

FIRST WRITTEN STATEMENT OF LINDA PAGE

Witness Name: Linda Page

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Exhibits: WITN7269002-020

Dated: 14 January 2023

INFECTED BLOOD INQUIRY

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Section 0: **Introduction and opening comments**

I, Linda Margaret Page, will say as follows: -

Introduction

- 0.1. My name is Linda Margaret Page. I provide this statement to the Inquiry in response to a Rule 9 request dated 10 November 2022.
- 0.2. Between July 2006 and July 2007, I was a project manager within the Blood Policy team at the Department of Health (**DH**). As explained below, I was recruited into this role to work on a specific project.
- 0.3. I have followed the section headings as they appear in the Inquiry's request and provided my responses under each section heading.

Opening comments

- 0.4. I would like to begin my witness statement by making a few brief opening comments.
- 0.5. Firstly, I am grateful for the opportunity to contribute to the Inquiry. The impact of contaminated blood products has been tragic and deeply significant. My strongest sympathies lie with those infected and affected. I hope that the Inquiry is able to provide the answers they are rightly looking for. I am therefore anxious to support the Inquiry in any way that I can.
- 0.6. The events for which the Inquiry seeks my comments occurred around 15 years ago. As a result, my memory regarding the details of those events is somewhat reduced. The documents that the Inquiry provided for my review have assisted my recollection. Solicitors acting for the Department of Health and Social Care

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have also brought other documents to my attention that have prompted my memory. In some instances, despite consulting the documents I have been unable to recall certain matters. I have made this clear in my responses.

- 0.7. I have produced this witness statement with the support of my legal representatives. This support has included identifying and providing documents relating to the questions raised, which helped with my recollection of the detail and the sequence of events. Where I have been unable to recollect a specific event but, having consulted the documents, I now consider that the documentation is likely to be correct, this has been noted in my responses.
- 0.8. All the documents that I have relied on or referenced in producing this statement are exhibited to my statement. Where my recollection differs from what the documents reflect, I have made this clear in my responses.

Section 1: **Background and employment history**

- 1.1. My full name is Linda Margaret Page. My date of birth and home address are known to the Inquiry. In 1992, I completed a Master of Business Administration (**MBA**) degree. Other than my MBA, I do not have any professional qualifications relevant to the duties I discharged while working in the DH.
- 1.2. I have been asked to outline my employment history. In 1966, I commenced my career working in administrative roles for non-healthcare sector employers. In 1992, I completed an MBA degree and began working in the healthcare sector for Regional Health Authorities and their successor bodies within the civil service. In 2006, I took up a short-term role managing a specific project at the DH as a project manager in the Blood Policy Unit. This project lasted for about a year. When it finished, I continued working at the DH on other matters until my retirement in 2008.
- 1.3. The following table outlines my employment history in more detail:

Table 1 – Employment History

1966 to 1992	I worked for a range of non-healthcare sector employers in administrative roles.
1992 to 1995	I worked for the East Anglian Regional Health Authority (RHA) as a project manager. In that role, I managed the regional pilot scheme for a national DH project to develop an information system (a computerised database) for GPs. I worked across two pilot schemes, one in Cambridge and the other in Norwich, supporting users in preparing and uploading data to the pilot system.
1995 to 1999	I was a Commissioning Manager in the Non-Medical Workforce Planning section of the Anglia and Oxford RHA. In that role, I worked with NHS trusts in the eastern part of the region to identify and agree the level of non-medical training courses to be purchased.
1999 to c. 2002	With the re-organisation of RHAs, I transferred from the NHS to the civil service. I was appointed to the role of Performance Manager, Workforce Planning, in the Anglia

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	and Oxford section of the DH, based in Milton Keynes. I was part of the management team transferring responsibility for commissioning non-medical education to the NHS, following the abolition of RHAs.
Approximately 2002 to 2006	I was seconded to the Electronic Staff Record (ESR) Project as a project manager. The ESR Project concerned the development of an electronic record of all NHS staff, using database to record payroll and human resources data consistently across the NHS. The senior responsible officer was a senior civil servant. My role included supporting the development of the ESR Data-Warehouse. The Data-Warehouse collated ESR data in order to provide workforce data consistently across NHS organisations. This facilitated national and regional planning and performance management.
June 2006 to July 2007	I worked for the DH in the Blood Policy Unit at Wellington House as a project manager, a grade 6 civil service position. I was recruited to that team specifically to review documents relating to blood safety and to prepare a report, which was given the title ' <i>Review of Documentation Relating to the Safety of Blood Products 1970 – 1985 (Non A Non B Hepatitis)</i> '. I will describe this document in more detail later in this statement.
July 2007 to summer 2008	I worked for the DH in the Freedom of Information (FOI) Section. My role involved preparing documents relevant to several FOI requests for release. These documents were not related to blood products, contaminated blood or other matters relevant to the Inquiry's Terms of Reference.
Summer 2008 to present	Retirement.

1.4. I do not have any memberships, past or present, with any committees, associations, societies or groups relevant to the Inquiry's Terms of Reference (**ToR**).

1.5. I have never provided evidence to, nor have I been involved in, any other inquiries, investigations, criminal proceedings or civil litigation in relation to 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.

Section 2: **Review of documentation relating to the safety of blood products 1970 – 1985 (non-A non-B hepatitis)**

My role in relation to the project

- 2.1. The Inquiry has referred me to a document with the title, “Review of Documentation Relating to the Safety of Blood Products 1970 – 1985 (Non A Non B Hepatitis)”, dated May 2007 (**the NANBH Document Review Report**) **[PRSE0000642]**. I have been asked to describe my role in relation to this NANBH Document Review Report. I am using this term to differentiate the Report itself from the wider work on this project, which I explain below.
- 2.2. In June 2006, I was recruited by the DH to carry out a specific project. I have seen an email dated 26 June 2006 from Dr Ailsa Wight, Deputy Director of General Health Protection at the DH, to William Connon **[WITN7269002]**. This email suggested that prior to 26 June 2006 Dr Wight showed me a document headed ‘job/project task description’ **[WITN7269003]**. The ‘job/ project task description’ set out the following background to the project:

“As a result of direct Ministerial interest, there is a need within Health Protection Division to carry out a project for blood safety, in relation to the issue of haemophiliacs who were infected with contaminated blood products in the 1970s and early 1980s.

There is considerable Parliamentary and patient group interest in this topic and there is now an urgent need to assess the evidence relating to previous Government policy on the safe use of imported and domestic blood products, and to advise Ministers accordingly.

The post holder(s) will work with the Blood team in Health Protection Division, and will also be expected to liaise with SOL and other stakeholders such as the NHS Blood and Transplant Authority.

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Regular contact with TOTO, COMMS and the Devolved Administrations will be needed. The end result will be a report to Ministers to establish the facts and make recommendations on future handling in the light of public interest requirements.”

- 2.3. I do not specifically recall this document, but I have no reason to believe I did not see it as stated in the email. I believe that the document relates to the role I performed from June 2006 to July 2007. I do recall that I was initially briefed by William Connon on the background to the project when I started work. As I hope is clear from this statement, I was not working for 'central' DH before this time and did not play any role in preparing this document.
- 2.4. I am asked by the Inquiry if I held the position of “Blood Policy Project Manager” referred to a document, dated 13 June 2007 **[DHSC6341171]**. That document was a memo, drafted by me, to the Private Office of the Minister of State for Public Health concerning the release of documents to Lord Archer’s Inquiry. A draft letter to Lord Archer’s Inquiry was attached and was to be signed off as “*Linda Page, Project Manager, Blood Policy*”. As explained in more detail below, I was the project manager from June 2006 to July 2007 for the project that led to the NANBH Document Review Report and to the release of related documents. The role was temporary and specific, covering the specific project that I have outlined later in this statement. I did not have any wider responsibilities within the Blood Policy team outside of this project.
- 2.5. The NANBH Document Review Report was a document that I prepared, in collaboration with colleagues, to close most of my involvement in the project I was appointed to undertake. I was responsible for managing the project, drafting the NANBH Document Review Report, obtaining review comments from the Board and addressing those review comments in subsequent drafts.
- 2.6. The Inquiry has referred me to the Project Initiation Document (**the PID**) **[DHSC0004232_030]**. Although the date on the front page of that document was 27 July 2006, I can see from the revision history at page 2 that it was

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created on 3 July 2006 and revised on 12 July, 27 July and 14 September. I can see that an earlier draft of this document from 12 July 2006 [DHSC5424612] was substantially identical to that later version. The document set out the reasons for the project, its objectives, scope, approach and deliverables.

2.7. The project objectives were listed as follows:

“Assess and report on documents relating to previous Government policy on the safe use of imported and domestic blood products during the period 1970 to 1985 when BPL [Blood Products Laboratory] commenced general issue of 8Y heat-treated factor VIII. Specifically the inactivation of blood products for NANBH”.

2.8. My key deliverables in the project manager role were as follows:

2.8.1. Establish a project structure.

2.8.2. Create an inventory of files and documents held by the DH relating to blood safety for the period 1970 to 1985, including: (a) documents referred to in the report ‘Self-Sufficiency in Blood Products in England and Wales’ (**the Self-Sufficiency Report**) released by the DH in February 2006; (b) documents returned to the DH by external solicitors; (c) documents held at Wellington House; and (d) any documents located at the DH’s archives at Nelson.

2.8.3. Compare any historic inventories with current inventories to identify missing or destroyed files.

2.8.4. Assess material identified in relation to FOI requests for the references to the Self-Sufficiency Report and the documents returned by the solicitors.

- 2.8.5. Assess the content of inventoried documents for relevance to subjects touching on the issue of contaminated blood products, including NANBH, self-sufficiency in blood products, hepatitis B, hepatitis and the redevelopment of the Blood Products Laboratory (**BPL**).
 - 2.8.6. Prepare interim progress reports for the Project Board. (The membership of the Project Board is set out at paragraph 2.10 below).
 - 2.8.7. Communicate as needed with the devolved administrations, DH lawyers (**SOL**), the DH's FOI unit (**the FOI unit**) and the DH's communications team (**Comms**).
 - 2.8.8. Prepare a report summarising the available documents relevant to post-transfusion NANBH and identifying documents destroyed (so far as possible) in relation to government policy on the safe use of imported and domestic blood products between 1970 and 1985 – i.e. the NANBH Document Review Report.
- 2.9. The PID noted the following exclusions to the scope of the project: documents not in the possession of DH; documents outside the period 1970 to 1985; and a review of documents held by the devolved administrations.
- 2.10. I have been asked to identify others involved in assisting me to complete the Review. The Project was supervised by a Project Board. I believe that the following people were on the Project Board:
- 2.10.1. Gerard Hetherington, Director of Health Protection and Chair of the Project Board until October 2006. I believe he was the senior

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responsible officer (**SRO**) for the project until Elizabeth Woodeson was appointed in October 2006.

2.10.2. Elizabeth (Liz) Woodeson, Director of Health Protection and Chair of the Project Board after taking over from Gerard Hetherington in October 2006, as noted in the minutes of the Project Board meeting held on 25 October 2006 **[DHSC0004232_035]**.

2.10.3. Dr Ailsa Wight, Branch Head of the General Health Protection Branch.

2.10.4. William Connon, Head of Blood Policy within the General Health Protection Branch.

2.11. As part of my work on the project, I drafted progress reports for the attention of the board. If necessary, I attended a meeting with the board following the submission of a progress report, at which the board members were able to discuss project matters and make decisions. For example, at a meeting on 27 July 2006, I can see from the minutes that the board approved the PID **[WITN7269004]**. Similarly, on 25 October 2006, the minutes show that the board agreed a date for circulation of the next draft of the NANBH Document Review Report **[DHSC0004232_035]**. I reported to the board, but I was not a member of the board myself.

2.12. From documents shown to me when preparing this statement, I believe I attended progress update meetings with the board on the following dates before the NANBH Document Review Report was released:

2.12.1. 27 July 2006 (see Project Board meeting minutes for this date **[WITN7269004]**);

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- 2.12.2. 4 September 2006 (see Project Board meeting minutes for this date **[WITN7269005]**);
 - 2.12.3. 25 October 2006 (see Project Board meeting minutes for this date **[DHSC0004232_035]**); and
 - 2.12.4. 16 January 2007 (see Project Board meeting minutes for this date **[DHSC0004232_031]**).
- 2.13. Doing my best with the documents I have seen, it appears that the following people also assisted me:
- 2.13.1. Dr Hugh Nicholas undertook a Quality Assurance function. As a medical doctor, he was able to assist with medical terminology and contexts. For example, I recall that Dr Nicholas assisted me with a particular document (the minute written by Dr Walford, which I discuss at paragraph 2.79 below) and provided an explanation of its relevance, which I was then able to use in the NANBH Document Review Report. The PID appears to suggest that Dr Nicholas would be able to provide "*historical knowledge*". It also makes reference to a "*member of staff who was in post during this time*". I believe that was intended to be Dr Nicholas. However, an email from Dr Nicholas, dated 8 August 2006, said that he could not think of anyone left in DH who was in post at the relevant time and said, "*I [i.e. Dr Nicholas] was not even in DH then*". He also said his specialist interest was in hepatitis C and did not claim any expertise in haematology **[DHSC0004232_053]**.
 - 2.13.2. The Inquiry has referred me to an email from Dr Rowena Jecock of the Health Protection Division, dated 2 April 2007, in which she provided review comments on a draft of the NANBH Document

Review Report **[DHSC5465598]**. I cannot now recall her involvement and I have relied on this document. I can see that she provided input as to the structure of the report in particular, from the perspective of *'an interested, but non-expert reader'*.

2.13.3. Patrick Hennessy joined the team during the project. I have been shown an email dated 8 May 2007, written by me, which stated that he would be starting on 14 May 2007 (which was shortly before the NANBH Document Review Report was released) **[WITN7269006]**. In that same email, I notified the Project Board that I would be leaving the project on 20 July 2007, and that Patrick Hennessy would be continuing with residual project work relating to the release of the documents reviewed as part of the project. He and I worked together from May to July 2007 on preparing documents for release, and it is my understanding that he continued that work after I moved on.

2.13.4. I can see from the PID that Zubeda Seedat of the General Health Protection Branch was on the distribution list for that document **[DHSC0004232_030] (page 2)**. It appears from the papers I have been shown that she was involved in handling FOI requests and answers to Parliamentary Questions relating to the project (see **[DHSC5255652]** and **[DHSC6548759]**).

2.13.5. I recall that I received administrative support from a temporary secretary during the project. I do not remember who that person was. I can see that the PID referred to Andrew Whitcombe of the Health Protection Team providing administrative support **[DHSC0004232_030] (page 6)**. The 16 August 2006 progress report stated that Andrew Whitcombe would help with the review of Wellington files **[DHSC0004232_059] (page 2)**. I am not now able to recall Andrew Whitcombe's involvement in the project.

- 2.14. After the NANBH Document Review Report was released in May 2007, the project continued, focussing on the process of reviewing all inventoried documents for release under FOI Act principles. A summary of the kind of work being done after the Report was released can be seen in minutes of a Project Board meeting from 12 June 2007 [DHSC5051140]. I attended, together with Liz Woodeson, Ailsa Wight and Patrick Hennessy, and I can see that I drafted the minutes after the meeting. The note stated that “[t]he process for the release of the papers, over 4,000 was outlined and agreed...”. I have referred below at paragraph 4.2 to a document dated 21 January 2008, prepared by Patrick Hennessy, which is an “end of project report and update on current situation” and summarises the work done to that date [WITN7269007].
- 2.15. I was transferred away from the project in July 2007. I had agreed to a one-year project and it seemed to me that the project had reached a natural turning point upon the release of the NANBH Document Review Report. As mentioned above, I continued to work for the DH until my retirement in 2008, but my subsequent work did not touch upon any matters relevant to the Inquiry's Terms of Reference.

Circumstances that led to the commissioning of the project

- 2.16. The Inquiry has referred me to the PID, and I have been asked to “clarify and outline the circumstances that led to the commissioning of the Review”, and to identify any individuals who “commissioned the Review”. I have been specifically referred to a passage in the PID which stated (at paragraph 6) that ‘as a result of direct Ministerial interest, there is a need ... to carry out a project for blood safety’ [DHSC0004232_030] (page 3). I have also been referred to the first paragraph of the NANBH Document Review Report, which stated that the project was prompted by calls for a government backed public inquiry and the return of documents, previously considered missing, from a firm of solicitors [PRSE0000642] (page 3).

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- 2.17. As I have tried to explain above, the work I did went beyond preparing the NANBH Document Review Report and I believe the questions the Inquiry asks me relate to the wider project, and not just that Report.
- 2.18. At the time I took up the project manager post, I believe I was briefed that the project arose from direct ministerial interest. I can see that this wording was used in the job description document that was shown to me before I started the role [WITN7269003]. It seems likely that I had that document in mind when I wrote the PID, although I do not remember specifically.
- 2.19. The NANBH Document Review Report did not refer to 'direct ministerial interest' in the same terms as the PID.
- 2.20. As I was appointed specifically to work on this project it must have been commissioned before I was in post. I therefore do not think I can comment much beyond what is in the PID and NANBH Document Review Report. The first paragraph of that Report states:
- "This review was commissioned in June 2006. The need to assess the extent and content of documents held by...DH in relation to Non-A, Non-B hepatitis (NANBH) was prompted by calls for a Government backed public inquiry and the return of documents, previously considered missing, from a firm of solicitors". [PRSE0000642] (page 3).*
- 2.21. I cannot now say if I wrote this paragraph, but it picked up on matters contained in the "*background*" section of the PID. That "*background*" also referred to documents referred to in the Self-Sufficiency Report that had been requested under the FOI Act. I have already explained that part of the project was to assess material identified by such requests.
- 2.22. In order to assist the Inquiry, I have been referred to and have considered some documents relating to events before I started in my role at the end of June 2006.

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I have been shown a transcript of questions in the House of Lords on 24 May 2006 [DHSC0046868_009] (pages 2 and 3). Lord Jenkin asked a question relating to the papers returned to DH. Baroness Barker asked a follow-up question about the steps DH was taking to ensure that documents would not be destroyed. Lord Warner's answer was:

"My Lords, they were passed from solicitor to solicitor. Government solicitors have professional responsibilities in this area. My colleague Caroline Flint and I will ensure that they are safeguarded, but we need the time to go through the documents to see what their significance is. There are a large number of documents to be gone through."

- 2.23. I have been shown an email dated 26 May 2006, from Rebecca Spavin, Assistant Private Secretary to the Minister of State for Health in the Lords (Lord Warner) [DHSC5286062] (page 2). It appears that Ministers were concerned about the return of documents to DH from external solicitors and wanted officials to take certain steps taken, one of which was:

"It was agreed that an independent person, possibly someone from the Information Commission would conduct a 'stocktake' of the documents – to ensure [their] safe handling [now] that they have been returned."

- 2.24. As I understand it, the reference to "*the documents*" relates to those recently returned to DH from external solicitors. I was not from the Information Commission and I am aware that independent counsel reviewed the documents shortly before I joined the project (see paragraph 2.25 below), but it would appear that Ministers were concerned about the state of documents on this policy area and, as explained above, part of my role was to identify and inventory documents. However I am not able to say more about the links between these documents and the circumstances in which I was recruited to work on the project.

- 2.25. I have seen a document which shows that, on 26 June 2006, a barrister on the Treasury Counsel panel completed a review of the documents that had been

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returned by the solicitors' firm [DHSC0015729]. This review produced short descriptions of the documents and assessed the documents generally in relation to FOI Act exemptions.

- 2.26. I believe I was appointed just after the date of this report. I do not recall seeing this document at the time I carried out my review. However, when preparing this statement I have been shown documents which indicate that I did ([WITN7269008] and [WITN7269009] (page 2)).

The scope of the project

- 2.27. The Inquiry has referred me to paragraphs 1 and 11 of the NANBH Document Review Report, which say:

"...The review covers the period 1970 to 1985 as in September 1985 a heat-treated factor VIII product, Factor 8Y, was introduced by the Blood Products Laboratory (BPL) to inactivate the virus." (paragraph 1)

"When reliable and validated assays for hepatitis C antibody became available the screening of donor blood was introduced in the UK in September 1991." (paragraph 11)

- 2.28. I have been asked why the *"Review was limited to a review of documentation relating to the safety of blood products and did not cover the safety of blood (and thus the period up to 1991)"*, and why the *"Review opted to define its period in relation to the introduction of BPL's Factor 8Y, and not in relation to other commercial blood products that were also being administered at the time and which were still capable of transmitting [NANBH]"*.
- 2.29. To answer this question, I need to distinguish between the wider scope of the document review project as a whole, and the narrower scope of the document summaries that are set out in the body of the NANBH Document Review Report.

- 2.30. The document summaries focus on the period 1970-1985, and summarise material information relating to NANBH contained in documents from that time period. However, the work I did related to a wider period, in so far as the documents I was provided with covered a period wider than 1970-1985. My understanding was that files were provided to me if any of their contents could relate to NANBH between 1970 and 1985, but once I was provided with a file for review, I included it in the inventories I was making, and in the statistics in the NANBH Document Review Report.
- 2.31. As stated, the files I reviewed contained documents which fell outside the period 1970-1985. My work on the project involved creating an inventory of all files from the five sources set out in the diagram at paragraph 38 of the NANBH Document Review Report **[PRSE0000642] (page 10)**: the Wellington House lever-arch files; the files returned by solicitors; the references in the Self-Sufficiency Report; relevant documents found at DRO Nelson and documents provided by the Scottish Executive. For each of those sources, I inventoried all the files I was provided with, and they contributed to the total number of documents shown at paragraph 39 of the NANBH Document Review Report **[PRSE0000642] (page 11)**.
- 2.32. Thus, although the project scope was 1970-1985, where I was provided with a relevant document from the above sources outside those years, I included it in the items inventoried and categorised as part of the project. This is shown by the figures at Annex B, and in particular that 9.7% of the documents reviewed related to the period after 1985 **[PRSE0000642] (page 33)**.
- 2.33. However, the 1985 cut-off date was relevant to the process for two reasons, set out below.

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- 2.33.1. Only documents between 1970 and 1985 were summarised in detail in the report, although I did include a briefer 'post-1985' section (from paragraphs 88 to 100) summarising some later documents that provided an overview and referred to the 1970-1985 period in some way.
- 2.33.2. Sources of documents (lever arch files, boxes etc) were only provided to me, or requested by me, if they were likely to contain material from before 1985.
- 2.34. My further discussion of the 1985 cut-off date in the remainder of this section should be considered in light of the context I have set out above.
- 2.35. The objective and scope of the project were established before I was appointed as project manager. The job description I was shown before I was recruited refers to "*contaminated blood products in the 1970s and early 1980s*" **[WITN7269003]**. The early PID from 12 July 2006 was headed '*Review of Documentation Regarding Government Policy in Relation to the Safety of Blood Products 1970 – 1985*' and stated under "*project objectives*":
- "Assess and report on documents relating to previous Government policy on the safe use of imported and domestic blood products during the period 1970 to 1985 when BPL commenced general issue of 8Y heat-treated factor VIII."* **[DHSC5424612] (page 4)**
- 2.36. This shows that at this point 1985 had been set as the end date for the project. The first project review document I produced was dated 14 July 2006 and that document was similarly headed '1970–1985' **[DHSC0004232_066]**.
- 2.37. I have seen an email from Dr Hugh Nicholas to me, dated 8 August 2006 **[DHSC0004232_053]**. That email included:

"I note a decision has been taken to cover the period 1970 to 1985 (i.e. four years before hepatitis C was identified and 6 years before the introduction of donor screening). I assume therefore that the project is only concerned with the viral inactivation of blood products, and not the wider issue of the safety of blood. The introduction of anti-HCV testing would have significantly reduced the risk of large plasma pools being contaminated with hepatitis C, thus placing less reliance upon successful heat treatment.

Even if you keep to the narrower remit, I am not sure that you should stop at 1985. In the preceding years, various unsuccessful attempts had been made to produce plasma products inactivated against HIV and NANBH [non-A non-B hepatitis] (the latter being the more difficult to achieve). Without tests for NANBH, my limited understanding is that these products could only be tested in practice (i.e., did people receiving these products actually get hepatitis). I am not sure that anyone knew that 8Y heat treated factor VIII would be so successful at the time it was introduced and believe that follow up studies showing that it was [in fact] safe were only published later. These (and any similar work) should be included for completeness".

2.38. This email has my hand-written notes on it, which say:

*"retain 85 cut off
research papers confirm '85".*

2.39. I believe these notes would have been made to record a decision made by the Project Board, and my actions in relation to this decision (as noted in the following paragraph below).

2.40. I see from the progress report dated 16 August 2006 that there was a plan to include Dr Nicholas' "email regarding period of interest, 1970 – 1985" on the agenda for the next meeting **[DHSC0004232_059] (page 2)**. I can also see from the minutes of that subsequent board meeting, which took place on 4 September 2006, that this question was discussed **[WITN7269005] (page 2)**. The meeting was attended by Gerard Hetherington, Dr Ailsa Wight, William Cannon and me. I took the notes. The following item was recorded:

“Scope of Project. A question had been raised as to whether the period of interest should be extended to 1991 when hepatitis C had been identified and donor screening introduced. It was agreed that the focus of the project was an assessment of documentation in relation to the viral inactivation of blood products rather than the broader remit of the safety of blood, therefore, the timescale agreed, 1970 – 1985, is the appropriate time scale.”

- 2.41. The note indicated some consideration about extending the time frame to 1991, to include the safety of blood. It did not record discussion about whether the time period should be set in relation to commercial blood products. I do not remember this meeting now, and I do not remember a discussion about the scope of the project and therefore unfortunately cannot say more about the meeting or the content of the discussions. I do not think I would have actively contributed to the discussion. I was a relatively new addition to the team and I had no specialist knowledge. This seemed to be a technical matter and the members of the Project Board would have come to a decision.
- 2.42. Following this meeting, I produced the first draft of the NANBH Document Review Report on 12 September 2006. There is no explicit justification of the 1985 date in that version of the document, although page 3 of that draft document states: *“General issue of the new 8Y heat-treated factor VIII was achieved in September 1985, this was subsequently found to inactivate NANBH, later identified as Hepatitis C”*. **[WITN7269010] (page 3)**
- 2.43. There were several further draft versions between this first draft and the NANBH Document Review Report’s release in May 2006. A draft dated February 2007 contains review comments from Dr Ailsa Wight made on 7 March 2007. Dr Wight asked that the Report included a justification of the 1985 end-date (at page 3), sought expansion of the commentary relating to the introduction of heat-treated Factor VIII (at page 28) and noted the importance of the timing of the introduction of heat-treated blood products (at page 32 and page 34) **[WITN7269011]**.

- 2.44. While I do not remember specifically replying to these comments, I have seen a subsequent draft which I circulated by email later that day, in which responses had been given to these review points [DHSC5460816]. I can see that, at page 3 of that draft, an explanation had been added for why the review did not extend beyond 1985 in the following terms:

"[H]eat-treated factor VIII, Factor 8Y, was introduced in September 1985. Research undertaken after the identification of hepatitis C provides evidence that this product effectively removes risk of NANBH (hepatitis C)"

- 2.45. It appears from the documents that I added that comment in response to Dr Wight's queries and review comments in the earlier draft mentioned at paragraph 2.43 above.

- 2.46. I sent an email to the Project Board on 8 May 2007 to let them know I was leaving the project [WITN7269006] (page 2). I queried whether the period up to 1991 might now need to be reviewed, as a follow-on project, in a similar way to the period from 1970 to 1985:

"I anticipate that this further work is likely to cover the following:

[...]

The review covered 1970 to 1985, is there a requirement to review all documents up to 1991 when screening for hepatitis C was introduced? There are other papers in the office that go through to 1991, some are working documents that appear to cover the 1989 HIV litigation and other files have been recalled from Nelson for the 'look-back' exercise."

- 2.47. While I am aware of further work on documents after I left the project, as set out in Section 3 below, I am not aware that the period of focus was expanded to include post-1985 documentation.

- 2.48. I do not know why the decision was taken to define the period used for the document summaries in the NANBH Document Review Report in relation to the introduction of BPL's Factor 8Y, as opposed to other commercial products. I do not recall considering the issue of the usage of BPL's blood products, as opposed to commercial blood products, when working on the project.

The steps taken to obtain documents relating to NANBH

- 2.49. The Inquiry has referred me to paragraphs 1 and 13 of the NANBH Document Review Report, which state that the "*objective of the review is to consider all documents related to NANBH held by the DH and report on their content*" (paragraph 1) and "[t]he aim of this review was to identify, and consider the content of, all documents held by [DH] in relation to the safety of blood products, specifically the viral inactivation of blood products for [NANBH] during the period 1970 – 1985" (paragraph 13) **[PRSE0000642] (pages 3 and 5)**. I am then asked to describe the steps taken to obtain "*all*" documents related to NANBH, what searches were undertaken, and how I decided what documents to refer to "*in the Review*". When the Inquiry uses the word "*Review*" I assume it means the NANBH Document Review Report, as the project I did involved more than drafting that Report.
- 2.50. By way of background, I was brought to the DH from elsewhere in the civil service, having never worked in a central government department before, to complete specific tasks that had already been identified. Those tasks were set out in the PID and I have listed them in this document at paragraph 2.6. The diagram on page 10 of the NANBH Document Review Report may assist **[PRSE0000642]**. This identified that there were five sets or sources of documents available to DH. For three of these, namely, documents in Wellington House, documents returned by external solicitors, and references from the Self-Sufficiency Report, I was provided with lever arch files in hard copy.

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- 2.51. I note that the NANBH Document Review Report, in the diagram at paragraph 38, refers to 47 lever arch files from Wellington House being inventoried **[PRSE0000642]** (page 10). However, a note of the Project Board Meeting on 27 July 2006 refers to a further 8 files, additional to the 47 files, being located in Wellington House and a plan to include those in the inventory **[WITN7269004]**. In addition, the progress report I drafted on 4 January 2007 refers to additional documents located in December 2006 being placed in a further eight files **[DHSC0015758]**. It appears that the diagram in the Report was outdated in this respect. While 47 lever arch files were initially identified, further files were ultimately identified and the diagram should have reflected this.
- 2.52. For the three sources for which I was provided with hard-copy lever arch files, my recollection is that I did not conduct searches; I worked through the files I was provided (although see paragraph 3.27 below). I was provided with an inventory for the documents returned from external solicitors. For the references in the Self-Sufficiency Report, the underlying Report itself served as an inventory. For the documents from Wellington House, I compiled an inventory as I worked through the documents. I have seen a copy of an inventory dated 13 December 2007, which is some months after I left the project **[WITN7269012]**. It appears to be based on a version of the inventory I compiled, although I cannot be sure of this given the time that has now passed. It contains similar descriptions and subject matter categories to those I would have given the documents I reviewed.
- 2.53. In relation to the files from DRO Nelson and from the Scottish Executive, it would have been necessary to make further enquiries with these sources. I remember requesting files from DRO Nelson. In preparing this statement I have seen that I contacted Pauline Connor at Nelson on 17 July 2006 with the following request:

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"I am undertaking a review of documents relating to the issue of haemophiliacs who were infected with contaminated blood products between 1970 and 1985. Key word combinations would be:

Haemophiliacs and

- *HIV/AIDs*
- *Hepatitis C*
- *Non A non B Hepatitis*
- *Self-Sufficiency*
- *Litigation*

Files relating to the 'Advisory Committee on the Virological Safety of Blood (ACSVB)." **[WITN7269013] (page 4)**

2.54. I see that Pauline Connor replied to my email on 18 July 2006, attaching lists of files that might be of interest in relation to the searches I had requested **[WITN7269014]**. From the correspondence, I see that I then emailed Ms Connor on 1 August 2006 stating I had identified *"84 possibilities"* **[WITN7269013] (page 3)**. The minutes of the Project Board meeting on 27 July 2006 state that *"84 files of potential interest"* had been identified at DRO Nelson **[WITN7269004]**. I assume these two comments refer to the same thing.

2.55. As noted in the PID, a review of documents held by the Scottish Executive was out of scope for the project **[DHSC0004232_030] (page 5)**. However, in December 2005, the Scottish Executive had undertaken to release substantial material in relation to blood products. In preparing this statement I have seen a memo from William Connon to the Private Office of the Minister of State for Public Health (Caroline Flint MP), containing a briefing on these documents and noting that their release was *"likely to raise heightened parliamentary and media interest"* **[DHSC0200103]**.

2.56. I note the following comment in the Project Board meeting minutes for 27 July 2006:

"Scottish Documents. The files released by Scotland will be checked for any DH documents that might fall in the 'missing' category. This is [planned] to start in early August. It was confirmed that actions in relation to documents held in Scotland is limited to these released documents. A visit to Scottish Executive has been arranged to discuss experience gained during their review and responses received to the release of documents. An assessment will be made on the feasibility of searching for any DH documents held by the Scottish Executive. Should this be feasible it will be out of scope of this project." [WITN7269004]

2.57. My understanding, after consulting this document, is that the project work in relation to documents from the Scottish Executive consisted of obtaining the files recently released and reviewing them for relevance to the subjects covered by the project.

2.58. In the progress report I prepared, dated 5 September 2006, I recorded that:

"Scottish Documents

The documents released by Scotland have been reviewed and no duplicates with those held by DH have been found. There are references on two occasions to note of the Advisory Committee on the Virological Safety of Blood (April and November 1990). A visit to the Scottish Executive took place on the 30th August to assess their experience.... The SE [Scottish Executive] is providing an inventory of documents that they hold to enable DH to search for any notes of ACVSB meetings. SE released notes of two ACVSB meetings relating to 1990, it is not anticipated that SE holds any further notes of these meetings," [DHSC0004232_052] (page 2).

2.59. As can be seen in the final report, it appears that 351 documents released by the Scottish Executive were reviewed as part of the preparation of the NANBH Document Review Report. While the project was not intended to review all items held by the devolved administrations, we wanted to ascertain whether they held any of the documents previously considered missing.

2.60. The Inquiry has asked me how I decided what documents to refer to in the NANBH Document Review Report. I have dealt with the narrower question of which documents were selected to be summarised in the body of the Report at paragraph 2.67 below. If I was provided with a document from any of the sources I have identified above, I reviewed it, noted its subject matter and date and added it to the inventories and statistics I was compiling for the NANBH Document Review Report.

The internal audit review

2.61. The Inquiry has referred me to paragraph 15 of the NANBH Document Review Report which says that documents from the HIV litigation were mislaid and were subject to an internal audit review in February 2000 [PRSE0000642] (page 5). I am asked to identify the internal audit review that is referred to. I am directed to an internal audit review from April 2000 which considered the destruction of files relating to the Advisory Committee on the Virological Safety of Blood ('ACVSB') [WITN5426245]. I am asked whether this was the internal audit review referred to at paragraph 15 of the NANBH Document Review Report and if so, why I believed that the audit related to documents from the HIV litigation.

2.62. Paragraphs 14 to 16 of the NANBH Document Review Report dealt with two different instances of missing documents. Paragraph 15 outlined the circumstances that led to certain documents relating to the HIV litigation being mislaid and said this had been subject to an internal audit review in February 2000. Paragraph 16 outlined the circumstances that led to the destruction of certain files documenting the work of the ACVSB and indicated this had been subject to an internal audit report. The same footnote was used in both paragraphs and that footnote is the "*Internal Audit Review, Hepatitis C Litigation (Report into the Loss of Documents)*", dated April 2000. In preparing this statement I have seen that document [WITN5426245]. It is dated April 2000, not February 2000. It also appears to relate solely to the second instance of missing documents, i.e. destruction of the ACVSB documents.

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2.63. Thus the reference to an internal audit review in February 2000 in paragraph 15 of the NANBH Document Review Report appears to be a mistake. I do not recall how this mistake happened. I am told by lawyers assisting me that document searches have not located a February 2000 internal audit. It appears that the internal audit report from April 2000 was mistakenly interpreted as if it covered both instances of missing documents. In relation to the date, I note that paragraph 103 of the NANBH Document Review Report says that the internal audit report was commissioned in February 2000.

2.64. I do not recall whether I wrote this section of the Review, but it appears from the documentary record that the mistake may have been mine. I can see that the passages in question were not present in the first draft of the Review **[WITN7269010]**. A reference to the audit report of April 2000 appears in the draft of 4 December 2006. In that version, the internal audit report into the destruction of the ACVSB files is mentioned at paragraph 1.5, although it is referred to as '*an internal audit report commissioned in February 2000*' **[WITN7269015] (page 3)**. No audit report is mentioned in the passage dealing with the mislaid HIV litigation documents.

2.65. A draft of the NANBH Document Review Report, circulated by me in March 2007, contains a drafting comment, in relation to missing HIV litigation documents, that "*We cannot be to (sic) explicit [about the dates of the missing documents] as there is no record of the dates of the missing documents – the only ones we can be certain of are the ACVSB files*" **[DHSC5460816] (page 4)**. This draft also contains the following comment in the paragraph dealing with the missing HIV litigation files:

"We do not have the dates, the audit report on the missing documents was not able to give dates for these, only the ACVSB files."
[DHSC5460816] (page 3)

2.66. It appears from this last comment that the author was under the impression that the internal audit report referred to both instances of missing documents. I note

that this draft was attached to an email sent by me on 7 March 2007 **[WITN7269016]**. In that email, I stated that I had made comments '*in CAPITAL LETTERS*'. The two comments I refer to at paragraph 2.65 above were written in capital letters. For that reason, I believe I wrote those comments. It appears that this misinterpretation continued into the final Review report.

Selection of documents for the NANBH Document Review Report

2.67. The Inquiry has directed me to paragraphs 40 to 87 of the NANBH Document Review Report and I am asked how I decided which documents to refer to in these paragraphs **[PRSE0000642] (page 12)**. I am also asked whether I consulted or liaised with any medical civil servants in DH or any external medical practitioners (presumably this is in relation to deciding which documents to refer to in these paragraphs).

2.68. One of the objectives of the project I was recruited to work on was to report on the content of documents related to NANBH and held by the DH. Paragraphs 40 – 87 of the NANBH Document Review Report were aimed at fulfilling that part of the project's objective.

2.69. The methodology used to organise and categorise the files of documents was set out in the NANBH Document Review Report from paragraph 31 **[PRSE0000642] (page 9)**. Paragraph 34 explained that I ended up with 127 registered files and one CD within the scope of the work. I then categorised each document under a number of subject headings, one being NANBH. Then there was an analysis of the distribution across the date range of 1970 – 1985 and subject matter. Some documents, not related to NANBH, fell outside the scope of the work but were nevertheless included in the inventory (paragraph 36).

2.70. Paragraph 37 states:

“Every document identified in paragraph 21 [i.e., those in scope for the Project] has been inventoried and categorised. This report, however, does not summarise every document where mention of NANBH is made. It has not included documents where the information relating to NANBH had already been cited or where the reference was minor. The aim was to summarise the information objectively and all documents relating to NANBH, whether cited in the report or not, will be released with the report, in line with FOIA”.

- 2.71. I believe I wrote paragraphs 40 to 87 of the NANBH Document Review Report, although I can see that they were subject to review by other people involved in the project. I do not specifically recall writing any particular paragraph. I believe I would have followed the approach set out above. Where a document contained a portion relevant to NANBH, I would have summarised its contents. Documents that simply duplicated information contained in other documents, or that contained references to NANBH that I (or others involved in the project) assessed to be minor, would not have been cited.
- 2.72. I do not believe that I liaised with medical specialists while drafting these paragraphs and selecting documents for summary. However, I can see that the summaries that I wrote were reviewed by qualified medical professionals. For example, I have seen a draft version of the Report reviewed by Dr Ailsa Wight on 7 March 2007 [WITN7269011] and an email from Dr Hugh Nicholas dated 28 March 2007, in which he provides review comments [WITN7269017].

The contents of the NANBH Document Review Report

- 2.73. The Inquiry has pointed out that the NANBH Document Review Report does not refer to a September 1978 publication in The Lancet by Dr Preston and others [PRSE0003622]. I am asked whether this was because the publication was not in the files reviewed, or because I did not consider it sufficiently relevant or important to include.

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- 2.74. I do not recall seeing the article but, with the passage of time and the volume of documents I reviewed, I would not expect to recall it. I have now read the article, which appears to be sufficiently relevant and important to the subject matter of the project. If I had come across the article in the course of my work on the project, I am confident I would have included it in the Report.
- 2.75. Lawyers assisting me in preparing this statement have not been able to locate this article on the DH's 'Iron Mountain' or 'Preservica' systems, and it does not appear in the inventories of documents reviewed. I do not know why this is the case.
- 2.76. The Inquiry has referred me to paragraph 115 of the NANBH Document Review Report (in the conclusion), which says:

"The treatment of NANBH in the correspondence and notes of meetings gives no indication that NANBH was considered a life threatening disease over the period to which this review relates i.e. 1970 to 1985."
[PRSE0000642] (page 29)

- 2.77. I am asked to explain the basis for this assertion and what consideration I gave, when forming this conclusion, to the contents of an internal minute referred to at paragraph 52 of the NANBH Document Review Report.
- 2.78. Paragraph 52 stated:

"An internal DHSS minute made reference to NANBH that could not (unlike hepatitis B) at that time be detected by testing donor blood. The comment was made that this form of hepatitis can lead to progressive liver damage and/ or chronic carrier state and referred to patients with pre-existing liver disease where NANBH could prove fatal. This internal note may have been referring to a report in the Lancet in March 1979 that reported three fatalities in jaundiced patients (who did not have haemophilia) subsequently shown to have severe cirrhosis due to either alcohol (two patients) or Wilsons disease (one patient), who were given

factor IX concentrate to correct clotting abnormalities prior to liver biopsy.” [PRSE0000642] (page 14)

2.79. The internal minute itself is dated 15 September 1980 and was prepared by Dr Diana Walford **[WITN0282008]**. It is listed in the footnotes to the NANBH Document Review Report and must have been available to me at the time. I have seen the document in preparing this statement.

2.80. In relation to NANBH, Dr Walford's minute stated:

“I must emphasise that 90% of all post-transfusion (and blood-product infusion) hepatitis in the USA and elsewhere is caused by non-A, non-B hepatitis viruses which (unlike Hepatitis B) cannot, at present, be detected by testing donor blood. This form of hepatitis can be rapidly fatal (particularly when acquired by patients with pre-existing liver disease) or can lead to progressive liver damage. It can also result in a chronic carrier state, thus increasing the “pool” of these viruses in the community”.

2.81. As explained, the Inquiry has asked about the basis for the conclusion at paragraph 115 of the NANBH Document Review Report in light of Dr Walford's minute from 1980. I can see that I highlighted the 1980 minute specifically in my progress report of 16 August 2006 **[DHSC0004232_059]**. In the Project Board meeting minutes of 4 September 2006 it was agreed that Dr Walford should be advised that the 1980 minute had been released under the FOI Act **[WITN7269005]**. This suggests that the contents of the minute had been identified as relevant.

2.82. I believe that I sought the advice and expertise of Dr Hugh Nicholas in relation to this issue, which seemed to be particularly complex. I have now referred to a draft briefing for Caroline Flint (Minister of State for Public Health) and Lord Warner (Minister of State in the Lords) that I sent to the Project Board by email on 1 February 2007 **[DHSC5228443] (page 4)**. The relevant passage read as follows:

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"One document has been located that required a detailed explanation on its release in August 2006; references to the report 'Self-Sufficiency in England and Wales'. An internal minute from Dr Diana Walford, a former DCMO, dated 15 September 1980 refers to Non-A Non-B hepatitis virus stating 'This form of hepatitis can be rapidly fatal (particularly when acquired by patients with pre-existing liver disease) or can lead to progressive liver damage. It can also result in a chronic carrier state, thus increasing the "pool" of these viruses in the community.'"

This comment was raised in a letter from the Haemophilia Society and the following response provided, "You have drawn attention to comments in the note from Dr Walford (dated 15 September 1980) about reports of fatal complications following the administration of Factor IX concentrates. She may have been referring to a report in the Lancet in March 1979. This reported three fatalities in jaundiced patients (who did not have haemophilia) subsequently shown to have severe cirrhosis due to either alcohol (2) or Wilsons disease (1), who were given Factor IX concentrate to correct clotting abnormalities prior to liver biopsy. The circumstances were thus rather different from those that might be expected in patients receiving factor concentrates for haemophilia, and the finding is not born out by our current knowledge of acute hepatitis C infection in patients without underlying liver disease. This report is included in the references in the paper from Craske (ref 26) recently released to you."

- 2.83. The (draft) briefing was intended to be sent to ministers ahead of the NANBH Document Review Report's release on 26 February 2007. In fact, the Report was released later than anticipated, on 22 May 2007, and I do not believe a briefing was sent to ministers in this form. Nevertheless, I can see that the draft briefing dealt with this issue and provided context to Dr Walford's minute.
- 2.84. Based on the documents I have referred to, I assume that I was provided with the explanation set out above in the letter to the Haemophilia Society, which I quoted in my (draft) briefing of February 2007 (although I do not now specifically remember this). That letter provided an explanation that put Dr Walford's comments in context. I think I probably therefore concluded that they were consistent with the assertion at paragraph 115 of the NANBH Document Review Report. This explanation was then given in the second half of paragraph 52, as quoted at paragraph 2.78 above.

The extent to which missing documents had been recovered

- 2.85. Question 15 of the Inquiry's rule 9 request refers me to paragraph 109 of the NANBH Document Review Report, which stated:

"It is not possible to state that all documents, previously recorded as missing, have been located but a very substantial number relating to the time in question have been and are included in the inventory and, if related to NANBH, in the review." **[PRSE0000642] (page 27)**

- 2.86. Question 13 of the Inquiry's rule 9 request refers me to paragraph 112 of the NANBH Document Review Report, which stated:

"It is presumed that the majority of documents previously considered missing, with the exception of the Advisory Committee on the Virological Safety of Blood (ACVSB) files, have now been located." **[PRSE0000642] (page 28)**

- 2.87. I have been asked about the basis for concluding that the majority of missing documents had now been located, and about the steps that were taken to establish which remaining documents were still missing or destroyed. As these questions both relate to missing documents, I have addressed them together in this statement.

- 2.88. The conclusion in paragraph 112 of the NANBH Document Review Report should be read in conjunction with the statement in paragraph 109. As paragraph 109 notes, it was not possible to state that all missing documents had been recovered. This was because there was no complete list of missing documents. However, doing my best now I would have thought the presumption that the majority had been identified (i.e., that at least as many new documents had been identified during the project as remained missing) appeared justified. A substantial number of documents (5,675, according to the table at paragraph 39 of the Review) were inventoried. The number of documents identified, together with the low level of duplication between the returned documents and

those already held at Wellington House, would, I think, have led to the presumption that the majority of any missing documents had been identified.

2.89. I have also been asked to comment on the conclusion in paragraph 112 in contrast to the DH's previous 'line to take' that many key papers had been destroyed in the early 1990s, which was set out in a briefing dated 11 April 2005 [WITN3996010].

2.90. I have already explained the reasons for the conclusion at paragraph 112 of the NANBH Document Review Report at paragraph 2.88 of this statement, above. I was not working for the DH at the time of the briefing, and I was not involved in its drafting. I can, therefore, comment on the contents of the 'line to take' in general terms only. The briefing document appears to have been written before the DH received 610 documents from external solicitors in May 2006. In 2007 (when the NANBH Document Review Report was released), as a result of the work carried out during the project, more was known about documents relating to blood products than in 2005.

The documents returned by solicitors

2.91. The Inquiry has referred me to paragraph 106 and paragraph 2 of the NANBH Document Review Report and I am asked to confirm that the documents referred to were copies of documents disclosed during the HIV litigation, rather than originals of DH's own files from that litigation.

2.92. I recall that the documents returned to DH from external solicitors were copies and not the originals. As noted in paragraph 106, there was a low level of duplication between the returned documents and those already held. This suggests that the original documents were not identified during the project, and therefore were not held by the DH at the time.

Approach to the release of documents relating to the project

- 2.93. The Inquiry has asked me why documents that were disclosed were not all disclosed in one tranche. I am also asked why some documents were initially withheld from disclosure and who made the decisions about which documents would or would not be disclosed.
- 2.94. The issue of releasing documents was within the scope of the project from the outset. The PID from 12 July 2006 noted, under project deliverables, “*an assessment of FOI cases*” including the references to the Self-Sufficiency Report and documents returned by external solicitors **[DHSC5424612]** (page 5). At the time, I recall that ministers were keen to ensure that documents relating to blood policy were released if possible, subject to usual FOI Act principles. I recall that several FOI Act requests were made that related to blood products. I have seen an email that I received from Baljeet Rehal, a DH reporting officer, dated 10 January 2007, in which 26 relevant FOI cases were noted in relation to contaminated blood products **[DHSC6043059]**. There was, therefore, both internal pressure from ministers and external pressure from members of the public to assess documents for release in line with the FOI Act.
- 2.95. While I was working on the project, my understanding was that all the documents that were inventoried by the project would be assessed for release in line with the FOI Act. The exercise of considering such documents was not limited to those mentioned specifically in the NANBH Document Review Report, nor was it limited to documents relating to NANBH. I left the project before the process of assessing documents for release was completed. However, I understand from a later briefing note, prepared by Patrick Hennessy on 21 January 2008, that this approach to assessing documents continued after I had left **[WITN7269007]** (page 2).
- 2.96. I have been referred by the Inquiry to an email I was sent by Colin McDonald on 16 August 2006, asking for my contribution to a request made under the FOI

Act **[DHSC5429552] (page 4)**. The request attached to that email related to copies of papers handed to the DH by solicitors representing haemophiliacs **[WITN7269018]**. I can see that I replied on 17 August 2006, noting that there had been other requests on the same subject, and that the DH was *'looking to release as many [documents] as possible, we are processing them in line (but not under) the Act'* **[DHSC5429552] (page 3)**. I believe I used this wording because there was a cost of compliance limit of £600 (under section 12 of the FOI Act) above which the DH was not obliged to release documents under the FOI Act. Nevertheless, in this instance the DH intended to process documents for release under the FOI Act criteria, notwithstanding the £600 limit. I recall that this was the actual approach taken to releasing documents.

2.97. The Inquiry has also referred me to an email I sent to Anne Mihailovic, a DH lawyer, on 15 November 2006 **[DHSC0015758]**. In that email, I asked whether independent counsel could conduct a review of the documents withheld during the HIV litigation (which comprised eight of the 47 files discussed at paragraph 3.7 below) in line with the FOI Act (a similar exercise to the review I refer to at 2.25 above). I sent an inventory and a copy of my review of these documents to Anne Mihailovic on 23 November 2006 **[DHSC0015757]**. I have now seen an email from independent counsel, George Spalton, dated 20 December 2006, which outlines the work that he performed on the documents **[WITN7269019]**. In that email, he states that the purpose of his review was *'not to go over the material in excessive detail but really double check some of [my] work'*.

2.98. I have also seen an email from Anne Mihailovic to me on 15 January 2007, attaching counsel's note **[DHSC0015744]**. In that email, she noted that some of the documents belonged to *'a class of documents (ministerial submissions) that we would not usually disclose and a policy decision will need to be taken in conjunction with the DCA [Department for Constitutional Affairs] as to whether such documents should be disclosed in this case'*. In a further email on 18 January 2007, Anne Mihailovic again noted that some documents

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contained ministerial submissions and asked me to ensure that the Department for Constitutional Affairs was consulted before any release [DHSC0015743].

2.99. The documents I have seen support my recollection that the approach was to apply the principles of the FOI Act, with an emphasis on releasing documents where possible. The Inquiry has referred me to the progress report I drafted on 3 January 2007, where this approach is set out on page 1 in relation to a FOI request for the documents returned from external solicitors [DHSC0004232_037]. This document made clear, as also noted in Anne Mihailovic's email above, that three of the exempt FOI Act categories – policy formulation, free and frank discussion and legal advice – were particularly sensitive as it was considered that there was a risk of setting a precedent with any release of documents of this type.

2.100. I was aware that some material was initially considered particularly sensitive for the reasons set out above, but my recollection is that all material was considered for release in line with the FOI Act. In relation to the documents returned from solicitors, I understand from the documentation I have seen (as set out below) that 19 documents were initially withheld but, after further consideration, all but one of the documents was released. I am not certain who made the decisions to reconsider FOI decisions in relation to these documents; I discuss this question further at paragraph 2.111 below.

2.101. The Inquiry has referred me to the minutes of the Project Board meeting of 16 January 2007 [DHSC0004232_031]. Those minutes refer to a FOI request relating to the documents returned from solicitors. The minutes note that 19 documents (i.e., the documents mentioned in the preceding paragraph of this statement, above) were initially withheld, and a further review concluded that six more could be released at that point, with one more potentially to follow.

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- 2.102. The Inquiry has referred me to an email I sent to Zubeda Seedat on 6 February 2007 **[DHSC0103399_065]**. At this point, I can see that nine of the 19 originally withheld documents had been cleared for release, with 10 remaining withheld.
- 2.103. The Inquiry has also referred me to an email I sent to Jacky Buchan on 18 April 2007 **[DHSC0103400] (page 7)**. I noted that, after an internal review of the 19 withheld documents, it had been decided to release 16 of the documents. The remaining three were withheld as follows: two in accordance with section 27(1) of the FOI Act relating to relations with foreign countries, because they related to an ongoing Canadian court case, and one in accordance with section 40(2) of the FOI Act because it contained personal data (it was a person's CV).
- 2.104. I have also seen a letter relating to this FOI request dated 12 June 2007 which indicated that the (now) 3 withheld documents had been looked at again **[DHSC0103400] (page 15)**. In this document, it was stated that 18 of the 19 documents could be released. This was consistent with the minutes of the Project Board meeting I attended on the same date **[DHSC5051140]**. In a post-meeting note appended to those minutes from 19 June 2007, in the month before I left the project, I noted that 18 of the 19 documents would be released **[DHSC50511404] (page 2)**.
- 2.105. The Inquiry has referred me to an email dated 26 August 2008 from Laura Kennedy to Patrick Hennessy which refers to the above minutes **[DHSC5528801]**. This email was written after I left the project and I would not therefore have seen it at the time. It appears to be consistent with the documents I have referred to above.
- 2.106. The Inquiry has referred me to an email sent by Alexander Ord, a parliamentary clerk, to William Cannon on 21 May 2007, concerning copies of the NANBH Document Review Report being sent to Parliament **[DHSC5473468] (page 2)**.

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I am listed as one of the 'cc' recipients. The email refers to an Observer article mentioning an email about an audit being withheld at 'the request of No 10'. I have already explained the circumstances relating to the internal audit at 2.61 above. At the time of this email, the audit report was not one of the documents to be withheld. As a reference to the NANBH Document Review Report, it was released on 22 May 2007 with the report itself.

2.107. Having referred to the documents above, I can answer the Inquiry's question as follows. There were over 5,000 documents reviewed as part of the project. The decision was taken that they should be released in line with the principles of the FOI Act, despite the fact that there was a legal exemption relating to requests that would cost more than £600 to fulfil.

2.108. It would have taken considerable time to review all the documents before releasing them in one tranche. They were released in several tranches so that they could be released sooner. I have seen a briefing document prepared for Caroline Flint by Liz Woodeson, dated 24 April 2007, which recommends an approach to releasing documents:

"[W]e recommend that we should release the documents reviewed in line with FOI principles. Overall, there are around 4,500 of these documents so this will be a major task. It is estimated that the preparation and processing of the documents will take approximately four to five months. To achieve this timescale will require a member of staff to be dedicated to the task with some administrative support. The cost is estimated to be at least £40,000." **[DHSC0041193_026] (page 2)**

2.109. It appears from the documents that the scale of the task of assessing the documents in line with FOI principles was the main reason for releasing the documents in individual tranches, rather than in one tranche.

2.110. It made sense, practically speaking, to treat each individual source (e.g., the documents identified at Wellington House, the documents returned from

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solicitors, etc.) separately for release purposes. Some documents were initially withheld from disclosure because FOI Act exemptions had been identified in relation to them. On further review, some of those documents were cleared for release.

2.111. I do not recall exactly who was responsible for making decisions about which documents could be released. It could have been the members of the Project Board. The DH had a FOI unit, and I recall that Stephen Fay had a role within that unit. I believe that unit would have been involved in making decisions as well.

Section 3: **Discoveries of unregistered files in Wellington House**

Enquiries by Judith Duffy in August 2006

- 3.1. The Inquiry has referred me to documents relating to Judith Duffy (a reporter from the Sunday Herald) contacting DH in August 2006 to enquire about *"recently discovered files relating to contaminated blood products"*.
- 3.2. I have been referred to an email chain from 18 August 2006 which concerned Judith Duffy's enquiry about recently discovered files relating to contaminated blood products **[DHSC5429372] (page 3)**. I can see that I was asked to assist with responding to this. Judith Duffy sent a further email on 25 August 2006, clarifying that she was enquiring about *'45 boxes of documents relating to the haemophilia case'* which *'had been found'* **[DHSC5430566] (page 2)**. I have also been referred to a Sunday Herald article subsequently published on the topic on 27 August 2006, written by Judith Duffy **[DHSC0014975_143]**. That article also referred to *'45 boxes of documents'*.
- 3.3. The Inquiry has referred me to an email I wrote to Zubeda Seedat on 12 September 2006 in relation to Judith Duffy's article **[DHSC0004232_029]**. In that email, I said that my initial reaction was to state that the documents uncovered related to those returned by solicitors. I have been asked on what basis I believed this to be the case.
- 3.4. In this email, I was responding to an internal colleague, rather than drafting a response to the FOI request or a briefing for ministers. It is difficult to remember my initial reaction after so many years. I can think of two explanations which are consistent with my recollections.

- 3.5. Firstly, as set out in more detail at paragraph 3.19 below, I had been aware that there were 47 unregistered files at Wellington House since at least July 2006. Indeed, I had been working on these files as part of the project since that time, as shown by the progress report of 14 July 2006 [DHSC0004232_066]. It seems possible that, when I was asked to assist with responding to a FOI request that referred to "45 boxes" that had been found, it did not occur to me that the request could be referring to documents that I had already been reviewing for several weeks.
- 3.6. Secondly, while I had also been aware of the documents received from external solicitors for some time, I was aware that these documents had been copies rather than originals, and that the original documents were therefore still missing. This is set out in more detail at paragraph 2.92 above. My immediate response may therefore have been based on the assumption that any new documents could be the original versions of the copies that were received from external solicitors.

47 unregistered files identified at Wellington House

- 3.7. The Inquiry has noted that subsequent emails clarify there had been 47 unregistered files discovered in Wellington House and has referred me to various relevant documents.
- 3.8. The Inquiry has referred me to an email dated 27 September 2006 from Lord Warner's private office to me [DHSC5435884] (page 4). This email correspondence noted that Lord Jenkin had requested a letter about the '47 boxes'. My reply of the same date attached a draft response for Lord Jenkin, which noted that the 47 files were '*not newly discovered but have always been held by the Department*' [DHSC5121354].
- 3.9. The Inquiry has referred me to an email I wrote to William Connon on 29 September 2006, relating to a phone call I had with Lord Jenkin on that day

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[DHSC5435079]. In that email, I noted that Lord Jenkin had asked if the files he reviewed on a previous visit were the same as the 47 files now identified.

3.10. I have been referred to an email from Caroline Flint's private office in response to the correspondence of 27 September 2006 (at paragraph 3.8 above), dated 5 October 2006, asking whether the 47 files were considered as part of the Self-Sufficiency Report **[DHSC5435884] (page 3)**.

3.11. I have also been referred to an email from William Connon to Liz Woodeson dated 9 October 2006 that refers to the 47 files **[DHSC5154769]**. In this email, William Connon noted that the issue was not straightforward, and that was part of the reason for bringing me into the project. He said that he was not certain the 47 files had been included in the Self-Sufficiency Report. He noted that they were *'not actually registered files but folders of papers which were simply found in a cupboard in the office'*.

3.12. I have been shown a memo written by William Connon to Lord Warner later the same day, attaching a draft reply for Lord Jenkin in relation to the 47 files **[DHSC5002462] (pages 2 and 4)**. This memo referred to the various documents held by the DH, including:

"Wellington House files, these have always been in the possession of DH and held at Wellington House, including the unpublished references to the report 'Self-Sufficiency in Blood Products A Chronology from 1973-1991' [.] This includes the 47 lever arch files which Lord Jenkin refers to, which were not properly filed on registered departmental files."

3.13. In relation to the 47 unregistered files, the memo concluded as follows:

"Note

An article in the Scottish Sunday Herald refers to 45 boxes of documents found by officials. We assume this refers to 47 lever arch files that have

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always been held at Wellington House, item 1 above. These files are now being reviewed as part of the project.

Conclusion

The 47 files have only recently been examined as part of this review when it became clear that they contain relevant documents. We are confident that they were included in the analysis for the self-sufficiency report, as colleagues who were present at that time recall seeing the consultants working on documents from the cupboard where the files were held. But we cannot be certain and I have therefore jot [sic] included this in the reply to Lord Jenkin."

- 3.14. The draft reply for Lord Jenkin, annexed to the memo, set out the following in relation to the 47 files:

"[W]ork is underway to identify and review all the documents currently held by the department relating to the safety of blood products between 1970 and 1985. This includes the 47 files you have enquired about. I can confirm that these are not the ones returned by the legal firm in the North of England. They are in fact "lever-arch files" which contain papers that have never been placed on any official or registered files. Clearly, they should have been correctly filed and this will now be done once they have been examined."

- 3.15. I have been referred by the Inquiry to the project progress report that I drafted on 3 January 2007 [DHSC0004232_037]. I can see I noted that, as well as the 47 unregistered files, additional documents were identified during December 2006 and placed in eight additional files. These documents were also reviewed as part of the project and included in the NANBH Document Review Report, although as noted at paragraph 2.51 above, due to an oversight the diagram in the Report was not fully updated to reflect this. These documents were apparently located in filing cabinets, and were either loose, in box files or in lever arch files. The report says they were located during a search of filing cabinets (indicating that a search had been done). As far as I recall, I was not involved in searching filing cabinets myself. There were also two data cartridges which needed to be sent to specialists to be read. I recall that one of these cartridges was readable, and reviewed as part of the project, and the other was corrupted.

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- 3.16. Finally, in relation to the 47 files, the Inquiry has referred me to an email dated 2 April 2007 from Dr Rowena Jecock of the Health Protection Division **[DHSC5465598]**. On page 3 of that document, Dr Jecock asked if the 47 unregistered files could be the papers supplied to DH solicitors for the 1990 HIV litigation. This was the conclusion reached by the final NANBH Document Review Report at paragraph 106.
- 3.17. I will now address the Inquiry's specific questions on the 47 files. I am asked to outline the circumstances of the discovery of the files. I do not recall the circumstances, and I do not believe I was involved in discovering the files.
- 3.18. I think it is important to note that I had never been a 'central' civil servant before this role. I had never previously worked in Wellington House, or with any of the people who were involved in the project. I did not appreciate the distinction between registered and unregistered files when I started my work, because I had not previously dealt with a central filing system like that at the DH. When I worked on the project at Wellington House, I worked as a self-contained unit, spending most of my time in the same area, and I did not organise any searches for documents within Wellington House. I have been shown an email dated 18 July 2008 which suggests I may have accompanied Patrick Hennessy to view some documents stored in a hanging file system in a 'bay' at some point **[DHSC5533007]**. I do not recall doing this and the email may also be interpreted as me reviewing papers that had been located in this hanging file system. If I did physically go to this hanging file system I do not think I would have organised that. Generally speaking, during the project I reviewed the files that were provided to me, rather than seeking files out.
- 3.19. The Inquiry asks why other members of the DH were not aware of the files at the time of Ms Duffy's enquiries, or immediately following the publication of the article. Based on the documentation available to me, I do not agree that this

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was the case. I drafted a progress report for the Project Board on 14 July 2006 [DHSC0004232_066] I wrote the following:

“c) Wellington House – Document Inventory

There are 47 lever arch files at Wellington House. The inventory was scheduled to start on the 3rd July, completing on 24th July using existing staff...”

- 3.20. This tends to suggest that I was aware, and the members of the Project Board were aware, of these files on 14 July 2006. Ms Duffy’s enquiries were made in August 2006. Beyond the members of the Project Board, I cannot say who else was aware of these files.
- 3.21. I have already explained at paragraph 3.5 above why I did not associate Ms Duffy’s enquiry with the unregistered files at Wellington House. It may also have been relevant that the press enquiry referred to ‘45 boxes’, when it had been known internally for some time that the documents at Wellington House were initially identified in ‘47 lever-arch files’.
- 3.22. The Inquiry has asked me when wider members of the Blood Policy Team were made aware of the 47 unregistered files, and how they were informed. I would note that I did not have a role to work with wider members of the team, beyond those who were involved in the project I was working on. I do not think I can assist further with this question.
- 3.23. I do not know why the files were not registered. As I have explained, I was not aware of the distinction between registered and unregistered files until after I started my role on this project. I am asked why the files were missed from previous searches for files in relation to contaminated blood products. I presume this was because they were not registered, but I was not involved in conducting any previous searches.

3.24. I have been asked what steps were taken to ensure that there were no other unregistered files in relation to contaminated blood products. I recall that I was provided, on occasion during the project, with further documents – the results of other searches – but I was not involved in the searches of Wellington House myself, as noted above. I was involved in requesting items from DRO Nelson and the Scottish Executive, as set out at paragraph 2.53 onwards. However, my main role as I recall it consisted of reviewing documents that others provided to me. I accept that, whatever steps were taken, they did not succeed in ensuring there were no other unregistered files, as discussed further below.

41 further folders of unregistered documents found in July 2008

3.25. The Inquiry has noted that a further 41 folders of unregistered files were discovered in Wellington House in July 2008, and it has referred me to various documentation.

3.26. The Inquiry has referred me to an email from Laura Kennedy to William Cannon, dated 16 July 2008, which set out that unregistered litigation files had been discovered in 'Wel 517' **[DHSC5532594] (page 2)**. To be clear, I was not working in the Blood Policy team at this time. Laura Kennedy's email included:

"Patrick and I discovered these files when reorganising the filing cabinets in Wel 517. We assume they were stored there by a previous inhabitant of Wel 517, perhaps since the 1989/90 Haemophilia litigation. They are not registered files, and are not very well organised. They contain documents from the time of the litigation, and documents from the 1970 – 1985 that have been removed or copied from original files in order to be organised for discovered prior to the litigation.

The files are significant for several reasons.

1) They contain documents discussing the 1989/1990 litigation which is an issue of interest to campaigners.

2) They contain some documents from 1970-1985, that concern the issue of contaminated blood that are not in any of the files that we have

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previously looked at. I am not sure how many of these there will be, or if they will provide any information that is not already available in the documents we have already released. (emphasis in original)

3) They contain the originals of documents from 1970-1985 that we already have copies of. These originals should be kept.

I would like to make inventories of these files so we know exactly what is in there. After this, we would need to consider how to store these files, and whether they need to be considered for release. In addition, if we do decide to provide documents to the Scottish inquiry, we would need to consider whether any of these documents should be provided."

3.27. The Inquiry has referred me to an email sent by Patrick Hennessy to William Connon on 18 July 2008 that set out further information about these files **[DHSC5533007]**. The email stated that the files were located in a hanging file system at the entrance of 'bay 517'. Patrick Hennessy said that he and I had previously viewed the papers and concluded that they appeared to be copies, or 'top copies', of documents contained in existing file series and therefore already reviewed, *i.e.*, the documents were not actually newly discovered – they had previously been considered (although I cannot now say in what detail). He also stated:

"Some of the earlier papers appear to be unreleased, but until they are inventoried and cross-checked it is hard to say how many, and whether they add anything to what is known. Neither Linda nor myself nor Laura has found anything in these folders from 1970-1986 that adds anything new. However, now that there is to be a public inquiry [the Archer inquiry] I think we have to be absolutely certain.

Quite apart from the FOI aspect, the folders contain many top copies of, e.g., correspondence with Ministers and advice from DH solicitors, so this material really should be inventoried and put in new registered files. Laura estimates that she could inventory this material by the end of August, and with her experience of these papers will be able to make a reasonable stab at identifying the more significant documents from the 1970-86 period. At that stage it could be considered whether any of it should be issued for the sake of completeness.

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3.28. As stated above, I do not recall looking at papers in a hanging file system in bay 517. I note that Laura Kennedy said that she and Patrick Hennessy '*discovered*' these files. I left the project before Laura Kennedy joined. I am therefore unable to explain Patrick Hennessy's email that he and I previously checked these folders. It appears from Patrick Hennessy's email that these papers appeared mainly to contain originals of copies already held. Unfortunately, I do not think I can assist further with this question.

Section 4: **Other**

- 4.1. The Inquiry has asked me to provide any further comment about matters of relevance to the Inquiry's Terms of Reference.
- 4.2. I have been referred to documents which seem to show that the project I have discussed in this statement continued after I left. I can see that Patrick Hennessy submitted the end-of-project report to Hugh Taylor on 21 January 2008 [WITN7269007]. This document covered actions that had taken place after I left the project. There are two areas in particular that may be relevant to the Inquiry.
- 4.3. Firstly, the report summarised the situation at the time in relation to the release of documents in line with the FOI Act (at paragraph 5):

"At the time of publication of the review, the Department gave a commitment that all documents covered by the review, not only those referring to NANBH, would be prepared in line with the Freedom of Information Act and released in batches at approximately monthly intervals. Most documents held by DH referred to HIV/AIDS, the UK drive to self-sufficiency in blood products, and the redevelopment of the NHS producer of blood products for England and Wales, the Blood Products Laboratory at Elstree.

The documents (5260 in all) were processed in line with FOI and, where possible, issued to Lord Archer's inquiry in batches, from 15 June to 26 October. The documents were scanned following release, and placed on the Department's website in batches from July to December. They are available at: [website link]. There have been around 1000 external visits to the website since it went live in early July.

These documents comprise:

- Documents located in Wellington House in unregistered files, now in 102 registered files. (4659 documents)*
- Documents returned in 2006 by a firm of private solicitors, now in 20 registered files. (601 documents.)*

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- *The Archer inquiry also has access to the reference documents issued to accompany the DH report on 'Self-sufficiency in blood products' (pub. 2006) and the 'Review of documentation relating to the safety of blood products' (pub. 2007) (71 and 59 documents respectively).*

Points to note are:

- *In keeping with the commitment to publish as much as possible of the documentary evidence from 1970 to the mid-1980s, we have interpreted the public interest test as meaning that documents would be issued unless there was a strong case to consider retention. As a consequence, relatively few documents were withheld in line with FOI.*
- *Of the 101 files processed and released this year, there were 26 files of papers that were undisclosed at the time of HIV litigation in the early 1990s, e.g., submissions to and correspondence from Ministers, and commercial correspondence. Almost all (c. 99%) of these have now been released. Former Ministers and a number of companies have been informed.*
- *Across all 101 files of documents, 42 documents were withheld in whole or in large part under the [...] FoI Act [...]*

Parts of some other documents were redacted in line with exemptions under FOI. In addition, we have redacted most personal identifiers from all documents, as it was considered unreasonable to identify individual officials and others on documents more than 20 years old. This is in line with exemption under S40 of FOI.

We also withheld a number of duplicates and early drafts, and all published papers that may be subject to copyright (e.g., copies of journal articles). This is in line with FOI.

In total, around 18,000 pages of official documents have been released and placed on the internet." [WITN7269007] (pages 2 and 3)

- 4.4. Secondly, the report summarised the survey of a further 112 existing registered files remaining at DRO Nelson (at paragraph 12) [WITN7269007] (page 3). I understand from this document that an analysis was undertaken in relation to these documents by Laura Kennedy, and that a report of this analysis was attached to the submission from Patrick Hennessy [WITN7269020]. The conclusion reached by Patrick Hennessy in his report was as follows:

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"The review identified a further 112 existing registered files on similar subjects held at DRO Nelson, containing over 7000 documents. On initial scrutiny it appeared that these files had been searched at the time of litigation proceedings, as many copies, or in some cases originals, of documents from these files have been found among the documents that have been issued.

However, as a last step in ensuring that all the most relevant papers had been identified, these registered files have been inventoried and their contents compared with the documents already issued [...].

Our conclusion is that the registered files at Nelson were indeed searched and the most relevant documents either copied or removed at the time of litigation. There are significant gaps in the registered files held at Nelson, and our conclusion is that these documents are either in those returned by private solicitors or in those found in unregistered files in DH. There was no possibility of returning registered files to their original state after this period of time. Instead, all the documents returned from private solicitors or found in unregistered files have been inventoried and filed in 121 new registered files.

There is little case for processing and releasing the contents of the older registered files held at Nelson in line with FOI, as the documents in the 121 new registered files now released contain the most relevant material. Documents remaining in the older registered files, which were not copied or removed during litigation, are of low relevance to the issues of concern by comparison with those documents already processed and released.

The amount of documentation in the registered files found at Nelson is at least equal to that already released, and any further project to process and release those documents could be expected to take at least 3-4 months (project manager plus administrative assistance) and cost around £20,000. Given the generally low relevance of documents that were left in these older files when searched at the time of litigation, this would be difficult to justify and add little to public knowledge of these events." [WITN7269007] (page 3)

- 4.5. I was not in post when this analysis was undertaken. I have no knowledge of it beyond what it is stated in the documents I have been shown.

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Statement of Truth

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

GRO-C

Signed

Dated 14/1/23