Witness Name: Lord Norman Reginald Warner
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INFECTED BLOOD INQUIRY

FIRST WRITTEN STATEMENT OF LORD NORMAN REGINALD WARNER

Contents

Section 1: Introduction and opening comments

I, Lord Norman Reginald Warner, will say as follows: -

Introduction

1.1. My name is Norman Reginald Warner. My date of birth is GRO-C 1940, and my work address is House of Lords, London, SW1A 0PW.

1.2. I am providing this written statement in response to the Inquiry's Rule 9 request dated 28 September 2022.

Opening comments

1.3. I think it important to make clear that I have very limited recollection, if any at all, of the issues that the Inquiry has raised with me, and no recollection at all of the vast majority of documents to which the Inquiry has referred me to.

1.4. In Section 3 of this statement, I explain that as the only Health Minister in the Lords I had to answer questions on the whole range of the Department's activities, even though the vast majority were in the portfolios of my ministerial colleagues who sat in the Commons. For example, I estimated in my 2022 memoir that I signed about 10,000 letters as a minister, the great majority of them to colleagues in the Lords and on subjects for which I had no policy responsibility. Most of the many debates and Parliamentary Questions ("PQ") I answered were not on subjects for which I had any primary responsibility.

1.5. Therefore, the straightforward answer to many of the questions which the Inquiry has raised with me is, that I cannot remember. I have however reviewed the papers to which the Inquiry has referred me to, and the other Departmental records made available to me by my legal representatives. I have tried to provide context and comment based on my experience and what I think the Department's, or my, thinking is likely to have been at the time. However, I do wish to stress that, unfortunately, very little of what I am able to say in this statement is based on actual recollection.

1.6. I would also like to put on the record my enormous sympathy for those affected by the contaminated blood and my respect for those who campaigned for an

Inquiry. I totally understand why people wanted greater transparency over what happened. As I explain later in my statement, I did try to facilitate greater transparency through the use of the Secretary of State's powers under the 1977 legislation, to commission a review of all the documents – by an independent QC (as they were then).

Section 2: Professional history

Qualifications

2.1. My professional qualifications are as follows: MA (Public Health), University of California, Berkeley;

Employment history

2.2. The following tables outline my employment history, government posts and Parliamentary Select Committees:

Table 1: Employment history

Date	Organisation	Roles and Responsibilities
1974 - 1985	Department of Health and Social Security	Senior Civil Servant where my roles included supplementary and Housing Benefit Policy and Social Security efficiency review.
1985 - 1991	Kent County Council	Director of Social Services where my roles included management of children's and adult social services.
1992 - 1997	Warner Consultancy	Independent Consultant where my roles included chairing a government inquiry on children's homes and chairing NHS and voluntary organisations.
2014 - 2015	Birmingham City Council	Children's Commissioner where my role was to improve the quality of the city's children's services

Table 2: Government posts

Date	Role
13 June 2003 - 10 May 2005	Parliamentary Under-Secretary in the Lords (Department of Health)
10 May 2005 – 5 May 2006	Minister of State ("MoS") in the Lords (Department of Health (NHS Delivery)
5 May 2006 – 31 December 2006	MoS in the Lords (Department of Health) (NHS Reform)

Table 3: Parliamentary Select Committees

Date	Department
November 2007 – May 2012	Science and Technology Committee (Lords)
June 2010 – September 2011	Science and Technology: Sub-Committee
May 2012 – February 2013	Adoption Legislation Committee
November 2012 – March 2013	Draft Care and Support Bill
January 2014 – April 2014	Draft Modern Slavery Bill
May 2016 – April 2017	Long-Term Sustainability of the NHS Committee

Memberships

2.3. I have not been a member of any committees, associations, parties, societies or groups relevant to the Inquiry's Terms of Reference.

Litigation history

2.4. I have not provided evidence or been involved in any other inquiry, investigation or litigation relevant to the Inquiry's Terms of Reference.

Section 3: My time in office

Ministers in the Department of Health

3.1. As I have set out above, I was a Health Minister in the Lords from 13 June 2003 until 31 December 2006. This was initially at Parliamentary Under Secretary of State rank where my designation in internal documents was as PS(L). After the May 2005 election, I was promoted to Minister of State and my role was as Minister of State (NHS Delivery) (shortened in documents to MS(D)). From 5 May 2006 until my resignation effective on 31 December 2006, I continued as Minister of State for Health in the Lords, but the title of my role changed to Minister of State (NHS Reform) (often shortened in internal documents to MS(R)).

3.2. I have been asked to identify other Members of Parliament holding ministerial roles in DH between June 2003 and July 2007. I resigned as a Minister of State on 31 December 2006. I have set out below the other members of the Ministerial team while I was in post from 13 June 2003 – 31 December 2006:

(1) **Secretary of State**: Dr John Reid (to 6 May 2005), then Patricia Hewitt;

(2) **Minister of State for Health / Minister of State for Quality and Patient Safety**: John Hutton was Minister of State for Health (to 6 May 2005). Thereafter this post was renamed as Minister of State for Quality and Patient Safety and held by Jane Kennedy (10 May 2005 – 8 May 2006) and then by Andy Burnham (Minister of State for Delivery and Quality).

(3) **Minister of State for Health Services**: Rosie Winterton (until 28 June 2007); then Ben Bradshaw.

(4) **Public Health Minister**: Melanie Johnson was the Parliamentary Under-Secretary of State for Public Health (PS(PH) until 5 May 2005. She was then succeeded by Caroline Flint who remained in that role throughout the rest of my time as a Health Minister. She was promoted to Minister of State rank in May 2006 becoming Minister of State for Public Health.

(5) **Parliamentary Under-Secretary for Care Services**: Stephen Ladyman (until 10 May 2005); then Liam Bryne (to 5 May 2006); then Ivan Lewis.

3.3. I have been asked to identify senior civil servants involved in advising ministers on decisions about blood and blood products, the assessment of the risks of infection arising from blood and blood products, and the response to such risks (including the provision of financial support). It is difficult for me to remember these given the passage of time. However, from the documents provided to me the relevant civil servants during my tenure seem to have been:

(1) Sir Nigel Crisp, the Permanent Secretary and NHS Chief Executive (in that he was involved in the exchanges with Lord Jenkin);

(2) Professor Sir Liam Donaldson, Chief Medical Officer (CMO);

(3) Richard Gutowski then William Connon, the Heads of the Blood Policy team;

(4) Jonathan Stopes-Roe, Head of Strategy and Legislation in the Health Protection Division;

(5) Dr Ailsa Wight, Branch Head, General Health Protection;

(6) Gerard Hetherington, Director of Health Protection;

(7) Elizabeth Woodeson, Director of Health Protection.

3.4. Individuals from my Private Office who appear (from the documents provided) to have been most involved in blood and blood products are my Assistant Private Secretaries (APS) Frances Smethurst, Rebecca Spavin and Rebecca Lloyd.

3.5. I would like to expand on my role as a health minister in the Lords. I had my own areas of policy responsibility which were, as I recall it:

(1) In 2003 and 2004 when I was Parliamentary Under Secretary of State in the Lords (PS(L)) my responsibilities included: Commission for Health Improvement (CHI) and the NHS performance ratings; new Commission for Healthcare Audit and Inspection (CHAI); quality and clinical governance; National Institute for Health and Care Excellence (NICE); pharmaceutical industry issues; genetics and biotechnology; departmental agencies and research and development.

(2) In 2005 when I was Minister of State (NHS Delivery) (MS(D)) my responsibilities included: NHS finance issues; NHS workforce issues; primary care; chronic disease; NHS Foundation Trusts; IT; access and delivery; Winter planning and Private Finance Initiative (PFI) and NHS Local Improvement Finance Trust (LIFT).

(3) In 2006 when I was Minister of State (NHS Reform) (MS(R)) my responsibilities included: NHS budget setting and allocations; system reform; Our Health, Our Care, Our Say White Paper (health lead); community hospitals; unscheduled and emergency care; NHS workforce issues; primary care and NHS LIFT; chronic disease and NHS IT and Connecting for Health.

3.6. While these were the policy areas for which I had delegated responsibility, because none of the other Health Ministers sat in the Lords, I had to cover the whole range of health issues when they arose in debates and Parliamentary Questions in the Lords. So, I would answer questions and speak in debates across the whole area for which the Secretary of State had responsibility, including in many areas for which the various junior Ministers in the Commons had the delegated responsibility within their portfolios. I would similarly receive correspondence from members of the House of Lords on very many issues. Responses to such correspondence would, invariably, come from me rather than the Minister in the Commons who had the subject responsibility.

3.7. Given that I had to speak across such wide policy areas outside my own immediate portfolio, it was my general policy not to get drawn into policy debates on areas covered by other Ministers. I would receive briefings and draft answers from the relevant officials which I would normally expect to be copied to and approved by the Minister in the Commons whose subject it was. I would always try to ensure that replies were as helpful as possible to colleagues in the Lords without changing the nub of policy, which was not my job.

3.8. Infected blood issues were not within my portfolio of responsibilities. Throughout my time as a Health Minister, at junior Ministerial level,

responsibility for matters relating to infected blood rested with the Minister for Public Health. This was first Melanie Johnson (PS(PH)) then Caroline Flint who took over as PS(PH) and was later promoted to MS(PH).

3.9. I have referred in this statement to some occasions where I did provide comment on, and input into, issues such as the discovery of further documents relating to blood products and options for a public inquiry. I also attended some meetings where such issues were discussed. However, policy responsibility remained within the Minister for Public Health and ultimately the Secretary of State. My involvement came from the facts that:

(1) I was answering many questions in the Lords on issues relating to infected blood; and

(2) More generally, I had a background in the Civil Service in achieving efficiency and the Secretaries of State and other Ministers like Caroline Flint would occasionally seek my views on a wider range of issues.

Section 4: Destruction of documents

Documents relating to infected blood and blood products

4.1. I cannot recall at all when I was first made aware of the destruction of documents relating to infected blood and blood products. However, amongst the available documents is email correspondence between the civil servants about these issues, which although I would not have seen at the time, informed the first answer that I subsequently gave to a PQ on this topic, shortly before I became a Health Minister in the Lords. On 5 June 2003, Zubeda Seedat forwarded Charles Lister a PQ from Lord Clement-Jones about the review of the missing files and the outcome, Charles Lister replied to this email on 10 June 2003, again before I became PS(L), and detailed what the self-sufficiency report was and gave an explanation for the missing papers:

'Unfortunately none of the key submissions to Ministers about self sufficiency from the 70s/early 80s appear to have survived. Our search of relevant surviving files from the time failed to find any. One explanation for this is that papers marked for public interest immunity during the discovery process on the HIV

Litigation have since been destroyed in a clear out by SOL (there is an email from Anita James to me confirming this). This would have happened at some time in the mid 90s.

I suspect that Lord Owen's allegation about pulped papers refers to the papers kept by Private Office which are never kept after a change of Government. They are either shredded or handed back to the relevant policy section. However, the fact that we can no longer find any of these documents – so can't say what Ministers did or didn't know about the state of play on self-sufficiency – just plays into the hands of the conspiracy theorists' [DHSC0020720_081].

4.2. I answered the PQ mentioned above on 18 June 2003:

'Lord Clement-Jones asked Her Majesty's Government: What review has been carried out of the circumstances in which files relating to liability for the supply of blood products, which were compiled while Lord Owen was Health Minister, went missing; and what has been the outcome.

Lord Warner: An informal review is being undertaken by the Department of Health to clarify the facts surrounding the drive for United Kingdom self-sufficiency in blood products in the 1970s and 1980s. The review is based on papers available from the time and is not addressing allegations that files from that period went missing.' [DHSC0020829_204].

4.3. So long after the events, I cannot identify who told me about document destruction in the context of infected blood issues. However, from this PQ, which I answered within days of my appointment, it was clearly an extant issue when I assumed my post in the Lords in June 2003. I understand from the documents provided that Richard Gutowski and Zubeda Seedat were the officials dealing with the issue in the first part of my tenure. Later, in 2005/ 2006 when the issue came to prominence again, William Connon was the official who was providing information to Ministers about missing or destroyed documents.

4.4. Further, I note from the documents that I continued to address missing/ destroyed documents relating to infected blood in PQs during my tenure. For example, I have seen a document in relation to the PQ on 6 February 2006 about destroyed documents. The proposed question and suggested reply were as follows:

'To ask Her Majesty's Government, further to the answer by the Lord Warner on 12th January (HL Deb, col. 300) about documents dealing with contaminated National Health Service blood products that were destroyed in error by the Department of Health in the early 1990s, on what date or dates they were destroyed; by whose decision they were destroyed; and whether it is only documents on these products that have been destroyed in error by the Department. (HL3732) [sic]

SUGGESTED REPLY

My Noble Lord is aware that documents were destroyed in error in the early 1990s. Officials have also established that documents relating to the Advisory Committee on Virological Safety of Blood were also destroyed between July 1994 and March 1998. A decision, most probably made by an inexperienced member of staff, was responsible for the destruction of these files' [DHSC5401588].

This minute referred to above was written by Zubeda Seedat in relation to a further PQ in February 2006 and also gave background information about the destruction of papers.

4.5. The actual written reply I gave was:

'My noble friend is aware that during the HIV litigation papers were recalled. We understand that papers were not adequately archived and were unfortunately destroyed in the early 1990s.

My noble friend is also aware that further documents were destroyed in the 1990s. Officials at the Department of Health have established that these documents related to the minutes and papers of the Advisory Committee on the Virological Safety of Blood between 1989 and 1992. These papers were destroyed between July 1994 and March 1998. A decision, most probably made by an inexperienced member of staff, was responsible for the destruction of these files' [WITN4912056].

4.6. On both 8 March 2006 [WITN7501002] and 24 May 2006 Lord Jenkin raised PQs about the returned files which I will refer to later in my statement [DHSC0041304_052].

4.7. I can see from the documents that Caroline Flint and I were concerned about the missing and destroyed documents. However, I can also see from the documentary record that for the most part submissions in relation to this were directed towards Caroline Flint, who was the Minister in the Commons

who had responsibility for blood products under her portfolio. For example, on 8 December 2005, William Connon sent a submission to Caroline Flint about the materials the Scottish Executive were releasing [DHSC0200103]. This submission was not copied to my Private Office. Thus, it does not seem that I was routinely copied into all Ministerial submissions about the missing documents. Another example of a submission that was not copied to my Private Office is an earlier briefing by William Connon on the review of papers dated 20 July 2005 [DHSC0006259_020]. However, I would have seen the briefings for the PQs mentioned above. In January 2006 there were emails between Sophie Coppel and my Private Office about the media's coverage on the missing documents [DHSC6276268].

4.8. I have been asked what steps I took to discover how DH papers relating to blood and blood products from the 1970s, 1980s and 1990s had been destroyed. I can see from the documentary record that both Caroline Flint and I were concerned about the adequacy of the steps taken to locate missing documents which discussed the destruction of records and we did ask questions about this. We were reliant on the information being provided by officials but it looks as though we were pressing for as full an answer as possible. It was always my approach to Lord's colleagues to be as forthcoming as possible. That way I secured their trust and support.

4.9. I am asked if there were attempts to identify the individuals responsible. I cannot recall that individuals were identified. The documents I have seen do not suggest that the investigations that had taken place had identified the individuals who were responsible. For example, on 11 May 2006, I received a submission from Steve Wells, of Information Services [DHSC5076111]. I can see from this submission that I had requested a briefing ahead of a meeting between Caroline Flint and myself, which had been rescheduled for 24 May 2006 (see further below). The submission concerned an article, '*Annex A*', that had been published in the Observer on 23 April 2004 [DHSC5076111] . The Observer article reported that in response to a freedom of information request, victims had been told that an *'inexperienced staff member was probably responsible for the destruction of files'* but that correspondence, seen by the Observer (namely a letter

from the Health Secretary, Patricia Hewitt) had revealed that *'only senior officers' had 'been in a position to retain or destroy'* the documents. The submission, which also included the letter from Patricia Hewitt, '*Annex B*', explained that the statement in the Observer was based on *'a mis-interpretation of a letter from the SofS to Charles Clarke MP'* and it appears to conflict with the previous statements by Ministers and officials that *'an inexperienced member of staff was probably responsible for the destruction in the mid-1990s of files covering the work of the Advisory Committee on the Virological Safety of Blood'* [DHSC5076111] .

4.10. The submission then set out the following, which indicated that the matter had been *'fully investigated'* but did not suggest that any of the individuals responsible had been identified as part of this investigation:

*'**Key Messages***

5. Decisions on retention and destruction or records may be made by relatively junior staff (IP2 or above).

6. Line managers at all levels are responsible for ensuring that record keeping in their areas is consistent and meets Departmental standards. This includes making sure that staff making decisions on records retention and destruction are "sufficiently aware of the administrative needs of the section to be able to make the decisions".

7. There was no deliberate attempt to destroy past papers.

8. When the discovery was made that files had been destroyed, an internal review was undertaken by officials led to improvements in guidance and procedures on record keeping (summary of findings in Annex C)

....

Lines to take

11. The guidance has been consistent. Although relatively junior officials are permitted to make decisions on retention or destruction of records,

their line managers are responsible for ensuring that they are equipped to exercise that responsibility.

12. Clearly, the files and papers should not have been destroyed. Given the sensitivity of this issue, we have fully investigated this matter. We have concluded that this was a very unfortunate administrative error.

13. We greatly regret that these papers were destroyed in error and are doing everything we possibly can to ensure that any documents, which were not destroyed, are made available' [DHSC5076111].

4.11. I have also been provided with the email to which this submission was attached, which likewise indicates that I was to have a rescheduled meeting with Caroline Flint on 24 May 2006 [WITN7501003]. Further, I can see from emails between officials that there was no other briefing note for this meeting. Indeed the emails between officials specifically stated, on 20 April 2006, *'I wasn't planning any papers for this meeting'* [DHSC5412838] and *'as the email states no papers have been prepared to this meeting'* [DHSC5412838]. Rebecca Spavin provided an informal list of what was to be discussed at the meeting:

'You're right - no papers are necessary.
This meeting has been set up to discuss;
FOI and disclosure
Possible Public enquiry in Scotland
why the report took so long to be completed
next steps etc...' [DHSC5412838].

4.12. Caroline Flint and I then met with officials on 24 May 2006 and we made it clear that we wanted to understand what documents DH did and did not have. On 25 May 2006, following this meeting, William Connon emailed Gerard Hetherington [DHSC0015812]. Also on 26 May 2006, Rebecca Spavin emailed DH officials where she wrote, *'whilst sympathetic to the fact you were not the officials that caused this problem and that resources are an issue both MS(PH) and MS(R) were [insistent] that more proactive measures are taken to appease the Lords that are campaigning on this issue'* [DHSC5286062] . My Private Office's message here illustrates that

Caroline Flint and I were pushing for more action to get to the bottom of the missing documents issues. It also explains why, at least to some extent, I was getting involved in Caroline Flint's policy area because the pressure on the topic was coming principally from members of the Lords' and hence, I was having to answer Peers on the floor of the House. I would have wanted to be as open as possible about what had happened and not appear to be engaged in a cover-up.

4.13. On 14 December 2004, Lord Jenkin contacted me regarding a *'...so-called Westminster-funded report into haemophilia and hepatitis non-A non-B between 1979 and 1982... You will also see that I have no present recollection of any secret report into the subject, but it may be that the files could disclose something along those lines'* [DHSC0200076]. I responded to that letter on 27 January 2005 confirming that, *'My officials have carried out a search of the relevant files, but can find no trace of information relating to the 'secret Westminster-funded report'...'* [WITN3996005]. My response would have been based on a response drafted by officials. A draft was prepared for me by Zubeda Seedat [WITN4912009].

4.14. It is likely I saw the background note regarding the '*LETTER FROM LORD JENKINS [sic]*' dated 28 February 2005, drafted by the Blood Policy Team, where it was said, '*Lord Jenkins [sic] rang Sir Nigel's office to take up the issue of the Department's filing and document management system*' [DHSC0200048]. Subsequently, on 10 March 2005, I sent Lord Jenkin another letter stating the following:

> *'I have been advised that you recently contacted Sir Nigel's office about my letter dated 27 January. I understand that you expressed concern about the Department's filing and record management systems.*
>
> *I would firstly like to correct the impression I may have given that we hold no records on the treatment of haemophilia patients, blood safety and related issues. The Department of Health has a Departmental Records Office (DRO) that holds closed files on these areas. These files have been subject to a branch review.*
>
> *Clearly, keeping good records is fundamental to the day to day running of the Department. We recognise that much of the work we do has long term consequences and accurate records are essential if future users are to be able to see why certain decisions were made, or why certain things*

did or did not happen. This is a message that is regularly communicated and reinforced to staff.

Mr [name redacted] refers to what he calls a secret Westminster [sic] report. Officials have established that this refers to the document entitled "Haemophilia Centre Directors' Hepatitis Working Party Report for year 1980-81". A copy was attached to the letter I sent you. The paper indicates the existence of non—A and non-B hepatitis (NANBH), and that in the 1970's treatment with blood clotting factor concentrates carried a risk of infection with NANBH (what we now know as hepatitis C)' [ARCH0002570].

4.15. It is clear from the documents that I did not believe that there was as such a *'secret Westminster report'*. However, I sent Lord Jenkin a copy of the document which officials believed was being referred to, referred to in the quotation above as, '*Haemophilia Centre Directors' Hepatitis Working Party Report for year 1980-81*'.

4.16. I understand from the documents provided, that at the time, William Connon, the Head of the Blood Policy Team, was involved with the management of Lord Jenkin's queries. The Inquiry has referred me to the fact that in Lord Jenkin's statement of 20 April 2007, he stated that he had met with William Connon before he had begun his initial search of files and that:

'There was something in Mr Connon's manner when speaking to me about this that led me to suspect that he may have known more about the destruction of these files than he was prepared to disclose to me' [ARCH0002968].

4.17. This was clearly the personal opinion of Lord Jenkin, but I have no recollection of taking a view on it.

4.18. An e-mail chain between Norma McCarthy, Shaun Gallagher and Frances Smethurst dated March 2005 indicated that Lord Jenkin believed he was *'being denied access to papers which relate to (I think) his time as SoS which I believe was from 1979-1981'* [WITN3996009]. I had a good relationship with Patrick Jenkin and would never have attempted to deny him access to papers from his time in office and I am not aware that officials

did so either. I cannot now recall Lord Jenkin asking me for permission to access the papers however, I note the comment from the civil servants involved that, '*I am not sure about the "denied access" issue – he hasn't asked to see papers, though I suppose that may be one of the outcomes of the meeting*' [WITN3996009]. My recollection is also that any ex-Minister can ask the Cabinet Office to refresh their memory on the papers they were involved in when in office. Lord Jenkin was an experienced Minister and should have known this.

4.19. I have seen an earlier email from Shaun Gallagher to Zubeda Seedat dated, 9 February 2005, which relates to the letter that was eventually sent to Lord Jenkin. Mr Gallagher explained that:

> *'As Frances knows, I had a phone call from Lord Jenkin in response to the letter he received from Lord Warner. He was concerned that the reply he had received gave the impression that the Department held no records on the subject in question, and was looking to take up the issue of DH's filing and document management with the Permanent Secretary. Although I have looked at the original letter and the reply sent (attached below) I do not really understand what the situation is - for instance, whether the Scottish papers are likely to be the "secret Westminster-funded report" that Mr GRO-A was talking about; whether our records have anything on the subject of the Haemophilia Centre Directors' Hepatitis Working Party at all; and why the Scottish Executive have records that we don't (this presumably was either an English or UK initiative). You thought that a rather fuller reply could have been given to the letter, and offered to do a follow-up letter. I think that this should most sensibly come from Lord Warner again, if Frances does not object. As this is PS(PH)'s subject it should perhaps be cleared again with Anna. Could you please put a draft to Frances by close Wednesday 16 February. Unless anyone suggests I do differently I will phone Lord Jenkin tomorrow to say that he can expect a further letter on the subject'* [WITN3996006].

4.20. This e-mail suggests that although the area was likely to be PS(PH)'s policy area, officials wanted me to sign the letter, presumably because of my previous correspondence with Lord Jenkin. Frances Smethurst replied to this email saying that she wanted to wait for me to return to sign the letter as she would not want to sign on my behalf.

4.21. On, 10 February 2005, William Connon e-mailed Shaun Gallagher in the following terms:

'Shaun - don't know all the background to this, in detail but believe the original letter was not drafted by this policy group which may account, in part at least, for the confusion. I am not entirely convinced that a follow up letter was required but now that Zubeda had kindly agreed to draft one, and Lord Jenkins has been informed that one will be issued, we will have to prepare it.

It might help avoid this sort of situation in future if these matters were discussed with the policy team before any decisions are made. The agreed course of action diverts scarce resources, which we can ill afford' [WITN7501004].

4.22. One of the issues here may be that unfortunately there was an administrative error. The letter I sent to Lord Jenkin on 10 March 2005 referred to above at 4.15 also included the background note drafted by Zubeda Seedat [WITN3996007]. At some point after this Lord Jenkin called DH asking for a meeting with Sir Nigel Crisp and apparently felt he was not being given access to the papers [WITN4912024].

4.23. On 16 March 2005, Frances Smethurst e-mailed Shaun Gallagher where she wrote, *'He [Lord Jenkin] hasn't spoken to us but he did speak to Lord Warner the other day (I told* GRO-A *but forgot to send you an email about this). He says that his issue is not with Lord Warner and thanked him for the recent letter which he found helpful. However, he believes he is being denied access to papers which relate to (I think) his time as SoS which I believe was from 1979-1981'* [DHSC0200058]. Unfortunately, I do not remember the phone call with Lord Jenkin and it has not been possible to locate any notes relating to that conversation apart from the above email.

4.24. In the same email chain referenced in the preceding paragraph, I can see that it stated, '*Just to alert you that we now have had to give in to a meeting with Lord Jenkins [sic*]' [WITN3996009].

4.25. I would add that from documents which I have been provided with by my legal representatives, I can see that on 13 April 2005, there was a meeting with Lord Jenkin. I believe Sir Nigel Crisp led this meeting. I can see from the email chain relating to this meeting that officials felt a meeting had to take place due to the fact a background note was accidentally included with the second letter sent to Lord Jenkin [DHSC0200058]. The submission from

William Connon to Sir Nigel Crisp dated 11 April 2005, was copied to my Private Office [WITN7501005].

4.26. I do not think that there was any unwillingness on my part to meet with Lord Jenkin. It looks more as though officials were just trying to establish what had happened with the erroneous inclusion of the briefing note with the letter. Indeed, Lord Jenkin asked for a further meeting, and a submission by Zubeda Seedat was sent to Sir Nigel Crisp on 29 November 2005 [DHSC6274040].

4.27. In an email from Zubeda Seedat to John Chan dated 19 December 2005, referring to a draft answer to PQ05T74, Zubeda Seedat wrote,

"With regards to Lord Owen, we understand that he wrote to John Moore (then SoS) in 1987 raising concerns about what happened to the extra money he provided in 1975 and why this did not result in self-sufficiency in blood products. We do not have a copy of John Moore reply but Lord Owen is quoted as saying that he was told that papers had been destroyed. This issue of self-sufficiency in blood products resurfaced in 2002 and Lord Owen has not been in touch with the Department since then. In view of this we have not referred to Lord Owen's enquiries/concerns' [WITN3996021].

4.28. Ms Seedat wrote this following a query from me, which was, *'Wasn't Lord Owen also involved in this and shouldn't we cover in answer?'* [WITN3996021]. I have been asked whether I agreed with the assessment that it was unnecessary to refer to Lord Owen in the answer to the PQ about his enquiries regarding the destroyed documents because he had not been in touch about the issue since 2002.

4.29. In the undated background note accompanying Zubeda Seedat's email referenced above, it states:

'3. Following a meeting with Sir Nigel Crisp on 13 April 2005, we were asked to identify files on this issue to that Lord Jenkin could go through the papers. We contacted both the Departmental Records Office and the National Archives to retrieve files for the period 1979 – 1981. There were a limited number of files going back to this period, unfortunately many of the files from that period have been destroyed. However, we made available those files which were held, and agreed to releasing some documents which Lord Jenkin indicated that he would like to make available to [name redacted].

4. Lord Jenkin has now released these documents to [name redacted], but has notified him about the fact that a number of files have been destroyed. This has generated some media interest, accusing officials of a "cover-up".

...

Destruction of papers

6. During the HIV litigation in the 1990s many papers from that period were recalled. We understand that papers were not adequately archived and were unfortunately destroyed in the early 1990's. In addition, we have established that many other important documents, mostly papers and minutes of the Advisory Committee on Virological Safety of Blood were destroyed in the 1990's. This should not have happened. During the discovery exercise for the Hepatitis C litigation in 2000 it emerged that many files were missing. A low key internal investigation was undertaken, by colleagues in Internal Audit, to establish why files were destroyed. We have maned to obtain the report by Internal Audit. This concludes "The decision to mark the files for destruction was taken at a time of major organisational change in the Department, ie: the implementation of the Functions and Manpower Review (FMR), which resulted in two experienced members of staff leaving the relevant section. We believe that the upheavals of the FMR process probably resulted in either

- a delegation of responsibilities without proper instructions, or

- an assumption of responsibility without proper authorisation.

Either occurrence, likely given the organisational context, is the most probable explanation for the decision to mark the files for destruction, and the short destruction dates assigned".' [WITN3996021].

I have no recollection of this document.

4.30. On, 20 December 2005. I said in response to Lord Morris' question,

'*In December last year, the noble Lord, Lord Jenkin of Roding contacted Ministers about access to papers on the treatment of haemophilia patients and blood safety dating back to the period when he was Secretary of State for the Department of Health and Social Security. Lord Jenkin has also been in touch with the chief executive and officials in the Department of Health. Lord Jenkin has received several letters from the department and met with the chief executive on 13 April 2005. In addition, he visited the department on two occasions to inspect files dating back to his period in office. A number of papers were released at his request. However, we acknowledged early on Lord Jenkin's enquiries that a number of papers from the 1970s and 1980s have been destroyed in error'* [HSOC0008580].

4.31. I have no recollection of this episode but from my knowledge of Lord Owen I would have thought he would have pursued matters if he had concerns. I doubt it was relevant to refer to him in this answer. Furthermore, the department is unable to locate any further emails or briefings on this matter but the fact that I gave an answer without reference to Lord Owen suggests that I was happy with Zubeda Seedat's response on the issue.

4.32. In the House of Lords on the 24 May 2006 missing documents in relation to contaminated blood products were raised by Lord Jenkin in the course of a debate and I responded by saying:

'…a number of documents that have been disclosed by the department in the HIV and hepatitis C litigation were held by Blackett Hart & Pratt Solicitors. It agreed to return the papers to our solicitors, who are now considering them with other departmental officials. Advice has yet to be given to Ministers on the significance of the returned files' and '…there are a substantial number of lever-arch files, as he put it, containing documents to be gone through, which is what we are doing. Until we have gone through those files we cannot explain to the noble Lord or anyone else the significance of the documents for the document that we published. We will go through those files as quickly as possible…' [DHSC0041304_052].

4.33. I have also seen an '*Appendix B*' consisting of a briefing note, that included the following:

'Handling of documents returned by solicitors

At the request of both MS(PH) and MS(R) officials are giving high priority to examining the files which have been returned to the Department by Blackett, Hart and Pratt (Solicitors). The work of existing staff in the Division has been reprioritised to accommodate this but the work required to examine the returned documents, together with several other related tasks, represents a major undertaking. This will require extra staff from elsewhere in the department, which are currently being recruited. We have also arranged with SOL [sic] to commission an initial analysis of what the returned papers contain, to be carried out by an independent legal expert (panel counsel). We will also pursue MS(PH)'s suggestion of seeking assistance from the Information Commission.

…

Documents which have been destroyed

We know that there were two instances in the 1990's where papers were destroyed in error. The first instance was following the HIV litigation. Currently we do not know the full extent of what was destroyed. We

propose to establish more information about these papers, and the circumstances of the destruction. In the second instance, we know that 14 volumes of papers relating to the Advisory Committee on the Virological Safety of Blood (ACVSB) were destroyed. An internal investigation was undertaken in April 2000 by colleagues in Internal Audit to establish why these files were destroyed. We have a copy of the report by Internal Audit, therefore in relation to these files we may be able to establish whether some of the papers recently returned include papers from the ACVSB. We will also list the documents (of which there are thousands) recently released in Scotland.

…

Lines to take

The purpose of this meeting is to discuss the funding of the Macfarlane and Eileen Trusts. However, we regret that any papers relevant to the Trust's work have been destroyed in error. I have explained on a number of occasions that there has been no deliberate attempt to destroy past papers. During the HIV litigation in the early 1990's many papers from that period were recalled. We understand that papers were not adequately archived and were unfortunately destroyed following the litigation. Officials have also established that a number of files on the Advisory Committee on the Virological Safety of Blood (ACVSB) between May 1989 - February 1992 were unfortunately destroyed in error. These papers were destroyed between July 1994 and March 1998.

An internal investigation was subsequently conducted by the Department's internal audit team' [DHSC0041159_228].

4.34. The full document to which this appendix relates was a submission from Brian Bradley to PS/MS(PH) dated, 7 July 2006 [DHSC5156234]. This was the briefing for a meeting with the Chair and Trustees of the Macfarlane and Eileen Trusts on 12 July 2006.

4.35. I have seen an email from William Connon to Zubeda Seedat, dated 24 May 2006, where it was said, *'Lastly, can we give Lord W a rough indication of what proportion of the total files erroneously destroyed by DH these new files constitute i.e. how many files have been returned and how many were destroyed?'* [DHSC0200023].

4.36. In an email prior to the one above, Rebecca Spavin sets out questions I asked including that DH solicitors are contacted and asked '*what proportion of the total files destroyed the papers returned to Blackett, Hart and Pratt represents'* [DHSC5413682]. The email was then forwarded to Anne Mihailovic, a solicitor for the DH, who responded on 24 May 2006 where

she wrote, '*Without a list of what has been destroyed, if it exists, it is impossible to know what proportion has been recovered. It does seem to me that it may be best to identify a dedicated policy resource to go through all the documents systematically and comprehensively'* [DHSC5413682].

4.37. It does not seem that the question was answered conclusively. After the PQ was answered, Rebecca Spavin e-mailed a list of actions on 26 May 2006 [DHSC5286062]. She asked for a joint paper from MS(PH) and MS(R) to be drafted and sent to the then SoS. She asked that it *'provides information on the returned files (i.e. what [percentage] are they of the destroyed volumes'* [DHSC5286062].

4.38. On, 24 July 2006, Caroline Flint and I sent a submission and the following document is likely to be the final version of the paper Rebecca Spavin referred to above, where it says:

> *'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 FoI provisions.*
>
> *Further, some files have recently been returned to the Department by Blackett, Hart and Pratt (Solicitors), and we have requested that high priority be given to examination of these by an independent Counsel following points made in a recent HoL starred question from Lord Jenkin. This is in hand'* [DHSC0103399_003].

4.39. I have no recollection of what investigation or analysis was undertaken to establish whether any returned documents included any documents which Lords Jenkin and Owen were personally informed had been destroyed. Neither do I recall what investigation was undertaken to establish which documents were recorded as missing. Looking at the documents above, I would suggest that, at that time, no progress had been made in quantifying the percentage of returned documents that constituted the destroyed documents.

4.40. I have been referred to the following documents concerning the discovery of 47 boxes of unregistered files in Wellington House:

(1) An email dated 12 September 2006, from Zubeda Seedat to William Connon and Linda Page copied in, which requested a '*brief word*' concerning the response to a Freedom of Information ("FOI") request. Linda Page responded by advising:

> *'…to state that the documents uncovered relate to those returned by a firm of solicitors. As previously advised we are in the process of reviewing these documents with a view to release as many as possible in line with, but not under, FOIA as Section 12 applies in this instance. Apart from the documents returned by the firm of solicitors no further documents have been found, the reference in the article to the finding of 45 boxes of documents is* incorrect' [DHSC0004232_029].

(2) A progress report on the '*Review of Documentation Related to the Safety of Blood Products: 1970 – 1985*' dated, 25th October 2006 – 3rd January 2007, produced by Linda Page which, under the sub-heading, 'Review of Documents', outlined that:

> *'[t]he remaining 11 'Wellington House' files have been reviewed which would have completed the review of 'Wellington House' files from 1970 to 1985. However, additional documents that require review were identified in December 2006 and are relevant to the review, these have been placed in 8 registered files. These documents were located during a search of filing cabinets and were either loose, in box files or lever arch files. Two data cartridges were also found, marked HIV Litigation 1989 - 1991. We do not have the technology to read these cartridges in house and ISD have arranged for the content to be accessed. The cartridges should go to the external company w/c 2nd January, the time required will not be known until the external company has had the opportunity to view the cartridges and there is not [sic] guarantee that any data will be recoverable. No further documents have been located.*
>
> *The scope of the project was documents covering the period 1970 – 1985. Some documents fall outside the scope, being post 1985, but were in the original 47 lever arch files at Wellington House. For completeness these documents will be scanned for reference to NANBH and included in the review. These documents are in 7 registered files'* [DHSC0004232_037].

(3) An email chain including an email dated, 27 September 2006, from Sophie Longbottom to Linda Page where she explained that,

> *'Lord Jenkin has called to say he and one of his campaigners have received letters from an official with the surname 'Burke' - assuming this is David from CSC who leads MS(PH)'s correspondence team. He is under the impression that DH has had the 47 boxes of files/or has 47 boxes of files now. He has asked for a letter and it to be brought to the attention of MS(R) (and MS(PH)). In particular he would like to know where we've got to in examining the files, and whether the 47 boxes were the ones which were sent down from the Scottish lawyers. I understand that Lord Jenkin has inspected our premises in person, in line with his entitlement as a former health Minister, and found no files'* [DHSC5435884].

(4) An email dated, 29 September 2006, from Linda Page to William Connon regarding a telephone conversation she had with Lord Jenkin regarding the missing files. Linda Page suggested,

> *'…we'll need to consider what approach is going to be taken to the Wellington House files, the 47. Those papers I reference in my report should be processed for release but there will be few of these compared [sic] to the whole. Among the 47 files are some that were the subject of non disclosure during the HIV/Hep C litigation, about four files, I checked the status with SOL [sic] on Wednesday and their view is that, although they were previously withheld they will need to be checked to see if they should remain withheld. I've not read through them yet in detail but a quick scan indicates that they are part of formulation of policy and could be withheld should any decision be made to release them - my own view is that we should apply Section 12, over £600 to any request made for 'bulk' release'* [DHSC5435079].

(5) A draft letter dated, October 2006, from me to Lord Jenkin which confirmed that work was:

> *'…underway to identify and review all the documents currently held by the Department relating to the safety of blood products between 1970 and 1985. This includes 47 lever arch files you have enquired about. I can confirm that there are* ***not*** *the files returned by the legal firm in the North of England. They are part of the documentation that has been available to the Department separate from registered files. You are more than welcome to come in and examine the papers in these files relating to your term of office… You also asked about the documents returned by the firm of solicitors earlier this year. The review of these documents is now complete and they are currently being processed for release in the next month. I am sure you will*

> *appreciate that it does take time to examine these documents properly but I have asked that officials complete this as a matter of urgency… I do appreciate your close interest in this issue and I have asked officials to work towards producing a report of their analysis by the end of this year. I will personally send you a copy of the report as soon as it is available…*' [DHSC5002461].

The final version of this letter, signed by me was sent on 23 October 2006 [ARCH0002572].

(6) An email dated, 9 October 2006, from William Connon to Elizabeth Woodeson regarding *'...the question of the 47 files'* where he said that:

> *'… This whole area is far from straightforward, hence Linda's arrival to tackle it. I am by no means certain that the 47 "files" were included in the self-sufficiency report and I am told they were not shown to Lord Jenkin either. The reason being that they are not actually registered files but folders of papers which were simply found in a cupboard in the office. We will need to word any response carefully which is one of the reasons why I advised against rushing this one'* [DHSC5154769].

(7) A briefing note from William Connon to me dated 9 October 2006, regarding *'Lord Jenkin's query regarding papers on blood policy'.* This note explained that three sets of documents were held by the Department:

> *'1. Wellington House files, these have always been in the possession of DH and held at Wellington House, including the unpublished references to the report 'Self-Sufficiency in Blood Products A Chronology from 1973 -1991'This [sic] includes the 47 lever arch files which Lord Jenkin refers to, which were not properly filed on registered departmental files.*
>
> *2. Documents that have been returned to DH by a firm of solicitors in the North East following press articles on lost documents.*
>
> *3. Files recalled from Departmental Record Office (DRO) Nelson, these files were recalled as part of the 'look back' exercise and a subsequent search for relevant files'* [DHSC0200135].

(8) An email dated 2 April 2007, from Rowena Jecock to Linda Page commenting on the latest draft of the '*NANBH report*' where she stated:

> *'In Annex A you say that papers located at WEL in 47 unregistered files have always been in the possession of DH. Is this correct? Could these not be the papers supplied to SOL [sic] for the 1990 litigation, which were never put back into registered files on their return to DH? Related to this, it seems odd to say in para 37 that the WEL files were presumed to have been removed from registered files and grouped into unregistered files, without making some connection between the 2 events'* [DHSC5465598].

4.41. The Inquiry has asked me about 47 'boxes', however, I observe from the documents, and in particular the progress report of Linda Page, that this appears to have been 47 'files', rather than 47 'boxes'. I cannot now recall when I was first made aware of the discovery of the Wellington House files. I note that I answered a PQ on 24 May 2006 about how *'... we have established that a number of documents that have been disclosed by the department in the HIB and hepatitis C litigation were held by Blackett Hart & Pratt Solicitors'* [DHSC0041304_052]. From the documents that I have read, it appears that discussions about the 47 files located in Wellington House took place in September and October 2006.

4.42. I do not now know or recall what I was told about the circumstances in which David Burke discovered the 47 files, and I cannot assist the Inquiry with this, other than to observe what is stated in Linda Page's progress report in paragraph 4.42 (2) and(4) above i.e. '*These documents were located during a search of filing cabinets and were either loose, in box files or lever arch files*' [DHSC0004232_037].

4.43. I also cannot recall if the discovery of the Wellington House files led to any further investigations or enquiries into other unregistered files within the Department and I have not seen anything that shed any further light on this issue.

4.44. The Inquiry has referred me to an email chain dated, 23 October 2006, between, Elizabeth Woodeson, Sophie Longbottom and William Connon, discussing the draft letter to Lord Jenkin as referred to above. The email from Elizabeth Woodeson to Sophie Longbottom stated:

'Happy with all these changes except for the sentence "They are part of the documentation that has been available to the Department separate from registered files" in the second para.

I see what Lord Warner is trying to do here - and that he would rather not admit any culpability on our part. However by saying they are "part of" documentation that is separate from registered files it implies that there could be other documents outside the registered files. This is not the case. We are confident that there are no other documents in the office relating to this period and subject that have not been filed. Also our wider policy is that all important documens [sic] should be placed on official files - it is surely undesirable to suggest that we routinely keep a separate set of documentation?

Can we therefore suggest an alternative for that sentence as follows:

"They are documents that during earlier reviews were stored in lever arch files; they have now been placed in registered files".' [DHSC6484699].

4.45. The Inquiry asks if I agree with the suggestion that the phrasing of the sentence referred to, was an avoidance of culpability. Elizabeth Woodeson was a very capable civil servant, but she appears to be surmising my views in the email exchanges. My recollection is that I wanted to know what had happened to the missing files, not avoid departmental culpability.

4.46. The Inquiry has also referred me to the fact that in July 2008, a further 41 folders of unregistered files were discovered in Wellington House. At the time of this discovery, I was no longer in office and so I would not have seen any correspondence on the matter.

4.47. Despite the three documents the Inquiry have referred me to below, I cannot answer as to how these files came to be discovered and why they were not previously identified with the original discovery:

(1) Firstly, an email from Laura Kennedy to William Connon dated 16 July 2008, explains how the discovery of a further 41 folders came about:

'Patrick and I [Laura Kennedy] discovered these files when reorganising the filing cabinets in Wel 517. We assume they were stored by a previous inhabitant of Wel 517, perhaps since the 1989/90 Haemophilia litigation. They are not registered files, and are not very well organised. They contain documents from the time of the litigation, and documents from the 1970-1985 that have been removed or copied from the original files in order to be organised for discovery prior to the litigation' [DHSC5532594].

(2) Secondly, an email from Patrick Hennessy to William Connon dated 18 July 2008, explains that of the '*...41 folders of documents apparently compiled at the time of HIV litigation (1989-90)*' had been found, '*... the folders contain many top copies of, e.g. correspondence with Ministers and advice from DH solicitors, so this material really should be inventoried and put in new registered files'* [DHSC5533007].

(3) Finally, a letter from William Connon dated, 8 October 2008, shows the DH informing Lord Archer that a '*...small number of documents dating back from 1974-75... These documents have not been issued by the Department previously*' [DHSC6700949]. The letter enclosed an '*Inventory and timeline of newly-discovered papers relating to Dr. Owen's self-sufficiently initiative*' as well as copies of the documents themselves.

Section 5: Calls for a Public Inquiry

Introduction

5.1. The Inquiry asks about the part I played in the Government's decision not to hold a public inquiry into infected blood and blood products. In overview I would say that the Government decided against holding a full Public Inquiry into infected blood and blood products for a number of reasons, including that the assessment and undertaking at that time was that there was no finding of wrongdoing and therefore an Inquiry was not justified. My recollection from briefings and submissions up to early 2006 was that the allegations of failing to meet the commitment to self-sufficiency were being considered by way of the internal review of the documents on self-sufficiency. Since it was not my policy area I do not recall being significantly involved in the decision-making at this stage. I probably accepted the Department's line on an inquiry in the statements that I made as the only Health Minister in the Lords, and similarly in correspondence I sent in reply to queries from members of the Lords. When further documents became available after the publication of the internal review on self-sufficiency, calls for a public inquiry further intensified. I was more involved in the

consideration of how this should be tackled because of pressure in the House of Lords. My suggestion was that powers under the NHS Act 1977 Act should be used to commission an independent (i.e. retired Judge or QC-led) review of all the documents. I give further detail in relation to this in the paragraphs below.

Parliamentary statements and correspondence where I referred to the Government's line against a public inquiry (2003 – early 2006)

5.2. The Inquiry has referred me to a number of examples where I had set out the Government's line against the holding of a full public inquiry between late 2003 and early 2006:

(1) On 11 December 2003, during the course of a debate secured by Lord Morris, I stated,

> *'I have to make it clear in as gentle a way as I can that the Government do not accept any wrongful practices were employed, and do not consider that a public inquiry is justified. Donor screening for hepatitis C was introduced in 1991, and the development of that test marked a major advance in microbiological technology that could not have been implemented before that. My noble friend referred to other countries, but we do not believe that they are comparable to the situation being dealt with in the UK'* [HSOC0003140].

(2) On 27 January 2005 I wrote in reply to Lord Jenkin's earlier letter of 14 December 2004 and said the following in relation to calls for an inquiry,

> *'It is important to stress that despite the Department of Health's decision to make ex gratia payments, the position with regards to accepting liability has not changed. The government does not accept that any wrongful practices were employed and does not consider a public inquiry justified…However, as previously stated, the Government does not accept that any wrongful practices were employed at the time and does not consider that a public inquiry can be justified'* [ARCH0002656].

(3) On 7 March 2005, I wrote to Lord Morris, in regard to a member of the public's long-standing campaigning for a public inquiry, I stated,

> *'We have great sympathy for those infected with hepatitis C and have considered the call for a public inquiry very carefully. 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. I am sorry to send Mrs GRO-A what I know will be a disappointing reply but I hope this has clarified the situation for* her' [HSOC0001761].

(4) On 10 March 2005, in my further letter to Lord Jenkin, I said that:

> *'Unfortunately, in the 1970s and early 1980's, before effective viral inactivation procedures had been developed, many patients with haemophilia were inadvertently infected with hepatitis C from contaminated blood products.*
>
> *The prevailing opinion among clinicians at the time was that NANBH caused a mild and often asymptomatic illness. 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.*
>
> *The paper [what had earlier been described as the "secret Westminster report"] does not show that anyone acted wrongly in the light of the facts and measures that were available to them at the time. I believe that Mr [name redacted] has been campaigning for a public inquiry. However, as previously stated, the Government does not accept that any wrongful practices were employed at the time and does not consider that a public inquiry can be justified'* [ARCH0002570].

(5) In the Lords on 12 January 2006, I said in answer to Lord Morris, that

> *'…despite the Department of Health's decision to make ex gratia payments, we do not accept that any wrongful practices were employed in relation to inadvertent infection of blood which led to hepatitis C, and we do not consider that a public inquiry is justified as we do not believe that any new light will be shed on this issue as a result'* [ARCH0000428].

(6) On 30 January 2006, Lord Morris had written to me enclosing correspondence from a member of the public regarding haemophiliac patients infected with contaminated blood products and on 14 March 2006, I responded saying,

> *'I am aware that Mrs GRO-A [name redacted] has been campaigning for a public inquiry into this issue. However, as previously stated we do 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'* [HSOC0009244].

5.3. I have no recollection now of these exchanges with Lords Jenkin or Morris. Nor do I recall ever being asked my views at this time on whether there should be a public inquiry. I believe that the Government line against a public inquiry had been settled before my appointment as a Minister. In the speeches and correspondence set out above I was relaying the Government's line. While I have no direct recollection now, I do not believe that at the time I would have felt that I had grounds to challenge the explanation that the Government did not accept that any wrongful practices were employed. This was a policy area for which the public health Ministers in the Commons (Melanie Johnson then Caroline Flint) were responsible. As I have explained, there were many areas where, as the Minister in the Lords, I had to explain the Government's policy position and not challenge it.

5.4. I have however noted the part of the line that was used in this period, which stated that,

> *'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'* [HSOC0009244].

5.5. Given the decision of the Court in the HCV litigation in March 2001, namely, the Court's finding that, in effect, such testing should have been introduced sooner and the award of compensation under the Consumer Protection Act to those infected during the period when the Court found that testing should have been introduced, I can see that this line should probably not have been drafted in the way that it was.

5.6. Carol Grayson, a campaigner, wrote to me on 14 January 2006. The letter raised quite a number of matters but her comments included the observation,

'As we are continually denied a full and open public inquiry into how haemophiliacs came to be infected, I have decided to take my own course of action. I am now studying for an MA and my dissertation will be looking at the extent to which national and international institutions that claim to support the haemophilia community further disable, disempower, and deceive haemophiliacs.' [HSOC0010655].

5.7. Although I cannot now recall seeing this letter, I certainly did so at the time; I have seen a version of the letter with my handwritten annotations followed by my initials *'NW'* [WITN7501006]. My handwritten annotations were as follows:

'This raises 2 specific allegations that previous briefing to me were untrue (a) that some alleged destroyed documents are in fact available (b) that they & other material show that the Govt in some form (at the time) knowingly imported blood products from a source (ie Arkansas prison system) known to be unreliable in terms of contamination. I would like advice on these 2 allegations and a draft reply. Also when exactly is the review going to be published – I decline to evade this any more in the House of Lords'.

5.8. Mrs Grayson's comment about a public inquiry was not the main focus of her letter. But the Inquiry will see from the above annotations that I did seek to engage with the issues she was raising. I sought clarification from officials and also pressed quite firmly for the publication date for the internal review into self-sufficiency. On the latter, I was plainly voicing my frustration at the delay in the finalisation of the report on which I had obviously had to answer PQs without a sufficient indication of when the report would be ready for publication.

5.9. The Inquiry raises the point that it has not identified a response to Mrs Grayson's letter of 14 January 2006.

5.10. On 23 January 2006, Lord Morris raised a PQ asking *'what representations they have received from Ms Carol Grayson concerning the death of her husband, a haemophilia patient, from HIV infection by contaminated National Health Service blood donors at Arkansas State Penitentiary; and*

what response they propose to make to these representations'. The suggested reply for me to send was, *'We have received several recent communications from Ms Carol Grayson about the import of plasma from the United States. We will be responding shortly. I will ensure that a copy of the reply to the letter from Ms Grayson dated 14 January is sent to my Noble Friend.'* [DHSC5403832]

5.11. . Based on this document, I can see that the DH had every intention of responding formally and it was intended that the reply be copied to Lord Morris.

5.12. Amongst the available documents is an undated draft response to Mrs Grayson together with a background note dated 9 March 2006 [WITN7501007]. The draft response was attached to an email from Zubeda Seedat to Rebecca Spavin on 9 March 2006 [DHSC6615610]. The e-mail was copied to Caroline Flint's Private Office as the responsible Minister for the policy area. The earlier email chain shows my Private Office putting the queries I had raised in my handwritten annotations to the relevant policy officials.

5.13. There is a file note indicating Caroline Flint's agreement on 13 March 2006 to the terms of the draft response to Mrs Grayson [WITN5427010]. However, I understand that neither the Inquiry nor my legal representatives have been able to identify an as-sent response to Ms Grayson so I am not able to confirm whether or not a final version was sent or the terms of any final response.

5.14. The Inquiry has referred me to a series of letters from another campaigner (whose name has been redacted) seeking, inter alia, a public inquiry [HSOC0012658]. The first letter was dated 23 January 2006 and was from the campaigner to me directly. A response dated, 14 February 2006, was sent by Hazel Mendonca of the DH's Customer Service Directorate. This letter included the standard line about a public inquiry not being justified. The campaigner then sent two further letters, dated 8 March and 14 April 2006 calling for a public inquiry and a fraud investigation into the Skipton Fund. My legal representatives have not been able to identify replies to

these letters from the DHSC records. As such, I cannot recall whether I was aware of these letters and whether I had any involvement in the response. I would only add that correspondence from members of the public direct (rather than queries raised on their behalf through their MP) would often be treated by the correspondence section as 'treat official' meaning that a reply was drafted and sent by officials without Ministerial involvement in the content of the reply. This was in no way limited to infected blood correspondence, it applied generally and was a consequence of the very large volumes of correspondence received.

Inquiries in Canada, Ireland and France

5.15. The Inquiry has asked what part the establishment and findings of inquiries in other countries, such as Canada, France and Ireland, played in the Department's decision not to hold a full public inquiry. The Inquiry also asks what was the basis of my understanding that the position in Canada and Ireland was different from that in the UK.

5.16. The Inquiry refers me to my response to an oral question in the House of Lords from Lord Jenkin on 19 April 2006, where I stated,

> *'The reason why we have not gone in for a public inquiry is that there is no evidence of wrongful action on the part of people, which is a different situation from that found in Canada and Ireland'* [MACK0002499].

5.17. At the time, the findings in the inquiries of other countries such as Canada and Ireland did play some part in the DH's decision not to hold a full public inquiry. Understandably, campaigners pointed to what had happened in those countries but the Government considered that the situation in those countries was distinguishable. The reason for this was that the briefings I received to deal with House of Lords questions, correspondence and debates cited that, in some form or another, the governments of Canada and Ireland had accepted a degree of liability or responsibility for blood contamination by their government agencies. That acceptance of liability opened the way to paying compensation to the victims of contamination.

The UK Government had never accepted such wrongdoing or liability. That is why I thought at the time it was legitimate to argue that the situation in Canada and Ireland was different from that in the UK. I was making these points in good faith on the information with which I had been provided, drawing people's attention to the factual difference in the situation in Canada and Ireland from that in the UK, as I understood it to be based on the briefings I had received. I can appreciate now that the briefings I received rather glossed the role that an inquiry played in settling the Irish government's position.

5.18. The information I had which would have led me to give the response to the PQ on 19 April 2006 would have come from officials. I have seen the briefing for this PQ [DHSC0200118]. This was composed by Zubeda Seedat and approved by William Connon and the briefing addressed comparisons with both Canada and the Republic of Ireland:

(7) As regards Canada, the briefing stated,

> *'It is important to make a distinction here. The awards being made in Canada follow class action brought against the Canadian Government. A settlement agreement was reached with the federal government, and as such the payment structure was based on claims for punitive damages. The compensation from the federal government is limited to those infected between 1986 and 1990.Subsequent inquiries found that wrongful practices had been employed, and criminal charges were made against organisations including the Red Cross Society, who were responsible for screening blood in Canada at the time. We do not acknowledge any such wrongful doing in England, so it is unfair to compare the two schemes.*
>
> *...*
>
> *The Irish Government set up their hepatitis C compensation scheme following evidence of negligence by the Irish Blood Transfusion Service.*
>
> *A judicial inquiry, the Finlay report, found that "wrongful acts were committed". It is important to stress that the blood services in the UK have not been found to be similarly at fault. Compensation is therefore 26 being given in very different, specific circumstances in Ireland that do not apply in the UK'* [DHSC0200118].

5.19. I have been unable to locate any documents which gave me information relating to the French scheme. My understanding of the differences would have come from this briefing. I do not know that the international findings themselves played a role in the Department's decision not to hold a fully public inquiry but it is clear that the Department thought there were distinctions.

5.20. I can see that the identical background information was used in a later PQ for answer on 24 May 2006 [DHSC0004232_078]. This shows that the information remained the same and this is what I would have relied upon.

5.21. The Inquiry has also drawn my attention to evidence concerning earlier statements which I made in 2004 about the position in Ireland.

5.22. Firstly, the Inquiry refers me to the third written statement of Colette Wintle, where she has stated the following:

'116. On 5 February 2004, Lord Warner spoke at a debate in the Lords and distinguished the circumstances of infected haemophiliacs in the UK from those of their Irish counterparts. Lord Warner said that the only reason why Irish haemophiliacs had been compensated was because the Irish state had accepted liability (or being found liable) whereas the UK government never had.

117. Carol and I knew this statement to be incorrect and immediately, Carol contacted the Irish government and I contacted the Irish Haemophilia Society; we both also contacted Raymond Bradley of Malcolmson Law who had represented the Irish Society through the Finlay Inquiry and Lyndsay Review. On 17 February 2004 I received a response from Raymond Bradley [WITN1056065] which makes clear that the Irish government's agreement to pay compensation had nothing to do with any criminal or inquiry proceedings or findings'

118. I wrote to Lord Warner on 23 February [WITN1056066] and enclosed a copy of Raymond's letter; I asked Lord Warner to retract his statement and to speak with John Reid about increasing the woefully inadequate payments made via the trust schemes – I concluded by noting that British and Irish haemophiliacs had all been infected by precisely the same commercial products and repeated my call for a public Inquiry.

119. On 25 February, I wrote to Earl Howe to complain about Lord Warner's inaccurate statement and I again enclosed a copy of Raymond Bradley's letter [WITN1056067] Lord Howe responded with a brief postcard note on 8 March 2004 to thank me for my letter and confirm that he would take the matter up with Lord Warner.

120. In response, I wrote to Earl Howe on 25 March [WITN1056068] thanking him for his acknowledgment and giving him further information

on the disparity between provision for Irish and British haemophiliacs. There was a degree of urgency at the time of writing because it was believed that settlements under the Skipton fund would only be paid with the signing of a further waiver, removing infected haemophiliacs' right to bring further claims in the future.

121. On 2 April 2004, I received a response from the Irish Haemophilia Society [WITN1056069] which confirmed the points made by Raymond in his letter; I also forwarded a copy of this letter to Lord Warner.

122. I never received any response from Lord Warner. And Sir Michael Spicer forwarded my earlier letters in an attempt to generate a response. A response did finally come on Lord Warner's behalf from Melanie Johnson on 27 April [WITN1056070] which simply said that Lord Warner had provided some further clarification in a later debate on 25 March, that the payments on offer through the Skipton fund were fair and "value for money" (perhaps, but only to the government) and that there would be no need for a public inquiry.

123. On 10 May, I wrote to Sir Michael [WITN1056071] expressing my dissatisfaction at Ms Johnson's response and explaining that Lord Warner had done nothing to correct his incorrect comments about the Irish government having been found liable for the infections suffered by haemophiliacs. I took issue with much of what Ms Johnson had said – particularly her reference to haemophiliacs having been inadvertently infected.

…

140. On 19 April [2006], I wrote to Margaret Unwin, then Chief Executive of the Haemophilia Society [WITN1056088] asking some questions about the self-sufficiency report, raising some points about Lord Warner's continuing (and untruthful) representations on Ireland and asking for the Society to support our calls for a full public inquiry. I did not receive a response to this letter.

…

170. Dr Iddon responded on 2 July [WITN1056104] thanking me for my letter and acknowledging the "untruth" told by the Health Secretary and Lord Warner on why parity with Ireland could not be implemented.

…

213. This was a perpetuation of the falsehood started by Lord Warner and ultimately struck down in the judgment of the 2010 Judicial Review.

…

352. Government attitudes were typified by Lord Warner when he said: 'We do not consider that a Public Inquiry is justified as we do not believe that any new light will be shed on this issue as a result.' 12 January 2006' [WITN1056009].

5.23. Secondly, the Inquiry has referred me to the third written statement of Mrs Grayson, where she stated:

"528. On 5 February 2004 a House of Lords debate took place regarding compensation for infected haemophiliacs and Lord Warner sought to distinguish UK cases from those in Ireland. He falsely claimed (as had Melanie Johnson earlier) that the Eire settlement was made on a liability admitted basis following a full public inquiry, the Lindsay Review. This was a line of misinformation that was to be repeated many times.

529. On 16 February 2004 I wrote to Lord Warner about this. [WITN1055105]. As far as I understood the situation, his statement was simply incorrect. Colette and I contacted the Irish Haemophilia Society and Raymond Bradley of Malcolmson Law who had been involved with the Finlay Inquiry and the Lindsay Review to confirm what was the truth.

...

537. On 14 March 2004 I emailed Jim Cousins MP to ask how to make an official complaint about the false statements made by Melanie Johnson MP and Lord Warner on the subject of the Republic of Ireland's contaminated blood compensation scheme. I also requested a meeting with John Reid MP so that I could ask him to correct the record on these incorrect and highly damaging statements. [WITN1055111].

538. On 15 March 2004 I collated the statements of Melanie Johnson MP and Lord Warner and the letters I had received from the Irish Department for Health and Children and Malcolmson Law which contradicted those statements. I wrote a letter to Jim Cousins MP requesting that he forward the evidence on to the Parliamentary Ombudsman. [WITN1055112]'. [WITN1055004].

5.24. Thirdly, I have been referred to the second written statement of Susan Elizabeth Threakall, where she stated,

'I helped Mark Ward with all letters to Crown Prosecution Service. We wrote to the Director of Public Prosecutions, the Metropolitan Police, and many more complaints over the years. One that strikes me was to Lord Warner for misleading the House. He replied to me with a lot of huffing and puffing about how he didn't. We always accused him of it, and they never took any notice of it. We have occasionally accused others of misleading the House over the years and despite the fact that as I understand it, it is a sackable offence, they never do anything about it' [WITN1564022].

5.25. During the debate in the House of Lords on 5 February 2004 there was the following exchange between Lord Morris and I:

'Lord Morris of Manchester:

My Lords, while I am grateful to my noble friend and, more especially, to John Reid, for the major reversal of policy in setting up a payments scheme, are Ministers aware of the scale of the disaster that has befallen the haemophilia community: that more than 1,000 people with haemophilia have already died from contaminated NHS blood and blood products; that many others are now terminally ill and waiting to die; that the help the scheme proposes is barely one-tenth of what is paid in Ireland; that excluding widows whose lives have been devastated by the disaster, causing them added distress and double despair, is seen as a total disgrace by the Haemophilia Society; that the society insists that there has been no meaningful consultation about these, among other deeply disturbing defects in the scheme, and that such consultation should take place forthwith?

Lord Warner:

My Lords, this Question gives me the opportunity to pay tribute to the work done by my noble friend in his tireless efforts on behalf of the Haemophilia Society and the wider haemophilia community to put this item on the agenda. As he rightly says, my right honourable friend the Secretary of State has made a big gesture towards the concerns of that community, which we all recognise, and the hardship that has followed. It is important to distinguish between the scheme and that in Ireland, where public inquiries and criminal charges affected the basis of the scheme' (Hansard, 5 February 2004) [WITN5292055].

5.26. As with the statements I made in 2006, I was relying and drawing here directly on the briefing with which I had been provided ahead of the debate. The briefing for this starred question had included the following:

'Disparity with overseas schemes – particularly Republic of Ireland/Canada. It is important to make a distinction here

The awards being made in the Republic of Ireland and Canada follow public inquires or criminal charges which established that wrongful practices were employed. The payment structures of these schemes are therefore based on claims for punitive damages. We do not acknowledge any such wrongful doing in England, so it is unfair to compare these schemes' [DHSC5331990].

5.27. In the later Lords' debate on 25 March 2004, there was the following exchange between Earl Howe and I:

'Earl Howe

My Lords, when the noble Lord, Lord Morris, asked a similar Question some time ago, the Minister commented that the equivalent schemes for compensating haemophiliacs in Canada and the Irish Republic, which are much more generous than the scheme that the Government have now proposed, were based on the fact that the governments of those countries had accepted liability for the damage that took place. Can the Minister confirm the Answer that he gave before, because my information is different from his?

Lord Warner

My Lords, I am grateful to the noble Earl for giving me the opportunity to clarify the issue. My understanding of the position in Ireland, which has been corroborated by officials in the Department of Health and Children in Dublin since my last utterances on the subject in the House, is that the Irish Government set up their hepatitis C compensation scheme following evidence of negligence by the Irish Blood Transfusion Service. A judicial inquiry, the Finlay report, found that "wrongful acts were committed". It is important to stress that the blood services in the UK have not been found to be similarly at fault. Compensation is therefore being given in very different, specific circumstances in Ireland that do not apply in the UK. I do not believe that the Irish scheme creates any precedent for us.

The awards being made in Canada follow a class action brought against the Canadian Government. The compensation from the federal government is limited to those infected between 1986 and 1990. Subsequent inquiries found that wrongful practices had been employed, and criminal charges were made against organisations including the Canadian Red Cross Society. Those conditions in Ireland and Canada do not apply in the UK' [HSOC0010702].

5.28. Although I have not been provided with the briefing for the debate on 25 March 2004, I have no doubt that the clarification that I gave would have been based in a similar briefing from officials. Moreover, the development of the clarification that I gave in the House on 25 March 2004 can be seen in the exchanges between officials in the weeks leading up to the debate. While I would not have seen these documents at the time, from the available documents I can see that officials sought to clarify and check their understanding of the position in the Republic of Ireland with their counterparts in the Irish Government. See, for example:

(1) Email from David Reay to Richard Gutowski and officials in the devolved administrations dated 1 March 2004, showing that an explanation had

been obtained from Ann McGrane in the Irish health department [DHSC6259005] with [SCGV0000241_086; WITN1055107].

(2) Email from David Reay to Ann McGrane, 5 March 2004 [WITN7501008].

(3) Emails from Ann McGrane to Richard Gutowski, 15 March 2004 [WITN7501009; WITN7501010].

(4) Email from David Reay to Ann McGrane dated 19 March 2004 in which he raised a draft line that was very similar to that which I ultimately used in the House on 25 March 2004,

> *'I understand that the Irish Government set up their hepatitis C compensation scheme following evidence of negligence by the Irish Blood Service. Indeed, a judicial inquiry (the Finlay Report) found that "wrongful acts were committed". I realise that the Irish Government has never admitted liability, but the fact remains that blood services in the UK have not been found to be similarly at fault. Compensation is therefore being given in very specific circumstances which do not apply in the UK. The Irish scheme does not create any precedent for us'* [DHSC6701497].

5.29. Again, I should stress that I would not have seen these emails at the time. But they demonstrate that officials were liaising with the Irish Government to ensure that the position was understood correctly and that statements made by the Department (including by me in the forthcoming debate on 25 March 2004) were accurate.

5.30. From the available papers, there is also a draft letter prepared for me to send to another campaigner, dated May 2004. The draft reads as follows and included a significant amount of information regarding what DH officials had been able to corroborate with their counterparts in the Republic of Ireland:

> *'With regards to your comments about the situation in Ireland, I feel that a detailed clarification of the facts may help to address your concerns that I misled the House of Lords. As I mentioned in the House on 25 March, officials in the Irish Department of Health and Children have corroborated the following*
>
> > *"Between 1977 and 1994, a large number of women in the Irish Republic were infected with hepatitis C from contaminated Anti-D immunoglobulin produced by the Irish national Blood Transfusion Service. An expert group set up by the Irish Government found the*

Blood Service to have been at fault, and the same conclusion was reached by a later judicial inquiry (the 'Finlay report'). The decision to set up a compensation scheme followed these conclusions and the threat of litigation, which the Irish Government believed they would lose. Infection with hepatitis C in this way is unique to the Irish Republic.

It was also established that around 100 of the infected women were blood donors, recycling hepatitis C infection through the blood supply until screening was introduced in 1991. The Irish Government therefore decided to extend the compensation scheme to all people infected with hepatitis C through blood products and blood transfusion.

The Hepatitis C Compensation Tribunal was set up in 1997 to assess applications. In 2002 the remit of the Tribunal was extended to include compensation for HIV infection through blood products, and certain additional heads of claim.

A further judicial inquiry (the Lindsay Tribunal) was undertaken in Ireland looking at the causes of hepatitis C and HIV infection in haemophiliacs through blood products. The inquiry, which reported in 2002, concluded that of the 230 or so Irish haemophiliacs who were infected with Hepatitis C, HIV or both, 8 persons were probably infected with HIV by products manufactured by the national Blood Transfusion Service and 4 cases of hepatitis C infection could also be attributed to these products. The remainder of the infections were attributable to products supplied by the international pharmaceutical companies. Having considered the Report carefully, the Government decided to refer it to the Director of Public Prosecutions. To date the DPP has not concluded his examination of the Report's findings".

You have referenced correspondence from officials in Ireland to emphasise the fact that legal liability has not been established. I would like to make clear that neither myself nor any Government colleague have at any time stated that legal liability has been established, just that the Irish Blood Transfusion Service Board was criticised for "wrongful acts" (by the Honourable Mr. Justice T.A. Finlay in 1997) and, before that, for "breaching its own standards" and "serious omission" (in the Report of the Expert Group on the Blood Transfusion Service Board in January 1995). These are matters of fact.

I have felt obliged to go into the above matters in some detail in order to counter the allegation that formed the substantive content of your letters. However, I should also say that the basis on which the Irish payments were formulated has not been a factor that has affected our policy in this area. It is self evident that the governments in different European countries are free to operate different policies and systems where this accords with international or European law' [WITN7501011].

5.31. The central points that can be taken from the above are that:

(1) My original statement in the House of Lords on 5 February 2004 was given by me in good faith, relying directly on the briefing I had received from officials.

(2) There appears to have followed various correspondence suggesting that what I had said was not accurate. Similar points were being made concerning statements made by the Scottish Executive.

(3) DH officials then sought to liaise with their counterparts in the Republic of Ireland to clarify the position and agree the accuracy of a clarifying line that could be used publicly.

(4) On the basis of that information, I issued a slight clarification in the House of Lords on 25 March 2004. I would again stress that this was done in good faith based on the further information which had been gained by officials.

(5) Similar clarification was then used in subsequent correspondence. That included the letter which Melanie Johnson wrote on 27 April 2004 in replying to Colette Wintle via Sir Michael Spicer [WITN1056070].

5.32. My comments above deal with the substance of points raised by the inquiry. However, I should wish also to raise a point about the timing of replies. Both officials and the ministerial team apologised at this time for the time taken to reply to correspondence. However, we did aim to ensure that correspondence was responded to. While this was sometimes a challenge given the volume of correspondence, I can see in relation to the correspondence raised by the Inquiry that:

(1) As noted above, Colette Wintle's correspondence was responded to by Melanie Johnson (the responsible Minister) on 27 April 2004.

(2) Similarly, I replied in detail to Mrs Threakall on 26 May 2004, setting out the clarification and the information corroborated by the Irish Government [WITN7501012].

(3) While neither the Inquiry not my own legal representatives have been able to refer me to a written response to Carol Grayson's letter of 16 February 2004, it is apparent that then head of the Blood Policy Team Mr

Gutowski (to whose team the drafting of the reply had been directed) discussed the Irish issue with Ms Grayson in a call on 12 March 2004, as this was referred to in subsequent correspondence [DHSC0004520_009]. The available documents also include what looks to be a late draft of the written response to Ms Grayson drafted as a reply from Melanie Johnson in May 2004 [DHSC5337473].

Consideration of the options around an inquiry in May – August 2006

5.33. The Inquiry has asked me a number of questions about the consideration that was given to issues around a public inquiry in the period May – August 2006.

5.34. The Inquiry raises the meeting of 24 May 2006 to which I have referred at paragraphs 4.10, 4.12 and 4.13 above. As I have explained in Section 4, this was an informal meeting and no papers were prepared. The only submission was the one by Steve Wells referred to above. Rebecca Spavin did give an informal agenda, which would have been the substance of the meeting (referred to above at paragraph 4.12, see [DHSC5412838]).

5.35. I have already referred to the email that was sent following this meeting from William Connon to Gerard Hetherington the next day, 25 May 2006 where on the public inquiry issue, his email read,

'Public Inquiry: Ministers asked that we look carefully at the issues surrounding the continued and increasing requests for this, including the Scottish position. You mentioned the name of a departmental contact re Inquiries (Richard Humphries?) [sic] and I think we need to speak to him urgently, in order to establish exactly what we can/should do regarding this and establish just how decisions on inquiries are taken, costs involved, timescales etc . as the pressure to hold one looks set to continue' [DHSC0015812].

5.36. I do not have access to any separate record of this meeting to assist further with what was discussed in relation to the public Inquiry issue and I do not now have any independent recollection of the meeting or what was discussed. I am reliant on Mr Connon's email. It tends to suggest that we

had asked officials to look in more detail at what the options around inquiries were and the associated pros and cons. But I emphasise that this is the inference from Mr Connon's email not any recollection on my part. Consistent with this, however, my APS's email of 26 May 2006 had also asked for the paper that was to be drafted for Caroline Flint and I to send to Patricia Hewitt to *'… [discuss] the possibility of conducting a Public enquiry [sic]'* [DHSC5286062].

5.37. On the same day, 26 May 2006, Gerard Hetherington sent a submission to my private office following the meeting where he stated,

'6. Ministers pointed out that demands for a public inquiry were intensifying. MS(PH) was particularly concerned that this issue should not be forced in England because of decisions in Scotland.

7. We have consulted Dr Aileen Keel DCMO in Scotland. Advice from SE officials to Scottish Ministers continues to be very strongly against holding a public inquiry. The Executive is examining the validity of a vote in the Scottish Parliament Health Committee in support of a public inquiry. It is understood that the casting vote of the Chairman may be disallowed.

8 We are consulting the Patient Safety and Investigations branch about the steps that might have to be gone through in considering whether to hold a public inquiry. As Ministers will be aware, public inquiries (now governed by the Inquiries Act 2005) are huge undertakings which can be massively expensive and are held only in exceptional circumstances. DH's only public inquiry in recent years has been Shipman. The Department has, however, held a number of inquiries eg those into the activities of Drs Ayling and Neale which, while falling short of the definition of public inquiries, incorporated several of the key characteristics of public inquiries. This was done as a concession to those who had been pressing for full public inquiries and had sought a judicial review of the Department's decision not to hold Public Inquiries. The then Secretary of State changed the rules to create what became known as a Modified form of Private Inquiry.

9. I note your request for a draft paper by 16 June for MS(R) and MS(PH) to send to SofS. I cannot at this stage say whether the review of the returned files will have been completed by then. I will, however, report back as soon as possible setting out the programme of tasks in this area and a timetable for this work to be completed' [DHSC0041159_205].

5.38. Again, this tends to suggest that we had asked officials to look at the full range of options around a public inquiry.

5.39. On 22 June 2006, it is apparent that Caroline Flint's Private Secretary made clear that Caroline and I would expect to see more by way of explanation

of the pros and cons than had been contained with the draft submission that had been prepared by this date [DHSC0015784].

5.40. On 26 June 2006, Gerard Hetherington then put a revised submission to Caroline Flint and me through our respective Private Secretaries which set out the pros and cons of holding a public inquiry. The view of officials was that,

*'On balance therefore, **we consider an inquiry to be disproportionate and not justified in the circumstances**. This is in line with the views of the Scottish Minister, and we will continue to keep in close touch with officials in the Devolved Administrations, including Scotland'* [DHSC0041159_204].

5.41. Attached to the submission was a draft note for Caroline Flint and me to send to Patricia Hewitt which, in its draft form, was against any form of inquiry [DHSC0041159_201].

5.42. On or around 5 July, my Assistant Private Secretary Rebecca Spavin minuted Jacky Buchan (in Caroline Flint's Private Office). Rebecca asked Jacky to raise with Caroline Flint my response to Mr Hetherington's submission on the public inquiry point which she summarised as follows:

'MS(R) suggests that the weakness of DHs position is the slowness in collecting, reviewing and publishing documents.

*MS(R) also suggests that he would not go as far as to commission a public enquiry [sic], but use the powers under the 1977 Act for SofS to commission a review of **ALL** [sic] the documents (new ones, old ones and if possible Scottish Ones) with a view to producing an independent legal/judicial commentary on them and putting all these into the public arena.*

MS(R) thought that a retired Judge/QC could do this with an administrative support team, with the aim to complete within 6 months.

I would be grateful for MS(PH) [corrected in hand to read PH] view' [DHSC0041159_251].

5.43. It looks as if Caroline Flint endorsed this in hand, writing '*Not a bad idea, CF 5/7*'.

5.44. On 11 July 2006, Caroline Flint's APS then emailed Dr Wight asking her to ensure that my suggestion of the use of 1977 Act powers and Judge/QC

review was included in the draft submission for Caroline and I to send to Patricia Hewitt [DHSC0015764].

5.45. An email trail between officials and solicitors shows that legal advice was then sought and provided on my wish for an independent review of documents under the 1977 Act [I DHSC0015764]. In particular, Linda Page emailed Ailsa Wight on 13 July 2006, summarising the legal advice given by Anne Mihailovic:

'Should action under Section 2 be pursued, it does not enable witnesses to be compelled to give evidence nor produce material. The availability of papers would therefore be crucial to whether there would be a purpose in appointing a judge or QC. Alternatively, the SofS could commission independent Counsel to review the documents available. This is the action taken with those documents returned to DH by Blackett, Hart and Pratt (Solicitors); SOL [sic] commissioned an independent barrister to catalogue and review them. The project I am undertaking covers some of this ground.

Should MS(R) be considering a more formal process Anne advises that we should arranged [sic] to brief her about the Inquiries Act, policy objectives of making inquiries more consistent and cost effective' [DHSC0015764].

5.46. I considered that using the 1977 Act powers to commission an independent review of the papers would be the best course of action in contrast to holding a full public inquiry. Without discourtesy to this Inquiry, I have always been cautious about the establishment of public inquiries. Both in terms of their expense and the time they take. There is often uncertainty about whether they are for apportioning blame, or ensuring that lessons are learned to ensure that whatever has happened does not happen again. I have worked in the public sector for nearly 50 years and relatively few lengthy inquiries have produced worthwhile lasting changes in my view. However, I was in favour of some action being taken. That is why I was pressing for what, at the time, I thought would be a more streamlined and efficient process of the 1977 Act powers to conduct some sort of independent review of documents to help answer the questions that those affected wanted answered. My idea was for a review to be carried out by

someone external and independent, not someone at DH which is what eventually happened.

5.47. As I have mentioned in Section 4 of this statement, on 24 July 2006 Caroline Flint and I sent the Secretary of State a submission updating her on the situation [DHSC0103399_003]. Under the heading *'Documents'* our note of 24 July 2006 set out that officials were now analysing all of the papers available, including over a thousand documents released in Scotland recently. We noted that officials anticipated that this might take up to six months, adding

> *'...but it is important it is undertaken to establish the facts and our position in relation to an Inquiry. We would propose to release these under FoI provisions'.*

5.48. We noted that high priority was to be given to the files that had been returned by the Claimants' solicitors.[1]

5.49. Under the heading 'Demand for a Public Inquiry', our note then set out the officials' view that, '... an Inquiry would be disproportionate and not justified in the circumstances, in line with the views of the Scottish Minister'. However Caroline Flint and I went on to raise the alternative way forward of an independent review using 1977 Act powers:

> *'As an alternative we have explored the possibility of commissioning an independent review and commentary on all the papers. With regard to the relevant statutory powers, this could be done under the NHS Act 1977, as something incidental to your duty as SoS to continue to promote a comprehensive health service designed to secure improvement in treatment of illness, and to provide services required for treatment, as it would amongst other things be a way of passing information to the public about these issues. It would provide additional reassurance and information to the public, and would build on the steps officials are already taking to review all the existing papers. It would however not provide powers to compel witnesses to give evidence or produce documents, and we would need to draw the terms of reference accordingly'* [DHSC0103399_003].

[1] These had been provided to independent counsel but not for the purposes of a full review, rather for them to be logged and advice to be given on whether or not FOI exemptions would apply to them: [WITN7501013]

5.50. In the conclusion, we invited the Secretary of State to note,

> *'… the line we propose to take against the need for an inquiry, and further, to consider the option of producing an independent commentary on the papers under the Act'* [DHSC0103399_003].

5.51. So far as I can see from the available records, Patricia Hewitt's response to this was set out in the note dated 4 August 2006 to which the Inquiry has also referred me. This read:

> *'SofS 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 [sic] - which we are absolutely right not to do.*
>
> *Lord Warner's view is that this is really your call as it is your policy area. He does not think the calls for a public inquiry will go away whatever we do but thinks an independent commentary on all the papers available will help to resist a public inquiry – he still thinks the commentary is worth doing if the money is available'* [DHSC0041159_139].

5.52. The Inquiry asks if I agreed with Patricia Hewitt's assessment that, *'independent commentary'* of documentation would *'fuel rather than deflect calls for a public inquiry?'* As is apparent from the note itself, it would seem that the Secretary of State was more sceptical about this than I was. As recorded at the time, I was in favour of an independent commentary of all the papers if the money was available. My recollection at the time is that I thought that a 1977 Act review would lower the temperature, show the Department was more open to finding out what might have gone wrong and might reveal the need for a change of policy. I remain of the view that what I proposed back in 2006 was fair and sensible.

5.53. The Inquiry asks my understanding of the phrase in this note *'which we are absolutely right not to do'.* I do not recall it now but from the document itself, this appears to reflect that Patricia Hewitt was firmly of the view that the department should not accede to calls for a full public inquiry.

5.54. The Inquiry asks me why I believed that the final decision on whether to hold a public inquiry was Caroline Flint's. The reason was as stated in the

Note from Patricia Hewitt: because she was the minister with responsibility for this at the time, although of course the Secretary of State was ultimately responsible within the Department. It would not have been for me to make this decision. On 23 August 2006, in a handwritten endorsement on the note, Caroline Flint asked how much an independent commentary would cost and how long it would take [DHSC0041159_139].

5.55. The Inquiry also asks why I thought it was necessary to *'resist'* a public inquiry. I did not think it was necessary to resist a public inquiry per se, but thought it was unjustified at the time, and that the more efficient and effective response would be an independent review of the records.

5.56. The available records include a further handwritten note to Caroline Flint from her Private Office dated 30 August 2006, advising her that *'Officials estimate the review would cost up to £100,000 and is likely to take several months to complete. They have pointed out that there is no money identified for this'* [WITN5427031]. Caroline Flint appears to have endorsed this with the comment, *'Make sure Norman aware of this + Norman and I have to have another talk after recess'.* However, I have no recollection now of what was said in any such further discussion.

Consideration of an external review deferred (and later rejected)

5.57. So far as I can tell from the available documents, the internal review of the documents continued and it seems that further consideration of any independent review by a QC or retired Judge may have been deferred until the internal review was completed:

(1) I have set out in section 4 of this statement, in the Autumn of 2006 there were various exchanges concerning the finding of further papers, and progress being made on the internal review conducted by Linda Page.

(2) On 10 October 2006 Jacky Buchan wrote Caroline Flint a note saying, *'Caroline, I understand Lord Jenkin approached Lord Warner's office to enquire about progress examining the blood products document and*

asking about 47 lever arch Files he heard are with the DH. Attached is an update on progress and a draft for Lord Warner to consider' [WITN7501014]. The update appears to be the one dated 9 October 2006 to which I have referred in Section 4, above [DHSC0200135].

(3) Although it was originally envisaged that Linda Page's internal review might be completed in December 2006, that did not transpire. I resigned as a Minister on 31 December 2006.

(4) Although it relates to after my time in the post, I have seen a draft submission from Linda Page to Caroline Flint and my successor Lord Hunt. It is undated but I believe it was attached to an email dated 1 February 2007 [DHSC5228443]. At the time of this draft submission, it would seem that the independent review by a QC/retired judge was still one of the options to be considered because the draft submission addressed different options including: public inquiry, commissioning an independent review by a QC (with costings) or release of the report on the internal review.

(5) To similar effect is a detailed background note from Linda Page on '*Contaminated Blood Products and Hepatitis C*' to which the Inquiry has referred me to [DHSC5162643]. This seems to date from around January 2007 because it was looking ahead to the completion of her internal report in February 2007 and contained similar costings to the draft submission circulated on 1 February 2007:

> '*An independent review would, assuming a time requirement of five months, cost up to £150,000 (£20,000 - £30,000 per month) and support costs estimated at £46,000. It may be possible to appoint a retired QC at an estimated cost of £15,000 - £20,000 per month. This is a budgetary guide, and any costs would need to be negotiated once the brief was finalised. An independent review would not be able to compel witnesses to give evidence. We have no current funding for any review'* [DHSC5162643].

(6) I have seen a submission from Elizabeth Woodeson to Caroline Flint and my successor Lord Hunt dated 24 April 2007 [DHSC0041193_026]. This submission is mainly related to the release of Linda Page's internal report and plans for release of the associated documents. By now, however,

Lord Archer's inquiry had been announced. I note that paragraph 11 of the submission stated,

> *'Given that this inquiry [Lord Archer's] 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].

5.58. There is a handwritten note that said, 'Caroline, are you content for the report to be released and for the documents to be prepared for release?' Caroline has ticked and signed this.

5.59. It seems that it is at this stage, in April 2007, some months after I had left the post, where my suggestion of an external independent review of the records by a QC or Judge was finally decided against and instead the internal review was to be prepared for publication.

Further reflections on the inquiry issue

5.60. The Inquiry invites me to reflect and draw on the totality of my experience as Parliamentary Under-Secretary of State and Minister of State and give my present view on how the DH handled the issue of calls for a public inquiry. Looking back the Department got itself into a bad position because of the way documents were lost or destroyed. It landed itself in a position where it looked as though there was a cover-up. That is why I thought we needed an independent review to try and establish what happened and possibly see if the policy position was well-founded. I still think this would have been a sensible way forward in 2006. Because a convincing public position could not be established on what happened, a public inquiry became almost inevitable

5.61. The Inquiry has referred me to the evidence it has heard from campaigners and the former SoS for DH, Lord Norman Fowler, that the Government

should have established a UK-wide public inquiry before now [INQY1000144; INQY1000145]. I believe I have answered this question above.

5.62. The inquiry draws my attention to the debate in the House of Commons on 15 January 2015, in which 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'* [RLIT0000771].

5.63. The Inquiry has asked for my view on Andy Burnham's statement with reference to my own time in office. I would say that: the people who lost and destroyed the documents were departmental civil servants not Ministers. That gave them an incentive to resist both a review and a public inquiry. I would not go on from this particular set of circumstances to make the sweeping statement made by Andy Burnham.

Section 6: The Skipton Fund

6.1. I now have no independent recollection of matters to do with the Skipton Fund. However, from the documents provided I recognise that I had some involvement with matters relating to the Skipton Fund, through correspondence and PQs from other members of the Lords, including Lord Morris.

6.2. I am asked by the Inquiry about the interaction I had with Melanie Johnson, who was the Parliamentary Under-Secretary of State for Public Health at this time in relation to the establishment of the Skipton Fund, its purpose, parameters and structure. I have no recollection of interactions with Melanie Johnson in relation to the Skipton Fund. Further, it does not appear that ministerial submissions relating to the establishment of the scheme were copied to my private office.

6.3. I see from the documents provided to me by the Inquiry, that during my time in office, I had been made aware of discontent regarding the manner in which the Skipton Fund had been established. In that regard, the Inquiry has referred me to:

(1) A letter from Philip Dolan (the Chairman of the Haemophilia Society Scotland) to Lord Morris dated, 7 June 2004. The letter referred to a request that had been made by Philip Dolan of Lord Morris to raise a PQ in relation to issues with the Skipton Fund. The letter also attached a note, which outlined various concerns in relation to mechanics of establishing the Skipton fund [HSOC0001824].

(2) A reply to this letter from Lord Morris, a copy of which was sent to me by Lord Morris, dated, 14 June 2004. The letter confirmed that the following PQ had been put on the order paper, *'To ask Her Majesty's Government what consideration they have given to the representations about the Skipton Fund sent to the Department of Health by the Lord Morris of Manchester on behalf of the Haemophilia Society in Scotland; and whether they will be taking any action'* [HSOC0001823].

(3) What appears to be a draft letter of reply from myself to Lord Morris, the draft addressed the concerns raised by Philip Dolan about how the Skipton Fund had been set up [DHSC0020695_003]. It challenged the assertion that the DH had '*hijacked*' the scheme. It explained that the scheme was UK wide and that officials in Scotland, Wales and Northern Ireland had been involved in discussions about its establishment and future operation. It explains that because the Skipton Fund was a UK wide scheme, with each administration having equal responsibility for it, officials had decided at an early stage that it should be administered by a body separate from the four health departments. My legal representatives have not been able to locate the final version of this letter. However, I have seen an email from Andrew Black (Assistant Private Secretary to PS(PH)) dated 12 July 2004 [WITN7501015]. He wrote, *'David - would you please send copy of Lord Morris' letter to Anna (I have suggested that PS(PH) sign the proposed letter to Lord Morris, as she has policy responsibility'.*

(4) I have no recollection of this draft letter or how it was prepared. It looks to me as though it was prepared by officials as a routine reply for a Minister to send.

6.4. On 16 September 2003, Lord Morris asked a question about the progress being made in relation to the Skipton Fund. The answer was not given by me, but by Baroness Andrews on the Government's behalf, who referred to ongoing discussions on the scheme [DHSC5187538]. Thus, it appears from the documents I did not have much to do with the issues of discontent that related to the initial set up of the Skipton Fund. However, as can be seen in response to my questions below I do seem to have had greater involvement, in terms of answering PQs and in asking questions following the public announcement of the scheme in January 2004.

6.5. The Inquiry has provided me with a number of documents in relation to the issue that the Skipton Fund was not originally designed so as to provide payments to the widows of the patients who had been infected with hepatitis C via contaminated blood / blood products.

6.6. The Inquiry has provided me with a set of Parliamentary extracts with commentary on it. This includes the Written Ministerial Statement made by John Reid on 26 January 2004 and I can see that, *'we have taken steps to ensure that the scheme will be fully inclusive and fair'* and that *'it would be premature to comment on those discussions in detail'* but that I could confirm that *'a system will be put in place to ensure that all eligible UK claimants will benefit no matter where they currently reside, or where they were residents when they contracted the scheme'* [HSOC0005924_002].

6.7. The Inquiry has also provided me with my written answer to a Parliamentary Question, dated 20 April 2004. Lord Morris had again asked why widows of patients infected with HIV had been included in the relevant payment scheme, whilst widows of patients with hepatitis C had been excluded and I had responded that, '*The Skipton Fund has been designed to make lump sum, ex gratia payments to those living with the hepatitis C virus and has not been designed to compensate for bereavement. For these reasons it is distinct from the HIV payment schemes'* [DHSC0004197_020].

6.8. The Inquiry has also provided me with a letter dated 7 April 2005, which is a letter of reply from myself to a letter from Lord Morris. In the letter, I referred to the previous PQs on this issue, and reiterated that the purpose of the Skipton Fund was to assist those living with hepatitis C infected, rather than to compensate for bereavement [HSOC0001757].

6.9. The Inquiry has further provided me with an extract from Hansard, dated 26 May 2005, which refers to another PQ from Lord Morris, who asked, "*what further consideration they [Her Majesty's Government] are giving to providing financial help for the dependents of patients who have died in consequence of being infected by hepatitis C by contaminated National Health Service blood and blood product*" [HSOC0028509]. Again, in my reply, I reiterated that I had great sympathy with those affected but stated the scheme was '*not intended to compensate for bereavement*'.

6.10. I understand from documents provided by the Department that the proposal to exclude the dependents of those who had died from hepatitis C as a result of contaminated blood / blood products originated in an initial submission dated 1 July 2003 [DHSC5094083]. Under the heading, *'Financial Implications'*, paragraph 21 of that submission noted that:

> *'The proposed scheme makes no provision for making payments to the dependants of people with Hepatitis C who have since died. The scheme proposed by the Scottish Expert Group did propose payments for dependants and it is possible that we will come under pressure to extend the scheme in such a way. This would increase the cost substantially. It is also possible that we will come under pressure to increase the value of the scheme towards that proposed by the Scottish Experts Group. Again, this could increase costs significantly. If the scheme is administered by the MacFarlane Trust which pays dependants of HIV sufferers it would be difficult not argue [sic] against similar provisions for Hepatitis C sufferers'.*

6.11. From the available records I also note that Melanie Johnson sought information on extending the scheme to additional categories, including dependents, following a meeting she had with the Chairman of the All-Party Parliamentary Group on Haemophilia and the Haemophilia Society held on 29 October 2003 [DHSC5328495]. I understand, that Melanie Johnson received a briefing on 10 November 2003 [DHSC5328495]. The briefing

indicated that although some widening of the scheme was possible, further calls for widening the scheme, were seen as unaffordable.

6.12. I am asked by the Inquiry about whether, on reflection, I believe that the Government should have revisited the eligibility to apply to the Skipton Fund at an earlier stage, rather than reiterate the differentiation in purpose between the schemes. Again, I reiterate that I have no independent memory of these events. However, based upon the documents made available to me and my general recollections of this time, the pot of money available for the Skipton Fund would have been finite and competing against other departmental priorities. DH funding at the time was heavily geared to improving NHS performance. There would have been pressures from the Treasury not to overspend its budget, I think it likely that John Reid would have had to find the money for the new scheme from the Department's existing budget. It is almost inevitable that in a cash limited scheme, some victims are ruled in and some victims are ruled out. If the money had been available, then of course, it would have been desirable to extend the payments under the scheme to widows of those who had died and thereby achieve a form of parity between the schemes in relation to HIV infection and Hepatitis C. None of this was my policy area and my role at the time was to field the issues when they arose in the Lords.

6.13. The Inquiry has provided me with an email thread beginning on 13 October 2004 from Dr Michael Brannan, who was in the Department's communications and policy support team, attaching a draft proposal for the institution of the Appeals Panel. Although my office does not appear to have been copied into this email, the email thread discussed the setting up of the appeals panel and includes William Connon and Ms Zubeda Seedat. The final email dated 5 May 2005 from William Connon advised, '*Given that Lord Warner has now advised that he wants the "appeals panel" to be established by the end of July we need to move this along quickly*' [DHSC0003458_004]. The email had attached to it a proposal dated 13 October 2004, which set out how the appeals process could work [GLEW0000490].

6.14. The Inquiry has also provided me with another email thread beginning on 25 April 2005 containing an email from William Connon, noting that I had asked about the timescale in setting up the appeals process. On 26 April 2005, Clare Siddall wrote, '*Lord Warner…remains concerned that this is a high profile and very sensitive issue which the Department should give priority, and he does not think it is acceptable that this cannot be resolved sooner, given that we have known about this for a long while*' [DHSC0003461_002]. Clare Siddall then explained that I wanted a submission by 28 April 2005, setting out reasons why we could not have an appeal system in place by the end of May, solutions/ways forward and a suggested line was to give '*something more concrete to the people writing in*' [DHSC0003461_002].

6.15. I understand that a search undertaken by my legal advisers of the Department's records has not located a submission in response. However, I can see from another document that I have been shown that I continued to press the issue: a further email from William Connon to Martin Cantrell dated 11 May 2005, indicated that at a recent meeting, I had *'insisted that we establish the appeals system by the end of July…'* [DHSC0003456_007].

6.16. I am asked by the Inquiry about my role in setting up the Skipton Appeal Fund Panel. I do not recall that I had any role, and the documents that I have seen, do not reflect that I had a role, *per se*. However, I can see from the documents that I have read that I would have been briefed and received submissions about the Skipton Appeal Fund and that what I had been told led me to ask questions about the timescale for establishing the appeals process. It is clear from the email correspondence above that I was unimpressed by the way the DH was going about setting up the appeals process. I suspect that the pressure I was exerting on officials was because Lord Morris and others in the House of Lords were telling me the DH was being dilatory. It was not that I took over policy responsibility for this area, but I was pressing officials to move faster on it, to try to assuage criticism in the House of Lords.

6.17. The Inquiry has provided a document which refers to my response to a question asked by Lord Morris in the Lords on 16 January 2006 [DHSC0004213_056]. In my response I noted that I had made a previous announcement to the House of Lords on 12 January 2006, in which I explained that the Secretary of State and her Ministers in the devolved administrations had amended the Skipton Fund rules so that relatives or dependents of a person infected with Hepatitis C through NHS blood or blood products would now be eligible to make a claim.

6.18. This was a departure from the Government's original position that eligibility for ex gratia payments under the Skipton Fund would not extend to relatives or dependents of persons who had died as a result of being infected with Hepatitis C from blood or blood products. The Inquiry has asked me about what I understood to be the reason for the change in Government policy and also about why the change in policy did not come about earlier.

6.19. I cannot now recall why the policy changed and I do not know why the policy change was not adopted sooner. Additionally, I would emphasise that this area of policy fell under Caroline Flint's portfolio of responsibilities and not my own and she is likely to be better placed to respond on the reasons for the change in policy. A submission dated 8 December 2005 from William Connon to Caroline Flint and Patricia Hewitt, advised that the Secretary of State agree to a proposal from Andy Kerr (Minister of Health and Community Care in the Scottish Parliament) to make changes to the provisions of the Skipton Fund in England in line with amendments that had been made under Scottish legislation [DHSC0041162_016]. It seems to me likely that the Secretary of State decided to extend the scheme to maintain the integrity of the UK-wide scheme, I would draw the Inquiry's attention to the fact that the submission was not addressed to my private office, so I would not have read this submission at the time. Again, this reflects the fact that this was not in my area of policy but rather was a matter in relation to which I had been called upon to speak in the Lords.

Section 7: Other issues

7.1. I have no further information or views relevant to the Inquiry's Terms of Reference, other than what I have expressed above.

Statement of Truth

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

Signed..... GRO-C ..

Dated.....22/11/2022.....