

Witness Name: William Burleigh

Statement No.: [WITN7305001]

Dated: [07/10/2022]

INFECTED BLOOD INQUIRY

FIRST WRITTEN STATEMENT OF WILLIAM BURLEIGH

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I, **William Burleigh**, will say as follows: -

2. Introduction

- 0.1. I am William Burleigh and my address and date of birth are known to the Inquiry. I am seventy-four years old. I am a qualified accountant and, before retiring, I was the Head of the Internal Audit Branch at the Department of Health (DH). I am currently an ordained minister in two parishes in Sheffield and have a senior role in the training of new deacons across nine dioceses.
- 0.2. I make this statement in response to a request under Rule 9(1) of the Inquiry Rules 2006 dated 12 November 2021 ("the Request"); I also received a further Rule 9 Request on 20 May 2022 providing further documents.

Section 1: Academic and Professional Background

- 1.1. In relation to my academic and professional background, I am unable to recall exact dates. I started my career at the Civil Service as an Executive Officer (EO) aged 23, and my early career spanned moves between the Ministry of Defence, the Department of Health and Social Security (DHSS), the Department of Employment and the DH.
- 1.2. The following table outlines my employment history:

1971	Ministry of Defence, Claims Department, Central London
1972 – 1979	DHSS at Harlesden and then Luton local offices and then as a member of a team auditing local offices in London (North) Region.
1979 – 1986	DH Audit of NHS Regions (West Midlands)
1986 – 1996	Manpower Services Commission, Department of Employment, Sheffield
1997 – 2004	Head of the Internal Audit Branch, DH

- 0.1. While working at the Department of Health (DH) in the Internal Audit branch of the West Midlands regional office, I was selected, in 1984, to train as an accountant. I qualified and became a member of the Chartered Institute of Management Accountants in 1986. Following this, I was promoted to a Higher Executive Officer (HEO) before moving to the Department of Employment, Manpower Services Commission, as a Senior Executive Officer (SEO). There I was promoted to a Grade 7.
- 0.2. My role at the Manpower Services Commission, Sheffield, did not relate to auditing. I returned to the DH, in 1996, as a Grade 6 before my final promotion as the Head of the Internal Audit Branch as a Grade 5. I retired early at the age of 56 in 2004.

Section 2: Internal Audit Review Hepatitis C Litigation Final Report

- 2.1. The Inquiry requests that I set out any knowledge I may have of the events leading up to the drafting of the “Internal Audit Review Hepatitis C Litigation Final Report” (from here on referred to as “the Report”) [NHBT0000193_137]; [DHSC0046961_071].

General observations

- 2.2. Before turning to the Inquiry’s more specific questions, there are some general points which it may assist me to address.
- 2.3. First, my actual recollection of the Report and the associated audit is extremely limited. Before seeing the documents provided by the Inquiry, all I could really remember was that an audit was undertaken about the records relating to infected blood issues, that there was some sensitivity attached to it, and that it was one of the auditors, Laurence George who had undertaken it. I had no recollection of any other detail beyond that. While the documents supplied to me by the Inquiry have assisted me, they have not really triggered any actual recollection. I have now considered all the documents provided to me by the Inquiry. I have used the documents to provide a framework to address the issues raised by the Inquiry. However, I am still struck by how little I actually remember of the details of this audit. This is not however confined to this particular audit. I find that I have little recollection of the details of my work in this period and this may be due to the fact that I retired early and I have since had a very busy ‘second career’ in the church.
- 2.4. Secondly, audits could cover a wide variety of subject matters. The audit team were not therefore particular specialists in the Department’s record keeping systems, although we retained our own files governed by the Department’s record keeping policies. This audit involved record keeping practice, but other audits would have looked at an eclectic mix of operational issues across DH and its Agencies – including the Medicines Control Agency, Medical Devices

Agency, NHS Estates Agency and the NHS Pensions Agency. Amongst the documents provided to me by the Inquiry are some policies and communications about record keeping within DH:

- (1) Minute from the Permanent Secretary to "All DH Staff" re Departmental Document Management Initiative dated 16 May 1994, **[WITN6955036]**. While this was an 'all staff' communication it was actually issued when I was at the Department of Employment so I doubt that I have seen this particular document before, unless it formed part of my induction into DH, which I do not remember.
- (2) "For the record" originally dated 1994 but marked as updated to March 1996 **[WITN0001002]**. I do not recall this specific document. However, the principles contained in this document are broadly familiar to me from my time as a civil servant.
- (3) Paper on Management of Electronic Documents Strategy: Information Management Standards dated August 1999 **[WITN6955042]**; and Management of Electronic Documents Strategy (MEDS) dated February 2000 **[WITN6955041]**. I do not have any particular recollection of these documents now. We were moving across to electronic record keeping towards the very end of my civil service career and I can see that the recommendations of the Report included in relation to ensuring that improvements the MEDS team identified as a result of the audit investigation were to be incorporated into the roll out of MEDS. But I do not recall any further detail in relation to this.

- 2.5. Thirdly, having reviewed the documents and the Inquiry's request for a statement from me, I think it relevant to stress the difference between an audit of the kind my team was used to conducting as compared to other forms of investigation. The questions from the Inquiry include reference to whether or not we made some people the "...*subjects of your investigation*". To the extent that such language may suggest that we conducted an investigation into the conduct of individual staff, I should stress that this is not the nature of the audits my team undertook. Rather, we were used to (and trained to) look at management and systems issues with a forward mindset, typically with an aim

to strengthen the efficiency, reliability or safety or how a system operated. So, while this was an audit investigation, it was by no means an investigation in a disciplinary sense, nor a forensic investigation focusing on the culpability or lack of it of individuals. Our central role as auditors was to identify any weaknesses in controls and to recommend how they could be corrected.

What led to the drafting of the Report?

- 2.6. The Inquiry asks what knowledge I have of the events leading up to the drafting of the report.
- 2.7. My team would not have been involved in the events or decision-making leading up to the commissioning of the report. So far as I can tell from the documents, my own first involvement came on 13 March 2000 when I was forwarded an email from the Private Secretary to the Permanent Secretary (Chris Kelly) indicating that the Permanent Secretary had agreed to advice from the legal team and that the David Clark's "audit people" would asked to take forward what had been recommended (which was a small-in house investigation).
- 2.8. I can see – but only from the documents provided to me – that what had led up to this, in short summary, was as follows:
 - (1) On 20 January 2000, Anita James (Head of Litigation, Departmental Solicitors) wrote to Deas Mallen Souter (DMS) Solicitors regarding the ongoing Hepatitis litigation [WITN5426162]. Anita James provided the minutes of the UK Advisory Committee on Virological Safety of Blood to DMS with this letter.
 - (2) On 27 January 2000, DMS responded by acknowledging receipt and informing Anita James that documents were missing from the minutes accompanying the letter of 20 January 2000 [WITN6963002].
 - (3) There were "Instructions to counsel to advise" from Anita James on behalf of Marilynne Morgan (Solicitor to the Department) to counsel, Justin Fenwick QC [D DHSC0046972_131]. These instructions appear to be in preparation

for a conference on 3 March 2000 with Mr Fenwick QC. The instructions set out the situation to date that the DH had found themselves in with regards to the missing documents. They noted that copies of relevant documents initially collated were not complete. Initially it had been expected that the missing documents would be found either in the papers of the former DCMO, Dr Metters, or in the registered files. However, it was indicated that Dr Metters' copy had been destroyed by his former secretary and that the registered files had been found to have been destroyed some time ago.

- (4) On 3 March 2000, Charles Lister minuted Dr Pat Troop (Deputy Chief Medical Officer) copying Anita James, Sheila Adam, David Hewlett, Mike McGovern and Gwen Skinner **[DHSC0046972_126]**. Charles Lister alerted Dr Troop to the position regarding the destroyed documents. Charles Lister stated that advice had been obtained from counsel and that counsel's advice was that "we should own up to the situation with DMS" and that "we should undertake a low-key internal investigation"
- (5) Also, on 3 March 2000 Anita James prepared a note to Marilynne Morgan **[WITN5426204]**. There is a handwritten note suggesting this was sent by email on 6 March 2000. This note set out the meeting between Charles Lister, Anita James and Justin Fenwick QC. Attached to Mrs James' minute of 3 March 2000 was a draft minute from Marilynne Morgan to the Permanent Secretary **[DHSC0046972_125]**. This draft minute provided the Permanent Secretary with an update of the position to date and was drafted to inform him that Counsel had recommended "... *a (small) investigation into the destruction of documents*".
- (6) On 6 March 2000, Anita James wrote to DMS Solicitors in response to their letter dated 27 January 2000 **[WITN6955033]**. She disclosed the fact there have been difficulties in locating the documents and that counsel Mr Fenwick QC had been consulted and the Department was seeking to discover what happened and why.
- (7) On 7 March 2000, Marilynne Morgan minuted Anita James **[WITN5426213]**. Her minute commented on Mrs James's draft minute to the Permanent Secretary.

(8) On 8 March 2000, Marilynne Morgan provided the Permanent Secretary with the finalised minute advising of the problem with the documents that had been destroyed and setting out counsel's advice on an investigation. It was suggested the investigation be done as a matter of urgency and that it be a small, and probably in-house investigation. It was suggested that Dr Metters, his secretary, the person who had signed the destruction authorisation and Dr Rejman should be interviewed. It was said that the investigation should not be a witch hunt but that investigator should make recommendations about such matters in the future. Counsel had suggested that Heywood Stores be visited. It was suggested by Ms Morgan that the function of the investigation could properly be carried out by internal audit [WITN6963003].

(9) On 9 March 2000, Sammy Foster (Private Secretary to the Permanent Secretary) replied to Marilynne Morgan by email copying in Charles Lister, Dr Troop, Anita James, David Clark (Head of the Resource Management and Finance Division) and Flora Goldhill (Director of the Personnel Services Division) [WITN5426221]. Sammy Foster conveyed the Permanent Secretary's views in the following terms:

"Many thanks for your note of 8 March. Perm Sec has copied the papers on to David Clark and Flora Goldhill saying that it sounds like we should take your advice, asking them if they're content, and, if so, asking David Clark to get his internal audit people to take forward"

(10) As I have indicated, on 13 March 2000, Linda Wilson (an official in Resource Management and Finance) forwarded Sammy Foster's email dated 9 March 2000 to me and this seems to be where I and the audit team first became involved [WITN6955030].

Terms of Reference and approach to the audit

2.9. As the Grade 5 in charge of the audit team, I would not carry out an audit such as this personally. The documents show that I assigned Mr George to conduct the audit and that I was involved in the initial stages, with Mr George, in the formation of the Terms of Reference for the audit. The documents

suggest that Mr George reported directly to me on this audit rather than through his line manager Roman Pronyszyn. The Inquiry has provided me with a copy of Mr George's statement and I can see that he confirms this was the case. I cannot now remember why this arrangement was adopted, but my best assessment now based on the papers I have seen is that it would have been the combination of the urgency with which the report was being requested, and the sensitivity, in that documents that would have been required for litigation had been destroyed. I recall my view that Mr George was a very capable auditor. Reporting directly to me would shorten the drafting of the report.

- 2.10. Terms of Reference for an audit are produced beforehand, necessarily without knowledge that might subsequently be gained and which might, reasonably change the actions or coverage of the audit. Time available for the audit is another factor that could cause an acceptable change. The papers indicate that both of these factors occurred in this audit.
- 2.11. From the papers, I can see that the Terms of Reference for this audit were first drafted on Monday 20 March 2000. They were finalised on Friday 24 March. The final audit report was with the Permanent Secretary on Friday 7 April 2000. Although Mr George had got going with preparatory work and discussions, the time available for all audit action after the Terms of Reference was effectively only ten working days. From this, necessary time for familiarisation /preparation and for the writing and review of the report must be deducted. This was much shorter than a standard audit investigation. This was in keeping with the intention that this should be a 'small ...investigation' and done as a matter of urgency (Ms Morgan's minute to the Permanent Secretary, **[WITN6963003] at paragraphs 7-8**).
- 2.12. From the documents, a brief summary of the milestones between my team being approached on 13 March 2000 and the settling of the Terms of Reference is as follows:
 - (1) Later on 13 March 2000, I emailed Sammy Foster, copying Marilynne Morgan, Charles Lister, Dr Troop, Anita James, David Clark and Flora

Goldhill [WITN6955029]. In this email, I explained that I had assigned Mr George to conduct the audit:

"Thank you for the papers now copied to me.

I have assigned Lawrence George, an experienced and qualified auditor, to this task. I agree this review needs to be handled sensitively and with a focus on lessons for the future. Lawrence will report directly to me on this work."

I can see that Mr George spoke with Mark Gidden, from the Solicitor's Division, on 16 March 2000 seeking to get more background information [WITN6955050] and [WITN6963005].

(2) On 20 March 2000, I emailed Dr Troop, copying in Mr George and his manager Roman Pronyszyn (Audit Manager) attaching draft Terms of Reference for the audit [WITN6955027]; [WITN6955028]. I can see I referred to a meeting that was due to take place between Dr Troop, Mr George and me the following Wednesday:

"I am due to see you on Wednesday with Laurence George, one of my audit team, to initiate the work we are to do around the apparent loss of documents relating to Hepetitis [sic] C litigation.

I attach a draft terms of reference that I'd like to discuss with you and build upon. I would value your input into how you want this investigation conducted, who we need to see, the pitfalls and sensitivities and the outcomes you seek.

Whilst there is clearly some investigative work needed, I do not want to tread over ground already covered by management. I would value a clear picture of what has happened so far and with what results.

I would also welcome your steer as to whether you feel a narrow investigation of this occurrence alone is needed or a wider review that looks across to see if the circumstances leading to the reported loss could be occurring elsewhere."

Draft Terms of Reference were attached to this email [WITN6955028]. In my conclusion, below, I return to this issue of the potential for a wider review which I had raised with Dr Troop.

(3) On 22 March 2000, Dr Troop sent a note to Dr Mike McGovern, Dr Jeremy Metters, Yvonne de Sampayo (Dr Metters' former secretary) and Charles Lister [WITN5426240]. The note read:

"HEPATITIS C LITIGATION: AUDIT INVESTIGATION

- 1. As you may be aware, there has been an apparent loss of documents needed for the hepatitis C litigation.*
- 2. Bill Burleigh and his colleagues are carrying out an audit to ensure that we learn the lessons from this to avoid a further recurrence.*
- 3. They will be trying to establish what happened and identify the extent to which procedures have not been followed. I have also asked them to review the action that has been taken to retrieve the files.*
- 4. They aim to complete their work by the end of April and report to me in May.*
- 5. The audit will not seek to apportion blame, rather help prevent such things happening again.*
- 6. I appreciate you are all busy, but please could you make time to see them as soon as possible, and also let them know if there is anyone else they should see."*

(4) On 23 March 2000, Mr George and I met with Dr Troop. I have no recollection of this meeting now. Mr George prepared a note summarising the points we discussed during this meeting which was headed 'Interview Record 2' [WITN6955051]. The note included that:

"Pat was happy with TOR, and that she was the right person to report to. She felt that we needed to establish the extent to which procedures had not been followed before we considered widening the review to sample other sections etc. If this case was a one-off, then a wider review would not be necessary. The TOR could include that we ensure all that should have been done, was done (in terms of good file-keeping).

Pat pointed out that some of the medical professionals employed by the Department were not traditional civil servants, and this may have an impact on file keeping standards. However she did maintain that Dr Metters was a conscientious record keeper, and had proven this with the knowledge and evidence he was able to bring to PAC meetings. He had therefore recognised the importance of good document keeping and maintained good records.

...

Pat agreed to send a note round to the relevant staff we would need to interview, Dr Rejman, Mike McGovern, Charles Lister, and Yvonne de Samparo [sic] (Dr Metters' ex-secretary, who is co-incidentally Pat's current secretary) ..."

(5) Also, on 23 March 2000, Mr George interviewed Yvonne de Sampayo [WITN6955052].

(6) On Friday 24 March 2000, Mr George sent a fax to Anita James attaching the finalised Terms of Reference ahead of his interview with Mrs James planned for the following Tuesday. It was stated that the Terms of Reference had been agreed with Dr Troop [WITN6955025] [WITN6955026].

2.13. The Terms of Reference were as follows:

1. INTRODUCTION

1.1 A problem has arisen in relation to the disclosure of documents in the Hepatitis C litigation. There are two types of claim being pursued. In short these are:

- from haemophiliacs who received blood products and were infected with HIV. Nine outstanding claims are presently stayed. Here, the Department has a duty to the Court not to destroy relevant documents; and,*
- from haemophiliacs who were infected by HIV and Hepatitis C after receiving blood transfusions, for which there are 113 claimants. Here, the Department is not a party to the litigation, but through a process known as non-party discovery, it consented to hand over the papers it had.*

1.2 Although some documents were extracted from branch files and disclosed to Deas Mallen Souter (solicitors acting for the 113 claimants in the second claim), it became apparent that the documentation was incomplete. On further investigation it was discovered that other relevant documentation had been destroyed, including copy papers and registered files.

2. SCOPE OF INVESTIGATION

2.1 Broadly, Internal Audit has been asked to;

- establish what happened;*
- identify the extent to which procedures have not been followed;*
- and,*

- *make recommendations to prevent such incidents from occurring again.*

2.2 The extent of the investigation will depend on our initial understanding of the facts, but as a minimum, we will need to talk to the following people, Dr Rejman, Dr Metters and his former secretary, and the person who authorised the destruction of the documents.

2.3 We will need to identify the lessons from this case, and the best way to communicate these a) to HSDI, where we have specific recommendations, and b) to the wider department, where there are recommendations of a general nature.

2.4 Internal Audit will not seek to apportion any blame. The purpose of the review is to help prevent such things from happening again.

3. TIMING

3.1 The investigation will take place in March and April, and our report, including any recommendations, will, in the first instance, be issued to the Deputy Chief Medical Officer, Dr Pat Troop.” [WITN6955026]

- 2.14. As can be seen above, and no doubt because of the urgency of this audit Mr George had already started to interview some staff (and arrange interviews with others) even before the draft Terms of Reference had been settled. With the Terms of Reference agreed, Mr George would have carried out the work examining the documents and conducting further interviews over the subsequent days. During the conduct of the audit, an auditor would work alone or sometimes with another or small team. In this case, speed and sensitivity point to the decision being that only one auditor conducted this small audit. Mr George would have, as is normal, come to me with his findings towards the end of the audit and prior to ‘writing up’ the findings and recommendations.
- 2.15. While the Terms of Reference envisaged that the investigation would take place “in March and April”, I note that on 28 March 2000 Mr George and I were sent an email by Sammy Foster from the Permanent Secretary’s Private Office querying how we were getting on with the Report [WITN6955024]. There was therefore clearly an expectation of the report being produced very quickly.

Section 3: The investigative work carried out prior to writing the report

- 3.1. The Inquiry asks what "... *investigative work [I] personally carried out prior to writing the report*". For the reasons I have explained, I would not personally have carried out the investigative work as this was done by Mr George as the auditor. The Inquiry asks me to address, in particular: what documents and records were examined; whether all members of staff with the relevant department were interviewed; and whether the civil servant who signed the destruction authorisation was interviewed (and if not, the reasons). Since I do not have any recollection now of the details and was not personally doing the investigative work, I can only comment on these issues based on the documents and based on my wider understanding of the audit process.

What documents and records were examined

- 3.2. The Inquiry has provided me with a copy of Mr George's statement and he has addressed what documents and records he examined. I do not think that I can add materially to what Mr George has explained about the documents he obtained and considered during the investigation.
- 3.3. For completeness, however, I note that amongst the documents provided to me by the Inquiry are the following:
- (1) The file cover sheets / dockets and print outs relevant to the destruction of the GEB/1 series from 1994 Vol 4-17 **[WITN6963004]**;
 - (2) The further file cover sheets / dockets for GEB 1 Volume 4-17 **[WITN6955039]**.
 - (3) An email dated 24 February 2000 from Ann Willins to the Departmental Records Office (DRO) re: file requests **[WITN6955040]**. Ann Willins enquired where files GEB Vols 4-16 were as she knew they were not held by DRO anymore, but wanted to know to whom they had been returned in HSD (Health Services Directorate) as they did not seem to have them in her section.

- (4) The DRO's response to this email (25 February 2000) with the following details:

*"FILE GEB 1 VOL 4 WAS DESTROYED IN 1994
FILE GEB 1 VOL,S 5-6-7-8-11-12-14 WAS DESTROYED IN 1997
FILE GEB 1 VOL;S 9-10-13 WAS DESTROYED 1998
FILE GEB 1 VOL 15 WAS DESTROYED IN 1996
FILE GEB 1 VOL 16 WAS DESTROYED IN 1997" [WITN6955040].*

- (5) 31 March 2000, email from Annette Greenwood (ISD4, a branch of the Information Services Division) to Mr George providing further information about the destruction dates

"Subject: Destroyed files in the GEB series

Laurence,

You enquired about the destruction dates of files GEB 1 Vols 4-17 belonging to registry 121.

DRO destroy files recommended for destruction at first review no sooner than during the month following the date recommended by the branch reviewing officer who should be grade IP2S or above. Unfortunately, only the file reference number and the date of destruction are recorded and the dates are as follows: ..."

[WITN6955044]:

Ms Greenwood's email continued with a list of the volumes and their destruction dates, also bearing handwritten annotations. I can see from Mr George's statement that the handwritten annotations were his.

- (6) Mr George's typed chronology [WITN6955046].

Whether all staff within the relevant departments were interviewed

3.4. I have no independent recollection of those that were interviewed. I can see from the documents provided by the inquiry and from the statement of Mr George, that the following interviews were carried out:

(1) I have already referred to the early interviews carried out:

(a) On 16 March 2000, Mr George interviewed Mark Gidden. Mr George's interview record is at 'Interview Record 1' **[WITN6955050]** and Mr Gidden's file note of the same conversation is at **[WITN6963005]**.

(b) On 23 March 2000, Mr George and I interviewed Pat Troop, DCMO. Mr George's interview record is at 'Interview Record 2' **[WITN6955051]**.

(c) On 23 March 2000, Mr George interviewed Yvonne De Sampayo, Dr Metters' secretary during his time as DCMO. Mr George's interview record is at 'Interview Record 3' **[WITN6955052]**.

(2) On 28 March 2000, Mr George interviewed Anita James. Mr George's interview record is at 'Interview Record 4' **[WITN6955053]**.

(3) On what looks to be 30 March 2000, Mr George interviewed Charles Lister. There does not appear to be a typed-up interview note in the file, but the handwritten note of interview is at **[WITN6955061]**. I have seen Mr George's transcription of his notes contained in his witness statement **[WITN6963001]**, paragraph 3.52).

(4) On 5 April 2000, Mr George interviewed Jill Moorcroft, MEDS team. Mr George's interview record is at 'Interview Record 6' **[WITN6955054]**. There are also hand-written notes at **[WITN6955063]**.

(5) On 5 April 2000, Mr George also interviewed Steve Wells, Departmental Records Officer. Mr George's interview record is at 'Interview Record 7' **[WITN6955055]**.

- (6) On 6 April 2000, Mr George interviewed Ian Forsythe of the Staff Development Unit [WITN6955056].
- 3.5. Mr George has recorded two later interview and file notes relating to recommendation implementation after the report had been submitted:
- (1) On 13 June 2000, Steve Wells called Mr George. Mr George's record of the call is at 'Interview 9' [WITN6955009].
- (2) On 20 June 2000, Steve Wells called Mr George. Mr George's handwritten note of the call is at 'File Note' [WITN6955005].
- 3.6. I return to the question of the adequacy of those interviewed at paragraph 3.8, below.

Whether the civil servant who signed the destruction authorisation was interviewed

- 3.7. It is apparent from the audit report and from those Mr George interviewed that the person who had marked the files within the GEB series for early destruction was not identified and was not therefore interviewed. [NHBT0000193_137].
- 3.8. I should repeat that I am unable to recall now my actual thinking at the time, nor the extent to which Mr George may have discussed with me those who had been interviewed and those who might be interviewed. My comments are therefore inevitably based on the documents now available and involve hindsight and an element of reconstruction of what the thinking may have been.
- 3.9. The final Terms of Reference, unusually (as far as I can recall) names four individuals who 'as a minimum, we will need to talk to'. But this listing is the second part of the sentence that began, 'The extent of the (audit) investigation will depend on our initial understanding of the facts'. So far as I can see from the papers, I think that the developing picture altered the initial understanding of who would 'need' to be talked to.
- 3.10. From Mr George's statement (and from the dockets themselves) I note that the dockets did not reveal who destroyed the registered documents. Further, according to Mr George's account of his interview with Mr Lister, Mr Rutherford

(a person close to the work at the time) had already indicated that he did not remember.

3.11. In combination the following factors appear to me to be the reasons why the person who had authorised the destruction of the files was not interviewed, notwithstanding that this had been envisaged when the Terms of Reference were agreed:

- (1) The information that the records did not indicate who had authorised the destruction;
- (2) The fact that the current policy team had already spoken to Mr Rutherford who did not remember;
- (3) The systems focus of the audit (it was not aimed at individual culpability);
- (4) The timescales we were working to.

3.12. From the materials I have seen, Ms de Sampayo, the former secretary of Dr Metters was interviewed [WITN6955052]. She indicated that she subsequently found some of the papers and that Dr Metters had suggested that she hang on to these. Our focus would have been on the official systems and their weaknesses rather than on unofficial action on unofficial copy papers. We were looking with a focus on the 'lessons for the future' [WITN6955029] and secure retention of relevant papers needed to be based upon the handling of the registered files, not unofficial copies held by staff retaining their own personal copies of committee papers.

3.13. The fact that Dr Metters' papers were his own extra copies, outside the procedures of the Department and unable to be taken away by him on retirement, would be enough to exclude him from investigation into the failing in the registered file procedures and improvements needed to them. There seems to have been no question of Dr Metters having been involved in relation to the registered files.

3.14. Dr Rejman was not interviewed as he had already retired. It was not normal, nor was there time, to interview former members of staff. In his interview notes with the Solicitor Mrs James, Mr George noted:

“With FMR Dr Rejman retired, so did the HEO. The upheaval of FMR, staff changes and location changes, may explain why the registered files were destroyed (a lot of old school knowledge left with FMR). It was clear that as early as 1993 someone had marked the files for destruction, and with an extremely short destruction date. There would have been several files as the period covered is a number of years (roughly 88-91)” [WITN6955053]

In hindsight, if Dr Rejman was in a position to assist with the question of who the person was who marked the files for destruction in 1993, interviewing him might have shed more light. I can see that the same may be said of Mr Burrage, who I note Mrs James indicated to Mr George was an HEO on the team at the time. However, this may only have confirmed what was established in this short audit on what had happened – that the files had been marked for destruction with short dates. In accordance with the Terms of Reference, it was clear that the ‘Internal Audit will not seek to apportion any blame’. [WITN6955026]. I am unclear how easy it would have been, even with further investigation and interviews, to identify the person responsible. With hindsight, it might have been better to seek more time and interview more members of staff. But I would repeat that we were working to tight timescales, the indications were that the person was not readily identifiable and, importantly, the lessons for improving the systems did not appear to us to depend upon identifying the person responsible.

- 3.15. It is relevant to note in this context that the audit did involve interviews with additional people who had not originally been listed. These included Mr Forsyth on the training side [WITN6955056]. I think this illustrates that the focus of our audit was forward-looking, aiming to remedy a weak file retention system through both changes and effective communications / training.

Section 4: Dr Rejman's minute of 7 June 1995

- whether the audit considered if letters were written to Mr Burrage

- 4.1. The fourth and fifth issues raised by the Inquiry both concern a letter which I now understand was written by Dr Rejman on 7 June 1995 [DHSC0200022_002]. Dr Rejman's minute was addressed to Mrs James and copied to Dr Metters, Mr Blake (Solicitor's Division) and Mr Scofield who I am informed was a policy official at the time. The first paragraph of Dr Rejman's minute stated:

"I am sending you by hand the list of documents I have discovered in relation to the period 1989-1991. I have gone through all my files, and have gone through the files made available to me by Mr Burrage, GEB vols 1-14. Unfortunately, vol 4 for part of 1989 has apparently been destroyed. Mr Burrage has asked for the individuals responsible to write to him formally confirming this."

- 4.2. The Inquiry asks whether as part of the audit, I examined whether those responsible for the destruction of documents (in context GEB volume 4) wrote to Mr Burrage as Dr Rejman stated Mr Burrage had requested.
- 4.3. Having reviewed the documents supplied to me by the Inquiry, the final audit report and Mr George's statement, it seems reasonably clear that the letter of 7 June 1995 was not provided to, or uncovered by, the audit and it seems that Mr George was not aware of it. It follows that the audit did not examine whether, as anticipated, letters had been written to Mr Burrage by the persons responsible for the destruction of volume 4 of the GEB series. But I repeat that the audit was not auditing the management actions to identify the person(s) responsible for the destruction of the files. It was auditing the system failures and how to prevent recurrences. We had been directed, as agreed through the Terms of Reference, that the *"Internal Audit will not seek to apportion any blame. The purpose of the review is to help prevent such things from happening again."* [WITN6955026]

Section 5: Dr Rejman's minute of 7 June 1995 - whether the authors of the minute were subjects of the investigation

- 5.1. In relation to the same document, Dr Rejman's minute of 7 June 1995, I am asked if the authors of the minute were "subjects of [my] investigation." **[DHSC0200022_002].**
- 5.2. As I have set out in section 4, above, I do not believe the audit team was aware of the minute of 7 June 1995 when Mr George was taking forward the audit investigation. In that sense, Dr Rejman as author of the minute of 7 June 1995 was not made a "subject of the investigation". However, in my introductory observations at paragraph 2.5 above, I have sought to explain that the language of making individual members of staff the "subject of investigation" is not how the audit investigations worked. We would have been focused on the systems issues not on individuals or their conduct/culpability/issues of blame. This approach is reflected in the agreed Terms of Reference.
- 5.3. It is difficult to speculate now on what difference it would have made had we been aware of the 7 June 1995 letter at the time. From the systems perspective, the key issue would have been to understand whether there was any kind of early warning system that could be triggered such that if one file was noted to have been inappropriately marked for destruction, others were checked and prevented from being destroyed. By virtue of the fact that other volumes of the GEB series were later destroyed, this would not seem to have occurred here and that would have been of interest and concern, but – I stress – from the viewpoint of how the system worked (or in this case, seemingly did not work).

Section 6: The evidence that led to particular conclusions and beliefs as set out in the Report:

6.1. The Inquiry asks me to set out what evidence led to the following conclusions and beliefs as set out in the final audit report ¹ [NHBT0000193_137]:

- (1) The conclusion in the Report at 3.1 that "...an arbitrary and unjustified decision, most likely taken by an inexperienced member of staff was responsible for the destruction of a series of files containing the minutes and background papers of the ... ACSVB".
- (2) The belief expressed at 3.2 of the Report that, 'the destruction of the files would have been prevented had the person marking the files for destruction, been aware of their importance'.
- (3) The conclusion in paragraph 4.5 of the Report that the decision to mark the ACVSB minutes for destruction was probably the result of:

"...either

- *a delegation of responsibilities without proper instruction; or*
- *an assumption of responsibility without proper authorisation"*

during the "upheavals of the FMR [Functions and Manpower Review] process".

- (4) The conclusion at 4.6 of the Report that the conclusion reached in paragraph 4.5 of the report was the most likely explanation for the decision to mark the committee papers for destruction and marking them with short destruction dates.
- (5) The belief in paragraph 5.9 of the Report that marking documents for destruction was 'authorised appropriately i.e. at the level (EO then, IP2 now) the Department considered to be appropriate".

¹ Although this was the final version of the audit report, the inquiry has provided me with the subsequent (2007) correction of the typographical error concerning the volumes numbers destroyed 20 March 2007, Graham Knapp's emailed Zubeda Seedat [DHSC0006197_007]:

I have no independent recollection now of precisely what evidence led to the above conclusions and beliefs. At the heart of the issues the Inquiry raises appears to be concern as to how these conclusions were reached if the person or persons responsible for the destruction had not been positively identified and interviewed as to their motivation. I would note, however, that the report did not purport to have identified the person concerned. Language is used in paragraphs 3.1, 4.5 and 4.6 reflecting that which we judged to be “most likely”, what “probably resulted” and the “probable explanation”. There is no doubt that this involved an assessment of what was most likely to have happened based on the evidence we had obtained, rather than a conclusion drawn directly from identification and interview of the person or persons who had marked the documents for destruction. The Inquiry has provided me with Mr George’s statement, where he sets out what evidence led to the conclusions and beliefs set out in the report. He states at paragraph 3.75 that the conclusion at paragraph 3 reflected an assumption, but one based on what seemed the most probable and reasonable explanation. I would agree with that.

6.2. I should add that I would certainly have seen, reviewed and cleared the auditor’s draft report. I have already set out at paragraph 3.11 above, my assessment now of the factors that led to the person who had authorised the destruction of the files not being interviewed. There is an undated document with hand-written comments that appears to relate to input I gave into Mr George’s draft report **[WITN6955019]**. I can confirm that this document is not in my handwriting (the ticks are also quite different to mine). But clearly it is a note of the input I was giving at this particular stage. I have no independent recollection now of giving this input and I do not specifically recall the meeting at which this note was apparently made. I have looked at the textual changes between drafts of the report; there is a version of the report marked draft 4 with handwritten annotations dated 5 April 2000 **[WITN6955018]**. The comments attributed to me in this note do not appear to be adding material content to the report in the areas which the Inquiry has raised as of interest or potential concern. They are more transitory and in one place dealt with the recommendations. From Mr George’s statement provided to me by the Inquiry, the note appears to read:

"Bill's comments on draft 3

*1.1 this report follows an investigation by internal audit into the
appr? loss of docs re Hepatitis C*

[? Replace 1st]

MEDS recommendation

2nd 3.2 (cross ref here)

4.2 to 4.6 good

4.7 1st bill. From storage at Nelson (carry on)

*5.3 something increase levels of litigation ...could be swallowed by
litigation*

5.4 (just a fact of life)

Branch Reviewing Officer

Logo and STU

Tomorrow DRO Steve Wells tomorrow pm"

I have no recollection of these notes.

So far as I can tell (and I note that this was input into the third draft), none of the above related to the report's central conclusions.

- 6.3. I do not recall any difficulties or issues with the draft report delaying the final report. I have a vague memory that this audit was pressured, but this might be simply its brevity and that we knew our work would go straight to the Permanent Secretary. As per the Terms of Reference, we were originally due to issue the report to Dr Troop, but in fact I sent it directly to the Permanent Secretary (see paragraph 8.2 below). I do not remember any other audit ever going directly to the 'top'. I do not know whether I sent the report direct to the Permanent Secretary because his Private Office had chased progress (see paragraph 2.14 above); or because I was keen to ensure that the Permanent Secretary personally saw the recommendation about the level at which destruction decisions could be made (see paragraph 8.3 below); or for some other reason.

Section 7: Investigation of alternative explanations to those set out in paragraph of the Report

- 7.1. The Inquiry asks whether consideration was given to alternative explanations to those set out in paragraphs 3.1, 4.5, 4.6, and 5.9 of the final report.
- 7.2. I am simply unable to recall now whether or what alternative explanations Mr George may have considered, nor whether this was discussed with me or considered by us when I reviewed the report in draft. It seems from all the documents I have seen that we did not have any evidence that the GEB registered files had been deliberately destroyed for malign reasons. I can only state that the conclusion that the documents were marked for destruction by an inexperienced member of staff who did not appreciate their importance seemed to us the most reasonable and likely explanation. I remain of the view that this was a reasonable conclusion seen in the context of the factors I have already set out concerning the timing and nature of the audit report.

Section 8: Those to whom the report was sent:

- 8.1. I have been asked by the Inquiry to set out to whom the final version of the Report was sent. The account below is based on the records available to me now in preparing this statement, not all of which I would have seen at the time.
- 8.2. On the morning of Friday 7 April 2000, I emailed the final audit report to the Permanent Secretary Chris Kelly, copying in Mr George, Roman Pronyszyn, Steve Wells, Ian Forsyth and Charles Lister. My short covering email noted:

"I attach the internal audit report arising from our investigation into the circumstances of the loss of papers relevant to litigation. It includes our recommendations for reducing the risk of a repeat occurrence

I propose sending a copy to Anita James in Sol" [WITN6963006]

- 8.3. On the same day, Steve Wells forwarded the final Report to Linda Wishart Annette Greenwood and Jill Moorcroft [WITN6963006]. Of note in this email is Mr Wells' comment that:

"The recommendation to upgrade the level for reviewing officers was re-instated at Bill Burleigh's insistence, with a view to making sure Perm. Sec. had the opportunity to consider it. I asked for my reservations to be put in as well, and to a very limited degree they are.

We may be able to re-visit some issues when we come to prepare an action plan with Internal Audit."

I do not recall this specific incident but the strong word 'insistence' seems to me to indicate I was worried that little action might be taken. This is an indicator that I thought the system as found was weak and the changes recommended to improve the situation should be considered at a very senior level and taken in full.

- 8.4. This in turn, was then forwarded to Andrew Holt (who I understand was Head of the Information Services Division) by Linda Wishart. Linda Wishart conveyed the reservations held by the DRO about the recommendation that the reviewing officer should be at IP3 level was not favoured:

“You will need to be aware of this when you return from leave. In a nutshell some important files were destroyed inadvertently due to inadequate reviewing procedures in divisions. Internal Audit were asked to report and they have made recommenda[tions] to improve records management awareness and training. Steve/DRO have been involved and support all the recs (we are already starting on some of them) except one which suggests that divisional reviewing officers should be at IP3 level rather than the current IP2 - we thought divisions would not welcome this given current work pressures and that IP2 would be sufficient with all other recs”
[WITN6963006].

- 8.5. On 7 April 2000, Andy Cade also forwarded the final Report to Martin Pitcher **[WITN6955014].**
- 8.6. There was then email correspondence between Helen Causley (Private Office of the Permanent Secretary), myself and Alice Perkins on 10 April 2000. It referred to the final report (*“Chris [Kelly] found it very helpful, and thinks the recommendations seem sensible...”*) and asked if Alice Perkins could provide a view on the practical implementation of the report. Helen Causley confirmed that it could be sent to Anita James. There is a handwritten note suggesting the final report was sent to Anita James that same day **[WITN6955014].**
- 8.7. On 19 April 2000, Marilynne Morgan sent a minute to me and Mr George, thanking us and welcoming our recommendations. The minute was also copied to Chris Kelly and Anita James **[WITN6955011].** Marilynne Morgan appears to have firmly agreed with our conclusions about the consequences of re-organisation.
- 8.8. On 20 April 2000, Anita James sent an email to Chris Kelly seeking permission from the Permanent Secretary to disclose the audit report to the Claimants’ solicitors **[WITN5426252].**
- 8.9. On 28 April 2000, the report was sent to DMS Solicitors by Anita James **[NHBT0000193_136].**
- 8.10. On 11 May 2000 Alice Perkins minuted Helen Causley copied to me, Linda Wishart and Steve Wells **[WITN6955008].** This referred back to the earlier exchange on 10 April. Alice Perkins addressed the concerns about the

recommendation made in the Report about IP3 managing destructions rather than IP2. She said:

"2. Our view would be that this would be problematic on already stretched managers. Clearly the role and responsibility of branch reviews currently delegated to IP2 level needs to be managed up the line - we would expect this to happen anyway. I think an alternative to this would be remind IP3s (and above) of the delegated responsibility to satisfy themselves that the systems were adequate and were properly implemented.

3. I am satisfied that the other recommendations will improve reviewing practice but some clear direction will be needed. A key part of the implementation plan we agree with Internal Audit will need to be a communication strategy which gets maximum advantage from top management endorsement, preferably from Chris himself, like the departmental security policy and guidance launched last November"

- 8.11. There is an email on the same day from Andrew Cooper to Helen Causley copied to me, Linda Wishart and Steve Wells [WITN6955007]. This may have been the covering email to the minute from Alice Perkins as set out above. It made the point that there was only one recommendation of concern.
- 8.12. I then forwarded this email onto Mr George and stated that I was happy with the alternative approach to our recommendation, but asked if Mr George was also content [WITN6955007].
- 8.13. I have mentioned at paragraph 3.5 above the further contact that Mr George appears to have had with Steve Wells in June 2000 [WITN6955009] and [WITN6955005].

Section 9: Advisory Committee on the Virological Safety of Blood

9.1. The ninth issue raised by the Inquiry is prefaced by the Inquiry informing me that it has collated a set of the ACVSB minutes which include copies of the destroyed minutes from May 1989 to February 1992, which are as follows:

- (1) 4 April 1989 Minutes of Advisory Committee on the Virological Safety of Blood 1st meeting **[NHBT0000041_ 003]**
- (2) 22 May 1989 Minutes of Advisory Committee on the Virological Safety of Blood 2nd meeting **[NHBT0005019]**
- (3) 3 July 1989 Minutes of Advisory Committee on the Virological Safety of Blood 3rd meeting **[NHBT0000072_ 025]**
- (4) 6 November 1989 Minutes of Advisory Committee on the Virological Safety of Blood 4th meeting **[NHBT0005043]**
- (5) 17 January 1990 Minutes of Advisory Committee on the Virological Safety of Blood 5th meeting **[PRSE0001477]**
- (6) 24 April 1990 Minutes of Advisory Committee on the Virological Safety of Blood 6th meeting **[ARCH0003385]**
- (7) 2 July 1990 Minutes of Advisory Committee on the Virological Safety of Blood 7th meeting **[PRSE0000976]**
- (8) 21 November 1990 Minutes of Advisory Committee on the Virological Safety of Blood 8th meeting **[NHBT0000073_018]**
- (9) 25 February 1991 Minutes of Advisory Committee on the Virological Safety of Blood 9th meeting **[PRSE0002280]**
- (10) 21 May 1991 Minutes of Advisory Committee on the Virological Safety of Blood 10th meeting **[NHBT0000042_ 080]**
- (11) 29 October 1991 Minutes of Advisory Committee on the Virological Safety of Blood 11th meeting, 29 October 1991. **[NHBT0000079_ 004]**

- (12) 21 February 1992 Minutes of Advisory Committee on the Virological Safety of Blood 12th meeting [NHBT0000079_017]
- (13) 2 July 1992 Minutes of Advisory Committee on the Virological Safety of Blood 13th meeting [NHBT0000079_061]
- (14) 29 September 1992 Minutes of Advisory Committee on the Virological Safety of Blood 14th meeting [NHBT0000079_066]

9.2. The Inquiry asks if, at the time of the preparation of the report, I was aware of the existence of any copies of these documents and if so, why this was not mentioned in the report. I was not aware of any copies of the destroyed documents. I have no recollection of this now. From the papers made available to me I can see that those involved in the litigation continued to try to find copy documents. For example, there is a minute dated from 5 April in which Mrs James told Mr Lister and Mr McGovern that some further papers had been obtained from counsel that had helped to fill in a few gaps [WITN5426244]. Neither Mr George nor I were copied into this minute – our focus in the audit was on the systemic issues regarding the destruction of the documents, but it was obviously right that those involved in the litigation continued to try to trace copy documents. We would not have been involved in that process.

Section 10: Conclusion and reflections with hindsight

- 10.1. I have reflected on the audit with hindsight looking at it retrospectively. The recommendations of this audit were accepted and the Permanent Secretary's view was that it was very helpful, and he thought that the recommendations seemed sensible. The audit never set out as an investigation into people's culpability; it had no link to personnel or disciplinary matters and was expressly not to be 'a witch-hunt'. It was an audit into what had happened; that files had been destroyed when they should not have been and whether established departmental procedures were sufficient to prevent future similar occurrences.
- 10.2. This audit was, from the start, to be short and with a possibility of further and wider audit work [WITN6955027]. In the event, after our report, no further audit work was requested. No investigation of a different nature was instigated.
- 10.3. Internal Audit's role was (and was in this case) to examine existing established systems (in this case, the system safeguarding registered files), where breaches had occurred, to find out what had happened and to recommend changes to Departmental systems to ensure adequacy of set procedures for achieving what they are there to achieve. I believe this audit fulfilled that brief.
- 10.4. In hindsight, given the growing vulnerability of the DH to the very serious results of breaches in the systems around its registered files, a larger follow-up audit should have taken place some months later, especially given the developments (actual and possible) in electronic file protection arrangements, for example in tagging together electronically files that contained papers that were together subject to litigation. In hindsight, also, it was a mistake to limit the time of this audit to such an extent. The Terms of Reference envisaged a shorter than normal time scale with the report due to take place in March and April. As I have explained, however, even before the end of March we were being chased for progress and the report was delivered on 7 April 2000. With hindsight, we ought perhaps to have resisted the calls for such a very quick turnaround and taken longer to carry out the audit and thereby allow time to include further interviews. Even so, the focus would have remained on learning lessons and systemic

issues not on individual culpability. Moreover, it is I believe impossible to say whether the outcome would have been any different if further interviews had been conducted.

Statement of Truth

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

Signed.....

GRO-C

Dated..... 7/10/22