

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

Witness Name: Patricia Hewitt

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INFECTED BLOOD INQUIRY

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

Contents

Section 1: Introduction and opening comments	4
Introduction	4
Opening comments.....	4
Qualifications and employment history	7
Qualifications	7
Employment history	7
Role and responsibilities as Secretary of State for Health	10
Prior knowledge of issues.....	10
Other ministers	10
Senior civil servants.....	11
Memberships	12
Litigation history.....	12
 Section 2: Destruction of documents	 13
First awareness of destruction of documents	13

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

Establishing how the documents were destroyed	13
Communication with Lord Crisp	15
Communication with William Connon	15
Communication with Caroline Flint	16
Assisting Lord Jenkin with retrieving papers	18
Retention of documents policy	19
Meetings with campaign groups	20
Returned files	21
Missing Macfarlane Trust Waivers	23
The unregistered files at Wellington House	24
Lines to take	25
Guidelines for retention of papers	26
Lord Owen's papers	27
 Section 3: Calls for a Public Inquiry	 28
Government's decision not to hold a statutory inquiry	28
Understanding of the Government's stance	28
Investigation undertaken to reach the conclusion that "the government acted in good faith"	30
Involvement with the Self-Sufficiency report	32
Continuing and increased requests for a public inquiry	36
The Scottish position	37
Document review under the 1977 Act	37
Inquiry vs document review	39
Involvement in commissioning the document review	39
Position on a public inquiry	42

Section 4: Department of Health's engagement with the Archer Inquiry

.....	44
Outline Chronology	44
DH view that the Inquiry was "unnecessary"	53
Lord Archer's expectations of the DH	55
Meeting about the Archer Inquiry	55
Outcome of the Meeting about the Archer Inquiry	57
Further meetings about the Archer Inquiry	57
Reply to Lord Archer.....	61
Meetings with the Archer Panel	61
Differing reasons for declining to provide witnesses	62
Documents provided to the Inquiry	62
Judith Willetts' witness statement	63

Section 5 : Reflective questions

.....	66
DH handling.....	66
Blood Policy Team Capacity	66
Andy Burnham's statement.....	66
Earlier inquiry.....	67
Statements made in Parliament as Secretary of State and in Opposition.....	67
Further comment	67

Section 1: Introduction and opening comments

I, Patricia Hope Hewitt, will say as follows: -

Introduction

- 1.1. My name is Patricia Hope Hewitt and my date of birth and address are known to the Inquiry. I was the Secretary of State for Health between 6 May 2005 and 28 June 2007.
- 1.2. I am providing this written statement in response to the Inquiry's Rule 9 request dated 18 October 2022.

Opening comments

- 1.3. I want to start by offering my deepest sympathy to everyone who was infected or affected by the provision of contaminated blood by the NHS in the 1970s and 1980s. Reading statements made to the Inquiry itself and to the associated review of compensation, I am horrified by the extent of the suffering caused by this tragedy.
- 1.4. Although I had overall responsibility as Secretary of State for issues relating to contaminated blood, I was not closely involved in them. They were the direct responsibility of Caroline Flint, the Minister for Public Health. Lord (Norman) Warner - and subsequently Lord (Philip) Hunt - were also involved as many of the issues were raised in the House of Lords where many of the campaigners were themselves members. Although Lords Ministers had to deal with all Ministerial business in that House, the policy issue remained part of the public health Minister's portfolio. Caroline, Norman and Philip were excellent colleagues in whom I had full confidence. Furthermore, it is seventeen years since I became Health Secretary and I remember very little about the discussions and decisions relating to contaminated blood at the time. I have therefore had to rely heavily on the documents provided by the Inquiry and

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

others supplied by my legal representatives to reconstruct events and - even more difficult - what would have been in my mind. I have tried to do so as accurately as possible, but the process of reading documents that, in most cases, I did not see at the time, has inevitably made it difficult for me to distinguish between what I genuinely remember and what I now know or believe to have been the case.

- 1.5. I would add that there is nothing sinister in the fact that I did not see most of these documents at the time; it was established policy in all Departments where I served for the bulk of correspondence either to be marked as 'treat official' and therefore never seen by Ministers or to be allocated to a junior Minister for reply and therefore never seen by the Secretary of State. Equally, I would not generally have expected to see submissions to junior Ministers or records of conversations between them and officials on matters they were handling.
- 1.6. I should also explain that, throughout my time as Secretary of State, I was almost continuously preoccupied by a succession of extremely challenging and controversial issues within the NHS that demanded my full attention and that of my private secretaries and special advisers. These included a difficult reorganisation of Primary Care Trusts, promised in the 2005 manifesto to release more funding for front-line care; a massive but poorly understood NHS reform programme building on the 'commissioner'/'provider' split and promoting choice and competition; the revelation in autumn 2005 of significant overspending by the NHS in England, despite the largest ever increase in NHS funding in the previous five years and in breach of long-established public spending rules; and in early 2006, the discovery that the department's recently-published 'tariff' or price that acute hospitals would be paid from April for hip replacements and other elective treatments had been wrongly calculated and had to be withdrawn. As Secretary of State, I put in place and personally led a major overhaul of the way in which NHS finances and activity were managed and reported. Given the serious inadequacies that had been revealed in the department's structure and leadership, I also worked closely with No 10 and the

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

then head of the Civil Service, Lord (Gus) O'Donnell, to review and then restructure the department and its leadership. Throughout this period and beyond, I was facing almost daily headlines and angry protests about NHS redundancies; I was regularly called upon to answer urgent questions and debates in Parliament; I was keeping in regular contact with MPs who had health-related issues in their constituencies, as well as with clinical and other NHS leaders around the country; and I was dealing with other wholly unexpected events including the poisoning of Alexander Litvinenko in November 2006. Strategically, I worked closely with the Department's excellent clinical leaders to build public understanding of the transformation in medicine that, in turn, required a transformation in NHS services; for that reason, I initiated "Our Health, Our Care, Our Say", involving a large and representative group of citizens in considering how care could be more effectively delivered closer to home. I was closely involved in an extended and difficult debate within government itself about the promised ban on smoking in enclosed public places and, in particular, whether or not to depart from the 2005 election manifesto pledge to exempt licensed premises that did not serve food. I was working with officials and the then chair of NICE, then a fairly new but already critically important institution, to speed up its review processes, particularly in response to Herceptin, a new breast cancer drug. I also sought to make progress on the digitisation of healthcare, not only through the national IT programme, but also through the introduction in 2007 of the NHS Choices website (now www.nhs.uk).

- 1.7. Just as I felt that things were calming down, a new crisis erupted in March and April 2007, when it became clear that implementation of the reform of junior doctor training ('Modernising Medical Careers') had been seriously mishandled with the result that there were several thousand more qualified applicants than training posts. I immediately announced the establishment of an independent inquiry, to be led by Professor Sir John Tooke, and set about with key clinical and departmental leaders sorting out the immediate problem of ensuring that junior doctors could continue their training.

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

- 1.8. This recital is not designed in any way to ask for sympathy: being Secretary of State for Health was the greatest privilege of my professional life. It is merely intended to convey the pressures at the time; even working up to 18 hours a day, six or seven days a week, it was simply not possible to give the same level of attention to many other issues, including infected blood issues, even though - completely understandably - those infected and their families may well feel that their suffering was even more important than those issues I have mentioned.

Qualifications and employment history

Qualifications

- 1.9. I have no professional qualifications relevant to the Inquiry's Terms of Reference.

Employment history

- 1.10. I was elected to Parliament on 1 May 1997 as the Labour MP for Leicester West and remained the MP for that constituency until the 6 May 2010 election, which I did not contest.

- 1.11. The following table outlines my employment history:

Table 1 – Employment History

Date	Organisation	Roles and Responsibilities
1971 – 1973	Age Concern	Public Relations Officer

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

Date	Organisation	Roles and Responsibilities
1973 – 1983	National Council for Civil Liberties	Women's Rights Officer (1973 - 1974) General Secretary (1974 - 1983)
1983 – 1989	Office of the Leader of the Opposition (Rt Hon Neil Kinnock MP)	Press and Broadcasting Secretary (1983 - 1988) Policy Coordinator (1988 - 1989)
1993 – 1995	Commission on Social Justice	Deputy Chair (1993 - 1995)
1989 – 1994	Institute for Public Policy Research	Deputy Director (1989 – 1994)
1994 – 1997	Andersen Consulting	Director of Research
1995 – 1996	Healthcare 2000	Member, Enquiry Panel
1 May 1997 – 6 May 2010	House of Commons	MP for Leicester West
29 July 1998 – 29 July 1999	HM Treasury	Economic Secretary

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

Date	Organisation	Roles and Responsibilities
29 July 1999 - 8 June 2001	Department for Trade and Industry	Minister of State for Small Business and e-Commerce
8 June 2001 - 6 May 2005	Department for Trade and Industry	Secretary of State for Trade and Industry; Cabinet Minister for Women and e-Minister in Cabinet.
6 May 2005 - 28 June 2007	Department of Health	Secretary of State for Health
2008 - 2014	BT Group plc	Non-executive Director; Senior Independent Director (2015 - 2018)
2015 – present	FTI Consulting	Senior adviser
2017 – 2022	Norfolk & Waveney Integrated Care System	Chair
2022 – present	NHS Norfolk & Waveney Integrated Care Board	Chair

Role and responsibilities as Secretary of State for Health

- 1.12. As Secretary of State for Health, I was responsible for the Ministerial leadership of the Department including its responsibilities for the NHS, public health and social care policy. Although I had overall responsibility for everything that happened on my watch, I had a large and very able team of junior Ministers who between them covered in detail the Department's many responsibilities.

Prior knowledge of issues

- 1.13. Before my appointment as Secretary of State for Health in May 2005, I was aware, in the most general terms, that a significant number of people had received contaminated blood from the NHS several years earlier. I do not recall having any more specific information or understanding at that stage. As far as I can remember, no constituent had been to see me about this issue.

Other ministers

- 1.14. During my time as Secretary of State, my Ministerial team was as follows:
- (1) The Minister of State for Health Services was Rosie Winterton;
 - (2) The Minister of State for Quality and Patient Safety was Jane Kennedy (until 5 May 2006) and then Andy Burnham;
 - (3) The Minister of State for NHS Delivery (later NHS Reform) was Lord Warner (until 31 December 2006) and then Lord Hunt of Kings Heath from 5 January 2007);
 - (4) Caroline Flint was the Minister for Public Health (MS(PH)). She started at Parliamentary Under-Secretary of State (PS(PH)) rank but was promoted to Minister of State rank in May 2006, still holding the public health portfolio of responsibilities.
 - (5) The Parliamentary Under-Secretary of State for Care Services was Liam Byrne (until 5 May 2006) and then Ivan Lewis.

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

- 1.15. Throughout my time as Secretary of State, infected blood products and the related issues of support schemes were within the portfolio policy issues handled by Caroline Flint. The Minister in the Lords (initially Lord Warner, then Lord Hunt) had involvement in that they covered the subject when debated in the House of Lords.
- 1.16. I remained accountable to Parliament for the entirety of the work of the Department. While Caroline Flint would have handled many of the issues herself, as set out further in this statement, there were times when I was more directly involved.

Senior civil servants

- 1.17. The most senior civil servants in the Department were:
- (1) Sir Nigel (now Lord) Crisp who held the dual roles of Permanent Secretary of the Department and Chief Executive of the NHS until March 2006;
 - (2) Sir Hugh Taylor who then succeeded Lord Crisp as Permanent Secretary;
 - (3) Professor Sir Liam Donaldson, who was Chief Medical Officer throughout my time as Secretary of State;
 - (4) Sir David Nicholson who was NHS Chief Executive from September 2006 (Sir Ian Carruthers served as interim NHS CE from March – September 2006).
- 1.18. With respect to the issues concerning infected blood, I am reliant on the documents as to the civil servants who were most involved. The documents show submissions and notes coming principally from the following (and usually sent via one of my Assistant Private Secretaries Dani Lee):
- William Connon;
 - Zubeda Seedat; and

- Liz Woodeson.

Memberships

1.19. As far as I know, I have never been a member of any committee, association, party, society or group directly relevant to the Inquiry's Terms of reference (although it is possible that an organisation I belong to, or have belonged to, has intervened on this issue without my being aware of it). I have been a member of the Labour Party since 1970.

Litigation history

1.20. I have not provided evidence to or been involved in any other inquiry, investigation or litigation relevant to the Inquiry's Terms of Reference. I have addressed in this statement my involvement in relation to the approach adopted to the inquiry chaired by Lord Archer.

Section 2: Destruction of documents

First awareness of destruction of documents

- 2.1. I have been asked but do not recall precisely when I became aware that papers from the DH relating to contaminated blood and blood products had been destroyed. I can see from the bundle of papers that I wrote to Charles Clarke MP on 25 November 2005 about the Department's policy on document retention [HSOC0009249]. This letter was a response to Charles Clarke's letter of 10 November 2005 [WITN7420002]; I would not have seen the incoming letter until I was given the draft reply to review and sign); judging from my letter to him in February 2006, however, the letter to which I replied in November 2005 did not make any reference to contaminated blood or the destruction of documents in the 1990s; it was phrased as a generic enquiry.
- 2.2. I would however have seen the article in the Times on 3 November 2005 headed "Blood blunder evidence shredded" [WITN3996019]. Although I cannot recall when I first discussed the destruction of documents with Ministerial colleagues or officials, I believe it would have been around this time.

Establishing how the documents were destroyed

- 2.3. I remember being extremely unhappy about the destruction of such important papers but I rather vaguely recall being given an explanation as to how this had apparently happened. I think this was in a conversation but I cannot remember when. From what I was told, however, I believed this was simply an administrative error in the past, rather than anything that might raise questions about officials currently serving in the department.
- 2.4. Amongst the available papers is a submission dated 8 December 2005 from William Connon to Caroline Flint but also copied to my Private Office

[DHSC5030406]. The submission was about materials to be released by the Scottish Executive. The background said,

"Since the Freedom of Information Act came into force we have had numerous requests for the release of papers dating back to the 1970s/early 80s relating to the issue of haemophilia patients infected with HVC. Unfortunately, many of our papers dating back to this period have been destroyed. Our understanding is that during the HIV litigation in the 1990s many papers were recalled. We understand that papers were not adequately archived and were destroyed in the early 1990s. In addition, we have established that many papers on HVC infection were destroyed in error in the mid-1990s. In response to various FOI requests we have had to own up to this fact." [DHSC5030406] (1)

- 2.5. On 9 February 2006 [HSOC0009274] I wrote again to Charles Clarke MP, in response to a further letter from him dated 14 December 2005 [DHSC6548565]. My reply, which I would have read carefully before signing, explained "... we do not know enough about what happened to answer that question [about an inexperienced member of staff]." I went on to say:

"These particular records were destroyed between 1994 and 1998, in line with instructions written on the file by a member of the policy team when the records were transferred to the archive three or four years before. Sir Nigel's letter [to Lord Jenkin] made it clear that the records should not have been destroyed. I do not believe we can go further in examining the causes of the mistake."

- 2.6. A note to me dated 24 July 2006 from Lord Warner and Caroline Flint provided me with an update on contaminated blood products and hepatitis C, and pressure for a public inquiry [DHSC0103399_003]. That note included that,

"Following firstly HIV and secondly hepatitis C litigation procedures in the 1990s, we know that various relevant Department of Health papers were destroyed in error."

Currently we do not know the full extent of what was destroyed nor the content of all available papers. We need to establish more information about those papers as soon as practicable, as the issue has attracted considerable interest via FOI requests and parliamentary questions."

...

Following an internal audit of events surrounding the loss of papers, officials are now analysing all the papers available, including over a thousand released in Scotland recently. They anticipate that this may take up to six months but it is important it is undertaken to establish the

facts and our position in relation to any Inquiry. We would propose to release these under Fol provisions. ..." [DHSC0103399_003](1,2)

Although I may have discussed this "further work" with Lord Warner and/or Caroline Flint before July, I do not remember doing so and the documents I have reviewed do not suggest that I did.

Communication with Lord Crisp

- 2.7. I have been asked what communications I had with Lord Crisp in relation to the destruction of documents. Given the publicity about the destruction of documents in November 2005, it is possible that we might have briefly discussed the matter sometime between then and his resignation from his post in March 2006, although as I indicated earlier, we had a growing number of extremely pressing issues to discuss at the time. I do not remember any particular discussion with Lord Crisp on this issue; I have not found in the documents any note of such a conversation; and I note that Lord Crisp's second witness statement does not mention any such discussion.

Communication with William Connon

- 2.8. I have been asked about communications with William Connon, head of the Blood Policy Team in relation to the destruction of documents. I do not remember any communications or meetings with William Connon.
- 2.9. Willam Connon was the civil servant who produced the most submissions on blood issues and I understand that he was head of the Blood Policy Team. Some of these submissions were copied to my private office, for example the one at paragraph 2.4 above and others mentioned within my statement. The submissions that were copied to my private secretaries would not have routinely been shown to me. In relation to submissions that were copied to my private office, my private secretaries would exercise judgement as to whether I needed

to see any of them. Given the very significant volume of submissions, they had to be selective.

Communication with Caroline Flint

- 2.10. I have been asked what communication I had with Caroline Flint in relation to the destroyed documents. Given the passage of time and the many other issues I was dealing with at the time, I am afraid I cannot remember any specific communications or conversations on this matter.
- 2.11. I have seen an email from Clare Walsh to William Connon and Gerard Hetherington dated 7 June 2006 [WITN7420003]. Clare wrote, *"This has come back from SofS's office with a note asking that you look over this and check that what we are saying reflects recent discussions with Lord Warner and Caroline Flint"*. This was in relation to correspondence, again from Charles Clarke, on behalf of a constituent [DHSC6548564].
- 2.12. The return of this letter from my Private Office shows that they were aware that Lord Warner and Caroline Flint had been having discussions about the issues and wanted to ensure that the draft response was consistent with their latest thinking. It is not clear from the note whether the "discussions" referred to were between Lord Warner and Caroline Flint, or between them and myself; I am afraid I simply cannot remember whether I had discussed the issue with them around this time. The note from my office to which Clare Walsh refers might have been the initiative of one of my Private Secretaries or might have reflected a comment from me; again, I am afraid I simply cannot remember.
- 2.13. As I have already mentioned above, I see from the documents that Caroline Flint and Lord Warner sent a note to me on 24 July 2006 [DHSC0103399_003] updating me on the issue of contaminated blood products and hepatitis C and pressure for a public inquiry. The destruction of documents was referenced in the terms I have set out in paragraph 2.6 above. They briefly summarised the pros and cons of a public inquiry, noting that officials had, on balance, advised

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

that an Inquiry would be disproportionate and not justified and stated that the Scottish Minister for Health had firmly rejected the call for an Inquiry. As an alternative, they had explored the possibility of commissioning an independent review and commentary on all the papers. I see that Jacky Buchan, Assistant Private Secretary (APS) to Caroline Flint, responded to Caroline Flint conveying my view that, if Caroline

“...really believe[s] an independent commentary is worth it and affordable then she [ie myself] is content. However, she feels that it will fuel rather than deflect calls for a public enquiry - which we are absolutely right not to do.” [DHSC0103399_003].

- 2.14. Consistent with this, I have seen a note from my Private Secretary briefly summarising this submission from Caroline Flint and Norman Warner. I endorsed the note in hand with my views in the terms set out above [DHSC0041306_038].
- 2.15. Among the available documents are handwritten notes between Caroline Flint and her APS Jacky Buchan, which must have been after the note referred to above [WITN5427031]. On 30 August 2006, Jacky Buchan provided Caroline Flint with information about how much an independent commentary would cost. Caroline has endorsed this referring to having further discussion with Norman Warner about this after the Parliamentary recess but I cannot see any reference to discussions with me. Another note dated 18 October 2006, informed Caroline about when documents from the self-sufficiency report had been released and there is reference to a joint meeting with the CMO, but again this does not seem to relate to discussions with me [WITN5427031].
- 2.16. It is possible that I discussed the issue of destroyed documents with Caroline at one of our regular informal Ministerial get-togethers, or a one-to-one on another occasion, but I am afraid I do not recall such a conversation and the documents I have been shown do not mention any such meeting or conversation.

Assisting Lord Jenkin with retrieving papers

2.17. I have been referred to the following documents on this issue:

- (1) an email chain between various officials beginning on 9 February 2005 regarding a letter to be sent to Lord Jenkin about the destroyed documents [WITN3996006].
- (2) a further email dated 31 March 2005 [WITN3996009]. This is about a meeting to take place between Lord Jenkin and Lord Crisp.
- (3) a submission from Zubeda Seedat to Lord Crisp dated 29 November 2005 [WITN3996019]. At this stage, the advice was for Lord Crisp to decline the meeting. I do not recognise the names of the officials to whom this submission was copied; as far as I can see, none of my private office staff were copied into this.
- (4) a further submission from Ms Seedat to Lord Crisp dated 6 February 2006 [WITN3996022]. As above this does not look like it was sent to my private office. Lord Jenkin wanted a copy of the self-sufficiency report and the draft letter annexed to it stated, *'I understand, that you have been informed that the report will be published at the end of February. Officials will of course ensure that you are sent a copy.'*
- (5) A Parliamentary Question (PQ) in the House of Lords dated 22 May 2006 [DHSC0015839]. The question was,

'whether the files of papers about contaminated blood products which have recently come to light, some of which have been returned to the Department of Health, provide evidence to support the claims of haemophiliacs and that their infection with hepatitis was caused by such blood products.' [I DHSC0015839] (3)

Lord Warner would have answered this question.

2.18. Among the available papers is also correspondence between Lord Jenkin and Lord Hunt in February 2007 [WITN7420004]. Lord Jenkin was being offered the opportunity to review the papers underlying the review that had been carried out by Linda Page including documents returned by solicitors. However, my Private Office was not copied in and it appears that Lord Hunt was dealing with this correspondence.

- 2.19. As far as I can tell from these documents, neither I nor my Private Office saw any of them at the time. I have no recollection of seeing them, nor would I expect to have done so. Although I may have had a conversation with Lord Warner or Lord Crisp on the matter, I am afraid I cannot remember any such discussion. The documents do not record any such conversation.

Retention of documents policy

- 2.20. As I have indicated, on 9 February 2006, I wrote to Charles Clarke regarding the DH's practices on retention of records. It was stated that according to the guidance current at the time of the destruction of documents, retention decisions were made by officers of at least Executive Officer grade, appointed by senior officers who are satisfied that the officer is sufficiently aware of the administrative needs of the section to be able to make the decisions [HSOC0009274]. Later in the letter, it is stated that recommendations were implemented to update the guidance, which included ensuring that retention decisions were made by staff at a higher level of seniority or with sufficient knowledge and experience to make such decisions. I wrote an earlier letter to Charles Clarke MP dated 25 November 2005 [HSOC0009249], see paragraph 2.1 above. This letter enclosed a copy of *"the Department of Health's retention and disposition schedule"*.

- 2.21. The Inquiry asks me to clarify the level of seniority that was required to make retention decisions. I cannot recall the specifics of this now. Based solely on the face of the above correspondence, it seems that at the time the requirement was for it to be at EO level but had subsequently been strengthened to require more senior staff or staff with sufficient knowledge and experience to make such decisions. That appears to envisage that it could still be at EO level but that managers must be assured that such staff had the requisite knowledge and experience to make retention decisions. However, ministers would not be involved in the detail of this and the departmental record office would be better placed to comment. As Secretary of State it was not part of my remit to consider

retention policies. If I had thought about it, I would simply have assumed that the Permanent Secretary or those working to him would have put appropriate arrangements in place.

- 2.22. It was clear to me that senior officials genuinely regretted and were embarrassed by the destruction of important documents that should not have taken place. Because of my letter to Charles Clarke in November 2005 and possibly because of other conversations, I believed that the Department had reviewed and strengthened both the policy on retention of documents and its implementation.

Meetings with campaign groups

- 2.23. I have been asked why a meeting was granted with the Haemophilia Society and not the Manor House Group.
- 2.24. In this context, I have been referred to an email thread between Zubeda Seedat and Jacky Buchan APS to Caroline Flint [DHSC0200104]. Ms Buchan sought advice on the request for a meeting from the Manor House Group. A submission in reply dated 3 February 2006 from Ms Seedat to Caroline Flint advised, *“A meeting with the Secretary of state is not recommended. Nor would we recommend that a meeting is offered with PS(PH)”* [DHSC0200104].
- 2.25. The Inquiry also refers me to what appears to be an update on press work dated 21 March 2006 [HSOC0009208]. This appears to be internal documentation from the Haemophilia Society and I would not have seen this at the time. However, there is a paragraph within it which states: *“The [Haemophilia] Society met with William Connon of the Department of Health and was able to put concerns about the inadequacy of the report. The Society asked for input from campaigners to help in drafting the response and there was good feedback.”* [HSOC0009208].

2.26. I see from these documents that the Manor House Group wrote to me in November 2005 asking for a meeting. As the documents make clear, I never saw that letter and the request was declined. I have no recollection of hearing any mention of the Manor House Group at the time. I was, of course, aware of the Haemophilia Society which was a well-established patients' organisation.

2.27. I note that the 3 February 2006 submission referred to above was not copied to my Private Office, so I would not even have been aware of Manor House Group's request or the recommendation for me not to meet with them. As was appropriate, officials sought direction from Caroline Flint who was the Minister dealing with the issues. Looking at the submission to Caroline Flint now, the reason why officials recommended declining the meeting with the Manor House Group was that statements had been made in response to the key issues raised by that group and the assessment of officials was that Ministers would not have anything to add to what had been said already. The Inquiry is, I think, drawing my attention to the contrast with the Haemophilia Society where there was a meeting held albeit with officials not Ministers. I would have assumed that requests for meetings would be assessed on their merits by the appropriate officials and a recommendation made according to the facts and context relevant to each request. As I have made clear, I was not aware of this particular request for a meeting and I would only have intervened if, for instance, a constituent or a Parliamentary colleague had mentioned it to me and suggested that a meeting should in fact be granted. To the best of my knowledge and recollection, no one ever mentioned the Manor House Group to me.

Returned files

2.28. The Inquiry raises the issue of files that were returned to the Department by firms of solicitors in 2006 and by way of background has directed me to:

- (1) A PQ from Lord Jenkin on 24 May 2006 asking about the returned files [DHSC0041304_052]. This was answered by Lord Warner;

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

- (2) What appears to be an annex to a submission which references returned documents [I DHSC0041159_228]. The submission this was attached to was dated 7 July 2006 and related to a meeting with the chairs of the Macfarlane and Eileen Trusts. This was copied to Liz Kendall [WITN7420005].
- (3) An email chain between officials from May 2006 referring to the returned files. This was not copied to Ministers but referred to a planned meeting with ministers the following week [DHSC5412535].

2.29. In an email of 25 May 2006 William Connon wrote, *“Destroyed documents: although not explicitly requested, I think it would be helpful to compile a definitive list of all the sets of documents which have been destroyed ... when they were [de]stroyed (if we know), circumstances of destruction and likelihood of the documents which have just been found by the solicitors being copies of the destroyed documents”* [DHSC0200125]. I do not know if the list was ever created. If it was, I cannot now recall seeing it nor would I expect to have done so unless a Minister, private secretary or special adviser had decided to escalate the documents issue to me and gave me a copy of this list (assuming that it existed at all).

2.30. The Inquiry refers me to an email from Lord Warner’s APS Rebecca Spavin to Gerard Hetherington and others, dated 25 May 2006 [DHSC5286062]. This was copied to Caroline Flint’s private office but not to mine (nor would I have expected it to be). The action list requested included a joint paper which was to be drafted for Lord Warner and Caroline Flint to send to me which, amongst other things, was intended to provide information on the returned files (ie what percentage are they of the destroyed files). The paper that was eventually sent to me by Lord Warner and Caroline Flint was dated 24 July 2006 to which I have already referred [DHSCO103399_003]. That note did not provide an assessment of what percentage of the destroyed documents the returned document comprised, but I cannot speculate on why that was the case. I have no idea what percentage of destroyed volumes were made up of the documents

returned by external solicitors. At some point, I think I was told that steps were being taken to try and obtain copies of the missing documents, in particular by asking other firms involved in the various litigations. The documents I have reviewed do not, however, enable me to be more precise on this matter. I can see from the documents, however, that a lot of effort was put in by officials to try and reconstruct the documents that were thought to have been destroyed.

- 2.31. As explained earlier, I was not involved in the detail of this, and I do not independently recall what investigation or analysis was undertaken of the returned papers. However, looking at the documents provided to me and in particular the 24 July 2006 note to me from Caroline Flint and Norman Warner, [DHSC0103399_003], I can see that it was made clear that the documents were being analysed internally, which they thought might take up to six months. They then mooted further options of a public inquiry or an independent review and commentary. In the end the internal review was pursued and the report on NANB Hepatitis by Linda Page was published in May 2007. I was not aware of anything in any documents that needed us to reconsider the standard lines to take.

Missing Macfarlane Trust Waivers

- 2.32. The Inquiry has referred me to the following documents on this issue:

- (1) A letter from Mr Andrew March to me dated 9 July 2006 [WITN1369008].

Mr March wrote to the Department asking us to locate his signed waiver undertaking not to seek legal action and said that he would have been under the age of 18 when he would have signed it. There is no reason why I would ever have seen the letter from Mr March; since the reply came from the customer service centre, it would have been marked "Treat official". The letter of reply to Mr March was dated 17 October 2006 and came from Bilal Ghafoor of the customer service centre at the DH [WITN1369051]. This letter stated that they had been unable to trace

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

the signed document and, *"We believe that it may have been amongst several files which we know were inadvertently destroyed since that time."*

- (2) An email thread between department of health officials and the Solicitor's Division from April 2007. They were discussing clearance of the answers to PQs referencing the lost waivers [DHSC5468582].
- (3) Amongst the available materials, there is another email thread between officials in September 2006 discussing the attempts to locate the waivers [WITN7420006]. Again this was all being handled by officials and there is no indication that I was copied in or involved.

2.33. I have no recollection of hearing about the Macfarlane Trust waivers at the time. It is possible that they were mentioned in conversation, but I am afraid there is nothing in these documents to suggest that I knew about them.

The unregistered files at Wellington House

2.34. There is an email chain from late September to early October 2006 [DHSC5435884]. This is between DH officials and the assistant private secretaries of Caroline Flint and Lord Warner regarding the files that have been found. There is a further email from William Connon to Elizabeth Woodeson dated 9 October 2006 [DHSC5154769]. None of these were copied to my Private Office, nor would I expect them to have been.

2.35. I have also seen a submission from William Connon to Lord Warner dated 9 October 2006, with a much longer copy list including one of my Special Advisers, Liz Kendall (now Liz Kendall MP) and my APS at the time, Dani Lee [DHSC0200135]. I also note it was copied to Paul Corrigan, Special Adviser at No 10. This submission refers to all the files that were returned or found including:

"Wellington House files, these have always been in the possession of DH and held at Wellington House, including the unpublished references to

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

the report 'Self-Sufficiency and 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".

- 2.36. I have been asked when I was first made aware of the discovery of the Wellington House files, the circumstances in which David Burke discovered them and whether there were any changes to departmental record keeping procedures following the discovery. I am afraid that I cannot remember exactly when I became aware of the 47 files although I am sure I would have been told about them in early October following William Connon's submission. As I said earlier, I was extremely unhappy about the whole issue of destruction of documents and I have a rather vague recollection of being utterly exasperated by the discovery of a further set of documents that had been sitting in a cupboard. I have no recollection of the circumstances in which they were discovered and I certainly did not have the time to pursue the question of record keeping procedures. I was vividly aware that the Home Office had a very large backlog of immigration case records sitting in a basement somewhere (I recall that it was so water-logged officials could not enter it to retrieve the files), reinforcing my view that human error and/or incompetent administrative procedures were the problem, rather than any deliberate cover-up.
- 2.37. The Inquiry refers me to the fact that in July 2008 a further 41 folders of unregistered files were discovered in Wellington House. I have seen emails between officials in relation to this [DHSC5533007] and [DHSC5532594]. I ceased being Health Secretary in June 2007 and have no idea why these files were not identified earlier.

Lines to take

- 2.38. I have been asked, after the discovery of the two sets of unregistered files, what consideration, if any, was given to amending the standard lines to take in relation to the circumstances of infection by blood or blood products. I do not recall any discussion or consideration of amending the lines to take following

the discovery of the 47 files in October 2006. However, the broad picture towards the end of my time as Health Secretary was that both the files returned by solicitors' firms, and the documents (the 47 files) found in Wellington House were being considered by officials. If the content of those documents had changed the understanding of past events, I would have expected Ministers to be informed of that fact, and Departmental "lines to take" to have been amended accordingly. I do not recall any suggestion that any of the documents revealed new information that would have cast doubt upon the existing "lines to take", and the documents I have reviewed for this Inquiry do not suggest otherwise. The report on the further papers was published in May 2007, shortly before I ceased to be Health Secretary.

- 2.39. Obviously I have no knowledge of any further consideration on this matter in 2008.

Guidelines for retention of papers

- 2.40. I have been referred to an email chain relating to retention of papers when ministers leave office from July 2007 [DHSC5093154]. Zubeda Seedat wrote in an email dated 12 July 2007, which was copied to Danni Lee, *"I therefore followed up with Private offices and was told that it is standard practice that papers held in Ministerial private offices are not kept after a change of Government. My understanding is that in some cases papers are returned to the policy section"* [DHSC5093154].
- 2.41. From my time as Secretary of State both in the Department of Health and in the Department of Trade and Industry, I understood that papers from Private Ministerial Offices were retained within departmental archives, that these would not be shown to subsequent Ministers if there was a change of Government but that former Ministers (as in Lord Jenkin's case) were entitled to see papers relating to their time in office. I was not aware of, or familiar with the mechanics

of precisely how the Department chose to achieve this and as Secretary of State, it was not something that I was involved in.

Lord Owen's papers

2.42. I have been referred to the following documents relating to the policy of retention or destruction of documents after a change in government:

- (1) Emails between Zubeda Seedat and Jacky Buchan in April 2006 [DHSC0200119]; and
- (2) Emails between officials about a PQ from Lord Jenkin from April 2006 [DHSC0200120]. These were not copied to my private office and I would not have seen them.

2.43. I have been asked about Lord Owen's papers. I am afraid that I have no recollection of this matter at all. None of these emails were copied to my Private Office. I would not have seen them. I would not have been involved in this and would not have considered the mechanics of how the documents were destroyed. I do not recall anyone discussing this with me and I think it would have been unusual to discuss a former Secretary of State's requests with a new Secretary of State, particularly from a different political party.

Section 3: Calls for a Public Inquiry

Government's decision not to hold a statutory inquiry

- 3.1. I have been asked what part I played in the Government's decision not to hold a statutory public inquiry. As other evidence to the Inquiry confirms, it was the settled policy of the Government, confirmed by successive Health Secretaries, not to hold a public inquiry. The note to me from Caroline Flint and Lord Warner dated 24 July 2006, for instance said, *"This note updates you on the issue of contaminated blood products and hepatitis C and the pressure for a Public Inquiry."* The conclusion was, *"You are invited to note the current position, and the line we propose to take against the need for an Inquiry, and further, to consider the option of producing an independent commentary under the Act"* [DHSCO103399_003].
- 3.2. Lord Warner and Caroline Flint were both experienced Ministers with whom I worked very closely during my time as Health Secretary. Neither they, nor the Permanent Secretary, nor senior officials were in favour of establishing a statutory public inquiry. Furthermore, their note informed me that the Scottish Health Minister had also firmly rejected proposals for a statutory public inquiry. The Prime Minister had himself ruled out an inquiry and there is nothing in the documents I have reviewed to suggest that anyone at No 10 was considering reopening the issue.
- 3.3. I was not myself in favour of a public inquiry and would have said so if asked; I would not have queried officials' recommendations not to establish one; but I am afraid I cannot recall specific occasions when the matter was discussed.

Understanding of the Government's stance

- 3.4. The Inquiry asks about my understanding of the reasons for the stance against a statutory public inquiry and refers me to the following:

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

- (1) An extract of Hansard dated 12 January 2006 [ARCH0000428]. Lord Morris of Manchester asked a question about further help for those infected and their widows. Lord Warner said, “...we do not consider that a public inquiry is justified as we do not believe that any new light will be shed on the issue as a result.” [ARCH0000428].
- (2) A letter from Caroline Flint to Michael Moore MP dated 12 December 2006 [MACK0001606_002]. I would not have seen this letter at the time but it includes the line,

“However, as previously stated, the Government does not accept that any wrongful practices were employed and does not consider that a public inquiry is justified. Donor screening for hepatitis C was introduced in the UK in 1991 and the development of this test marked a major advance in microbiological technology, which could not have been implemented before this time” [I MACK0001606_002] (2).
- (3) A further letter from Caroline Flint to Rosie Cooper MP dated 12 December 2006 [HSOC0003634]. This letter includes the same line as the one above.
- (4) The note from Caroline Flint and Lord Warner dated 24 July 2006 to which I have already extensively referred¹ [DHSC0103399_003].

3.5. I have also been referred to a bundle of correspondence with the Manor House Group [WITN1567016]. The first letter to me, dated 5 October 2006, urged me to reconsider the Government’s position on holding a public inquiry. I have discussed the Manor House Group above at paragraph 2.23. On 19 October 2006, Caroline Flint replied to the letter of 5 October 2006 in her capacity as Minister of State responsible for that policy area. She stated,

“We have considered the call for a public inquiry very carefully. However, the Government does not accept that any wrongful practices were employed and not consider that a public inquiry is justified. Donor screening for hepatitis C was introduced in the UK in 1991 and the development of this test marked a major advance in microbiological

¹ See paragraphs 2.6, 2.13, 2.29, and 0, above

technology, which could not have been implemented before this time.”
[WITN1567016] (4).

Following a reply from Manor House Group dated 29 November 2006 (which indicated a copy of the letter was being sent to me), Caroline Flint responded by way of further letter dated 19 December 2006, ending the letter by stating that,

“With regards to a public inquiry into the issue of contaminated blood products, as stated in my previous reply, the Government does not accept that any wrongful practices were employed and does not consider a public inquiry is justified.” [WITN1567016] (7).

- 3.6. The reasons for the Government’s stance were set out in Lord Warner’s answer to questions from Lord Morris, Lord Jenkin and others on 12 January 2006 [DHSC0200135] and the other documents just mentioned in the list above. Like the previous Government, we believed that the provision of contaminated blood to people suffering from HIV and haemophilia was an appalling tragedy. A fund to provide support for people who had been infected with HIV had already been established; my immediate predecessor, Lord (John) Reid had also established the Skipton Fund to make payments to people who had been infected with hepatitis C and I had extended the period for which families could apply for support from that Fund relating to a deceased relative.

Investigation undertaken to reach the conclusion that “the government acted in good faith”

- 3.7. The Inquiry refers me to a submission from William Connon of 19 February 2007 to Caroline Flint and Lord Hunt including the “Line to take”: *“the government acted in good faith before technology at the time could help”* [DHSC0041155_023]. This submission was copied to Liz Kendall and Dani Lee. Although I do not know whether I ever saw that submission, given the significance of the Archer Inquiry being set up, it is likely that someone would have mentioned it to me and I would have been alerted to it: I received a morning summary of media coverage and I would have known on the morning

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

of the 19 February 2007 that the Inquiry would be set up. I wanted to help Lord Archer and “lean into” the issue. There was nothing in the submission that challenged the line to take and neither I nor my special advisers and private secretaries would have had any reason to challenge it. I do not recall being aware of the earlier litigation that had decided that patients were entitled to expect technology for screening blood to have been introduced before 1991; had I or my Ministerial team had that drawn to our attention in this context, we would of course have changed the “lines to take” to reflect that fact.

3.8. I have also been shown an earlier email from Katie Robinson on 15 September 2006 to Zubeda Seedat [DHSC0004232_073]. This concerned an enquiry from the Observer newspaper which used the same line and also stated *“We have great sympathy for those infected with Hepatitis C and HIV and have considered the call for a public inquiry very carefully. However, the Government of the day acted in good faith, relying on the technology available at the time and therefore we do not feel a public inquiry would provide any real benefit to those affected”*. As this was not copied to my Private Office, I would not have seen it. As I have said previously, I had no reason to query the “line to take” - including the reference to the Government of the day acting “in good faith” - and as far as I can recall, did not do so.

3.9. I have also been referred to a letter from Caroline Flint to Margaret Unwin dated 8 February 2006 [HSOC0009247] and a further letter dated 24 October 2006 [HSOC0003591]. Both of these letters repeated the same lines. I would not have seen these letters as Caroline Flint was the Minister with policy responsibility but I would repeat what I have said above.

3.10. I have been asked what investigation was undertaken to reach the conclusion that “the government acted in good faith”. Although this phrase clearly refers to the various governments in office in the 1970s and 1980s, neither my Ministerial colleagues nor I had any reason to doubt that conclusion nor to challenge the assurance we were repeatedly given that the relevant technology

was not available at the time. We had seen no evidence of wrongful practices. Furthermore, the UK's blood donations system was widely regarded as a model (I recall reading the classic work by Richard Titmuss on this issue when I was a student or in my early 20's.)

Involvement with the Self-Sufficiency report

3.11. I have been asked about the extent of my engagement with the ongoing preparation and eventual publication of the report, "Self-Sufficiency in Blood Products in England and Wales: A Chronology from 1973-1991". I have been directed to a briefing paper in relation to a PQ about this in 2002 [DHSC0041332_038]; I was not, of course, Health Secretary at that time. I have no recollection of seeing any submissions or participating in any discussions about this report nor do I recall reading it.

3.12. I have also seen the submission from William Connon to Caroline Flint dated 20 July 2005 [DHSC0006259_020] which stated,

"Self sufficiency in blood products would not have prevented haemophiliacs from being infected with hepatitis C. Blood products are made with pooled plasma. Even if the UK had been self sufficient, the prevalence of hepatitis C in the donor population would have been enough to spread the virus throughout the pool. That is why the infection of haemophiliacs with hepatitis C is a world wide problem"
[DHSC0006259_020] (2)

3.13. This submission also said:

"The more serious consequences of hepatitis C, which may take 20-30 years to develop, only became apparent after full characterisation of the virus in 1989 and the development of tests for its recognition (in 1991)."

3.14. I note that this submission was copied to my Private Office and to Liz Kendall, my special adviser, as well as to Ian Dodge, at that time health policy adviser to the Prime Minister. I do not recall any of them raising any concerns about this submission with me. I doubt if I saw it myself but, reading it now, it strikes me as a clear and helpful summary of the situation as it appeared to officials at

the time. It is quite possible that at least some of the points made in it (for instance, about the prevalence of hepatitis C within the donor population and, thus, the problem of contamination being worldwide) were mentioned to me at some point and they would have confirmed my view, and that of other Ministers, that a public inquiry was not necessary.

3.15. I have been referred to an email dated 19 April 2006 from Jacky Buchan, APS to Caroline Flint MP that states in relation to the release of documents underlying the review, *"PS(PH) sees no reason why we should not release the documents referenced in the Self Sufficiency Report once they have been anonymised as necessary. (The submission of 20 July 2005 had recommended we release the documents on request but resist supplying a complete set.)"* [DHSC0200122].

3.16. I have also been referred to a PQ dated 22 May 2006 from Lord Jenkin about the files of papers which have recently come to light [DHSC0015839] Specifically in relation to the release of papers used as part of the review of papers on Self Sufficiency in Blood Products the suggested reply to the question *"Why won't you release the papers used as part of the review of papers on Self Sufficiency in Blood Products"* was, *"When I last spoke in the House on this issue I informed my Noble Lords that we were looking at a Freedom of Information request, and that we would look sympathetically at that FOI. Officials are currently considering this request"* [DHSC0015839] (6).

3.17. In respect of the Inquiry's specific questions:

- (1) As to the purpose of the report, I was not Secretary of State when the report was commissioned, and I think those in post at the time the report was commissioned are better placed to comment on the specific considerations that influenced its commission. The report explained that a number of MPs had suggested that the number of deaths through infected blood might have been avoided had the UK achieved self-sufficiency in blood products, a policy the Government initiated in 1975, and that

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

Ministers have asked officials to investigate this. The report was stated to be a review of surviving documents from 1973 to 1991 and provided a chronology of events and an analysis of the key issues.

- (2) The selection of the author of the report pre-dated my time as Health Secretary and I was not involved in the decision making around Medical Consultants being brought in to complete the report. I note that a background briefing for a PQ for answer on 24 May 2006 stated at page 24, *"Who undertook the review? A DH official was recruited for three months (October 2002-December 2002) to undertake the review. The task was completed by independent consultants"* [DHSC0004232_078]. I would not have seen these at the time.

- 3.18. I do not have any personal knowledge of why the report was not published until 2006. The submission from William Connon to Caroline Flint dated 20 July 2005 gave the following reasons for the delay:

"13. Due to a number of pressures, there has been a long delay in finalising the report. A draft report was submitted to the Blood Policy Team in January 2003. However there were a number of outstanding issues which had to be resolved before the report could be finalised and submitted to Ministers.

14. There were a number of unsubstantiated statements in the report that had to be checked for accuracy, we had to draw up a lengthy list of references to the report and include an executive summary. In 2004, officials commissioned consultants to analyse the papers and finalise the report. We have also had to consult with colleagues in the devolved administrations, BPL, National Blood Service and some clinicians" [DHSC0006259_020] (3).

- 3.19. I do not know why the documents referred to within the Self-Sufficiency Report were not released at the time of publication. From the documents I have referred to above, it seems that Caroline Flint was in favour of early release. I have seen a handwritten note from Jacky Buchan to Caroline Flint dated 18 October 2006. She wrote, *"Caroline you/ Lord Warner asked when the documents referenced in the self-sufficiency report were released. They were released on 24 August 2006"* [WITN5427031]. So whilst there was a delay in the release of the documents, they were ultimately released.

- 3.20. I do not know why the review did not include reference to, or an explanation of, how and when the documents from the relevant time period were destroyed, as I was not involved at the time it was commissioned – the report was stated to be a review of the surviving documents.
- 3.21. I do not know whether this review played a direct part in the Government's decision not to hold a public inquiry. I will discuss the decision further below. However, in general terms, it seems that neither the Self Sufficiency Report published in February 2006 nor the further report published in May 2007 contained anything to suggest wrongdoing on the part of earlier governments; to that extent they would have reinforced the long-established policy of our Government, and our predecessors, against having an Inquiry.
- 3.22. In relation to the conclusions of the report, on 4 May 2006 Caroline Flint replied to a question about the internal review of the use of blood products, *"The report makes clear that self-sufficiency in blood products would not have prevented the infection of haemophilia patients"* [CBCA0000045] (6). William Connon's submission of 20 July 2005 to which I have already referred summarised what officials took from the report and stated amongst other things that:
- "Self sufficiency in blood products would not have prevented haemophiliacs from being infected with hepatitis C. Blood products are made with pooled plasma. Even if the UK had been self sufficient, the prevalence of hepatitis C in the donor population would have been enough to spread the virus throughout the pool. That is why the infection of haemophiliacs with hepatitis C is a world wide problem"* [DHSC0006259_020] (3).
- 3.23. As to whether I "agreed" with the conclusions of the report, I have no recollection now of seeing this submission at the time. If someone had mentioned this to me or I had seen it I would have found it interesting and significant. It would have confirmed my understanding that this was a tragic series of events that could not have been avoided, and that there were no

grounds for establishing a statutory public inquiry. To the best of my recollection and belief, I was never given reason to doubt the conclusions of the report.

Continuing and increased requests for a public inquiry

- 3.24. I have been referred to the document dated 25 May 2006 [DHSC0015812]. William Connon wrote: *"Public Inquiry: Ministers asked that we look carefully at the issues surrounding the continued and increasing requests for this"*. I have been asked to what extent I was aware of these "continued and increasing requests", and whether I thought they were justified. I do not believe I saw those documents at the time, but as I explained earlier, I did not believe a public inquiry was justified.
- 3.25. I am not surprised that Lord Hunt and Caroline Flint, the Ministers responsible for issues related to blood and blood products, were continuing to discuss the question of a public inquiry with officials. I do not myself recall being involved in any such discussions at the time.
- 3.26. I have been directed to a letter from Margaret Unwin, Chief Executive of the Haemophilia Society, dated 10 January 2006 [DHSC0041198_142]. This letter asked me to support a public inquiry.
- 3.27. I have also seen a reply to this letter from Caroline Flint to Margaret Unwin, Chief Executive of The Haemophilia Society dated 8 February 2006 which uses the same line [HSOC0009247]. I very much doubt that I would have seen either the incoming letter or response because the correspondence and draft response would have been directed towards Caroline Flint for consideration.
- 3.28. I have been referred to a letter from me to Michael Connarty MP dated 27 April 2006 [HSOC0009218]. Regarding a public inquiry I wrote,

"In response to your request for a public inquiry, our position remains unchanged. The Government does not accept that any wrongful

practices were employed and does not consider a public inquiry is justified. Donor screening for hepatitis C was introduced in the UK in 1991 and the development of this test marked a major advance in microbiological technology, which could not have been implemented before this time." [HSOC0009218] (2).

3.29. I certainly read the letter to me from Michael Connarty, a Parliamentary colleague whom I knew well, as well as my reply. As explained earlier, the letter set out our settled position in relation to a public inquiry and I had no reason to query or change that position.

3.30. I recall that the note from Caroline Flint and Norman Warner, discussed above, did mention the calls for a public inquiry. I was aware at the point of the increasing calls but like my Ministers and officials, I did not believe a public inquiry was justified.

The Scottish position

3.31. In a submission dated 26 May 2006 following a Parliamentary Question posed by Lord Jenkin, Gerard Hetherington wrote, "*MS(PH) was particularly concerned that this issue should not be forced in England because of decisions in Scotland*" [DHSC0041159_205]. I am afraid I do not recall any specific conversations about the risk of decisions in Scotland pre-empting or forcing a decision in England. I note however that the email from Ailsa Wight dated 23 June 2006 stated that one of the "Cons" of holding a full public inquiry was that it would be "*Out of step with Scottish ministers*" [DHSC0015784].

Document review under the 1977 Act

3.32. In relation to the possibility of commissioning a review of the documents I have been referred to the following:

- (1) a submission from Gerard Hetherington dated 26 May 2006 [DHSC0041159_205]. This was sent to Rebecca Spavin (Lord Warner's office) but copied to Dani Lee in my Private Office. This again confirmed

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

that demands for a public inquiry were “intensifying” but made no mention of reviewing documents under the 1977 Act as suggested by Lord Warner;

- (2) an email chain from Ailsa Wight, Head of Programme at General Health Protection [DHSC0015784]. On 23 June 2006, she sent an email to officials in DH with some pros and cons of a public inquiry. My office does not appear to have been copied into this. This seems to form the basis of a submission from Gerard Hetherington dated 26 June 2006 which includes a list of pros and cons [DHSC0041159_204]. The submission was to the Private Offices of Caroline Flint and Norman Warner. Officials are copied in but my office was not. The recommendation is to *“Note the pros and cons of holding an inquiry and resist calls for an inquiry”*;
- (3) the note from Caroline Flint and Norman Warner to me dated 24 July 2006 to which I have already referred [DHSC0103399_003]; and
- (4) the note dated 4 August 2006 to Caroline Flint in which Jacky Buchan wrote, *“SoS has seen your/ Lord Warner’s note and commented that if you really believe an independent commentary is worth it and affordable, then she is content. However, she feels that it will fuel rather than deflect calls for a public enquiry – which we are absolutely right not to do.”* [DHSC0041159_139].

3.33. With the exception of the note to me from Caroline Flint and Lord Warner, I did not see any of these documents at the time. The email of 23 June 2006 appears to me now to set out very fairly the pros and cons of establishing a public inquiry. I note that, at least at this time, Scottish Health Ministers took the same view, against a public inquiry, that we took.

3.34. Caroline Flint, Norman Warner and I were unanimous in our view that there was no need for a public inquiry. I address the specific proposal of a documentary review under the 1977 Act in answer to the next question.

Inquiry vs document review

- 3.35. As I have referred to above, on 24 July 2006, Caroline Flint and Lord Warner prepared a note for me on the subject of "*Contaminated Blood Products and Hepatitis C*" [DHSC0103399_003] (1). In response, I conveyed that an internal review "*will fuel rather than deflect calls for a public inquiry*" [DHSC0041159_139]. In contrast, the Inquiry draws my attention to Lord Warner's feeling that an internal review "will help resist a public inquiry".
- 3.36. I have been asked why I took the view I did. Before coming into Parliament, I had many years' experience as a campaigner and then as a policy adviser to the Leader of the Opposition. As a Member of Parliament, I was also regularly lobbied by campaign groups. I was well aware that many groups campaign for Public Inquiries and it was obvious to me that a half-way house - in other words, an independent review and commentary on all the papers under the 1977 NHS Act - would simply give those pressing for a statutory public inquiry further material for their campaign, as they would be able first of all to attack the inadequacy of a document review, from their perspective, compared with a statutory public inquiry; and then, when the independent review reported, to provide a detailed commentary on its findings with a further attack on its inadequacy. I was also concerned about how long such a review would take, how much it would cost and the resource in terms of officials' time that would be required to continue tracking down, indexing and preparing documents for the independent reviewer.

Involvement in commissioning the document review

- 3.37. I have been asked about my involvement in the publication of the Department of Health Report, "Review of Documentation Relating to the Safety of Blood Products 1970 – 1985 (Non A Non B Hepatitis)". I should note that this internal review was different from the independent review and commentary discussed by Caroline Flint and Lord Warner.

3.38. I have been referred to the report itself dated May 2007 [PRSE0000642] and to the following three documents.

- (1) An undated draft submission from Linda Page to Caroline Flint and Lord Hunt [DHSC0015740_001]. This submission laid out the different options of a public inquiry, an independent review, or publishing the documents underlying the internal review. The recommendation was, *"Ministers are asked to agree to the release of the report on the internal review with the associated references. Ministers are asked for direction on the course of action they wish to take in addition to this."*
- (2) A further undated draft submission from Linda Page (also intended to go to Caroline Flint and Lord Hunt through Dr Harper and the CMO) [DHSC5459681]. This noted that the CMO had looked at the internal review and agreed with its rigorous analysis and viewed its conclusions as sound. This version of the submission also laid out possible options after the publication of the above report, options included a full public inquiry and an independent review by a QC. The draft recommendation was to *"do nothing"* except releasing the report and the documents included in it.

I note from these draft submissions, which I understand date from early 2007, that the option of independent review of documents had not at that stage been ruled out.

- (3) A submission from Elizabeth Woodeson to Caroline Flint and Norman Warner on 24 April 2007 which was copied to Dani Lee in my Private Office [DHSC0041193_026]. This submission said, *"The report concludes that the documents provide no new information that challenges the Department's position."* In contrast to the earlier draft submission, however, this submission also stated,

"Given that this inquiry [Lord Archer] is going ahead, we assume that you will not want to pursue the option of commissioning an

independent review by a QC for the time being. (We did not recommend this in our earlier submissions because we estimate that such a review would cost in the region of £200,000. We do not have funds available for this. And we doubt that it would satisfy external parties anyway as an independent review by a QC would not be able to compel witnesses to give evidence.)”
[DHSC0041193_026] (3)

3.39. I note that Caroline Flint responded to the submission of 24 April 2007 communicated via an email from her Private Office dated 30 April 2007 [WITN7420007]. She commented that the report was good work by officials. She agreed that the report should be released and that the papers should be released in line with FOI. She noted the CMO's commendation of the report and queried whether that might be included in the report itself. By implication, Caroline Flint was also agreeing to the approach set out in the submission of 24 April 2007 that, with Lord Archer's non-governmental inquiry now underway, the idea of commissioning an independent review was not going to be pursued. I have set out why I had had some reservations about that proposal the previous summer. I see from another email shortly afterwards that Lord Hunt also considered the report in detail and commented on it: see his Private Office's email of 8 May 2007 [WITN4912080].

3.40. I have been asked what the purpose of the document review was and why and how Linda Page was appointed to undertake it. I am afraid that I now have no particular recollection of this review and report. From the note I received on 24 July 2006, I understand that the internal review was intended to analyse all the available documents in order to establish the facts and our position in relation to any Inquiry and it was intended to release the documents under FOI principles [DHSC0103399_003]. I have no recollection at all of any discussions about Linda Page herself and do not believe I was involved in the decision to appoint her. The reason why the period covered stopped in 1985 is explained in the first paragraph of the Summary of her report.

3.41. To the best of my recollection, I did not read the report at the time or when it was published. When an Inquiry such as this is focussing so closely on these specific events, it may seem surprising that I probably did not read the report myself. If, however, the document review had revealed any evidence of wrongdoing or anything else that cast doubt upon the long-established understanding of what had happened, then of course I would have expected to have had it promptly brought to my attention by my Ministers, the Permanent Secretary, my Private Office or special advisers, and I would then have read it very carefully indeed. That did not happen and, as the report itself shows, there was no reason why it should have happened. Instead, as I have indicated, it was read and considered by Caroline Flint and by Lord Hunt. I am not aware that it played any significant part in the Government's decision not to hold a public inquiry, though it may have supported the continuation of the government's long-established view. I do not recall that it played any part in the attitude we took towards the independent Archer inquiry including on whether witnesses would be provided.

Position on a public inquiry

3.42. The submission referred to at 3.38(1) above stated at para 1.4: "*SofS said that she did not want a public inquiry*" [DHSC0015740_001]. My reasons for that position were as set out in paragraphs 3.1 and 3.2 above. Although I did not see most of the documents referred to earlier, in which officials summarised the pros and cons of a public inquiry, I would not have disagreed with their analysis or conclusion had I seen them.

3.43. In stating that I did not want a public inquiry, I would no doubt have had in my mind my earlier experience in relation to public inquiries. In the 1970s, I was general secretary of NCCL (now Liberty) which campaigned consistently for a statutory public inquiry into the events of Bloody Sunday; that inquiry was eventually established and still underway when I was Secretary of State. I was therefore well aware of both the very high hurdle needed before a statutory public inquiry could reasonably be established as well as the very large

resource required, including the involvement of a senior judge and numerous lawyers as well as the time required from officials in reviewing documents and giving evidence. As general secretary, I had also campaigned for a public inquiry into the conduct of the police during a National Front march in Southall in 1979 and, when that was not forthcoming, I helped to establish an independent inquiry; I therefore knew from personal experience how difficult and time-consuming it was to establish a reasonably accurate chronology of events, even when they were very recent. Given all the pressures on the department, the NHS and Ministers described earlier, I certainly would not have wanted to divert officials from focusing on immediate and strategic priorities. I had no reason to question or seek to re-open the Government's settled position against a public inquiry. I would have regarded the question of support for those infected by contaminated blood, and their families, as more important and urgent, and believed that the establishment of the Skipton Fund, alongside the existing funds for those infected with HIV, had shown our commitment to victims and their families - without setting a precedent for a wholesale scheme of no-fault compensation, which was not Labour Party or government policy.

Section 4: Department of Health's engagement with the Archer Inquiry

Outline Chronology

- 4.1. On 16 February 2007, Lord Archer wrote to me advising that he had agreed to chair an independent inquiry. In terms of what he hoped for in the way of Departmental engagement, Lord Archer wrote,

"It will be much appreciated if someone from the Department can be available, on a mutually agreed date, to say what its position has been and is; and to lay before us any further facts, of which you think we should be aware." [DHSC0041193_056];

I understand, however, that this letter was not received in the Department until 19 February 2007 and – as would be expected – it was directed in the first instance to Caroline Flint's Private Office who sought advice.

- 4.2. As referred to in paragraph 3.7 above, on 19 February 2007, William Connon put a submission to Caroline Flint concerning the Lord Archer's inquiry [DHSC0041155_023]. That submission was copied to my Private Office, but – as I have set out above – while I would have been alerted to the establishment of the inquiry from media briefings, I may well not have seen this actual submission at the time.
- 4.3. On 20 February 2007, William Connon emailed Caroline Flint's APS *"I am concerned that if we enter into a dialogue about the details with either Lord Archer or the Haemophilia Society (HS) then we will simply become implicated in the inquiry. I have therefore decided not to do this"* [I DHSC5152770] (2).
- 4.4. The Inquiry has referred me to another email sent by Mr Connon on the same day, 20 February 2007, though this was only between officials. He wrote,

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

"I cannot see how we can become involved given the stance DH, on behalf of successive Governments has taken in stating that an inquiry is not justified. Given that position it would be difficult to justify becoming involved in any form of inquiry" [DHSC5264793] (1).

4.5. On 21 February 2007, William Connon provided a draft letter of reply for Caroline Flint to send to Lord Archer. The covering email to this draft said officials' advice was that *"...we should not become involved in Lord Archer's Inquiry at all"*. And the draft letter was said to take *"...a fairly robust line"* [DHSC5460426] (2). The Inquiry has supplied with more than one version of the draft letter from Caroline Flint to Lord Archer but the early more robust version appears to be that at [DHSC0006752]. This draft letter included the following, *"In conclusion I can only repeat that the Government does not support your call for an independent inquiry and therefore it would not be proper for Departmental officials to appear before your inquiry."*

4.6. Having received this advice with the firm line suggested, on or around 6 March 2007, Caroline Flint's Office then requested a meeting for Caroline and myself, stating, *"Caroline needs a discussion with SoFS both on a DH and political level before we can respond."* [DHSC5460579]. It seems that Caroline Flint's Office was pressing for the meeting with me and Special Advisers *"sooner rather than later"* [DHSC5460426]. It seems clear from this and later documents that Caroline Flint was not happy with the suggested line of having no involvement with the Inquiry at all. The meeting would have been arranged by the respective Private Offices.

4.7. On 12 March 2007, my APS Dani Lee provided me with a note about the meeting now scheduled for the following day [WITN5427016]. The note read as follows:

"Patricia,

Caroline has asked to meet you to discuss Lord Archer's inquiry into contaminated blood products (this was reported in the Times, Guardian, Daily Telegraph and Daily Mirror in Feb). Philip and Norman (Caroline wanted him at the meeting because he answered a lot [of] PQs about this

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

issue in the Lords) will also attend the meeting with you tomorrow— 6.30-7pm.

I've attached the following as background:

- note from Caroline and Norman dated 24 July 2006 updating you on the issue of contaminated blood products and hepatitis C, and pressure for a public inquiry. The note also explored the possibility of commissioning an independent review and commentary on the content of all available DH papers, and the full extent of what was destroyed in error. You commented that if Caroline and Norman really believe that an independent commentary is worth it, and affordable, then you were content.*
- Lord Archer's letter to Caroline about the independent inquiry (dated 16 Feb)*
- draft response to the above (Caroline wants to discuss this with you before it is sent out)"*

4.8. The meeting then took place on Tuesday 13 March 2007. In addition to Caroline and me, Norman Warner and Philip Hunt were also present as foreshadowed in my APS's short briefing note.

4.9. I do not now remember the meeting but the thrust of our discussion is apparent from the documents:

- (1) First, my APS's note of 12 March (as set out above) was then endorsed in hand with what looks like a note of the main outcomes. This read:

"Patricia [me] to speak to Hugh [Taylor]:

Caroline concerned about the content + language of the draft response to Lord archer

Officials to give evidence to the Inquiry after they have compiled their report on the analysis of the documentation.

Caroline/Philip or Norman will out more about Inquiry".

:

- (2) On 14 March 2007, my APS sent out a short read out of the note and actions which read as follows,

"1. Meeting started with a brief discussion on Lord Archer's inquiry. SofS thought that we need to find out more information about the inquiry and asked either MS(PH) or MS(Q) to follow up with Lord Archer or Lesley Turnberg on terms of reference, funding, how they

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

intend to proceed and what they hope to get out of the meeting. Can you discuss with each other which Minister you think would be best placed to do this. We might want to consider asking Lord Warner instead to make contact if officials feel strongly that Ministers should not get involved.

2. On the draft response to Lord Archer's letter - MS(PH) was concerned about the content and language of the letter. The letter was signed off by Hugh which SofS agreed to take up with him at their next 1:1. I'll let you know the outcome of that discussion on Tues 20 March.

3. SofS gave a steer on how we approach the Inquiry. She is happy for officials to give evidence to the Inquiry but only after they have completed and compiled their report on the analysis of the documentation. She is also content to make all the documentation available to the Inquiry. Jacky - you might want to agree a deadline with officials on their report so that we/they can start planning their appearance before the Inquiry" [DHSC5463384] (3).

- (3) Consistent with the above, as the line that officials had suggested be taken with Lord Archer had been cleared by the Permanent Secretary himself, I would have wanted to discuss the issue with Sir Hugh. Accordingly, my APS Dani Lee emailed Sir Hugh Taylor's PS (Ruth Cuthbert) on 15 March 2007 stating,

"SofS wants to speak to Hugh about Lord Archer's letter about his Inquiry into contaminated blood products at their 1:1 on Mon. SofS had a meeting on Tues with Caroline, Philip and Norman Warner about the Inquiry and how we respond to Lord Archer's letter. Caroline isn't happy with the content or language of the letter that has been drafted for her to sign (copy is attached below) and mentioned that Hugh had seen and cleared this. SofS said that she would speak to Hugh about it.

Two other points that Hugh should be aware of which SofS might also mention. She has asked either Caroline/Philip or Norman to speak to the Inquiry to find out what their terms of reference and how they are being funded. SofS also agreed to officials giving evidence to the Inquiry after they have complied their detailed report into documentation on contaminated blood products (you might be aware that a number of documents were destroyed in error)." (original emphasis) [DHSC6510562] (1).

- 4.10. It is clear that I did then meet Sir Hugh in a one to one meeting on 20 March 2007. I had such meetings with Sir Hugh regularly. On the same day, I see that

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

my Principal Private Secretary, Clara Swinson, added a hand-written note to Dani Lee's note to me of 12 March, see paragraph 4.5. She wrote, *"Agreed a more co-operative response should be sent."* I assume that either Clara had also attended my meeting with Sir Hugh or that I had directly mentioned to her my strong view that we needed a different response to Lord Archer. The following day, my APS minuted the outcome of the discussion as follows:

"At the 1:1 yesterday, SofS and Hugh agreed that:

MS(PH)'s draft response needs to be more co-operative about Lord Archer's Inquiry. Please could you ask officials to redraft this.

We need more information about the Inquiry including, when it is due to commence because if we are going to offer DH officials to give evidence and make all documentation available then we need to agree a mutually convenient time frame for the Inquiry."
[DHSC5463384] (1).

4.11. At this stage therefore, there was agreement on taking a more co-operative approach to Lord Archer's inquiry by providing documents and asking officials to give evidence once the review of further documents was complete. On 21 March 2007, Caroline Flint's Private Office then sought a re-draft of the letter to Lord Archer, noting that *"MS(PH) has met with SofS to discuss our response to Lord Archer ... It has been agreed that the response needs to be more cooperative regarding the inquiry and officials should give evidence and papers should be made available."* [I DHSC5463411] (1).

4.12. It appears, however, that the officials working on this area within the Health Protection Division had concerns about the offer of officials as witnesses and raised this with the Permanent Secretary. This is apparent from a submission dated 23 March 2007 from Liz Woodeson to the Permanent Secretary. The Inquiry has provided me with two slightly different versions of this [DHSC5046267] and [DHSC5857854]. Neither was copied to Ministers or Special Advisers; it was officials raising their concerns with the Permanent Secretary before approaching ministers. While the detail of the two drafts of the submission differ, in both versions Liz Woodeson was making clear that her

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

team had concerns principally arising from the suggestion that officials should agree to appear as witnesses. The points put forward were, in essence:

- 1) While there was no evidence of any negligence or wrongdoing on the part of the department during the period in question, given the subsequent destruction and loss of a number of files there is considerable scope for embarrassment for the department if officials are asked to appear before the inquiry;
- 2) The lack of a legal framework in a non-governmental inquiry; whether witnesses would be compellable;
- 3) The vast amount of preparation that would be required if called to give evidence answer questions about over 6000 documents;
- 4) If it was agreed that officials should give evidence, this may in turn raise the possibility of Ministers themselves being asked to give evidence;
- 5) Departmental witnesses would be pressed to release documents without any redaction and to release submissions. It was said that while none of these policy documents gives rise to any real concerns over liability, some are sensitive in respect of potential for criticism or embarrassment* of former ministers and senior officials. [* I note here that the examples of this cited in one version of the submission (but omitted from the other version) all appeared to relate to the early – mid 1980s, that is to say to the Conservative administration of that time, not embarrassment to current Ministers]; and
- 6) Given the time which had elapsed, it was not clear exactly what "evidence" officials would be able to provide in person, beyond rehearsing the documents which are already in the public domain.

4.13. It appears that there was legal input from the Solicitor's Division. An email chain ending on 27 March 2007 shows communication between officials and Caroline Flint's Private Office, my Private Office and that of the Permanent Secretary. The emails referred to further legal comments being still pending and there was a draft submission from William Connon. My APS wanted the submission to be

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

considered by the Permanent Secretary first, including obtaining his views on letting officials give evidence to Lord Archer [DHSC6326158].

4.14. The submission from William Connon was dated 28 March 2007 and directed to Caroline Flint; it was copied to the Permanent Secretary's Private Office and (as reflected in the handwritten note from one of my private secretaries) it was clearly also passed onto me [DHSC0041307_142]. Paragraph 6 of the submission set out a revised list of the sort of concerns that Liz Woodeson had raised in her submission to the Permanent Secretary. William Connon stated the following concerns about officials giving evidence,

- “ • There is no evidence of any negligence or wrongdoing on the part of the department during the period in question (1970-1985). Nevertheless, given the subsequent destruction and loss of a number of files there is considerable scope for embarrassment for the department if officials are asked to appear before the inquiry.*
- With official Government Inquiries there is a clear legal framework under which to operate in the case of an inquiry under the Inquiries Act 2005 and in the case of non-statutory inquiries there are established principles and guidelines. These would not apply to a non-government inquiry such as Lord Archer's one and it is unclear exactly what departmental involvement may entail. For example, would officials be asked to attend?*
- Colleagues are also naturally worried about the vast amount of preparation that would be required to prepare themselves if they were called to give evidence and answer questions about over 6000 documents.*
- If it is agreed that officials should give evidence, this may in turn raise the possibility of ministers themselves being asked to give evidence.*
- We will inevitably be pressed to release documents without any redaction - and to release submissions. While none of these policy documents gives rise to any real concerns over liability, some are sensitive in respect of potential for criticism or embarrassment of former ministers and senior officials. It may be much harder to maintain the line that we are only prepared to release documents under FOI principles if officials are asked to defend this line publicly in front of the inquiry.*
- Sol have pointed out that the inquiry will not have any statutory powers therefore civil servants, ministers or others could not be compelled to attend or provide evidence. However, if it is suggested that they should do so, then no doubt the inquiry would draw adverse inferences from any refusal to do so.*

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

- *There is also a question whether the inquiry would offer legal indemnities to officials against the possibility of legal proceedings being instituted against them as a result of their evidence to the inquiry.*
- *Sol's view is that we should avoid becoming in any way directly involved."* [I DHSC0041307_142] (2)

4.15. The recommendation of officials set out in this submission was:

"For all these reasons, we think it is not advisable to offer in the reply that officials would be willing to give evidence to the inquiry. The offer of a meeting between Lord Archer's team and departmental officials is qualified to explaining about our review and the level of assistance we can provide his team."

4.16. Endorsed on this submission there was a handwritten note at the top from Dani Lee my APS to me:

'Patricia, At a meeting with Caroline, Philip and Norman, you agreed to officials giving evidence at Lord Archer's Inquiry on contaminated blood products. SOL's advice which Hugh agrees with, is that we should avoid becoming in any way directly involved. We could offer a meeting between Lord Archer's team and DH officials to explain our review of all our documentation and the level of assistance we can provide to his Inquiry. Are you content with this approach. Are you happy with the revised draft response to Lord Archer? For you to sign'. (original emphasis)

4.17. The submission attached a re-drafted letter to Lord Archer.

4.18. A handwritten note from Jacky Buchan to Caroline Flint dated 29 March 2007 referred to the redacted reply to Lord Archer which "...falls short of agreeing to give evidence but agrees to share documentation". She added that "SoS is also considering this draft reply and is likely to sign the letter herself" and that "Dani [Lee] thinks SofS will be content to agree to provide the docs but not to give evidence" [DHSC0041193_054]. Caroline appears to have endorsed this noting "Fine" on 30 March.

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

- 4.19. Caroline Flint and I were both satisfied with the revised approach and I signed the revised letter of reply to Lord Archer on 30 March 2007. The final version read as follows:

"Thank you for your letter of 16 February. Please accept my apologies for the delay in responding.

The Government has great sympathy for those infected with hepatitis C and, as I am sure you are aware, we have considered the need for an official public inquiry very carefully indeed. However, our view remains that this would not be justified and would not provide any further benefit to those affected.

Nevertheless, the Department is willing to assist you as far as we can; and an early meeting between officials here and yours might be helpful in this respect. In particular we are, of course, willing to cooperate with your team by sharing the results of our own review. Work has been underway within the Department, over the past few months to identify and review all the documents held relating to the safety of blood products between 1970 and 1985. A draft report on the analysis of the documentation is currently being compiled, and is expected to be completed shortly. My former colleague, Lord Warner has already agreed to send a copy of this report to Lord Jenkin and I would be very happy to arrange for you to receive a copy as well.

Furthermore, a large number of the documents referenced in this report are already in the public domain and consideration will be given to releasing the rest in accordance with the provisions of Freedom of Information Act 2000" [DHSC0041193_048].

- 4.20. I am sure that I would not then have been involved with the arrangements over the meeting between Lord Archer and Departmental officials. The Inquiry refers me to the fact that there were three meetings between the Archer Panel and representatives of the Department of Health that took place on 25 April 2007, 19 September 2007 and 12 June 2008. Only the first of those was while I was Secretary of State. Emails surrounding the holding of the first meeting support that my views were not being sought, nor would I expect them to have been; see for example

(1) Email from Liz Woodeson on 16 April 2007 [DHSC5193222]; and

(2) email from William Connon the day after the meeting which stated,

"We did this [the meeting] yesterday and the meeting went well. It has not been agreed that DH will appear before the inquiry but

ministers are keen that we are as helpful as possible, without actually participating in the inquiry” [DHSC5469319] (2).

- 4.21. I have of course drawn the above chronology from the documents provided to me by the Inquiry and my legal representatives rather than from my memory and I have included a number of documents which I would not have seen at the time but which do give some context. Against this background, I turn to the specific questions raised by the Inquiry.

DH view that the Inquiry was “unnecessary”

- 4.22. The Inquiry refers me to the fact that on page 9 in the Report published by the Archer Inquiry on 23 February 2009, the Report stated,

“The Department of Health maintained its view that the Inquiry was unnecessary, and declined to provide witnesses to give evidence in public, but they supplied documents which we requested, and responded to questions from us and sent representatives to three private, informal and unminuted meetings” [ARCH0000001] (9).

- 4.23. I have been asked to explain my responsibilities and involvement regarding the Department’s engagement with the Archer Inquiry and to confirm those in the Department of Health who had responsibility for engaging with the Archer Inquiry. As explained earlier, specific Ministerial responsibility for matters related to blood and blood products sat with Caroline Flint as Minister for Public Health assisted by Lord Warner and subsequently Lord Hunt who dealt with business in the Lords. The Permanent Secretary (by then Sir Hugh Taylor) was directly involved in the decision making on engagement with the Archer Inquiry. The CMO was copied into the key submissions. A number of officials were closely involved at a senior level Liz Woodeson (with Dr Harper, who was senior to her, being copied in) and Mr Cannon who reported to her.
- 4.24. As Secretary of State, I had overall responsibility to Parliament for our policy. I had some direct involvement as set out the chronology above and on which I comment further below. I can see from the papers that I gave strategic direction

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

(at the Ministers' meeting on 13 March and with the Permanent Secretary on 20 March) and agreement to our final approach on 29-30 March 2007 although throughout this time Caroline Flint continued to lead on the issue. That is entirely consistent with our methods of working. At this time I was fully occupied with the crisis relating to junior doctors' training and would have given input into our overall approach, while Caroline supported by Norman and Philip would have dealt with matters at a more detailed level.

4.25. The Inquiry asks why the Department took the view that the Archer inquiry was "unnecessary". I have addressed the overall reasons why the Department did not consider that a statutory public inquiry was the appropriate way forward in the previous section of this statement. That obviously informed our view that Lord Archer's Inquiry was "unnecessary". I note that William Connon's advice was that, since we had consistently taken that view in relation to a statutory public inquiry, it would be inconsistent and odd to take any other view in relation to the Archer inquiry. Although I do not recall discussing it at the time, I would have agreed with that view. My view of the Archer Inquiry did not change in the remaining months until I ceased to be Health Secretary in June 2007. Notwithstanding this, in accord with the concerns raised by Caroline Flint, I agreed that the Department should adopt a more co-operative and engaging approach with the Inquiry than that originally suggested by our officials.

4.26. I have been asked to characterise my knowledge and understanding of infected blood issues prior to becoming Health Secretary in May 2005 and how that changed during my time in that office. Although I was, of course, aware of the tragedy surrounding contaminated blood products before I became Health Secretary, I had no specific knowledge of the issue. As far as I can remember, I had not met (and did not subsequently meet) any constituents who had been affected, directly or indirectly, by this tragedy. As Health Secretary, of course, I became much more aware of the issue, including the revelations about destroyed or missing documents as well as the demands for a public inquiry. I

completely trusted my Ministerial colleagues - Caroline Flint, Lord Warner and later Lord Hunt - on this matter.

Lord Archer's expectations of the DH

4.27. I have been asked for my interpretation of Lord Archer's request and expectations of the Department at the start of his Inquiry. Lord Archer's first letter of 16 February 2007 appears to have sought early engagement from the Department to meet them and "...say *what its position has been and is; and to lay before us any further facts*". While this was not phrased in terms of a direct explicit invitation for witness evidence, still less for a Minister to give evidence, officials clearly saw the need to agree what the Department's position would be on an official or officials giving evidence. I think we would certainly have assumed that he would want officials to give evidence.

4.28. The Inquiry asks about any immediate meetings or discussions that took place among Ministers and officials on receipt of Lord Archer's letter and I have summarised the main developments in the chronology above.

Meeting about the Archer Inquiry

4.29. The Inquiry raises the meeting of Ministers referred to in the email chain between Jacky Buchan (APS to Caroline Flint) and William Connon to which I have referred at paragraph 4.6 above [DHSC5460426]. The meeting being referred to in those emails was the meeting held on 13 March 2007, details of which I have set out in the chronology above.

4.30. The Inquiry asks about the identity of the special advisers attending. Liz Kendall was my special advisor being copied into some of the relevant submissions at the time. While I do not specifically recall, it may be that Liz Kendall attended the meeting in addition to me, Caroline Flint, Norman Warner and Philip Hunt. One of my private secretaries (presumably Dani Lee) would also have attended.

4.31. The Inquiry asks what was discussed at the meeting and what decisions were made. Since I have no recollection of the discussion, I am reliant on the documentary records. However, as I have set out in the chronology above, it is clear that:

- (1) I thought we needed to find out more about the Inquiry and asked Lord Warner and / or Lord Hunt to do so.
- (2) Caroline Flint would have raised her concern that the response in writing to Lord Archer should be more co-operative than officials were recommending. For the reasons explained below, I completely agreed with her, as did Lord Hunt and Lord Warner. Given that the draft response had been cleared by the Permanent Secretary, I offered or agreed to speak to Sir Hugh at our next one to one meeting.
- (3) I gave the steer that I was happy for officials to give evidence to the Inquiry but only after they have completed and compiled their report on the analysis of the documentation. I was also content to make all the documentation available to the Inquiry.

4.32. I have been asked about my view of William Connon's advice in the email sent to Jacky Buchan, the APS to Caroline Flint on 21 February 2007 [DHSC5460426] that the DH "*should not become involved in Lord Archer's Inquiry at all*" (see paragraph 4.5, above) As far as I know, I did not see that advice at the time but I would have understood at least by the time of the meeting on 13 March, that officials were advising against engagement with the Inquiry. I would have agreed that there were risks in treating Lord Archer's Inquiry as if it was a Government-commissioned Statutory Inquiry, especially given the Government line against the holding of such an Inquiry. At the same time, we wanted to engage with the Inquiry and be more cooperative than officials were initially recommending. I had known the late Lord Archer for many years before becoming an MP including, I believe, when he was Solicitor General in the Labour Governments between 1974 and 1979. He was a distinguished former Labour MP and, from 1992, member of the House of

Lords. I had a high regard for him. Although I cannot recall a conversation with him about this issue, it is possible that we had an informal conversation about his proposed Inquiry (for instance, at one of the weekly meetings of the Parliamentary Labour Party that were attended by Peers as well as MPs.) My Ministerial colleagues and I would have wanted to treat him with proper courtesy and respect, but also would not have wanted to compromise the position we had taken against a statutory public inquiry.

Outcome of the Meeting about the Archer Inquiry

4.33. The Inquiry refers me to Jacky Buchan's email to William Connon of 21 March 2007 to which I have referred at paragraph 4.11, above [DHSC5463411]. This was the email in which the message was passed on to officials that, *"MS(PH) has met with SofS to discuss our response to Lord Archer... It has been agreed that the response needs to be more cooperative regarding the inquiry and officials should give evidence and papers should be made available."*

4.34. The Inquiry asks if the meeting being referred to here was the same ministerial meeting, i.e. the one that had taken place on 13 March. Based on the documents, I believe that to be the case.

4.35. I have been asked why we reached the decision that the response needed to be more co-operative and that officials should give evidence and the papers should be made available. I have answered that question at paragraph under the previous sub-heading above, paragraphs 4.31- 4.32.

Further meetings about the Archer Inquiry

4.36. The Inquiry asks about my meeting with Sir Hugh Taylor, the Permanent Secretary, which took place on 20 March 2007, a week after the discussion between Ministers.

- 4.37. First, I am asked to explain why I met with him. At the discussion between Ministers, we had agreed that we wanted to take a more co-operative line. However, we were aware that the initial firmer line (as reflected in the recommended draft reply) had been agreed at Permanent Secretary level. It would therefore have been natural for me to want to discuss the issue with the Permanent Secretary. I would have wanted to explain to him why we intended to take a different approach, but also to understand his own thinking on this matter. The note of the outcomes from the meeting between Hugh and me indicates that as a result of the meeting there was agreement on adopting a more cooperative approach and that we (at least might) offer witnesses to give evidence, see paragraph 4.10, above and the note at [DHSC5463384].
- 4.38. By reference to the two versions of Liz Woodeson's submission to the Permanent Secretary of 23 March 2007 (see paragraph 4.12, above) the Inquiry asks my views on the reasons advanced by Liz Woodeson for not providing witnesses to Lord Archer's Inquiry. In fact, those submissions were not copied to Ministers. It is clear from the dates given in the draft submission that the reference to embarrassment to former Ministers related to Ministers in the Conservative Government(s) of the 1980s. In line with the convention that advice to Ministers in a former Government was not shown to successors, I assume that was why the examples were not specified in the later submission to Ministers on 28 March 2007. In any event, I would not have been influenced by issues of embarrassment to former Ministers. I note that this submission was copied to SOL, ie Departmental solicitors and that further legal advice and concerns clearly emerged about officials giving evidence.
- 4.39. The Inquiry asks what action, if any, I took on receipt of William Connon's submission of 28 March 2007 [DHSC0041307_142] see paragraph 4.14, above. As is apparent from the chronology set out above, my Private Office clearly took steps to ensure that the relevant views of others were canvassed before the submission was put to me. In particular, it was ascertained that the Permanent Secretary agreed with the submission's recommendation and the

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

revised approach of providing documents but not witnesses (see my APS' note on the submission advising me that, *"SOL's advice which Hugh agrees with, is that we should avoid becoming in any way directly involved. We could offer a meeting between Lord Archer's team and DH officials to explain our review of all our documentation and the level of assistance we can provide to his Inquiry"*). While I cannot now be certain of the mechanics of how it was achieved (a direct conversation or discussion between our Private Offices), I would certainly have ensured that I was aware of Caroline Flint's view before making the final decision. If she had disagreed with the recommendation, I would certainly have discussed it with her; but as the documents indicate, she was also content with the approach that was finally agreed.

4.40. I have been asked who made the final decision on behalf of the Department of Health not to provide witnesses to the Archer Inquiry. I made that decision, on the basis of Mr Connon's recommendation (including the legal advice) with which both Caroline Flint and the Permanent Secretary agreed.

4.41. As to why there was a change of view, although I cannot recall these conversations, reading the documents it is clear that, in my initial meeting with Caroline Flint and other Ministers neither she nor I were aware of the detail of the concerns that officials had about the implications of allowing officials to give evidence to the Archer Inquiry. Looking at the chronology it is apparent that following my meeting with Hugh Taylor, officials raised their concerns in more detail with the Permanent Secretary and there was additional input from the Solicitor's Division. The concerns were set out in considerable detail in William Connon's submission of 28 March to Caroline Flint which, as explained above, was also shown to me. As a Secretary of State, I always sought to build open, respectful and effective working relationships with my officials and believe I largely succeeded in doing so. I was also acutely conscious of the intense pressure upon the Department of Health and our officials and would have been worried about the potential time that would have been consumed by officials giving evidence to the Inquiry. I would also have taken very seriously the

concerns expressed to me, particularly as they were reinforced by the department's own lawyers. Reading the submission now, as I have already indicated, I would not have been over-impressed by references to potential "embarrassment", but I would certainly have taken seriously the points about the lack of a clear legal framework for a non-government inquiry; the risk of being pushed into releasing documents and submissions beyond established FOI principles; the risk of an adverse inference being drawn from an individual's decision not to give evidence, even in the absence of any power for the unofficial inquiry to compel witnesses to appear; the risk of legal proceedings being brought against (serving or former) officials as a result of their evidence to the inquiry and whether legal indemnities would be offered; and the Solicitor's Division firm conclusion that therefore *"we should avoid becoming in any way directly involved."*

- 4.42. I would also have felt that it would be helpful to Lord Archer's inquiry for us to make available to him the report from the Department's internal review, together with all the documents reviewed in the report - around 6,400 documents according to the submission, appropriately redacted and with ministerial submissions withheld where possible under FOI. In other words, it was not as if I was being advised to boycott the Archer Inquiry, a conclusion I would have rejected.
- 4.43. I should add for context that, by March 2007, we were embroiled in the scandal relating to the reform of junior doctors' training following the Modernising Medical Careers report and that was absorbing a very large part of my own time and that of my special advisers. (On 17 March, for instance, according to Wikipedia, there was a large and angry demonstration in London by junior doctors. I have vivid memories of numerous meetings, submissions, Parliamentary questions and debates, discussions with the Prime Minister and his team, media interviews and so on, on that issue.) There had already been several discussions and meetings about the extent of our involvement with the Archer Inquiry which was due to open on the 27 March 2007, the day before

the submission to me from William Connon, so a conclusion was urgent. Reading the documents now, I doubt if I would have seen any reason to challenge the advice I was being given by the Permanent Secretary and departmental lawyers.

- 4.44. The Inquiry asks what reasons were given to the Archer Panel for the decision to decline to provide witness evidence. The advice appears to have been that this could be discussed when officials met the Panel and I do not have any personal knowledge of exactly how this was conveyed to the Panel; I would not have been involved at that level.

Reply to Lord Archer

- 4.45. The Inquiry raises the final letter sent to Lord Archer by me on 30 March 2007 and I have set this out in paragraph 4.19 above [DHSC0041193_048]. The Inquiry asks what investigation, analysis or enquiries undertaken in order to reach the view that an inquiry would not “*provide any further benefit to those affected*”. This reply restated the conclusion that we, and previous Health Secretaries, had reached about the case for a public inquiry and I have addressed these in Section 3 of this statement. However, as discussed above we had decided that a more co-operative approach was needed and we therefore offered both meetings with officials and the release of documents.

Meetings with the Archer Panel

- 4.46. In the chronology set out above I have referred to the meeting between officials and the Department on 25 April 2007, see paragraph 4.20, above. As I have explained, I would not have been involved with the arrangements over that meeting and the officials involved (for example Liz Woodeson and William Connon) would be better placed to answer the questions raised by the Inquiry about specifics aspects of the meeting arrangements. I am afraid I cannot assist from my own knowledge on those matters. I would only note that from the reply I sent to Lord Archer on 30 March we were offering “*an early meeting between*

officials here and yours". It appears from the documents that that offer had been discussed earlier between officials and with Caroline Flint; it was not contentious. Apart from that, I was not involved in deciding who attended the meetings or how many there were and as far as I can remember, I was not briefed on them (nor would I have expected to be.)

Differing reasons for declining to provide witnesses

4.47. The Inquiry refers me to an email chain dated 9 May 2007 in the course of which Sibani Rahulan of the Solicitor's Division wrote to Simon Rogers, another solicitor. She stated, *"When the inquiry asked DH about DH witnesses at the meeting, DH said that they would struggle to find appropriate people because the events are historic and consequently there is hardly anyone around who would have first-hand knowledge of the events"* [DHSC6701136]. I do not know why this particular point was not included in William Connon's submission to me of 28 March; had it been, it would have reinforced my decision that, despite our initial view, we should not in fact offer officials to give evidence. I also note, however, that one version of Liz Woodeson's submission of 23 March had included the observation that *"Given the time which had elapsed, it was not clear exactly what "evidence" officials would be able to provide in person, beyond rehearsing the documents which are already in the public domain"*. So it is clear that this was in the minds of officials as part of the concerns. I have also been asked why this point was not included in my reply to Lord Archer. Re-reading that letter, it is clear that this was designed to set out to him what the Department was positively going to provide, and the discussion of why we were not inclined to provide witnesses was presumably going to be canvassed at the meeting between officials and the Department. It would seem from Sibani Rahulan's later email that this is what happened but I cannot comment beyond that.

Documents provided to the Inquiry

4.48. I do not know how the Department of Health determined which documents were to be provided to the Inquiry or whether any documents that were requested

were withheld. I ceased to be Health Secretary in June 2007. Decisions on the withholding of any documents from previous administrations would not have been taken by the Secretary of State; by convention they are addressed by the Permanent Secretary so that Ministers are not considering the release of papers involving Ministers from other political parties.

Judith Willetts' witness statement

- 4.49. The Inquiry has asked me to consider the witness statement of Archer Inquiry panel member Judith Willetts and has raised a number of questions relating to it [WITN4736001].
- 4.50. At page 4, paragraph b, Ms Willetts states: *'My impression was that the Department's priority was to draw a line under the matter. There was a complete refusal to acknowledge that lessons could be learned for the future'*. I have explained why neither I, nor previous Health Secretaries, believed there was a need for a statutory public inquiry. We had, however, established the Skipton Fund specifically to support those who had been infected with Hepatitis C and their families. I do not know what officials said at their meetings with panel members. I was aware, however, that medical technology and practice had changed substantially since the 1970s and even the 1980s; if officials said that they doubted for that reason whether lessons could be learned for the future, I am not surprised.
- 4.51. At pages 6-7, Ms Willetts states: *'One of the key barriers was the difficulty in establishing exactly what relevant documentation existed and could therefore be requested. As we did not know what the Department had, we did not know what to ask for! We experienced no willingness to co-operate with this dilemma from the DoH. Had there been any desire to identify a range of key documents that would be useful, we might have saved days of work. My abiding sense was that the individuals we had contact with simply did not want to help'*. I was well aware that many thousands of documents were involved and of the enormous

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

amount of work that would be involved in locating, indexing and reading them. I knew from the discussions about the Department's involvement in the Archer Inquiry that we had offered to provide the report of the internal review that had been established, together with all the documents considered by that review; I assumed that would have been helpful to the Archer Inquiry and am sorry that Ms Willetts apparently did not find it so.

- 4.52. At page 8, paragraphs h and i, Ms Willetts states: *'As reported by Lord Archer, the meetings were only agreed to on the basis that they remained private, unminuted and informal. My understanding was that this was a Ministerial decision. As previously stated, the DoH refused to participate even in informal meetings unless they were unrecorded and thus nothing that was said could be used in the report'*. I cannot remember whether I was aware of this at the time but assume now that it followed from the legal advice provided by the Department's lawyers and our decision that officials should not give evidence.
- 4.53. At page 9, paragraph j, Ms Willetts states: *'My personal view, and not necessarily the view of the other panel members, is that the DoH was determined to maintain a position of non-liability. I believe this was from a concern that significant compensation claims could be made and that these would be successful'*. I do not recall any suggestion from officials when I was Secretary of State that *"significant compensation claims could be made"*; the documents confirm that I had no reason to challenge the view that there had not been any wrongdoing that might give rise to claims for compensation and, as stated earlier it was not Government policy to support or provide "no-fault" compensation.
- 4.54. I have been asked how I would reconcile the Department of Health's lines to take on its engagement with the Archer Inquiry with the version of events provided by Ms Willetts. I note from Ms Willetts' witness statement that she considered her role was in part to "bring a passion for human rights **and for appropriate recompense for damage done**" [emphasis added]. I share that

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

passion for human rights. But people with the same principles and values can have entirely legitimate differences about the best way of putting them into practice. It would certainly seem from Ms Willetts' statement that she disagreed with the government's policy about no-fault compensation.

Section 5 : Reflective questions

DH handling

- 5.1. On reflection, and drawing on the totality of my experience as Secretary of State for Health, I believe that we were right not to ask officials to give evidence to the Archer Inquiry. Panel members were always going to have to digest an enormous amount of material, given the thousands of documents covering a very long period of time. But I was disappointed to read Ms Willetts' account of receiving boxes full of jumbled documents and I am surprised that the large amount of work that was undertaken by officials to obtain and collate documents, together with the report of the internal review of those documents, did not provide the Panel with an easier foundation for its work.

Blood Policy Team Capacity

- 5.2. I have been asked by the Inquiry what impact resources had on the decision not to engage with the Archer Inquiry and not to hold a public inquiry. As I have said earlier, the pressure upon Departmental resources at the time was intense and I would have been very concerned indeed about diverting scarce and valuable official time and expertise into either a statutory public inquiry or the Archer inquiry.

Andy Burnham's statement

- 5.3. In a debate in the House of Commons [RLIT0000771] on 15 January 2015, former Secretary for State for Health, Andy Burnham, stated: *"... I do not detect the failure being caused by Members of Parliament or, indeed, Ministers; I have met many who want to resolve this in the right way. I have to say that in my experience the resistance is found in the civil service within Government. That is often the case in examples such as this; I found the same with Hillsborough too. It is very hard to move that machine to face up to historical injustice".*

- 5.4. I agree with Andy Burnham's comments in relation to Hillsborough where the cover-up by officials, most notably the police, was scandalous. In relation to my own time as Secretary of State for Health, I did not encounter "resistance" amongst officials of the kind he describes (and I note that he does not specifically say that he encountered it himself in relation to the issue of infected blood.)

Earlier inquiry

- 5.5. I have been asked to comment on the evidence from campaigners and former Secretary of State for Health Norman Fowler the Government should have established a UK-wide public inquiry before now [INQY1000144] and [INQY1000145]. I have already explained why I took the view I did on a UK-wide public inquiry. I note that every previous Secretary of State for Health, Conservative and Labour, made the same decision, which was confirmed by subsequent Health Secretaries until 2017 when the present inquiry was established.

Statements made in Parliament as Secretary of State and in Opposition

- 5.6. To my best of my recollection and having had my legal advisers search the relevant databases I made no statements whilst in Government or as a back bench Member of Parliament. I was not an MP when the Labour Party was in Opposition, either before 1997 or after 2010.

Further comment

- 5.7. I do not have any further comments to make on the questions raised by the Inquiry, but I would wish to come back to where I started in this statement and close by expressing my dismay at the extent of the suffering caused by this tragedy and my sympathy for all those affected by it.

FIRST WRITTEN STATEMENT OF PATRICIA HEWITT

Statement of Truth

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

Signed.....

GRO-C

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Dated.....28/11/2022.....