

Witness Name: Gill Edelman

Statement No.: WITN0814001

Exhibits: WITN0814002 - WITN0814036

Dated: 17th January 2019

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF GILL EDELMAN

I, Gill Edelman, will say as follows: -

1. I am the Interim Chief Executive of the Macfarlane Trust. I make this witness statement in response to the notice by the Chairman dated 19 December 2018 under section 21 of the Inquiries Act ("the Notice") requiring me to provide a written statement on behalf of the Trust addressing the matters set out in the Notice.
2. The facts and matters set out in this witness statement are within my own knowledge unless otherwise stated, and I believe them to be true. Where the information is outside of my own knowledge, I have set out the source of my knowledge or belief.

Introduction

3. I will first explain my role and experience of the Macfarlane Trust and how I have approached responding to the Notice in this context.
4. I was appointed to lead on the closure of the Macfarlane Trust and have been in post since 10th October 2018.

5. The Macfarlane Trust ceased activities following the transfer of operations to the NHS Business Services Authority (NHS BSA) and other agencies in the devolved administrations in November 2017 and closure of its final reserve grants scheme in August 2018. I therefore have no direct experience of the Macfarlane Trust's operations.
6. The Public Inquiry Team has been given access to all the Trust's Annual Reports and Accounts, Board and Committee papers and minutes, legal advice, beneficiary files, finance files and other records, pursuant to a request for the production of documents and information under Rule 9(2) of the Inquiry Rules 2006 dated 29 October 2018, 5 November 2018 and 11 December 2018. The documents to which the Inquiry team has been given access largely provide the information necessary to address the matters raised in the Notice.
7. Whilst I have no knowledge of the operation of the Trust apart from that which I have acquired from the documents to which the Inquiry has been given access, I have, nonetheless, sought to assist the Inquiry team by reviewing the Trust's Annual Report and Accounts over its 30 year history. These provide the most accessible overview of the Trust's strategy, policy and finances. I have used these documents as the primary source of information to respond to the questions set out in the Notice as far as is possible. I have also drawn on the support of the remaining member of staff and current Trustees to identify relevant Board and Committee meeting papers and minutes, legal advice, financial and/or policy documents where possible, and have made reference to these and exhibited them for further review by the Inquiry team.
8. Whilst I am an experienced Charity Chief Executive with a good general understanding of financial issues:
 - a. I do not have any specific financial expertise and have no experience of loan making which is the focus of the Notice;
 - b. I have not had access to any specialist financial resource in the course of drafting this witness statement.

9. I have asked the remaining member of staff (Victoria Prouse, Director of Operations) and the current Trustees (Paul Biddle, Matthew Gregory, GRO-A, Vanessa Martlew, Alasdair Murray, and Patrick Spellman) to review my draft responses to the questions in the Notice and have amended my statements in the light of feedback received, informed by their recollection of historic events. However, it should be noted that:
- a. The Director of Operations has been in post for less than five years and has had no responsibility for the administration of loans;
 - b. One Trustee has been in post for 16 years, one for 10 years, one for 6 years and the remaining 3 Trustees for less than 5 years;
 - c. The names of former Trustees and senior staff are recorded in the Reports and Accounts.
10. As the Notice was received on 19 December 2018 (my last day before the Trust office closed for the Christmas and New Year break) and I work only three days a week, I have had eight working days within which to undertake this work which is additional to my key task of closing down the charity.
11. For all the reasons above, this witness statement constitutes neither a systematic nor comprehensive review of the matters set out in the Notice and may contain gaps and/or errors in understanding.
12. This statement and its appendices contain information about individuals and personal data covered under the General Data Protection Regulations and will require redaction in the event that any information is shared beyond the Inquiry Team and/or put into the public domain. Given the close nature of the Macfarlane Trust beneficiary community, some individuals may be identifiable through some of their details and it may therefore be insufficient simply to anonymise data.

Responses to the matters set out in the Notice

13. I will address each of the matters set out in the Notice at numbered points 1 – 6. I have addressed them in a different order from the order in the Notice. In this statement I will first address strategic and policy matters and then deal with more specific and operational matters. There is inevitably some circularity and overlap between sections.

A description of all credit arrangements, loans and financial product agreements that the Trust made available to its beneficiaries.

14. I have reviewed the Trust's Annual Reports and Accounts for each year from its inception. These provide a clear overview and chronology of the Trust's strategy and its policy in relation to providing financial assistance to beneficiaries. Further information relating to legal advice received by the Trust, Trust policy and procedure etc. is also found in Board and Committee meeting papers and minutes.

15. As far as I can determine from the documents I have reviewed, the Trust made four kinds of loans available to its beneficiaries other than grants (which took the form of either regular payments or single grants). These loans comprised either:

- a. **Equity Share Loans:** These appear to have been made available from 1990 until year ending 31 March 2007 when the loans policy changed. (From 2007 existing loans appear to have been maintained but no new loans appear to have been offered following approval by Trustees of a new loans policy (see para 25) and its implementation in 2008);
- b. **Secured Loans:**
 - i. These appear to have been made available from 2002 as *'interest free loans secured by way of legal charge on the*

property of a beneficiary' (MFT Annual Report and Accounts year ending 31 March 2002 [WITN0814002]) .

- ii. However, in year ending 31 March 2008 the accounts note that '*secured loans attracting interest*' were *introduced during the year*' (MFT Annual Financial Report for the Year Ending 31 March 2008 [WITN0814003]). These loans were also secured by legal charge over the property of a beneficiary. Interest was pegged at 1% above Bank of England base rate to ensure that they remained exempt from Consumer Credit Act (CCA) and Financial Services and Markets Act (FSA) regulation.

- c. **Unsecured Loans:** These appear in the Report and Accounts for the first time in year ending 2003 (MFT Annual Report and Accounts for the Year Ending 31 March 2003 [WITN0814004]) and have no charge over the property of a beneficiary.

- d. **Advances on regular payments:**

In the Report and Accounts for year ending 2001 (MFT Annual Report and Accounts for the Year Ending 2001 [WITN0814005]) note: '*Short term advances are loans made to registrants and recovered free of interest, by deduction from subsequent regular monthly payments*'. I believe that these "regular monthly payments" were grant payments. It is difficult to know when short term advances were first made available, but the 2001 Report and Accounts record these advances for the first time and state that: '*The new computer system has enabled the Trust to identify grants paid in advance of the regular payment date...*'. Advances appear to have been made available up until the time of transfer of operations to NHS BSA and other agencies in the devolved administrations in 2017.

- 16. I am unable to confirm when new Secured loans and Unsecured Loans ceased, however, no new loans appear to have been made since at least

2013.

17. At the time of reassignment of the loans to the Terrence Higgins Trust in December 2018, there were twelve outstanding loans to nine beneficiaries; the majority of which were loans secured with a legal charge against the beneficiary's property, but there were also examples of secured and unsecured loans some of which were interest bearing and others not (Deed of Assignment of Loans 11 December 2018 [WITN0814006]).

A description and annexed list (including copies) of all policies or guidance that informed the Trust's staff or agents as to when, and to whom, such credit arrangements, loans or financial product agreements were appropriate to offer, together with an explanation as to how these were consistent with the charitable purpose of the Trust.

18. The 1st set of Report and Accounts for the year ending 31st March 1989 (Annual Report for the period ending 31 March 1989 [WITN0814007]) confirms that the work of the Trust was initially focussed almost entirely on providing financial support to those in most urgent need, with provision of information, advice and general support as a secondary function. It provides an explicit statement regarding the different kinds of financial support available and on what basis this could be offered given the legal requirements set out in the Trust Deed (page 5):

"It is explicit in the Trust Deed that (financial) help is provided for those in need. In meeting this stipulation, the Trustees are required to satisfy themselves that a need is established. The Trustees have no power to make a general division of the Trust fund amongst those eligible for help, nor to make any payment solely by virtue of a person having registered with the Trust. Such payments would represent a form of compensation and this was not part of the intention for the Trust and therefore is outside of its terms of reference.

The Trustees are able therefore to concentrate the resources of the fund in favour of those in the most acute need, and also to husband the resources to protect the longer-term requirements."

19. It appears from the 1st Annual Report and Accounts that from the outset the Trustees decided on two forms of grant payments (page 4):

"Regular payments

To bolster the income available to cope with the extra cost of living with the HIV virus, the Trustees approved a payment to be made on a regular basis. In order to direct the help to where it was most needed it is necessary for applicants to declare their income and their housing costs. The payment was instituted at a maximum of £20 per week per person and this was maintained at the end of the financial year.

Single grants

Single payments have been made for a wide variety of purposes covering needs arising from reasons of physical health and mental stress, general living conditions, mobility and travel (particularly in connection with special treatment needs), accommodation, employment and education."

20. However, the Annual Report and Accounts also flags the need for financial support with housing costs as a primary source of concern for the future, and makes explicit reference to consideration being given even at this early stage to the provision of loans for this purpose under the heading '*Problem areas not yet resolved*' (page 5):

"A primary source of concern for the future is the need for assistance with housing costs. Several such cases were under investigation at March 31st 1989 but no grants or loans had been made. Grants on the scale required to assist with housing need are not seen by the Trustees as appropriate, and even loans for this purpose could make major

inroads into the Trust fund. However, because this can in some cases be a most acute and pressing need whose only solution is the purchase of accommodation, active consideration was being given at the end of the year to a scheme of assistance with housing needs in the form of 'equity sharing mortgages, and the development of this scheme will be covered in our next report.'

21. The Report and Accounts for year ending March 1990 (Annual Report for the period ending 31 March 1990 [WITN0814008]) reports explicitly on the development of a loan scheme to support those needing 'mortgage assistance'. The report notes that (page 5):

"The sums of money are very considerable and, in the interests of the majority of those registered with the Trust, the amount of capital that can be tied to this kind of project had to be limited. Hence the Trustees decided that this type of loan could only be given as a last resort when it proved the only means of providing or maintaining a home.

Furthermore, since people needing this level of assistance would be unable to afford interest, any loans would be made on an equity sharing basis whereby the Trust would in the longer term expect to share in the capital appreciation on the property in lieu of the interest foregone. At the year-end one such loan had been arranged and another had been approved and was being processed."

22. However, the Report and Accounts also state (page 5) that the Trust has insufficient capital to help with mortgages for first time homes and will therefore prioritise protection of existing mortgages, and that the problems of obtaining a commercial mortgage appear to be lessening as several beneficiaries have been successful in obtaining mortgages, mainly repayment mortgages due to ongoing problems with securing mortgage insurance protection.

23. Review of Board papers in 1989/90 shows that an internal policy document on assistance with home ownership relating specifically to equity share loans prepared with legal advice (see paragraph 30 below) was approved by Trustees at a Board meeting in July 1989 (Policy on Home Ownership approved by Trust Board 28th July 1989 [WITN0814009]). This policy appears to have remained in place for nine years.
24. In February 1998 following a review of the loans policy by the Trust's legal advisers (see paragraph 31 below) equity share loans were suspended, and it is evident from the Board minutes between February 1998 and October 1999 (MFT Trust Board Minutes February 1998, MFT Trust Board Minutes September 1998, MFT Trust Board Minutes April 1999, MFT Trust Board Minutes July 1999 and MFT Trust Board Minutes October [WITN0814010, WITN0814011, WITN0814012, WITN0814013, WITN0814014]) that there was substantial discussion at Trust Board meetings and further legal advice about whether there was a need to vary the Trust Deed to enable the Trust to continue to offer equity sharing loans (see paragraph 32 below). Finally, following confirmation from civil servants that the Department of Health had no objection to this change in July 1999 (MFT Trust Board Minutes July 1999 [WITN0814013]), in October 1999, the Trust Board approved a Deed of Variation to support ongoing provision (MFT Deed of Amendment [WITN0814015])). The Deed of Variation appears to be in response to at least one request from a beneficiary to move an equity share loan from one property to another.
25. A further loans policy appears to have been approved 7th March 2007 by the National Support Services Committee (NSSC), a standing committee of the Board (Proposed Loans Policy [WITN0814016] and Committee minutes (Minutes of a Meeting of the National Support Services Committee [WITN0814017]) following further legal advice (see paragraph 34 below). The policy and minutes confirm that the proposed loan arrangements will be exempt from Consumer Credit Act (CCA) and Financial Services Authority (FSA) regulation.

26. From the documents I have reviewed, it would appear that Trustees were the key decision makers on all loans (not including advances) with the CEO leading in implementation. No other staff appear to have been involved in decision making regarding any loans. Advances appear to have been agreed at CEO or Director level, at least in recent years.
27. According to two of our longer serving Trustees (Patrick Spellman and Vanessa Martlew) guidelines were developed in 2005 by the newly created NSCC and were revised and reissued from time to time. I have not been able to find copies of these early documents.
28. In 2014 new Grant Guidelines for internal use only were agreed which included specific guidance re advances (MFT Grant Guideline 2014/15 [WITN0814018]). (A summary was made available to beneficiaries - see paragraph 45 below). These guidelines were updated again in 2016 but the relevant paragraphs remain unchanged.
29. The policies, policy amendments and guidelines relating to loans to which I refer are those which I have been able to identify. However, I cannot confirm whether they provide a comprehensive statement of Trust policy or practice.

Copies of any financial and legal advice that the Trust received which informed its policy on facilitating credit arrangements, loans and financial product agreements

30. It is apparent from the documents I have reviewed that legal advice was sought from Paisner and Co (the Trust's Legal Advisers) in 1989 regarding the possibility of making the Trust's first loan to a Mr and Mrs GRO-A. The resulting internal and external correspondence documents the process for drawing up the first equity share loan and provides supporting guidance notes which were subsequently incorporated into policy (Legal advice and internal and external correspondence from Paisner and Co

regarding the Trust's first loan to a Mr and Mrs [GRO-A] February – July 1989 [WITN0814019]).

31. A formal review of the equity share arrangements and other financial assistance in place from 1989 was carried out by Paisner and Co in February 1998 (Report in Connection with Equity Share Arrangements and Other Financial Assistance, Paisner and Co February 1998 [WITN0814020]). Their report reviews all loan arrangements entered into since 1989, analyses the legal position of the Trust in relation to these loans, and makes recommendations for the future.
32. Following on from this advice, correspondence between Paisner and the Trust's CEO (Ann Hithersay) between April and September 1999 (Legal advice/correspondence between Paisner and the Trust regarding the legality of a contested loan and the need for a Deed of Variation Apr. Sept. 1999 [WITN0814021]) reviews the position with regard to a contested loan, and provides a new Deed to provide an additional power to enable Trustees to *'make loans on such terms and conditions as the Trustees consider appropriate; to guarantee money and to use the assets of the Trust as security for contracts entered into to further the objects of the Trust i.e. to enter into mortgages'*. In relation to a question regarding the legal status of the contested loan, Paisner & Co state in the letter dated 28 June 1999 that *'The short and definitive answer to [Mrs [GRO-A]] question is that the original loan to Mr and Mrs [GRO-A] was legal.'* This correspondence also confirms the need for a Deed of Variation to enable this loan to be moved from one property to another.
33. In August 2003, legal advice was sought regarding the related issues of incorporation and loans to beneficiaries (Legal advice regarding incorporation and loans to beneficiaries. August 2003 [WITN0814022]). The Trust incorporated in 2008.
34. In January 2007, Trustees sought further advice from their legal advisers, now Berwin Leighton Paisner, regarding the Trust's proposed revised loans policy, and in particular, whether there was a need for the Trust to

be licensed under the Consumer Credit Act (CCA) and/or subject to the Financial Services Authority (FSA) regime. According to the policy paper prepared by the CEO in February 2007 (Loans Policy approved by NSCC 7th March 2007 [WITN0814016]), initial legal advice from Berwin Leighton Paisner on this matter was that registration may be required for some loans). This appears to have been superseded a month later by further legal advice advising definitively that no CCA or FSA regulation was required for any loans from the Trust (Copies of all available legal advice on this issue are Emails from Paisner 09 January 2007 [WITN0814023], Legal advice in connection with the Trust's Proposed Loans Policy, Berwin, Leighton and Paisner 24 January 2007 [WITN0814024], A note on the Trust's Existing Loans and Mortgages and New Loans, Berwin, Leighton and Paisner 22 February 2007 [WITN0814025]). Berwin Leighton Paisner's final advice contains detailed advice on the proposed loans policy and makes detailed recommendations regarding future arrangements including draft loan agreements for both Legal Mortgages and Loan Agreements. The resulting policy was subsequently approved by the Trust's National Support Services Committee in March 2007 and presumably implemented thereafter (see paragraph 25 above).

35. I have been unable to identify any further legal advice in relation to loans generally, however, I cannot confirm whether other such legal advice was received by Trustees.
36. I understand that specific legal advice was sought by the Trust in relation to every individual loan and that this is documented in individual beneficiary files:
 - a. In the case of the loan subject to ongoing dispute, there was extensive legal correspondence in 2015 between Wilsons (the Trust's then legal advisers) and Loddors (the beneficiary's legal adviser) in reviewing and commenting again on the legality of this loan (Legal correspondence between Wilsons and Loddors regarding a contested in 2015 loan [WITN0814026]);

- b. In another case, legal advice was sought and received in relation to provision of a loan to a Trustee who was a 'user Trustee' i.e. a beneficiary; this required specific approval by the Charity Commission. This loan was approved by the Commission in March 2006 (MFT Trustee Benefits Order 3 March 2006 [WITN0814027]).

37. I have only been able to identify one financial report listing all loans as at 21st August 2009 prepared by Pinkney, Keith and Gibbs, the Trust's then Auditors, to aid the assessment of risk in relation to the level of secure loans the Trust had registered (MFT Secure Loans Report 21st August 2009 [WITN0814028]).

38. However, Ward Williams, the Trust's external auditors have advised me that they would have undertaken a detailed review of the financial and legal information relating to the loans as part of their audit of the Annual Report and Accounts over the last thirty years. As far as current Trustees are aware, the Trust has always had a clean audit and the auditors have not raised any concerns regarding the loans. The Annual Reports and Accounts have also been subject to the scrutiny each year by the Trust's funder, the Department of Health and Social Care (and its predecessor departments).

A description and annexed list of all monetary amounts and dates of credit arrangements, loans, financial products agreements and charges held between the Trust and/or over beneficiaries and/or assets owned by beneficiaries.

39. I am not able to provide a detailed list of all monetary amounts and dates of all individual loans and advances held between the Trust and/or over beneficiaries, and/or assets owned by beneficiaries for the whole thirty years' life of the Trust. However, Ward Williams, the Trust's external auditors advise that detailed financial schedules would have been prepared on an annual basis as part of the preparation of the Trust's

Annual Report and Accounts and these would have been audited by them. However, the Trust is not required to keep such detailed records for more than seven years and it is therefore most unlikely that such records still exist for the period prior to 2012. Detailed information relating to individual loans and advances is, however, included in individual beneficiary files all of which have been made available to the Inquiry team.

40. Summary information can be extracted from the Annual Report and Accounts as the quantum of equity share loans (recorded as property assets), secured loans, unsecured loans, and advances is set out in the notes to the Annual Report and Accounts. I note that:
- a. The Annual Report and Accounts do not itemise individual loans but it is possible to see the value of loans in any given year;
 - b. Equity share loans are recorded as property investments (for a long time recorded at cost, and then following a change in accounting policy are recorded at market value in the year accounts for year ending March 31st 2006 (Annual Report and Accounts for Year Ending March 31st 2006 [WITN0814029]). The value of any additions and disposals, revaluations and any write off of equity share entitlement is also recorded in the year in which it occurs;
 - c. All other loans are recorded under debtors of either less than one year or more than one year; and
 - d. The terminology may differ in successive Annual Reports and Accounts as accounting policies are amended, and may differ again in some of the Board and Committee papers.
41. Financial expertise would be required to prepare a summary table and analysis from the Trust's Annual Reports and Accounts, all of which have been made available to the Inquiry Team.

42. I have, however, identified the following reports prepared for Trustee meetings in the last 10 years (which have already been made available to the Inquiry team):

- a. A schedule comprising all the outstanding loans assigned to the Terrence Higgins Trust on 11th December 2018 (MFT Outstanding Loans Schedule [WITN0814030]);
- b. A schedule listing all loans as at July 2014 (MFT Loans Schedules March 2014 [WITN0814031]).

A description and annexed list or catalogue of information and/or advice given to beneficiaries who were offered credit arrangements, loans or financial products agreements.

43. It appears that throughout the whole of its life, the Trust made available a range of information, advice and support either through its own staff or commissioned from third parties, and also signposted beneficiaries to information, advice and support available from other organisations, for example:

- a. The Report and Accounts year ending March 1994 (MFT Annual Report and Accounts for the Year Ending 31 March 1994 [WITN0814032]) note that independent financial advice was made available from an Independent Financial Adviser (IFA) appointed by the Trust. He/she was a Financial Intermediaries, Managers and Brokers Regulatory Association (FIMBRA) registered agent and provided assistance with mortgages and general financial advice;
- b. The Report and Accounts year ending March 2001 (MFT Annual Report and Accounts for the Year Ending 2001 [WITN0814005]) note that *"the Trust employs staff experienced in social work*

who provide advice and guidance across a broad range of issues. The Trust also employs a skilled benefits adviser who assists registrants to claim and obtain welfare benefits to which they are entitled. In addition the Trust provides for the services of an independent financial adviser who helps with matters such as house finance, insurance and debt relief”;

- c. The Report and Accounts for year ending March 2006 (MFT Annual Report and Accounts for the Year Ending March 2006 [WITN0814027]) note some changes in the means of delivering support services: *“Registrants asking for financial assistance now have the opportunity of obtaining support for their request from either a Haemophilia Centre social worker, from the Terrence Higgins Trust or from Mrs, who as an independent financial adviser has given many registrants and their families help with mortgages and other matters for many years and has broadened her skills to act as a case worker”* and also note that the contract with the Terrence Higgins Trust (THT) was *‘to provide advice and other support direct to the Trust’s beneficiaries across the country, recognising that THT has experienced staff nationwide who understand and can meet the non-financial needs’*.
- d. The Report and Accounts for year ending March 2007 (Report and Accounts year ending March 2007 [WITN0814033]) note that: *“Delivery of support services has been greatly enhanced by the deployment of THT to provide front line support with suitably qualified case workers to address the needs of beneficiaries either on a face to face basis or by way of the Trust’s dedicated helpline.The THT service agreement means that every beneficiary who needs support has a dedicated support worker to meet his or her individual needs. During the year THT dealt with over 100 cases of varying complexity and covering a wide range of issues; this is in addition to the wide range of services*

covered by our in house team.”

- e. I am informed by Victoria Prouse and Trustees that in recent years, two external experts were commissioned to provide benefits advice and debt advice respectively to beneficiaries.

44. Two documents comprising guidance notes for beneficiaries were produced in August 1989; these contain terms and conditions on which an offer would be made by the Trust for an equity share mortgage either relating to a new property or in substitution for an existing mortgage (MFT Guidance Notes for Beneficiaries, August 1989 [WITN0814034]). This guidance reflects the policy agreed by Trustees referred to in paragraph 23 above. I note that this guidance makes explicit the importance of beneficiaries seeking independent legal advice regarding any loans offered by the Trust. This requirement to seek independent legal advice is also set out in the 2007 loan agreements (Legal advice in connection with the Trust’s Proposed Loans Policy, Berwin, Leighton and Paisner, 24TH January 2007 [WITN0814025]). I also note from my review of files of beneficiaries with outstanding loans as at December 2018 that correspondence with beneficiaries regarding potential loans reiterates the requirement for independent legal advice.

45. According to two of our longer serving trustees, Patrick Spellman and Vanessa Martlew, Trust Guidelines were developed by the newly created NSCC for beneficiary reference in 2005 and were revised and reissued from time to time. I understand that these primarily dealt with grants but also included loans advice and were sent out by post to all beneficiaries, and circulated to the Haemophilia Society and other relevant organisations. There may have been a short period during which these were not circulated to all beneficiaries but I am informed that in 2014, following revision of Internal Office Guidelines and the creation of a new Grants Committee under the then CEO (Jan Barlow), this practice was reinstituted with regular updating and reissue of guidance to beneficiaries. The most recent version of the beneficiary guidance was produced in

2017 (MFT Grant Application Guidelines 2017 [WITN0814035]).

46. In addition a Beneficiary Handbook was issued from 1996-2003, providing Advice and Information from the Trust on a range of matters including mortgages, benefits, financial problems etc. and include potential financial support available from the Trust (MFT Handbooks [WITN0814036]).
47. Finally, several of the Annual Reports and Accounts note that the Trust ran a number of seminars and events in conjunction with the Haemophilia Society on a range of issues, and issued Macfarlane Trust Newsletters from time to time updating beneficiaries on news from the Trust including the grants, information advice and other support available from the Trust.

What registered status the Trust holds with either the Charity Commission or Financial Conduct Authority so that it may provide credit arrangements, loans and financial product agreements to its beneficiaries.

48. Until October 1999 the Trust appears to have relied on '*catch all provisions*' in its Trust Deed which gave them '*the power to do all such lawful things as may be calculated to further the attainment of the Trust's objects*' (see para 32). In October 1999, Trustees approved a Deed of Variation to the Trust Deed following advice from Paisner '*as a matter of prudence*', to provide more explicit authority for the making of loans (see Paisner letter 28th June 1999 (Legal advice/correspondence between Paisner and the Trust Apr. Sept. 1999 [WITN0814021])). The Trust Deed was logged with the Charity Commission; it did not require the Commission's prior approval (see Paisner letter 1ST April 1999 ([WITN0814021])).
49. It appears that the Trust has never been registered with the Financial Conduct Authority or related predecessor organisations as it had received legal advice that this was not required (see paragraph 34).

50. I note that in the Report and Accounts for the year ending March 2008

(MFT Annual Report and Accounts for the Year Ending March 2008 [WITN0814003]), the Trustees explicitly report on their review of their loans policy and comment: *“The new policy, which does not have to comply with any regulatory framework, means that beneficiaries can, subject to certain criteria, borrow money on terms than are much better than might be achieved through the normal lending processes from the private sector.”*

51. Finally, as part of their due diligence in December 2018, Ian Green, Chief Executive of the Terrence Higgins Trust (THT) advises that THT took both general and specialist legal advice regarding the legality of the loans and the need for THT to be registered with the Financial Conduct Authority (FCA). Their legal advisers were concerned that the regulatory environment had changed since MFT received legal advice some years ago. However, they concluded that the risk of the portfolio of loans being construed by the FCA as regulated activities was very low and their advice was that THT was able to proceed with receiving the loans on that basis.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed

GRO-C

Dated: Submitted to the Inquiry February 4th 2019 and re-executed Feb 23rd 2021 in response to a request from the Inquiry legal team