evidence from people who have been infected or affected in London, Leeds, Belfast, Edinburgh and Cardiff. The Inquiry will return to London for two weeks in October to hear further evidence from people who have been infected or affected.

Witnesses have been selected to ensure that evidence is heard covering a range of conditions, sources of infection and time periods to help to get to the truth of what happened. There are many who have lived with infection and its terrible consequences for years and you will hear from them. There are others who have only been very recently diagnosed and you will hear from them.

There will usually be three witnesses heard each day. Some days, particularly where there are family groups, there may be four or more. The witnesses will be asked questions either by or my colleague, Ms Fraser Butlin. Where the witness has legal representation, we will ask their barrister at the conclusion of our questions if there are further questions they consider should be asked.

The hearings are being live streamed on the Inquiry's website and a transcript of the evidence will

be published at the end of each day and, as the Chair has indicated, the statement of each witness who gives oral evidence will also be published on the Inquiry's website after each hearing day.

Unsurprisingly, given the nature of the issues that are being investigated in this Inquiry, many of the witness statements that the Inquiry has received criticise named individuals, particularly clinicians. Because the Inquiry is under a legal duty to act fairly, those criticisms are in some cases, depending on the nature of the criticism, brought to the attention of the relevant individual in advance of the witness giving evidence and the person criticised is afforded an opportunity to respond in writing. Where the person criticised provides the Inquiry with such a written response it will be published on the Inquiry's website either at the same time as the witness's statement or subsequently.

I should emphasise that not all of the criticisms in the statement of people who are infected or affected will go through this process and that is for the simple reason that many of the statements raise criticisms which will inevitably be the focus and subject of further investigation and examination of later stages of the Inquiry's work.

Some of the witnesses from whom you will hear have chosen for entirely understandable reasons to give their evidence anonymously, although in each case their identity is known to the Inquiry. It is absolutely essential in such cases that their anonymity is preserved and a range of different measures have been devised to protect their identity. Some witnesses, if they choose to do so, will give evidence via a video link.

The Chair has in exercise of his powers under the Inquiries Act made a general restriction order which prohibits the disclosure or publication of the name, address, and any other identifying information of anonymous witnesses. This order has been published on the Inquiry's website and there are copies available in the hearing room and I hope all members of the press have access to them.

There are other statements which although not anonymous have had particular personal information, particularly information about third parties, redacted and any disclosure or publication of such redacted material could also contravene the restriction order.

Before we call the first witness there are two further matters to which I should refer. The first is an update as to the work which the Inquiry has been undertaking, the further work which it needs to undertake and the timetabling of future hearings. The second is to raise public awareness of the importance of testing for those at risk of hepatitis from blood and blood products.

So update on the work of the Inquiry. The scale of this Inquiry is unprecedented. It's been referred to as the biggest public inquiry the United Kingdom has ever undertaken. So far the Inquiry's received 1,200 witness statements approximately from individuals who were infected or affected and we expect to receive at least a further 1,200 statements over the coming months.

The Inquiry is gathering information and documentation, many of it going back decades, from a very large number of sources. Large scale searches both physical and electronic are being undertaken by the Inquiry. By way of example, and these are examples only, a hard copy search of approximately two and a half million pages of information held by the Department of Health and the Medicines and Healthcare Products Regulatory Agency has been completed and the Inquiry is now moving on to searches of material held by them electronically.

The Inquiry has searched approximately 2 million hard copy pages of material held by NHSBT. There are

approximately 5.7 million pages still to search as well as material held electronically. The Inquiry is also working through the documentation which comprised the disclosed material in the *A v National Blood Authority* litigation and that is likely to be the next tranche of material disclosed to core participants.

A very large amount of material, particularly Central Government material, is held at the National Archives. Some has already been scrutinised but in the next few weeks, a team of Inquiry searchers will be based there full time and their search of those archives is expected to take roughly six months.

Across the country the Inquiry has identified some 341 separate repositories of documents to be searched either electronically or manually.

The Inquiry team has carried out electronic searches and undertaken reviews of hard copy material held by the Welsh Government, the Northern Ireland Government, the Northern Ireland Blood and Transplant Service, the Welsh Blood Service, the Public Records Office Northern Ireland and other core participant organisations in Northern Ireland. Further visits are underway to continue this process and further searches planned with regard to material held by the Scottish Government and the Scottish National Blood Transfusion

Service.

12,000 electronic documents and 63 hard copy boxes of material have been delivered to the Inquiry by BPL Limited and disclosure exercises are underway in relation to a number of the pharmaceutical companies.

Once potentially relevant material has been identified through these investigations, and substantial quantities of potentially relevant material are indeed being identified. That material has to be analysed, scanned, reviewed further, and every page has to be reviewed for redactions before any of it can be disclosed to core participants or the public. It is also right to note that further lines of enquiry and investigation are inevitably generated through this work. In this respect the process is an iterative and ongoing one, a close review of the documents obtained will often generate further requests for more specific information.

All this work inevitably takes time and in turn this impacts upon the timetable for hearings. The Inquiry's current plan for further hearings is as follows: there are two weeks in October already dedicated to hearing further oral evidence from those who have been infected or affected. Following those hearings and probably running into November, the Inquiry

intends to build upon the evidence that will have been heard from affected individuals by calling clinical evidence exploring issues of treatment and care and psychosocial evidence looking in particular at issues of impact.

After November, there will be a pause in the Inquiry's hearings. The Inquiry is currently gathering such a vast amount of material as I hope the information I have given you indicates that a pause is necessary to allow that material to be analysed, to be disclosed to core participants and to enable the Inquiry and core participants to prepare for the next set of hearings.

The Inquiry is aiming for the next set of hearings which will focus on the knowledge, decisions, actions and omissions of all relevant decision-makers and the response of Government and others to begin in late spring 2020 not before Easter 2020, with a precise date to be announced in due course.

We do not believe it will be possible to do justice to the issues that must be investigated under the Inquiry's terms of reference in any shorter timescale.

The final point is to emphasise a point you have already made and that is the vital importance of testing those at risk of hepatitis from infected blood or

infected blood products. Those listening will recall that somewhat controversially the only recommendation from the Penrose Inquiry was for a look back screening program.

It is apparent from the statements which the Inquiry has been studying that there are people who have been living with undiagnosed hepatitis C for years, even decades, and you will hear over the coming weeks from witnesses who have only recently been diagnosed with HCV caused by transfusions from blood or blood products many years ago.

The Hepatitis C Trust continues to receive calls from people who have only recently been diagnosed and who contracted the virus through infected blood or blood products and it seems likely that there may be many people, potentially many thousands of people, who remain unaware that they may have been so infected as a result of the receipt of infected blood or infected blood products.

One further issue which has emerged from the witness statements is a lack of information in particular on the part of general practitioners about hepatitis C and NHS England has this month issued a letter to all GP practitioners the stated aim of which is to help them support patients who may have been

greater awareness amongst the public more widely of

these issues. exposed to risks associated with infected blood or blood Sir, that is all I propose to say by way of any products. Could we have that letter on screen. Could you go opening submissions or statement and we are now ready to to the second page. call the first witness, Derek Martindale. You will see there under the heading "Action" --I hope most of you can see screens, I am sorry not all of you can but we can make available a copy of this letter on the Inquiry website for those who can't --that NHS England have drawn to the attention of clinicians the fact that hepatitis C often doesn't have noticeable systems until the liver has been significantly damaged and when symptoms do occur they can be mistaken for another condition. Common symptoms are identified and NHS England's letter continues that: "... the only way to know for certain if these symptoms are caused by hepatitis C is to get tested. Clinical staff should therefore consider asking patients who present with non-specific symptoms whether they may have had blood or blood products and offering them a screen for blood-borne viruses." The Inquiry brings that letter to public attention, particularly given the presence of so many of the press today in the hope that it may encourage greater awareness on the part of clinicians as well as

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