

Witness Name: John G. Davies

Statement No.: WITN7179001

Exhibits: None

Dated: 26/11/2022

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF JOHN GERAINT DAVIES

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 08 August 2022.

I, John Geraint Davies, will say as follows: -

Introduction

1. *Please set out your name, address, date of birth and professional qualifications.*

1.1 My name is John Geraint Davies. My address is GRO-C
GRO-C, Edinburgh GRO-C. My date of birth is GRO-C 1938.

1.2 I graduated in 1959 with an MA in Maths (Oxon.).

1.3 I am a former Fellow of the British Computer Society. I relinquished the position when it was no longer relevant to my career.

2. *Please set out your employment history with dates if possible, including the various roles and responsibilities that you have held throughout your career.*

2.1 From 1959 to 1971 my career was in computer design and programming in the aerospace and engineering fields.

- a) From 1959 to 1963 I worked for Rolls Royce at Derby, designing and writing computer programs relating to aero engine testing and design.
- b) From 1963 to 1971 I worked for Ferranti in Edinburgh designing and writing computer programs relating to machine tool control and computer aided design. While there I led a team of about 10 staff.

2.2 From 1971 to 1986 I worked for the Scottish Office in various positions.

- a) Initially I joined the Scottish Home & Health Department (SHHD) in 1971 as a Principal Scientific Officer, providing advice on computing matters to the Scottish NHS. The unit which I joined later became the Information Services Division to the then newly established Common Services Agency ("CSA"), to which the Division and I were seconded. I remained on secondment to the CSA until 1978.
- b) In 1978 I became a Principal Administrator within the SHHD, responsible for leading the hospital and health centre building programme of the NHS Buildings branch of the SHHD.
- c) In 1981 I became a Principal, leading the NHS Finance branch, of the Scottish Office Finance Division. I was responsible for managing the NHS budget in Scotland.
- d) At the start of 1983 I was promoted to Senior Principal, and then later that year (I do not recall the precise date) promoted to Assistant Secretary and head of SHHD Division IVD. At that time, this Division was responsible for capital resources, scientific, ambulance and blood transfusion services and supplies.
- e) As Assistant Secretary, I provided oversight to the 5 branches under my control. I delegated the day-to-day operation of the work of each Branch to its Principals and staff, who were all experienced

in the subject matter handled by each Branch. Of interest to the Inquiry, Branch 5 was responsible for ambulances, blood transfusion and scientific services and was led by John Wastle and then by Sandy Murray.

- f) I also take this opportunity to clarify that there was another Division of the SHHD of relevance to the matters of interest to the Inquiry in this Rule 9. That was the Division responsible for, inter alia, drug misuse and communicable diseases. I cannot recall the number of the Division but its Assistant Secretary was Mr Angus Macpherson. To the best of my recollection and as demonstrated in the documents produced by the Inquiry, the Division led by Mr Macpherson became more involved as knowledge evolved on how the AIDS virus was transmitted.
- g) I held the position of Assistant Secretary until the end of 1985 when I left to take up a new position elsewhere.

2.3 From 1986 to 1993 I was the Secretary General of the General Synod of the Scottish Episcopal Church. As such I ran the administration of the church, with responsibility for the central finances, including oversight of investments, pension arrangements for the clergy and their widows (creating a new Pension Fund) etc., organising and running the General Synod meeting and generally responsible for introducing more professional systems of administration.

2.4 In 1993 I returned to the Scottish Office as head of the Education branch, SO Finance Division, with oversight of the Scottish Budget for Education (except schools) and the Arts. This covered, inter alia, Higher and Further Education, the National Galleries, Museums and Libraries, and the Scottish Arts Council. I held this position until I retired in 1998.

3. *Please set out your membership, past or present, of any committees, associations, parties, societies, or groups relevant to the Inquiry's Terms of Reference, including the dates of your membership.*

3.1 None relevant to the Inquiry's Terms of Reference.

4. *In addition to the Penrose Inquiry, please confirm whether you have provided evidence or have been involved in any other inquiries, investigations, criminal or civil litigation in relation to the human immunodeficiency virus ("HIV") and/or hepatitis B virus ("HBV") and/or hepatitis C virus ("HCV") infections and/or variant Creutzfeldt-Jakob disease ("vCJD") in blood and/or blood products. Please provide details of your involvement.*

4.1 No I have not.

Section 1: Previous statements and evidence

5. *What materials were made available to you when you gave evidence to the Penrose Inquiry?*

5.1 I was provided with a file of documents (which I did not retain). I do not recall the contents.

6. *Did anyone else assist you in preparing your evidence? If so, who, and what assistance did they provide?*

6.1 I was given legal advice (and to the best of my recollection possibly editing assistance) by the legal department of the Scottish Government.

7. *The Inquiry understands that you provided the following written statements to the Penrose Inquiry:*

- a. *24 August 2011 statement regarding viral inactivation [PRSE0000994].*
- b. *31 August 2011 statement regarding the introduction of HTLV-III testing [PRSE0001820].*

Please confirm whether these statements are, to the best of your knowledge and belief, true and accurate. If there are any matters within your evidence to the Penrose Inquiry that you do not consider to be true and accurate, please explain what they are and how the inaccuracy occurred. Please also identify any evidence you gave to the Penrose Inquiry which is not listed here.

7.1 I confirm that I believe my statements to have been true and accurate and that those statements cited are the total of my evidence to the Penrose Inquiry.

Section 2: Knowledge of and response to risk of AIDS: 1983-1984

8. *Please describe your understanding of the risk of AIDS in blood and blood products when you took up your position as Assistant Secretary at the Scottish Home and Health Department ("SHHD") in 1983. Other than as addressed below, please also describe a) any measures in response to the risk that you or other officials discussed around the time that you joined; and b) whether there was any disagreement amongst SHHD officials and/or Ministers as to the extent of the risk or the measures to be taken in response to it.*

8.1 After nearly 40 years I have no recollection of what I knew about AIDS when I took up post in early 1983.

8.2 I do not recall any discussions on the matter with colleagues at that time. My recollection is that discussions did not take place until matters had developed further and more was known about the virus.

9. *Please consider the enclosed minutes of a meeting of SNBTS and haemophilia centre directors on 21 January 1983, attended by Dr McIntyre and Mr McBryde for the SHHD [PRSE0001736]. The minutes include reference to a discussion regarding AIDS and record that Professor Cash had circulated documents relating to the issue, including an MMWR extract (p.7).*

a. *Did this meeting take place before or during your time as Assistant Secretary?*

- b. *To the best of your knowledge and recollection, what was Mr McBryde's position in the SHHD?*
- c. *What was the purpose of SHHD officials attending meetings such as this?*
- d. *Would SHHD attendees circulate papers shared at such meetings, as well as minutes and/or meeting notes, more widely in the Department? If so, would they do so to medical or administrative officials or both?*
- e. *The final page of the minutes suggest that they were prepared by the SHHD in March 1983. Is that correct? Had you taken up your role as Assistant Secretary by that point? If so, were you made aware of the issues relating to AIDS discussed at the 21 January 1983 meeting?*
- f. *So far as you are aware, were the AIDS-related documents referred to at the meeting circulated within the SHHD? If you are unable to say, would you have expected them to have been shared within the Department?*

9.1 As to (a) I cannot recall the precise date I took up my position as head of IVD, therefore I do not recall if this meeting took place before or during my time as Assistant Secretary. I note from page 7 of the Minutes [PRSE0001736] that they seem to be dated as having been produced in March 1983. This seems possible as I note that item 2 of the Minutes approves the Minutes of the prior meeting on 30 January 1981.

9.2 As to (b) Mr McBryde was a Higher Executive Officer under Mr Wastle and then continued under Mr Murray in Branch 5 of my Division IVD.

9.3 As to (c) I note that Dr Bell convened the meeting and that it appears at the time to have been one of a series held annually. Its main purpose appears to have been to exchange information between SHHD doctors and BTS directors. It is possible that Mr McBryde attended as minute taker but I do not know for certain.

9.4 As to (d) I do not recall. I cannot say what was done among medical staff.

9.5 As to (e) I have no reason to disbelieve the date on the minutes. It is unlikely to have been seen as a particularly high priority to produce minutes for an annual meeting. I doubt if I saw them at the time (if I was indeed in post). I refer also to my observations in paragraph 9.1 above.

9.6 As to (f) I do not know. It is likely that the paper and articles referred to at item 6 of the Minutes will have been available to attendees and presumably put on file in the Medical Directorate. They would not have been sent to me. I note that Dr Cash's remarks about AIDS seem fairly low key at item 6 of the Minutes.

10. *On 3 May 1983, Mr Parker (a Department of Health and Social Security ("DHSS") official) provided Mr Finsberg's Private Office with a "line to take" and background briefing on AIDS, which had been prepared for the Prime Minister [DHSC0001651 and DHSC0003824_173]. Mr Parker's minute was copied to you.*

- a. To the best of your understanding, why was this minute copied to you/the SHHD? When did you and other SHHD officials expect to be copied into such documents?*
- b. Do you recall receiving these documents from Mr Parker? If so, what was initial reaction to them?*
- c. On receiving the documents, did you anticipate that the SHHD would adopt the information and position set out by the DHSS? In particular, did you anticipate that the SHHD would adopt the "line to take" it proposed?*

10.1 As to (a) I do not know for sure, but I presume it was copied to me out of courtesy to my position as Assistant Secretary of the SHHD. It appears that briefing was being offered by Mr Parker for Prime Minister's Parliamentary Questions as there had been alarmist press reports. At SHHD, we would have had no expectations to receive copies of such briefings – some Whitehall officials were more likely to remember the existence of Scotland than others.

10.2 As to (b) I have no recollection of receiving these documents.

10.3 As to (c) I do not know that I did receive the document. I do not know if SHHD would have had any reason not to adopt the suggested "line to take." I recall that there was usually a preference for the UK territorial health authorities to act in a unified way where possible, subject to regional and local health requirements and circumstances.

11. *The DHSS background briefing stated: "As yet there is no conclusive proof that AIDS is transmitted by blood as well as by homosexual contact but the evidence is suggestive that this is likely to be the case". The "line to take" stated: "there is as yet no conclusive proof that AIDS has been transmitted from American blood products".*

- a. *Did you consider that the "no conclusive proof" line appropriately reflected the information contained in the briefing?*
- b. *In particular, did you consider that it did so notwithstanding that it omitted that the evidence suggested it was likely that AIDS was transmitted by blood? Please provide reasons if so. If not, do you recall discussing any concerns with other officials?*
- c. *Other than the contents of this document, do you have any knowledge of or insight into the origins of the "no conclusive proof" line.*

11.1 As to (a) the briefing was prepared in DHSS, not SHHD. As I said in paragraph 10.2 above, I have no recollection of receiving the briefing nor of reading it. I note that the DHSS briefing sets out at page 2, paragraphs 1 and 2, the evidence then available overseas and in the UK.

11.2 As to (b) I said at paragraph 10.2 above that I have no recollection of receiving the briefing note nor of reading it.

11.3 As to (c), no. This was a document prepared within the DHSS and not by the SHHD.

12. *Please consider the enclosed 5 May 1983 minute from Dr Prentice, forwarding a telex from Dr Velimirovic of the WHO [SCGV0000147_177 and SCGV0000147_180].*

- a. *Manuscript additions to the minute seem to suggest these documents were sent to you. Is that correct?*
- b. *Did adding a line through or a tick next to an official's name on a document mean that it had been read by that individual?*
- c. *The telex from Dr Velimirovic suggested that a meeting regarding AIDS was being organised by the WHO and that it would prepare an interim report. How significant did you consider this to be? More generally, how significant was information or guidance provided by the WHO in SHHD decision-making on AIDS?*

12.1 As to (a) there is a manuscript request to pass a copy to me. I have no recollection if that was done.

12.2 As to (b), not necessarily. I had a number of responsibilities and would not have been expected to read carefully every piece of paper that crossed my desk. Papers would be passed by me to the appropriate Branch to action and a copy filed in the Branch. If necessary, the file could be consulted subsequently. The tick meant that the individual had "seen" the document and sent it for action as appropriate. In some cases the document— as I deduce, this one – might merely be passed on for filing.

12.3 As to (c), I do not recall. I note the minute was forwarded to me by Mr Liddle, who was in Mr Macpherson's Division, the remit of which covered communicable diseases. I do not know, but it may have been an attempt by Mr Liddle to circulate to all concerned with a possible interest in the understanding of the AIDS virus. As is stated, this was May 1983 and knowledge of the virus was still developing.

13. *On 6 May 1983, Dr McIntyre provided you with a minute on AIDS, which appears to have been intended to assist with the preparation of a ministerial submission [SCGV0000147_181]. That same day, you provided Mr Mackay's*

Private Secretary with a submission on AIDS [PRSE0004037], to which he responded on 9 May 1983 [SCGV0000147_175].

- a. In the submission you wrote that “[w]e agree with the general line in the briefing” provided by the DHSS. Did this mean that you and other SHHD officials agreed with the “line to take” prepared by the DHSS? If there had been parts of it with which you did not agree, would you have identified them?*
- b. You wrote that Scotland was “virtually self-sufficient in Factor VIII”. What did you understand the significance of this to be in relation to the risk of patients contracting AIDS through blood products?*
- c. The DHSS briefing suggested transfusion directors in England and Wales considered that it was “impossible to ask donors if they are homosexual”. What was your view – and to the best of your understanding, the view of others in the SHHD – on whether such a step could or should be taken in Scotland?*
- d. You recorded that SNBTS directors were considering avoiding collecting blood “in high risk locations such as prisons”. Were you or other SHHD officials concerned that, at least until this point, it appeared that blood was being collected in Scottish prisons?*

13.1 As to (a) I do not recall if we agreed with “the line to take” as suggested by the DHSS. The DHSS had no oversight control of Scottish health matters. As my Minute of 6 May 1983 to Mr Mackay [PRSE0004037] sets out, we agreed with the general line in the DHSS briefing, but I then set out the particular points relevant to Scotland regarding i) Imported Factor VIII, ii) Scottish cases on AIDS (which were stated to be nil reported at that time) and iii) Donation Policy.

13.2 As to (b) my recollection is that, as at 6 May 1983, Scottish blood and blood products were considered to be clean. Hence, it was thought that the risk of contracting AIDS was considered low at that time. I recall that it was considered a good thing and expected to reduce risk.

13.3 As to (c), I do not recall this question being presented to me. Questions to donors would not have been a matter for my attention but are more likely to have been considered by the SNBTS.

13.4 As to (d), I cannot recall other than what was stated by me to be the position in my Minute of 6 May 1983 to Mr Mackay [PRSE0004037] under "Donation Policy" and section (d).

14. *The Inquiry has heard evidence about the use or potential use of alternative treatments to factor concentrates, in particular cryoprecipitate, and their relative risk of transmitting infections.*

- a. *Your 6 May 1983 submission did not refer to any such alternative treatments. Did you or other SHHD officials consider them in response to the risk of AIDS, whether at this point in 1983 or later?*
- b. *Did you or other SHHD officials speak or correspond directly with haemophilia centre directors about the relative risks of different forms of haemophilia treatment? Would you have expected medical officials in the SHHD to have done so?*
- c. *Did you or other SHHD officials consider whether guidance on treatment options for haemophilia, in particular in light of the risk of AIDS, should be issued by the CMO for Scotland? If not, why not?*

14.1 As to (a), I do not recall. This will have been a technical matter and likely to have been considered by the Medical Directorate of SHHD. I would not have been aware of such alternatives unless someone had told me.

14.2 As to (b), it was not part of my role to communicate with haemophilia directors. I do not recall, if I knew, what communication may have occurred within the Medical Directorate or SNBTS.

14.3 As to (c) I do not recall. This appears to me to be a matter for the CMO and would not have been within my area of competence.

15. *In June 1983, SHHD officials were involved in discussions with the SNBTS and DHSS regarding the contents and distribution method for a donor leaflet on AIDS. Please consider the following documents and answer the questions that follow: minutes of the 14 June 1983 SNBTS directors' meeting [MACK0001960_001 pp.2-3]; two 15 January 1983 minutes by Dr Bell [PRSE0002473 and PRSE0004396]; and late June 1983 hand-written SHHD file notes [SCGV0000147_171].*

- a. *What did you understand the SHHD's role to be in decisions on the contents and distribution of an AIDS donor leaflet at this time? For example, did you consider such decisions to be primarily a matter for the SNBTS, that they should be taken jointly with the SHHD or that the SHHD was the primary or ultimate decision-maker?*
- b. *In his second 15 June 1983 minute, Dr Bell reported that a leaflet prepared by Dr McClelland at the Edinburgh Regional Transfusion Centre ("RTC") had begun circulating [PRSE0004396].¹ What was your reaction, and that of other SHHD officials, to knowledge of this development? For example, did you have any concerns about a leaflet being issued without the SHHD's prior agreement, or did you consider it to be a positive development?*
- c. *The late June 1983 file notes suggest that SHHD officials were communicating with their DHSS counterparts while the latter prepared a draft leaflet and ministerial submission. They also record that you had "kept abreast of what was happening" [SCGV0000147_171 p.1]. What did you understand the relationship between DHSS and SHHD decisions on these issues to be? So far as you can recall, did the SHHD contribute to or otherwise influence the preparation of the DHSS submission?*

15.1 As to (a), at the time I would have regarded preparation of a donor leaflet as being primarily an operational matter for SNBTS. In light of the sensitivity of the matter, it is likely that SHHD would have had an interest in its content but I have no recollection of what occurred.

¹ The leaflet issued by the Edinburgh RTC in June 1983 is available at PRSE0004850.

15.2 As to (b), I do not recall. Mr Wastle's manuscript comment on Dr Bell's minute of 6 May 1983 [PRSE0004396] suggests that SHHD were being kept in touch and that we were intending to synchronise informing Ministers with the DHSS. It does not look from the comment that there was any likelihood of SNBTS issuing the leaflet without informing SHHD.

15.3 As to (c), it is my recollection that the SHHD would not have contributed routinely to a submission drafted within DHSS. As I said in my answer at paragraph 10.1, there was no expectation at the time that briefings from the DHSS would be routinely offered. This seems to have been acknowledged by Dr Gunson as recorded in the letter from Dr Bell to Mr McIntyre of 15 June 1983 [PRSE0002473.] It is stated that Dr Gunson would try to ensure that the DHSS consulted SHHD in good time before there is ministerial involvement in going public on this subject.

16. *On 1 July 1983, DHSS Ministers were provided with a submission, copied to Mr Wastle at the SHHD, seeking their agreement to the funding and publication of an AIDS leaflet [DHSC0002309_024, DHSC0002309_121 and DHSC0002309_122]. Dr Bell circulated the DHSS submission to Dr Scott and other SHHD officials on 6 July 1983, and it appears that you were provided with a copy [SCGV0000147_159].*

- a. *What did you understand Dr Bell to mean when he reported that "Mr Fowler's first reaction is that the terms of this leaflet are too strong"?*
- b. *Dr Bell noted that he agreed with Professor Cash that "a single UK leaflet" would be best, and that he hoped to discuss issues relating to the leaflet with you. What was your view on the merits or otherwise of introducing a single UK leaflet?*

16.1 As to (a), I think that the words mean what they say, which is validated by subsequent references to "toning down" the leaflet. I do not think the original version is included in the papers with which I have been provided by the Inquiry. I refer to my Minute of 11 July 1983 [SCGV0000147_159].

16.2 As to (b), you will see from my submission of 11 July 1983 [SCVG0000147_157] that I put the proposition of a joint leaflet to Mr Mackay. It seemed an entirely sensible way to proceed.

17. *On 11 July 1983, you provided Mr Mackay's Private Secretary with a submission on an AIDS donor leaflet, attaching the DHSS draft [SCGV0000147_157 and SCGV0000147_158].*

- a. *You explained that "in view of the sensitivity of the issue", DHSS officials had consulted their Ministers over the terms of the leaflet, and that as a result they were "toning down the text somewhat". Was your submission intended to seek Mr Mackay's approval of the wording in the draft DHSS leaflet, or to inform him about it?*
- b. *Did you or other SHHD officials have any concerns about the wish of DHSS ministers to "tone down" the leaflet, or about any of its contents?*
- c. *Please explain why you considered that the leaflet should be issued on a UK basis.*
- d. *Please explain why you considered that "[n]o separate Scottish announcement would be called for".*

17.1 As to (a), Mr Mackay was being informed about the position and given an opportunity to comment if he wished. I did not put any questions to him.

17.2 As to (b), I cannot recall.

17.3 As to (c), to do so seemed logical. There were no specifically Scottish issues in this matter to require a specific Scottish leaflet.

17.4 As to (d), I refer to my answer at 17.3 above. Although there were certainly plenty of occasions when it was desirable to emphasise that health matters were devolved, this would not have been one of them.

18. *On 12 July 1983, Mr Mackay's Private Secretary responded to ask whether surplus capacity at the Protection Fractionation Centre ("PFC") could be used*

to increase UK production of factor VIII [SCGV0000147_153]. A manuscript added to the bottom of the minute appears to have been addressed to Mr McBryde and to read: "I believe that proposals to process English plasma at PFC have been rejected in favour of enlarging BPL? (though NI [i.e., Northern Ireland] plasma is handled). Can I see paper[s?] that reveal the story, please".

- a. Is the manuscript note at the bottom of the minute yours?*
- b. Please explain the process by which papers would be identified to "reveal the story".*

18.1 As to (a), yes.

18.2 As to (b), the appropriate file(s) would be consulted. From the context, the "story" will have related to PFC, etc.

19. *A 29 July 1983 DHSS submission, copied to you, sought Ministers' agreement to printing, distribution arrangements and publicity arrangements for the proposed AIDS leaflet [DHSC0002327_016].*

- a. So far as you can recall, what if any involvement did you or other SHHD officials have in the preparation of this submission?*
- b. Please consider the enclosed 5 August 1983 file note by Mr Wastle [SCGV0000147_142], recording that DHSS Ministers had agreed the content of the leaflet and that, when it arrived, it became apparent amendments you had agreed with Mr Parker had been overlooked (but that you did not think the matter was worth pursuing). So far as you can recall, what was the nature of the amendments that you had agreed?*
- c. At this stage, did you anticipate that it would be necessary to seek the agreement of Scottish Office Ministers to the printing, distribution, and publicity arrangements for the leaflet? Please provide reasons either way.*

19.1 As to (a), none.

19.2 As to (b), it is possible that they related to the use of the word “National” – paragraph 4 of my Minute of 11 July 1983 to Mr Mackay sets out the details. [SCGV0000147_159]

19.3 As to (c), on the evidence I have, Scottish Ministers were not informed further. I do not recall the reason but it is probably because it was thought at the time that there was nothing politically contentious that needed their input.

20. *Please consider the enclosed 19 August 1983 letter from Professor Cash to Dr McClelland on the steps to be taken by the DHSS and SHHD in relation to the AIDS leaflet [PRSE0001400].*

- a. If you believe any of the points in Professor Cash’s letter to have been incorrect, please identify them and explain why.*
- b. Professor Cash wrote that Ministers considered that the distribution arrangements for the leaflet should be left to the discretion of individual Regional Transfusion Directors (“RTDs”). So far as you can recall, was that the position taken by Scottish Office Ministers?*
- c. Why did the Scottish Office intend to issue a press release based on the DHSS Minister’s statement, rather than make a separate statement?*

20.1 As to (a), I doubt if I saw the letter at the time. I have no reason to believe it was not accurate.

20.2 As to (b), distribution of leaflets was an operational matter within SNBTS. It is unlikely that Scottish Office Ministers would have been asked to input on this issue. It is likely that arrangements for distribution would be left to the discretion of individual Regional Transfusion Directors, who were part of SNBTS in Scotland.

20.3 As to (c), I understand that a press release was issued in Scotland. “Based on” means it would be adapted to address Scottish Health issues and administration as required.

21. *On 1 September 1983, the AIDS leaflet was issued in Scotland and England and Wales [PRSE0004076], and the Scottish Information Office issued a press notice in relation to it [PRSE0002778].*

- a. *Were you involved in drafting or approving the wording of the notice? If you cannot recall, would you have been expected to have been involved in it?*
- b. *The notice recorded that the SHHD “emphasised today that there is no conclusive proof that the disease can be transmitted in blood or in blood products”. Did you consider, at the time, that this line appropriately reflected the SHHD’s understanding of the available medical evidence? If so, please explain why.*
- c. *In response to the question “Can AIDS be transmitted by transfusion of blood and blood products”, the leaflet stated: “Almost certainly yes...”. At the time, did you consider this answer to be consistent with the press notice? Has your view changed subsequently or remained the same?*

21.1 As to (a), I was not involved in production of the press notice so far as I can recall.

21.2 As to (b), I do not recall having any involvement in the production of the press notice and therefore cannot comment on why its contents differed from the contents of the leaflet mentioned at 21(c) above.

21.3 As to (c), I refer again to my answer at 21.2 (b) above. I think the critical word seems to be “conclusive”. I do not recall why the word “conclusive” was used. I can only suggest that perhaps the medical view at the time was that it was likely that the virus (being a virus) was transmissible via blood, but that as no-one had demonstrated such a thing at that time, it was not yet conclusive that such was the case.

22. *Looking back now, do you consider that it was appropriate for the Scottish Office to adopt the “no conclusive proof” line when describing the risk of AIDS being transmitted by blood and blood products?*

22.1 I refer to my answers above at paragraphs 21.1, 21.2 and 21.3.

23. *On 4 October 1983, you provided Mr Mackay's Private Secretary with a response to the Minister's 12 July 1983 query, as well as an update on the AIDS leaflet, to which he responded on 5 October [SCGV0000118_011 and SCGV0000147_105]. You may wish to consider the enclosed documents on the process of preparing your 4 October 1983 minute [SCGV0000147_117, SCGV0000147_118, SCGV0000147_116, SCGV0000147_112, SCGV0000147_113, SCGV0000147_114 and SCGV0000147_107], as well as a 25 October 1983 letter from Mr Wastle to Mr Winstanley at the DHSS [SCGV0000002_002].*

- a. *The 4 October 1983 minute suggests that Mr Mackay was not involved in decisions on the AIDS leaflet between your 11 July 1983 submission and the leaflet and the press notice being issued at the beginning of September. Is that correct? If so, why was the Minister not involved further during this period?*
- b. *In the 4 October 1983 minute, you referred to "standing procedures" which allowed for "sufficient stocks" of PFC factor VIII "to meet periods of difficulty". The Inquiry has heard other evidence to the effect that the PFC created a stockpile of factor VIII. Did you consider whether any of these stocks should be redirected to patients in England and Wales, including in response to risk of AIDS? Did Mr Mackay ever make such a suggestion?*

23.1 As to (a), see my answer at 19 (c) above. Ministers would not have expected to be involved in a leaflet to be handed to potential blood donors.

23.2 As to (b), the idea seems to have been considered, but as outlined in my minute of 4 October 1983 (SCGV0000118_011) such surplus as there was in Scotland would not have gone far in England, and it was necessary to keep a reserve here against any disruption caused by building works at PFC. Mr Mackay's immediate response of 5 October 1983 (SCGV0000147_105) made no suggestion in response.

24. *A manuscript note on the enclosed leaflet, which contained an appeal for donors to give blood in Edinburgh in March 1984, appears to have been addressed to Mr Murray and to read: "This is stronger than anything I have seen before" [SCGV0000147_088]. Did you write this note? If so, please explain what you meant by it.*

24.1 The manuscript note is mine and not intended for circulation. I doubt if I thought it would go on file. It is possible that I picked the leaflet up near my then home as I note the location of the donation hall stated on the leaflet. I suspect the text was not quite what I was expecting, having remembered Mr Fowler's remarks about the need to tone down the then proposed leaflet wording to avoid any possible needless offence. I refer also to my answer at paragraph 16.1 above.

25. *On 29 August 1984, you wrote to Mr Mackay's Private Secretary to inform the Minister that a haemophilia patient who had recently moved to Scotland from Newcastle had contracted AIDS [SCGV0000147_073]. You wrote that "[w]e have hitherto reported that Scotland is virtually self-sufficient in Factor VIII, the blood product used in treating haemophiliacs; and therefore, that there was no risk to Scottish haemophiliacs".*

- a. *Do you recall who provided the information about the patient in this minute?*
- b. *Was it your understanding, prior to or at the time of this minute, that there was no risk of patients developing AIDS through the use of PFC factor VIII? If so, what was the basis for that understanding?*
- c. *Did you or other SHHD officials inform the press, public or patient groups that there was no risk of AIDS from Scottish factor VIII?*

25.1 As to (a), I do not recall.

25.2 As to (b), yes that was the understanding at the time. We had been so informed by medical sources we trusted and had no reason then (or,

indeed, now) to think they were not telling the truth as they knew it at the time.

25.3 As to (c), as an administrative civil servant I never communicated with the press. I have no knowledge of what others may have done. I think it unlikely that anyone within SHHD would have made such a statement.

26. *From your appointment as Assistant Secretary in 1983 to around October 1984², how did your understanding of the risk of AIDS in blood and blood products change? To the extent that you are able to answer this question by reference to others in the SHHD, including Ministers, please do so. As well as the documents referred to above, you may wish to consider the enclosed 31 October 1983 article in the Scotsman (which appears to have been brought to your attention at the time) [SCGV0000147_098].*

26.1 I have no recollection at this removed point in time of how my understanding of AIDS in general, and the risks of transmission through blood and blood products, changed. My knowledge will have developed over time but the Scotsman article of October 1983 demonstrates that at that time there were still only a very few cases of AIDS in the UK. I cannot recall for certain, but I think it likely that, at that time, we still believed that Scottish collected blood was safe.

Section 3: The Edinburgh cohort

27. *The Inquiry has heard evidence about the discovery by haemophilia clinicians and the SNBTS, in October 1984, that a cohort of patients in Edinburgh who had been treated with PFC factor VIII had developed antibodies to HTLV-III. So far as you can recall, when and how did you and other SHHD officials first learn of this development? As well as the documents referred to below, you may be*

² As explored in the next section, around October/November 1984 the SNBTS and SHHD discovered that a group of haemophilia patients treated with PFC factor VIII had tested positive for HTLV-III antibodies.

assisted by the enclosed 20 November 1984 memo by Dr McClelland [PRSE0000828].

27.1 I have been pleasantly surprised by how much I have been able to dredge from my memory of events nearly 40 years ago with the assistance of the documents provided. However, at this point I draw a complete blank. I do not recall ever being aware of the "Edinburgh cohort" and am certain I never saw Dr McClelland's memo cited. This is perhaps not surprising as it appears to be an internal SNBTS memo.

28. *On 20 November 1984, Hugh Morison provided Mr Mackay's Private Secretary with a minute on AIDS, in which he informed the Minister of the discovery and referred to "[s]uitable defensive briefing" having been given to the Scottish Information Office ("SIO") [SCGV0000147_058]. That same day, Mr Morison forwarded a copy of the minute and briefing notes to Mr Hoy at the SIO and to other SHHD officials [SCGV0001147_139]. You may also be assisted by the enclosed response from Mr Mackay's Private Secretary [PRSE0002945].*

- a. *The Inquiry understands that Mr Morison was the SHHD Under-Secretary and your direct superior at this time. Is that correct? Why did this minute to Mr Mackay come from him rather than you, in contrast to previous ministerial submissions on AIDS?*
- b. *What involvement did you have in the preparation of the 20 November 1984 minute and the briefing notes for the SIO?*
- c. *Who provided the information contained in Mr Morison's 20 November 1984 minute and the briefing notes to the SHHD?*
- d. *It appears that over three weeks elapsed between Professor Ludlam and the SNBTS discovering that Scottish haemophilia patients had developed HTLV-III antibodies and Ministers being informed. To the best of your knowledge and understanding, why did it take that period of time?*
- e. *To the best of your knowledge, why did Mr Morison advise Mr Mackay that "it would not be appropriate at this stage to issue any statement on the discovery of the antibodies in the Scottish haemophiliacs"? Did you agree with this advice?*

f. *What did you understand Mr Morison to mean by “suitable defensive briefing”? If you did not see this document at the time, what do you believe Mr Morison is likely to have meant?*

28.1 I do not recall, if I ever knew, why this Minute was authored by Mr Morison. There is no sign that any of these papers were copied to me.

28.2 As to (a), it was by no means unusual for an Under Secretary to put forward a submission to Ministers. I do not recall, if I ever knew, why Mr Morison chose to do so on this occasion, but the matters covered seem to have been more relevant to Mr Macpherson and his Division than to me. I refer also to paragraph 2.2 (f) above.

28.3 As to (b), none that I can recall.

28.4 As to (c), I do not know.

28.5 As to (d), I do not know. As I mentioned in my answer at paragraph 27.1 I did not see the memo from Dr McClelland [PRSE0000828.] It appears to be an internal SNBTS document.

28.6 As to (e), as I have said above at 28.1, 28.2, 28.3 and 28.4 I have no recollection of this particular matter.

28.7 As to (f), I was not involved as I mentioned above at 28.1, 28.2, 28.3, 28.4 and 28.5. In my opinion defensive briefing would comprise material to enable the Press Office to handle any enquiries which emerged.

29. *What role, if any, did SHHD officials have in decisions made as to when and how to inform patients that they had positive antibody results? Please explain the rationale behind the approach adopted.*

29.1 I do not know. I can say with some confidence, though, that it would not have been the responsibility of SHHD officials, particularly lay

officials, to be involved in interactions with patients. That was (and is) for the clinicians concerned to do.

30. *Mr Morison provided a further minute to Mr Mackay's Private Secretary on 26 November 1984 [PRSE0002376].*

- a. *Were you involved in the preparation of, or discussions related to, this minute?*
- b. *To the best of your knowledge and understanding, what do you believe that Mr Morison meant by "Mr Mackay's point on publicity about antibodies"?*
- c. *What did the SHHD "keeping in close touch with the Blood Transfusion Service on the matter" involve? What steps were being taken by the SHHD?*
- d. *Were you and others in the SHHD concerned about this issue being "picked up by the media"? If so, please explain why.*

30.1 I do not know the reason for his actions but the impression I have from the documents provided is that Mr Morison was taking close control of the matter himself at this stage, perhaps because Mr Macpherson and I had many other responsibilities. But again the documents concerned do not seem to have crossed my desk.

30.2 As to (a), not that I can recall.

30.3 As to (b), I do not know. As I mention above at 30.2, I do not recall any involvement in this matter.

30.4 As to (c), there was regular contact between SHHD and SNBTS. It is likely that Mr Morison was referring to contacts between the Department's doctors and (probably) Dr Cash.

30.5 As to (d), the media were taking a particularly alarmist tone on the matter of AIDS. This is addressed further at 45 (j) and my answer at 45.8 below.

31. *An article published in the Times on 21 November - "Life-Blood, or death?" – appears to have been filed by the SHHD and to contain manuscript comments from you and Mr Murray [SCGV0000147_052].*

- a. *Is that correct?*
- b. *To the best of your ability, please transcribe the manuscript comments and explain what they meant (or what you understood Mr Murray's comment to mean).*

31.1 As to (a), Yes.

31.2 As to (b), Mr Murray wrote "a magisterial pronouncement." I wrote "What a load of tosh. The pallid ghost of The Thunderer waves its pallid shroud". The impression I have from reading this article and the manuscript comments is that we both felt that at the time that The Times article was pompous and verging on homophobia. But our manuscript comments related to the Times newspaper were not intended for posterity, and should not be of any interest to the Inquiry.

32. *On 22 November 1984, Mr Morison provided you with a note of the CSA BTS Sub-Committee meeting the previous day [SCGV0000138_053].*

- a. *Mr Morison stated that he had "strongly discouraged" Professor Girdwood's suggestion of writing to the media "to set the record straight" on self-sufficiency in Scotland. So far as you understood it at the time, why had Mr Morison done that?*
- b. *What did you understand to be involved in Professor Cash "taking steps to brief journalists on the Scottish situation"?*
- c. *What did you understand Mr Morison to mean when reporting that the Committee had "agreed to take no further action until the results were visible"? Was this a reference to the Edinburgh patients' positive HTLV-III tests?*

32.1 As to (a), I note from the report [SCGV0000138_053] that Dr Cash explained that he had been taking steps to brief journalists on the

Scottish situation. It is noted that the Committee agreed to take no further action until the results of Dr Cash's efforts were visible.

32.2 As to (b), I do not recall. It is possible that Dr Cash was educating the journalists on the steps being taken in Scotland as summarised in the second and third paragraphs of the section of the report [SCGV0000138_053] under the heading "AIDS."

32.3 As to (c), again, I do not know. I refer to my answer above at 32.1. My impression is that the context does not seem to refer to the "Edinburgh cohort".

33. *Please consider the enclosed newspaper article – "Good Scottish blood' lessens the risk of disease" – published on 28 November 1984 [PRSE0003234].*

- a. *Professor Girdwood was quoted as having said: "I think the public should be reassured – I do not think people in Scotland have anything to worry about, whether they are getting blood transfusions or other treatment with blood products". To the best of your understanding, was Professor Girdwood aware of the Edinburgh patients' positive results by the time of this article, whether by attending the 21 November 1984 CSA BTS Sub-Committee meeting or otherwise?*
- b. *Were you or other SHHD officials aware of this article, or articles like it, at the time? If so, what if any steps did you take in response?*
- c. *This article was published around a month after the discovery of the Edinburgh patients' positive results. Did you consider, at the time, that the absence of any statement about the Edinburgh infections would result in the press, public and patients being unaware of, and underestimating, the risk of AIDS in Scottish blood products?*

33.1 As to (a) I am uncertain who Professor Girdwood was. I never had any means of knowing what he was aware of. I note from the newspaper article [PRSE0003234] that Professor Girdwood is stated to be the President of the Royal College of Physicians of Edinburgh and Chairman of the Scottish National Blood Transfusion Association, which is stated

to be the donors' representative body. I cannot say if that was a correct report. I do not recall having any contact with Professor Girdwood.

33.2 As to (b), it is clear from my Minute of 5 December 1984 [document PRSE0003032] that I saw the newspaper article [PRSE0003234] at some point. The only action I am aware of taking is to provide Mr Mackay with a copy of my Minute of 5 December 1984. I cannot speak for others.

33.3 As to (c), I refer to my answers at 32.1 and 32.2 above which set out the steps which were being taken by Dr Cash and others. I think we were more concerned about the tendency of the press to overestimate hazards.

34. *On 28 November 1984, Mr Mackay answered a Parliamentary Question ("PQ") on AIDS and blood services in Scotland [SCGV0000148_082]. The PQ appears to have been referred to you, Mr Murray and Mr Morison [SCGV0000033_068]. Did you consider whether, in response to this PQ, the Minister should address the discovery of HTLV-III antibodies in the Edinburgh patients? If not, why not?*

34.1 This appears to have been an arranged question to all Health Departments. It would be a long way from normal practice in answering a Parliamentary Question, particularly a written one, to stray from answering the precise question posed.

35. *Please consider the enclosed minutes of a 29 November 1984 meeting between the SHHD, SNBTS and haemophilia centre directors [PRSE0002066]. The meeting discussed the antibody results of the Edinburgh patients treated with PFC factor VIII, as well as other patients treated with imported, commercial concentrate (including children in Glasgow).*

a. *So far as you can recall, were you provided with a record of the meeting or did you discuss it with the SHHD attendees after it took place? You may be assisted by your 5 December 1984 update to Mr Mackay [PRSE0003032], addressed further below.*

- b. *Were you and others in the SHHD aware that patients other than those in Edinburgh had tested positive for HTLV-III? If so, what if any steps had you taken in response?*
- c. *Did you agree with the description of the “very difficult problems which had arisen” in light of the HTLV-III results? If so, please explain why.*
- d. *Were you and others in the SHHD in favour of or against informing patients and their relatives of the results? To the best of your understanding, why was it suggested that informing patients and their relatives could subject them to “needless worry”?*
- e. *What publicity had already been provided?*
- f. *Were you aware of “impending publicity” on this issue?*

35.1 As to (a), as I referred to the meeting in my minute of 5 December 1984 [PRSE0003032] to PS/Mr Mackay, I must have seen it, though I do not recall it now. It is likely that Mr Murray told me about it afterwards.

35.2 As to (b), I do not recall.

35.3 As to (c), paragraph 8 of the Minutes of the Meeting of 29 November 1984 [PRSE0002066] expands on the difficulties, which were evidently faced by clinicians. That would not have been a matter for me to disagree with.

35.4 As to (d), as I said in my response at 29.1 above, dialogue with patients is the responsibility of clinicians.

35.5 As to (e), I do not recall.

35.6 As to (f), I do not recall.

- 36. *On 5 December 1984, you provided Mr Mackay’s Private Secretary with a further update on AIDS, in which you described the meeting between the SHHD, SNBTS and haemophilia centre directors the previous week*

[PRSE0003032]. The response of Mr Mackay's Private Secretary is also enclosed [SCGV0000147_033].

- a. Having described an article due to appear in the Lancet on haemophilia patients with HTLV-III antibodies in the West of Scotland, you wrote: "Medical advice is that it should not be embarrassing". Please explain what you meant by this.*
- b. So far as you can recall, who provided you with the "current medical view" that less than 10% of individuals with HTLV-III antibodies would be likely to develop AIDS?*
- c. You commented that articles in the Edinburgh Evening News – which would appear to be those at PRSE0003667 and PRSE0003234 – gave "Scotland a somewhat cleaner bill of health than we now know to be justified". Please expand on what you meant by this and explain what, if any, steps you had considered taking in response to the articles.*
- d. Please explain why the action haemophilia directors were to take with regard to their patients was a "very difficult ethical problem". Why could no statement be made until this problem was resolved?*
- e. When you referred to the "BTS" believing that they had identified the donor responsible for contaminating the batch of factor VIII, were you referring to the SNBTS, NBTS in England and Wales, or both? Did you and other SHHD officials discuss what steps should be taken in response to the identification of the donor?*
- f. Did learning that this individual had apparently donated blood, despite a "known contra-indication", lead you to re-assess the measures being taken by the SHHD and SNBTS in response to the risk of AIDS?*

36.1 As to (a), I was clearly quoting what I had been told. Presumably the article was not expected to make any unfortunate revelations or criticisms, if there were any to be made.

36.2 As to (b), I do not recall the name or names of the source or sources. Medical statements like this will have been provided to me by a source which I recognised as knowledgeable and trusted to be accurate. It is likely that the proximate source was usually the medical Directorate of

SHHD, which in turn will have derived information from SNBTS or clinicians. I would have been in no position to make alternative estimates of my own.

36.3 As to (c), I think the words should carry their natural meaning. It would not have been for me to respond to a press article (positive or negative) and Dr Cash's view on the press coverage is quoted in the Minute of 5 December 1984 [PRSE0003032].

36.4 As to (d), I refer to my answer at paragraph 35.3 above. It was possibly the view of the haemophilia directors that they needed to clarify their own professional obligations first as to how and when to notify their patients.

36.5 As to (e), I do not recall. The documents provided to me by the Inquiry suggest that the donor might have been based in England, where his identity was discovered, but I will never have been aware of any details. It would have been entirely wrong for SHHD officials to be involved in this matter, which was for SNBTS to take forward.

36.5 As to (f), this was a matter for SNBTS.

37. *On 10 December 1984, a meeting of haemophilia reference centre directors took place at Elstree in England [CBLA0001948]. It was attended by the DHSS and Professors Cash and Ludlam, but not by the SHHD. Why did no SHHD representative attend this meeting?*

37.1 I do not know. The presence of Professor Cash was as a representative of the SNBTS and therefore it may have been thought to have been sufficient for him to convey any information, thought necessary to convey to the SHHD.

38. *In a 12 December 1984 minute, Dr Bell informed you and Mr Hoy that the Yorkshire Post intended to publish an article regarding the Edinburgh patients with HTLV-III antibodies [PRSE0000810].*

- a. *Were you and others in the SHHD aware that, as of the date of this minute, the Edinburgh patients had not yet been informed of the results of their tests?*
- b. *What was your response to learning that Professor Ludlam intended, sometime between 12 and 20 December 1984, “to call a meeting of haemophilia patients to explain the situation”? To the best of your understanding and recollection, how did others in the SHHD respond?*
- c. *What did you understand Dr Bell to mean when he referred to the journalist being assured that the SHHD “did not intend to anticipate his publication”?*

38.1 As to (a), I do not recall. I refer again to my answers in paragraphs 35.3 and 36.4 above and to 41.1 below.

38.2 As to (b), I do not recall this, but I imagine I will have welcomed the development.

38.3 As to (c), I do not know what I thought at the time, but presumably the journalist was being reassured that SHHD was not going to issue a pre-empting press release.

39. *Also on 12 December 1984, Mr Mackay’s Private Secretary, Miss Teale, wrote to you regarding the Yorkshire Post article, following up a conversation earlier that day [PRSE0001293].*

- a. *Did you agree that it was “now absolutely imperative that every effort should be made” to inform the haemophilia patients or their parents of the test results? If so, why was it not imperative to inform them before?*
- b. *Did you agree with the line, proposed by Mr Mackay, that “press publicity on this before the people have been informed could stir up a totally unnecessary scare amongst the 400 haemophiliacs in Scotland”? If so, please explain why.*

39.1 As to (a), my previous answers make it clear that SHHD (or, indeed Ministers) had no powers in this matter. It was for clinicians. I refer again to my answers at paragraphs 35.3 and 36.4 above and to 41.1 below.

39.2 As to (b), that seems an entirely sensible statement, which does not seem to me to require further elucidation.

40. *On 19 December 1984, Dr Bell circulated a draft press release relating to the Yorkshire Post article to SHHD officials and Mr Hoy [PRSE0003525]. The draft would appear to be the document at SCGV0000147_024. Later that day, you provided Mr Mackay's Private Secretary with what appears to be an amended draft [PRSE0002049 and SCGV0000147_022].*

- a. *Please describe your involvement in drafting the press release.*
- b. *In the draft, that you seem to have provided to Mr Mackay's Private Secretary, the line "every effort is being made to trace the source" of the contamination was struck through. It was also omitted from the final version of the document [PRSE0000225]. To the best of your understanding, who proposed that this line be removed and why?*

40.1 As to (a), probably none. The editing is not in my hand and it is possible the work was largely done by Dr Bell.

40.2 As to (b), I do not know who deleted the text referred to, nor why.

41. *In the same 19 December 1984 document, you recorded that the meeting to inform the Edinburgh patients of their antibody results was to be held that evening [PRSE0002049]. At the time, what was your view on the length of time it had taken for patients to be informed? What are your views now, looking back, at the time that it took?*

41.1 As I have said before at paragraphs 35.3, 36.4 and 39.1, it was the responsibility of the relevant clinicians to inform their patients. I know that a great deal of care had to be taken to do so in the best possible way.

Whatever private views I may have had were beside the point. My views now are even more irrelevant.

42. *The final version of the Scottish Office press release was issued on 20 December 1984 [PRSE0000225], the same day as the Yorkshire Post article [PRSE0004577].*

- a. *The press release referred to the “recent discovery” that Scottish haemophilia patients had developed antibodies to HTLV-III. Did you have any concerns at the use of this expression at the time? What are your views now?*
- b. *The press release was headed “New measures to counter AIDS” and began by announcing the introduction of heat treatment. Did developments in heat treatment have any bearing on the timing of a statement regarding the Edinburgh patients? For example, was one of the reasons that the SHHD did not make a public statement about the Edinburgh patients until this point was that it wished to do so once the introduction of heat treatment had been confirmed? You may also be assisted by the enclosed 6 December 1984 letter from Dr Perry to Scottish RTDs, which appears to contain a manuscript note from you [SCGV0000147_030] (the full letter is also enclosed [PRSE0002675]).*

42.1 As to (a), I do not recall being involved in any way with the contents of the press release. The use of the word “recent” in this context must have been considered by many people and decided to be appropriate. While the manuscript note on document SCGV0000147_030 is mine, it was a simple note to Mr Morison to say that I thought the letter from Dr Perry seemed to contain encouraging news. Apart from writing that manuscript note, I had no involvement.

42.2 As to (b), I refer to my answers above at 35.3, 36.4, 39.1 and 41.1. As I have said previously at paragraph 27.1, I cannot comment on the Edinburgh patients.

Section 4: Introduction of HTLV-III screening in Scotland

43. *Please describe your role in decisions concerning the introduction of HTLV-III screening of blood donations in Scotland. As well as the documents referred to below, you may wish to consider the following: 16 August 1984 minute from Dr Bell to Mr Murray [SCGV0000147_079]; 8 October 1984 letter from Professor Cash to you [SBTS0000501_201]; minutes of the 11 December 1984 meeting of SNBTS directors (attended by Dr Bell and Mr Murray) [PRSE0001767].*

43.1 This was an operational matter for SNBTS, hence I had no role. Dr Cash's letter to me is an advance warning that additional funds might be required in due course.

44. *On 17 January 1985, Alun Williams wrote to Mr Murray to provide him with a copy of the DHSS ministerial submission on the introduction of HTLV-III screening [PRSE0000992 and DHSC0000562]. The submission was addressed in a 21 January 1985 minute from Dr Bell to Mr Murray, on which manuscript notes were added [PRSE0004472].*

- a. *The manuscript note dated 22 January was addressed to you. Do you know who authored it?*
- b. *What was your view, at the time, on the recommendation in the DHSS submission?*
- c. *More generally, please describe the relationship between decisions taken by the DHSS and SHHD on the introduction of HTLV-III screening. For example, was the SHHD expected to follow the DHSS's lead on both the principle and timing of HTLV-III screening?*

44.1 As to (a), Mr Murray.

44.2 As to (b), I do not recall. Having now read the submission and recommendation it is likely that I thought it sensible.

44.3 As to (c), Mr Williams suggested to Mr Murray [DHSC0000562] that it was desirable to keep in touch. The DHSS had no oversight role in Scotland. Whilst it would not always be the case that SHHD would follow the DHSS, in this matter I recall that it was thought wise to do so. I refer also to my answer at paragraph 44.2 above.

45. *Please consider the enclosed minute, dated 7 February 1985, from you to Dr Scott and other SHHD officials [PRSE0001054].*

- a. *What was the factual basis for your statement that, despite there being over 250,000 donations in Scotland each, as far as you were aware only one donation to date had contained HTLV-III antibodies? Given that screening had not yet been introduced, how reliable did you consider such a statement to be?*
- b. *What was the basis for your statement that “the number of “infected” donations” was “already vanishingly small”?*
- c. *What was the basis for your understanding that haemophiliacs in Scotland were “now not at risk at all as all Factor VIII is heat treated”? In particular, what information was available to you to demonstrate that the heat treatment regime applied to PFC factor VIII at this time was effective in inactivating HTLV-III?*
- d. *Were you aware that PFC factor IX, used to treat haemophilia B, was not yet heat-treated?*
- e. *How much confidence did you and other SHHD officials have in the estimated proportion of individuals with HTLV-III antibodies who would develop AIDS?*
- f. *What did you understand the likely proportion of false negative tests to be?*
- g. *Please describe Mr Robertson’s position and role in decision-making on this issue. Please also explain why you both agreed that, “though the financial angle cannot be ignored... it should not be the determining factor in this case”.*
- h. *Please expand on why you believed that “the balance of rational argument would be heavily against introducing a test on all donations”.*

- i. *Why did you consider that there was “little rationality to be seen where AIDS is concerned”?*
- j. *Please also explain what you meant by your comment: “We seem to have reached the point where an AIDS victim cannot be given a public funeral, presumably in case noxious vapours emanating from the coffin strike down the congregation in the middle of the service”.*

45.1 As to (a), (b) and (c) I refer to my answer at 36.2 above.

45.2 As to (d), I can remember nothing about Factor IX.

45.3 As to (e), I refer again to my answer at 36.2 above.

45.4 As to (f), I do not recall.

45.5 As to (g), Mr Robertson was the Finance Officer with overall responsibility for managing the Scottish health budget. He would oversee the annual review process. If more funds were required in-year (which was not the case here) that could not be found within existing budgets, it would be necessary to approach him. Making financial constraints the determining factor in potentially life-threatening matters is never a good idea. As I had worked under him in my previous position we knew each other well and had faith in each other's judgment.

45.6 As to (h), at that stage (February 1985) the concern was to avoid donations which might be contaminated with AIDS. The risk was believed at the time to come from a particular cohort (gay men), hence there seemed little point at the time in spending time and money on a test on donations from other groups or individuals.

45.7 As to (i), I recall that sections of the press (particularly but not exclusively the tabloids) were stirring up disquiet about what they called

the “gay plague”. What was being said, in my opinion, tended not to be rational.

45.8 As to (j), this is a comment on what I outline in 45.7 above. At the time, such was the hysteria generated by some corners of the press that I recall hearing of reports that some undertakers were refusing to handle funerals for people who had died with AIDS. Such reports were an example of the hysteria of the time. My words in my Minute were intended to reflect the absurdity of this.

46. *Please consider the enclosed response to your minute from Dr Scott on 8 February 1985 [PRSE0003846], as well as Mr Macpherson's 11 February 1985 response [PRSE0002457].*

- a. *Did you agree with Dr Scott that it was “most unfortunate that a policy decision on this matter was not made at a UK level, though understandable given the degree of public and media hysteria”? What would making a policy decision on this matter at a UK level have involved?*
- b. *Please explain whether you agreed with Dr Scott's description of the impact that Professor Cash's view would have on the SHHD position on screening.*
- c. *Did you agree with Mr Macpherson that it was now “more a question of public presentation than a matter of medical judgement, and the pressure on us to follow the English example will be irresistible”?*

46.1 As to (a), these documents seem to show agreement within SHHD between Dr Scott, Mr Macpherson and myself. I would at all points have deferred to Dr Scott where medical matters were concerned. I think we would all have preferred it, if the DHSS had undertaken some formal consultation before reaching their conclusion to proceed with screening. I do not recall (if I knew) what manner Dr Scott intended that policy consultation might take, but it is possible that consultation among the medical fraternity of the UK territorial Health Departments may have been intended.

46.2 As to (b), probably yes. Dr Cash was, as Dr Scott says, the Department's expert adviser on such matters.

46.3 As to (c), that does indeed seem to have been the position.

47. *Please consider the enclosed 12 February 1985 response from you to Dr Scott [PRSE0001925].*

- a. *What was the basis for your understanding that "DHSS Ministers only agreed to the test being introduced in England under heavy pressure from their CMO who said that the Blood Transfusion Service would otherwise lose all credibility"? What would "losing all credibility" involve?*
- b. *What did you mean when you suggested that "there might have been other ways of achieving the same effect"?*
- c. *Please also explain what you meant when you suggested that it might have been possible to build upon parts of the press "coming to accept the realities of the situation".*

47.1 As to (a), I do not recall the source but it is likely to have been information obtained from DHSS officials. I do not know what their CMO intended by the statement but it is possible that their CMO was suggesting that the public willingness to donate blood might be severely compromised.

47.2 As to (b), I think I was suggesting that it might have been possible to work with journalists from e.g. the Times (despite my comments at paragraph 31.2 above) and the Guardian to calm things down in the public's mind; but I also suggested that doing so would not be easy.

47.3 As to (c), I may have meant that the press needed to accept that not every gay man was a walking source of disease.

48. *What involvement did you have, if any, in decisions relating to an SNBTS proposal to evaluate screening tests, independently of an evaluation*

programme led by the DHSS? What was your view of that proposal at the time? You may wish to consider the enclosed 25 January 1985 letter from Professor Cash to Dr Mitchell [PRSE0001075]; minutes of the 19 February 1985 SNBTS Co-ordinating Group [PRSE0003378 p.7]; minutes of the 27 February 1985 SNBTS directors' meeting [PRSE0003628 p.2]; and 6 March 1985 letter from Dr Bell to Professor Cash [PRSE0003505].

48.1 I do not believe I saw these papers at the time. I would have considered the matter to be for operational decision by SNBTS.

49. *In the enclosed 28 February 1985 minute, copied to you, Dr Bell circulated a letter from Professor Cash to Mr Mutch at the CSA on HTLV-III testing facilities [SCGV0000149_023 and SCGV0000149_025]. Mr Mutch's response [SCGV0000149_022] and a 5 March 1985 minute from Dr Covell [SCGV0000149_020] are also enclosed.*

- a. *What was your reaction at the time to Professor Cash's letter to Mr Mutch?*
- b. *Were you the author of the manuscript note at the top of Dr Bell's minute? If so, please transcribe it and explain what you meant.*

49.1 As to (a), I seem to have thought it could have been better phrased (as apparently did Dr Bell).

49.2 As to (b), yes. "As you will now know, Mr Mutch is not one to be bounced. I see that Dr Covell does not seem to agree with the consensus reached with Dr Cash." On the first point, Mr Mutch clearly did not expect to be told what to do by Dr Cash in quite the terms used. On the second, I refer to Dr Covell's minute.

50. *In the enclosed 14 March 1985 letter, Professor Cash provided you with an update on estimated costs and likely timing for introducing HTLV-III screening [SBTS0004051_144].*

- a. *How significant a factor was cost in SHHD decisions on the introduction of HTLV-III screening in Scotland?*

- b. *The Inquiry understands that, as at the date of this letter, the approval of Scottish Office Ministers for the introduction of screening had not yet been sought. Is that correct? If so, why not?*

50.1 As to (a), I refer to my answer at 45.5 above.

50.2 As to (b), I cannot recall where matters had got to on advising Ministers. As mentioned in my answers at paragraphs 10.1 and 15.3 above, there was some irritation within SHHD about the lack of consultation from DHSS. This lack will have made communicating with and updating our Ministers more difficult.

51. *In February and March 1985, you and other SHHD officials circulated drafts of a ministerial submission on AIDS and HTLV-III screening. Please consider the enclosed 26 February 1985 minute from Dr McIntyre, enclosing an amended version of a draft you had prepared [SCGV0000149_027 and PRSE0001082].*

- a. *It appears that you added a manuscript note to the 26 February 1985 minute, suggesting that Mr Macpherson was taking over the submission. Is that correct? If so, please transcribe the note and explain why Mr Macpherson became responsible for the submission.*
- b. *What was the “other evidence that blood donated in Scotland is “clean”” referred to in your draft submission (and which was also included in the final version)?*
- c. *You wrote that it was “thought probable that a very much cheaper test can be developed within the NHS, possibly costing only a few pence per test”. What was this understanding based on? Did you consider that it would be preferable to defer the introduction of HTLV-III screening until a cheaper NHS test had been developed?*
- d. *Please expand on the reasoning behind your proposal that “special centres” for anonymous HTLV-III testing be established for “some months”, during which time “every effort should be made” to develop and validate a “suitable reasonably priced test” for the BTS. In doing so, please explain the significance that you placed on a “reasonably priced” test being developed before it was introduced to the BTS.*

e. *Please explain what you envisaged would occur after proposing this strategy to EAGA. If EAGA had not supported it, would you nonetheless have continued to recommend that it be followed in Scotland?*

51.1 As to (a), matters had now moved on to become more concerned with the issue of communicable diseases, which was in the remit of Mr Angus Macpherson's Division. I refer to paragraph 2.2 (f) above. I refer also to my Minute of 21 March 1985 [SCGV0000149_012]. The submission which went forward in Mr Macpherson's name was markedly different to the earlier draft of mine and leads on matters such as notifiable disease and screening of patients, which were his responsibility. My manuscript comment is *"Mr Macpherson is now taking over the PS minute as the disease is the most important aspect"*.

51.2 As to (b), I do not recall.

51.3 As to (c), I do not recall. I do not know whether these words came from the Medical Directorate (which is most likely), or from Mr Macpherson or (least likely) me.

51.4 As to (d), the section of the draft Minute [PRSE0001082] headed "Special Centres" is clear, in my opinion, as to the rationale behind the recommendation of an alternative course of action. The section sets out the experience of the Danish and also sets out all of the steps which could be taken if this alternative proposal is accepted, including counselling. Earlier in the draft Minute (page 2) there is a paragraph which explains the lack of reliable testing at that time. The paragraph commences with the sentence *"Existing tests give an unacceptably high rate of false positives."* Thus, as there were no reliable tests at the time, it is in that context that the statement (in the section headed "Special Centres") to continue to *"develop and validate"* a test for the SNBTS to use is made.

51.5 As to (e), I was not involved with EAGA. That is likely to have been Mr Macpherson.

52. *The final version of this submission was provided to the Private Secretaries to Mr Mackay and the Secretary of State on 21 March 1985 [PRSE0004593]. You may also wish to consider the enclosed updated draft submission dated 19 March 1985 [SCGV0000149_018], and a further update that you provided to Mr Macpherson on 21 March 1985 [SCGV0000149_012].*

- a. *Did you disagree with any part of the submission relating to HTLV-III screening? In particular, did you agree with the statement that “we should not wish to stand in the way of testing solely on financial grounds”? If you had changed your view on any of the issues since your 21 February 1985 draft, please explain why.*
- b. *What did you understand the SHHD’s decision-making role to be in relation to the work of the “UK Evaluation Panel”? Did you expect that the SHHD would adopt any recommendation it made, and/or that the SHHD would adopt the same position as the DHSS?*
- c. *So far as you understood it, was the evaluation of HTLV-III tests delayed or deferred in order to include an NHS test?*

52.1 As to (a), the submission of 21 March 1985 [PRSE0004593] was put forward by Mr Macpherson, not by me, though I had some involvement in initial drafting as has been illustrated by the documents cited. I believe the issue of testing of individuals fell into Mr Macpherson’s remit on communicable diseases also. My previous comments about finance in paragraph 45.5 remain the same. Namely, *“making financial constraints the determining factor in potentially life-threatening matters is never a good idea.”*

52.2 As to (b), I do not recall any knowledge of or involvement with the UK Evaluation Panel.

52.3 As to (c), I do not recall. As I mention in paragraph 52.1 above, it is my recollection that the issue of testing was part of Mr Macpherson’s remit

on communicable diseases which is why he took responsibility for the production of the submission of 21 March 1985 [PRSE0004593].

53. *Please consider the enclosed 22 March 1985 response from Mr Mackay's Private Secretary, which appears to have been copied to you [PRSE0000850]. The response of the Secretary of State's Private Secretary is also enclosed [PRSE0004255].*

- a. *Did you agree with Mr Mackay that recommendation 12(c) in the submission – on alternative testing facilities – was “essential”?*
- b. *What consideration did you give to the possibility that introducing alternative testing facilities would delay the introduction of screening of blood donations?*
- c. *Did you agree with Mr Mackay that “we have to keep in line or ahead of England, otherwise we would be subject to very severe criticism”? Please explain why either way.*

53.1 As to (a), I have no recollection of what my thoughts were at the time. As stated previously, the Submission was presented by Mr Macpherson to whom the response from Mr Mackay (Minister for Health) (and via the Private Secretary) was sent. While it appears that Mr Mackay's remarks were forwarded to me (and to others whose names are listed in manuscript on the response) I have no recollection of its receipt. From the viewpoint of today the comment of the then Minister for Health does seem sensible.

53.2 As to (b), I do not recall any consideration of this point.

53.3 As to (c), I do not recall. However, it seems an entirely sensible remark. Mr Mackay customarily talked good sense in my opinion.

54. *What was your role, and that of other SHHD officials, while HTLV-III screening was considered by DHHS-led or UK expert groups in this period? You may wish to consider the enclosed notes from Dr Covell, provided to you and others in the SHHD, of EAGA meetings in March and April 1985 [SCGV0001125_035*

and SCGV0001125_018]. The minutes of the 29 May 1985 EAGA meeting, attended by Dr Covell, are also enclosed [PRSE0002837].

54.1 I had no role in this matter. I cannot recall who else in SHHD might have participated. I note that Mr Macpherson was ahead of me in the circulation which might indicate his greater involvement, if any. I cannot recall.

55. *A ministerial submission, which described its purpose as being to “provide an update” on AIDS, was provided by Mr Liddle to Mr Mackay’s Private Secretary on 20 September 1985 [PRSE0001516]. You may wish to consider the enclosed documents on the process of preparing it: 17 September 1985 minute and enclosure from Mr Liddle [SCGV0000150_057 and SCGV0000150_058]; and your and Dr Young’s 19 September 1985 responses [SCGV0000150_061 and SCGV0000150_062].*

- a. *The Minister was informed that arrangements had been made “to screen all blood donations as from mid October”. Why was this start date chosen for the introduction of screening in Scotland? Was Mr Mackay consulted at any point about possible start dates? If not, why not?*
- b. *Was Mr Mackay’s approval sought for the amount of additional funding provided to the SNBTS for screening, or was he informed about it?*
- c. *Was it necessary to obtain Treasury approval for the additional revenue allocation to the SNBTS for screening?*
- d. *Did questions relating to funding have any impact on the timing of HTLV-III being introduced to Scotland? You may wish to consider the enclosed 27 June 1985 letter from Professor Cash to you on funding mechanisms [PRSE0004483], as well as your 12 July 1985 minute to Mr Robertson [SCGV0001146_026].*
- e. *Did the SHHD have any involvement in decisions on the particular test kits chosen by the SNBTS and Health Boards? You may wish to consider the enclosed minutes of the 2 October 1985 SNBTS directors’ meeting [MACK0000911 p.3].*
- f. *What was your view on the publicity arrangements described in the 20 September 1985 submission?*

55.1 The author of the report, Mr Liddle, was in Mr Macpherson's Division, which was responsible for what was classed as communicable diseases.

55.2 As to (a), I do not recall what the background was to the choice of start dates. This will have been an operational matter for SNBTS. My comments in document SCGV0000150_061 do not relate to the start date but to the distinction drawn in the draft to "routine" and "diversionary" testing.

55.3 As to (b), Mr Mackay's approval for the expenditure would not have been required. I do not know if he was informed. I refer also to my answer at paragraph 45.5 above.

55.4 As to (c), no. I refer also to my answer at paragraph 45.5 above.

55.5 As to (d), I do not believe so. As can be seen from my minute to Mr Robertson of 12 July 1985 [SCGV0001146_026], money had already been held back from our allocation to the CSA on a contingency sum to meet AIDS testing that year. My Minute makes reference to the fact that the test was not expected to be introduced for some months at that point. Further it makes the point that it might be necessary to seek further reserves later in the year, that we hoped for further guidance, on how much might be needed for the following year, from the SNBTS in the Public Expenditure Survey (PES) expected from the CSA (Common Services Agency) in the next week, and that there may also be funds from any successful bid for funds by the DHSS through the Barnett Formula.

55.6 As to (e), this will have been an operational matter for SNBTS and the Regional Transfusion Centres. As can be seen from document [MACK0000911, page 2], the West Scotland Regional Transfusion Centre was evaluating a different test from those chosen by other Regional Transfusion Centres.

55.7 As to (f), the issue of publicity was not a matter for me. As previously stated, the Minute was sent by Mr Liddle, part of Mr Macpherson's Division.

56. *Please describe your involvement, if any, in the preparation of a press release on the introduction of HTLV-III screening in Scotland. You may be assisted by the following documents: minute with draft press release (including a manuscript note which you appear to have authored) [SCGV0000150_066 and SCGV0000150_065]; 26 September 1985 responses from Dr Young and Dr Forrester [SCGV0000150_071 and SCGV0000150_072]; 26 September 1985 minute from Mr Hoy to Mr Mackay's Private Secretary [SCGV0000150_074 and PRSE0004027].*

56.1 Very limited. The note of mine referred to is largely concerned with semantics. The administrative Division concerned was Mr Macpherson's. I refer also to my answer in paragraph 55.6 above.

57. *Please consider the enclosed 28 June 1985 minute from you to Mr Mackay's Private Secretary [SCGV0001146_042] and Professor Cash's 2 August 1985 letter to RTDs [PRSE0000228]. You may also wish to consider the enclosed August 1985 minutes from Mr Murray and Dr Covell on publicity for HTLV-III testing and the timing of its introduction [SCGV0000150_037 and PRSE0000905].*

- a. *In your 28 June 1985 minute, you referred to the "intention... that routine testing should start at the same time throughout the United Kingdom". Whose intention were you referring to?*
- b. *In his 2 August 1985 letter, Professor Cash stated that the "commitment for the SNBTS/NBTS to start "simultaneously" still stands". Who provided this "commitment" and who was involved in deciding it should be given? So far as you are aware, was it ever reviewed by the SHHD or SNBTS before the introduction of HTLV-III screening in Scotland?*

- c. *If the SHHD and SNBTS had reached the view that the necessary facilities and equipment were available, could – and would – HTLV-III screening have been introduced in Scotland before England and Wales? If not, why not?*

57.1 As to (a), the intention of the UK Health Departments.

57.2 As to (b), I do not recall if I ever knew this. This was a matter for SNBTS to coordinate and implement as can be clearly seen from the contents of Dr Cash's letter of 2 August 1985 [PRSE0000228].

57.3 As to (c), this is a hypothetical question.

Section 5: Other issues

58. *Other than as set out previously in your answers, are there other aspects of the Scottish Office's policies relating to infections through blood and blood products that you consider could or should have been handled differently during your time as Assistant Secretary? If so, please explain what these were, how you think the matters could or should have been handled, and why they were not so handled.*

58.1 I think we did the best we could given the state of knowledge at the time.

59. Please provide any further comment that you may wish to provide on matters that you believe may be of relevance to the Infected Blood Inquiry. To assist, we have provided a list of issues (attached).

59.1 None.

Statement of Truth

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

Signed GRO-C
Dated 26 / 11 / 22