Thursday, 7 July 2022

(10.00 am)

SIR BRIAN LANGSTAFF: Yes, Ms Barrett.

MS BARRETT: Good morning. Ms Richards has asked me to correct on her behalf something she said yesterday during the evidence of Lord Waldegrave. When looking at HMTR0000003_043, a minute dated 3 December 1991, from Mr Dickson at the Treasury to Mr Grice, then the Chief Secretary to the Treasury, Ms Richards suggested that the handwriting beginning, "This is a long-standing dilemma", might be that of Mr Mellor but said that she would check.

Having checked, the initials indicate that the handwriting is that of Mr Grice and not Mr Mellor.

SIR BRIAN LANGSTAFF: Thank you.

Presentation by MS BARRETT on the role of the Chief Medical Officer in the 1970s and 1980s

MS BARRETT: This then is a presentation on the role of the Chief Medical Officer. There is a written note on that topic which has already been disclosed to Core Participants and is published on our website. The presentation today won't cover everything that's contained in that written note.

Our focus for today will be on the Chief Medical Officer's role in the response to AIDS over the 1980s.

That will involve considering in some detail the actions taken by the two Chief Medical Officers for England during that period, Sir Henry Yellowlees, who held the role until the end of 1983, and Sir Donald Acheson, who commenced in post in October 1983. So there was a three-month overlap between them.

As with other presentations, our intention is to provide a neutral and factual narrative which brings together relevant documents for your attention and for the attention of Core Participants.

I should add that the written note itself is not exhaustive either. Core Participants and the Inquiry team may well identify further documents relevant to the role of the Chief Medical Officer as the Inquiry progresses.

A road map then for today is to start with a brief overview of the role of Chief Medical Officer and its responsibilities. Then we will go on to a chronological exploration of the documents touching on the Chief Medical Officer's response to AIDS which will include looking at the involvement of Sir Henry Yellowlees until the end of his tenure at the end of 1983 and then Sir Donald Acheson's involvement after his point October of that year, the introduction of antibody testing, the public awareness campaign which Sir Donald Acheson was

heavily involved in and the introduction of heat treatment for factor products and a brief look at some documents on Sir Donald Acheson's attitude to compensation for those affected.

I will then come back at the end to make some overarching comments about two particular categories of documents. One is what's referred to as "Dear Doctor" letters which were sent by the Chief Medical Officer to the medical profession from time to time and the second category is the Chief Medical Officer's annual reports.

Starting then with the overview of the role, the role of the Chief Medical Officer can be traced back to the antecedent post of Medical Officer to the General Board of Health, which was established under the General Board of Health Continuance Act in 1855. By the time frame relevant to this presentation in the 1980s, the role had at least threefold responsibilities, which were: first, providing advice to ministers; second, providing public health information to the medical profession and the wider public; and, third, providing leadership to the medical officers who worked at the Department for Health and Social Security, DHSS.

To look at the remit of the role, a helpful description is contained in the BSE Inquiry report published in the year 2000, which is at MHRA0031996.

We can see this is volume 15 of that report which dealt with Government and public administration. Could we go, please, to page 36 of this volume and focus on the second half of the page under the sub-heading "The Chief Medical Officer (CMO)".

We can see at paragraph 4.17, it's set out that:

"Although there were CMOs for Wales, Scotland and Northern Ireland, advising their respective Ministers on matters affecting those parts of the United Kingdom, the responsibility for advising the UK Government on matters affecting the United Kingdom as a whole fell to the CMO for England."

The written note does touch on the roles of the CMOs for Wales, Scotland and Northern Ireland but today we'll be focusing on the role of the CMO for England and their interactions in relation to AIDS in the 1980s.

Going on then to paragraph 4.18, the dates are given and then this quotation from Sir Donald Acheson, who was in post, as we've heard, from 1983 until his retirement in 1991, the observation is set out that:

"... 'the sheer scale and personal responsibility of the post seemed to have dimensions which distinguish it even from some of the highest posts of all within Whitehall'. [And he said that] Paper comes into the CMO's office on a scale which normally applies to

Ministers rather than to officials. There was an abnormally heavy commitment to meetings (both internal and external) and essential representational functions and international work [had] to be dealt with. Demands being made on the CMO in the field of public health were unusually heavy."

The relevance of this is that given the breadth of the CMO's remit, it would not have been possible for the CMO to be personally involved in every public health issue of concern and one aspect that we have found challenging to investigate in preparing this presentation is to what extent the CMO was personally briefed on the issues relevant to the Inquiry's remit. The Inquiry has heard evidence from Dr Hilary Pickles who was in the AIDS unit during the 1980s, or the later 1980s, that decisions about whether to escalate briefings on any given topic were often taken by the Deputy Chief Medical Officers or DCMOs, so often we see documents that are circulated at DCMO level and it's sometimes difficult to ascertain whether the CMO, Chief Medical Officer, would have had personal sight of that document or not.

Dr Pickles' evidence, I won't cite it here but it's at paragraph 17 to 18 of the written presentation for those who want to look at the detail.

Could we scroll down the page to paragraph 4.20 next, please. It's sets out here that:

"The post had a long history and carried a 'complex, varied and demanding portfolio of responsibilities'. Unlike the [Chief Veterinary Officer], however, the [Chief Medical Officer] did not have oversight of an executive organisation.

Sir Donald Acheson commented:

"While the CMO may offer guidance on medical or public health matters to all doctors or to Directors of Public Health, neither he nor his predecessors, at least since 1919, have had a management line or any power of direction to doctors outside the Department of Health."

That observation of his is relevant to reflect on when we come back to these "Dear Doctor" letters that he did circulate to the medical profession, and we consider the extent to which it was within the CMO's remit to provide guidance, if not direction, to the medical profession.

Could we scroll down next, please, to paragraph 4.22.

It's also set out in this report that:

"As well as having responsibility for medical and public health advice, the CMO was charged with ensuring that an adequate quality of advice was provided within

[the Department of Health] by its professional staff. Until 1995 [so throughout the period we're looking at today], he acted as the ultimate line manager for over 100 medical and around 40 scientific personnel."

He was the head of the medical hierarchy in the Department, which, various witnesses have commented on, ran parallel to the Civil Service hierarchy.

Then just the last place to go to in this report, could we scroll to 4.24, please, just at the bottom of the page. It is noted that part of the CMO's responsibilities was:

"To produce an independent Annual Report on the State of the Public Health [which highlighted] major issues where health [had] improved, and where there was concern about health."

We will come back to look at some of those reports.

The next document we're going to go to when considering an overview of the role is Sir Donald Acheson's autobiography, which we have an extract of at WITN0771088. This was his autobiography -- sorry, it's sideways -- "One Doctor's Odyssey", published in 2007. The internal inserts aren't sideways, just the front cover.

Could we go to page 7 of the document, please, and

could we focus on the paragraph in the bottom left-hand column, starting "But at a time when parliamentary sessions ..."

We can see just from the bottom of that paragraph Sir Donald Acheson stated that although he saw four Secretaries of State come and go, it was Norman -- Then if we could go to the top right-hand, thank you -- Fowler with whom he worked for several years who he got to know best."

He says it was a productive partnership which included not only the largely successful policies, he says from the perspective of hindsight in 2007:

"... for the control of HIV/AIDS, legionellosis and salmonellosis, but the revival of public health."

He praises Lord Fowler's success:

"... based on a rare capacity to choose the right priorities together with the self-discipline to pursue them single-mindedly to a conclusion."

Lord Fowler has also given evidence to this Inquiry and his evidence really mirrors what Sir Donald Acheson said in his autobiography. He said that the post of CMO had pivotal importance and talked about how much he'd relied on Sir Donald Acheson during the mid- to late '80s when they were focusing on the AIDS crisis.

In relation to the relationship between the CMO

and ministers, we've also heard from Dr Diana Walford, who was a Deputy Chief Medical Officer, and she has given evidence that in the context of those parallel administrative and medical hierarchies in the DHSS, the CMO had access to ministers whenever he wished. So there was a bridge at the top of these hierarchies.

The next document we'll go to is Sir Donald Acheson's witness statement to the BSE Inquiry which is at MHRA0011433. We've seen the report that was written in the year 2000. He gave this witness statement in the October of 1998, before -- well we can see at the top here was scheduled to give oral evidence in November 1998.

Can we go to page 4 of that document, please, and focus on the bottom paragraph from the subheading "The Role of the Chief Medical Officer". He there set out his view of the role as at that time. He noted that:

"The Chief Medical Officer [was] the principal adviser on medical and public health matters, not only to Ministers in the Department of Health but to the Ministers in other government departments and to the Government as a whole."

He reiterates the observation we've seen already, that the field over which the CMO is required to provide

advice extends far beyond his own personal professional experience.

He says:

"It is therefore necessary for him to be supported by an extensive advisory machinery. In addition to a number of expert Standing Committees ... he has at his disposal a panel of upwards of about eighty personal consultant advisers drawn from the top ranks of the medical profession and covering all the specialities."

So the role of the consultant adviser is an interesting one. That was the position as at 1998 when the panel had developed and enlarged since the period we're looking at in the 1980s and we can see that if we go to NHBT0001065, which will be, when it comes up, the minutes of the consultant advisers meeting on 27 November 1981.

I go here to the first half of the page, please, just to demonstrate that the specialisms at that time, including apologies for absence, numbered just seven, but even at this time, when there were just seven specialties represented, there was a consultant adviser for blood transfusion, who was at that time Dr Gunson. This was his first meeting. He commenced in that role that year, replacing Dr Geoffrey Tovey.

Dr Walford, who as I mentioned was one of the

DCMOs, has given evidence that she found Dr Gunson to be accessible and helpful as a consultant adviser and was pleased that he'd taken over the role.

The relevant evidence on that issue is set out at paragraph 23 of the written presentation. I don't go to it now.

I'm just going to go back, please, to MHRA0011433, which is back to the witness statement of Donald Acheson for the BSE Inquiry, and could we go to page 5, please, and focus on paragraph 14 in the middle of the page, where Sir Donald Acheson said that:

"The term 'Chief Medical Officer' [was] a misnomer as it implies that the CMO leads a national hierarchy. While the CMO may offer guidance on medical or public health matters to all doctors or to Directors of Public Health, neither he nor his predecessors, at least since 1919, have had a line management or any power of direction ..."

So this is coming back to the issue of whether there's a power to direct the medical profession.

He says that:

"... at best CMO may be seen as *primus inter pares*."

I don't have the Latin translation, I'm afraid, Sir Brian.

SIR BRIAN LANGSTAFF: The first amongst equals.

MS BARRETT: First amongst equals, I'm grateful.

"They are free to accept or reject his advice."

SIR BRIAN LANGSTAFF: The fact that he thinks it is a misnomer is I think looking at one public view of looking at the word "chief". My understanding from what you have told me in the written presentation and from what I have heard is that he was the Chief Medical Officer in the sense that he was the Government's Chief Medical Officer. So as far as the Government's concerned, he is their chief go to when I did comes to matters of medicine.

MS BARRETT: That's absolutely right. He is not chief in the sense of the top of the pyramid of the NHS and the medical profession, but he is top of the hierocracy in terms of medical advice provided to the Government.

SIR BRIAN LANGSTAFF: That's why he had the equivalent role to a Permanent Secretary, being the top of, if you like, the medical division.

MS BARRETT: Yes, that's quite right, and in the BSE Inquiry report it's noted that he has the same Civil Service grading as a Permanent Secretary. So he certainly was of equivalent status.

SIR BRIAN LANGSTAFF: That would explain why he had the access at the top, not to the administrative division

but direct to ministers.
MS BARRETT: That's right, there was that bridge at the top of the hierarchy just as a permanent --
SIR BRIAN LANGSTAFF: Well, it's not really a bridge, is it, because a bridge will suggest there's a link between the two, the administrative and the medical, whereas he has a direct route. So it's more a direct reporting line to the minister, isn't it?
MS BARRETT: Yes, that's right. That's absolutely right.
SIR BRIAN LANGSTAFF: So if there's a bridge, it's a bridge through the minister rather than to the administrative side.
MS BARRETT: Yes, it's more like the point of the triangle where they meet.
SIR BRIAN LANGSTAFF: That's a better way of putting it. Thank you.
MS BARRETT: So that is really the overview of what the purpose and function of the role was and we'll now go into some more of the detail as to what firstly Sir Henry Yellowlees and then Sir Donald Acheson did and in particular in response to the emerging risk of AIDS. We'll start, please, at MHBT0001067.
So this is a letter of 9 June 1983 from Dr Gunson to Sir Henry Yellowlees. We've heard that Dr Gunson was the consultant adviser for blood transfusion issues at

this time and this is the first document which the Inquiry has identified, although that doesn't mean it's the first document there was, showing Sir Henry Yellowlees being directly addressed on the issue of AIDS.
I'll go through and pick up on a few points --
SIR BRIAN LANGSTAFF: He had authored, hadn't he, the 1982 report on the nation's health?
MS BARRETT: He had.
SIR BRIAN LANGSTAFF: Did that not pick up on AIDS?
MS BARRETT: I'm just going back to check, but my understanding is, and I think it's correct, that the first mention of AIDS in the 1982 annual report was, yes, published some time after October 1983, because that's when the introduction by Sir Henry Yellowlees was signed off, and so in the chronology we think this letter of 9 June 1983 would have come before he turned his mind to the content of that report, although we can't be sure of course exactly when it was drafted.
SIR BRIAN LANGSTAFF: The difficult technicality there is he is reporting not on '83, when he signed it off, but on '82.
MS BARRETT: Yes, that's correct.
SIR BRIAN LANGSTAFF: So the question is from -- it's always a difficulty with reports published some months after

a period upon which they are reporting is concerned, because you don't necessarily know whether what is said effectively bringing things up-to-date or whether it is actually what was known and what was done during that particular year.
MS BARRETT: That's right, we can't know and it's impossible to prove a negative. So all we can say is, as at October 1983 when he signed off his introduction to that report, he had in mind that over the period of 1982 AIDS was an issue but we can't know at what stage in 1982 or 1983 he was first personally involved in that issue.
SIR BRIAN LANGSTAFF: But at least he had to be aware that it was an issue during that period.
MS BARRETT: Yes.
SIR BRIAN LANGSTAFF: If not earlier, given some of the contents of his report.
MS BARRETT: Yes, that is right.
SIR BRIAN LANGSTAFF: Yes, and one supposes that a report of the length it was would be drafted for him, particularly given what we've heard about Sir Henry from those who have given oral evidence, and they would have a direct reporting line probably, because they would be civil servants of the medical division, up to him.
MS BARRETT: Yes, that is right.
SIR BRIAN LANGSTAFF: So he might very well have been

informed, the probability is he may have been, but we have no direct proof that he was; is that the position?
MS BARRETT: That's the position. It's not suggested, couldn't be suggested, that he was not involved in the issue.
SIR BRIAN LANGSTAFF: No.
MS BARRETT: All we can say is the first document we have identified so far -- and we may identify further documents as the Inquiry progresses, the first document we have identified so far where he is in direct correspondence about the issue is the document on screen from Dr Gunson.
SIR BRIAN LANGSTAFF: And I also imagine that he read the newspapers.
MS BARRETT: I would speculate yes.
SIR BRIAN LANGSTAFF: Well, it's the probability, isn't it?
MS BARRETT: Yes.
SIR BRIAN LANGSTAFF: And the newspapers, speaking generically, would have alerted any reader to the fact there was something which was alarming people in the States and people were worried about it in the UK called AIDS and that was before '83 dawned.
MS BARRETT: Certainly, and this letter refers to the considerable publicity that had been given in the press to the condition of AIDS and if we look at the first

paragraph, Dr Gunson is very much addressing Sir Henry on an issue he expects he knows about. He's not telling him for the first time or anything like that. It may be that this is picking up on a conversation that they had had earlier. But all we can say is this is the first document that we've identified.

SIR BRIAN LANGSTAFF: Certainly Sir Henry didn't respond saying, "Well, I never heard of this, tell me more about it".

MS BARRETT: No. Unfortunately, we don't have the response to this letter but certainly we don't have anything suggesting he was in any way surprised.

SIR BRIAN LANGSTAFF: So, subject to submissions to the contrary and evaluating them, I think I will be bound to conclude that, just as it appears to have been assumed by Dr Gunson, that he knew very well there was something called AIDS some time before June 1983.

MS BARRETT: Yes, absolutely. We just unfortunately can't provide you with a better date for that earlier awareness. We're picking up some way into the story, but this is the first document that we have.

SIR BRIAN LANGSTAFF: I may also be bound to conclude, if that is the case, that he was aware there was something which might very well be a threat to public health.

MS BARRETT: Certainly if we look at this letter, that is

something which Dr Gunson is referring to --

SIR BRIAN LANGSTAFF: Yes.

MS BARRETT: -- by this point.

SIR BRIAN LANGSTAFF: I have taken you away from taking us through the letter, but thank you, that's helped to clarify my thoughts and put out there something if anyone wants to come back and argue the contrary they are very welcome to do so.

MS BARRETT: Thank you.

In this letter then we've looked at the first paragraph, which refers to recent attention in the press. If we look then at the second paragraph, we can see that at that time Dr Gunson was telling Sir Henry Yellowlees that the aetiology of the disease was not known but there was a strong possibility that the syndrome was caused by a transmissible infectious agent, and in that context it had been implicated in the transfusion of blood and blood products.

He told Sir Henry Yellowlees that in the USA several patients suffering from haemophilia A had contracted AIDS and some had died and all of those patients had received repeated -- it says infections but I think he means infusions of Factor VIII concentrate derived from human plasma. He refers to one case in England of a patient with haemophilia who was at that

point suffering from a condition which fulfilled the USA definition of AIDS and refers also to one other possible patient suffering from haemophilia who may have the syndrome.

He goes on to say that:

"Although relatively few cases of AIDS [had], as yet, been reported in the UK, the significance of the condition with respect to the transfusion of blood and blood products [was] two-fold."

He talked about the importance of ensuring that persons in the high risk group with respect to AIDS were not enrolled as blood donors. He referred to the pamphlet which was then being given out to prospective blood donors on AIDS.

Then just over the page, at sub-paragraph (2), he highlights that:

"Approximately half of the Factor VIII concentrate used in the treatment of haemophilia in England and Wales at [that time was] derived from plasma imported from the USA."

He said that there was no alternative to the continuation of that policy in the short term, but he was flagging up a concern and went on to say that in the medium term, the Blood Products Laboratory, Elstree, was being rebuilt so that it would have the capability to

make the country self-sufficient. He went on underneath the sub-paragraphs to say that AIDS was not a major problem in the country at present and, frankly, he did not know whether it would be in the future. However, it was being taken seriously in European Countries.

Then, towards the close of the letter, he mentioned, if we could just scroll down --

SIR BRIAN LANGSTAFF: Can we just go on in that paragraph, because I notice it says:

"... it is being taken seriously in European Countries and the Ministers of the Council of Europe are to be asked to approve recommendations designed to minimise the effect of AIDS."

Now, we have had reference to that and their conclusion elsewhere in the Inquiry so far. But it's the sentence that follows:

"These recommendations are not in general incompatible with the measures being taken in this country."

It's a question of how one interprets that sentence, really. Is he saying, effectively, "Those recommendations are what we ought to be doing, they are not incompatible with what we want to achieve", or is he saying, "We're doing what is sufficient to achieve the recommendations"? Two different ways of reading the

same sentence.

MS BARRETT: Yes, it's ambiguous, and for Sir Henry Yellowlees receiving the letter, he's been told in the sub-paragraph above about measures which were being taken, including the blood donor leaflet and working to build capacity at Elstree and then is being told AIDS is not a major problem in this country at present. The overall tone may lead to the interpretation that these measures are underway, or what we're doing isn't incompatible, but it's ambiguous. It's not clear which he is saying.

SIR BRIAN LANGSTAFF: By talking about AIDS not being a major problem in this country he must, I think, be concentrating upon what was his bailiwick, which is the supply of blood for transfusion from donors bled in the UK, because what he's just said above that is: we're importing half of what we need for those who receive blood products and importing from a country where there is a major problem. So he doesn't deal with that, does he, because he's I suppose concentrating, given his role distinct from that of Dr Lane in the Blood Products Laboratory, his role is dealing with blood transfusions.

MS BARRETT: Yes, he was the consultant adviser for blood transfusions, he wasn't the consultant adviser for infectious diseases or epidemiology --

SIR BRIAN LANGSTAFF: Or blood products. And he deals with that, does he, in the next paragraph? A bit.

MS BARRETT: He does, although you'll see that he refers to the press publicity, or some of it, being ill-informed and alarmist, which would tend to re-emphasise what he said about it not being a major problem. It's perhaps an issue of tone rather than what he's actually saying. But he does go on to see that there is going to be this meeting of consultant advisers on 17 June 1983 and he asks for it to be added to any other business so he can talk about the problems of AIDS in relation to the transfusion of blood and blood products and the measures being undertaken in respect to this what he calls potentially fatal syndrome.

He's not saying this is the end of the matter, he is saying this is an issue which bears further discussion that he wants to address.

SIR BRIAN LANGSTAFF: So what the letter is really doing is saying: can I please raise something under AOB?

MS BARRETT: Yes, that's the function of the letter. That's what he's asking. As I mentioned, the Inquiry hasn't identified any reply from the CMO and unfortunately we haven't identified the minutes of that 17 June meeting, but we do know that AIDS was discussed at that meeting because it's referred to in a later letter.

Could we go to NHBT0001066, please. Could we go to page 2 of that document. The page on screen is the reply. Page 2 is the earlier letter of 14 October 1983 and it's from Sir Donald Acheson and, if you look at his sign-off just at the bottom of the letter, we can see that at that point he was Chief Medical Officer Designate. So we're in that three-month cross-over period where he has started to work at the DHSS and Sir Henry Yellowlees is still in post. So there was an extended handover period.

In this letter, Sir Donald Acheson wrote to Dr Gunson:

"You will remember that at the meeting of the Consultant Advisers in the summer, Sir Henry Yellowlees asked whether you would be kind enough to send a brief account of the advances in your specialty that have occurred in the past five years and the problems and opportunities which you can anticipate in the next five years."

So he is there picking up on this aspect of his brief and then if we go to -- sorry, I've lost the reference. We'll come back.

There's a further document which says in terms that what was discussed at that consultant advisers' meeting in the summer there was a discussion on AIDS.

I've just lost the reference and we'll come to it later in the course of the presentation. But we can see that this is a conversation that has been started and is ongoing.

If we go next, please, to DHSC0002309_123, this is a document dated 22 June 1983, so it's five days after the consultant advisers' meeting, and we can see Dr Oliver, he was one of the Deputy Chief Medical Officers, circulated a note, with the topic "AIDS", saying:

"Sir Henry Yellowlees has asked me to provide some information on AIDS for Lord Glenarthur. I attach a paper prepared by Dr Walford which gives the background and up-to-date position. We are at Lord Glenarthur's service if he would like to discuss the matter in greater detail."

So we can see that Sir Henry Yellowlees was at that stage involved in requesting a briefing on AIDS to go to a minister and the paper that was attached is at DHSC0002309_124. So this is Dr Walford's paper prepared at Sir Henry Yellowlees' request. Could we focus on the bottom paragraph under "Spread of the disease", please.

It was noted that:

"The pattern was [emerging], is of a disease which appears to be transmitted predominantly by male

homosexual activity but also by heterosexual ..."

I think it says "means" and then says:

"As a secondary method of spread, contaminated needles used by drug addicts and the transfusion of blood and plasma taken from donors carrying the AIDS agent, account for the occurrence of AIDS in intravenous drug abusers, haemophiliacs and recipients of blood transfusion."

So the method of transition was highlighted.

Could we go to page 2, please, and look at the second paragraph under "AIDS in the UK".

We can see at that time Dr Walford highlighted that 12 confirmed cases of AIDS had been reported. There was one case of AIDS in a patient with haemophilia. He had received the Factor VIII concentrate made from USA plasma prior to 1981 and after that had received NHS factor concentrate made from NHS plasma. But it's noted there was, at that stage, uncertainty over that patient's diagnosis.

If we could go to page 3, please, and look at the fourth paragraph of that page, there's a discussion of FDA regulations governing the selection of plasma donors to exclude high risk groups and it's noted that:

"The Department's Medicines and Supply Divisions [were] endeavouring to ensure that there will be

no 'dumping' of high-risk plasma products on the UK market and ... seeking ... assurances from the manufacturers in relation to the quality ..."

There's a note that heat treatment is being discussed but there was at that stage no evidence that such material would reduce the risk of transmitting AIDS.

Could we zoom out again and look at the whole page? Sorry, it was just the paragraph above that paragraph that I also wanted to go to.

And it was noted that:

"... the greatest risk to haemophiliacs at present [was] from the use of Factor VIII concentrate prepared from American plasma."

And it was noted that at that time, despite the work being done to redevelop the Blood Products Laboratory:

"... 50% of the Factor VIII concentrate needed to treat haemophilia would have to be imported, mainly [imported] from the USA."

So it was both of those paragraphs that I wanted to draw to your attention, sir.

That was the state of knowledge in an internal DHSS briefing in June of 1983 following that consultant advisers meeting where Dr Gunson had spoken about AIDS.

At this point I will go to look at the annual report for 1982, which is at DHSC0007004.

Now, when we look at this document, the caveat is the discussion we've had, sir, about not knowing exactly when it was drafted. If we look at page 16, this is the end of the introduction and we can see that Sir Henry Yellowlees was signing off after the end of his tenure as Chief Medical Officer. It's dated October 1983 and we know that his tenure ended at the end of that December.

Then the first mention of AIDS in the annual report is at page 70, and it's just the bottom paragraph of that page, and then once we've looked at that we'll go over to the top of the next page as well. The Inquiry hasn't been able to ascertain which he said or why the person drafting it said:

"During the past four years a new and frequently fatal syndrome has been described in the United States."

As of 1982, AIDS had been described during 1981 and 1982, even we take it from the date of the sign off towards the end of 1983, four years isn't quite right.

SIR BRIAN LANGSTAFF: Well, I'm not altogether sure about that. My thinking is this, that in some of the documents which the Inquiry has in its database, there is reference to the CDC in Atlanta having been aware,

there had been the odd report, there had been no systematic investigation, of an immune deficiency striking people in the west and some symptoms which, looking back, having identified that there was a syndrome in 1981, might be thought to be the same thing. That dated back, in one of the documents that I've read, to 1979.

The trouble with this report is "for that past four years", is that an estimate? From which time is it written? Is it from 1983 or 1982? It doesn't report a particular year period and it's true that in the medical literature, as far as we know, the first reference is on 4 June 1981.

MS BARRETT: Yes, that's why this had puzzled me, but I think your suggestion might resolve my puzzlement. If it's being written as at a perspective of the end of 1983 looking back and including early descriptions which were not notifications of a syndrome but in retrospect and with hindsight could be observed to have been consistent with what was later evaluated to be a new syndrome, that might explain what I had on first glance thought was perhaps a mistake or anyway a puzzle.

SIR BRIAN LANGSTAFF: It remains a puzzle, because we don't quite know what the author had in mind, and bear in mind what Sir Henry says in his introduction, this was

compiled and edited by somebody other than him. But there we are.

There is an earlier reference actually I think in the report ten pages earlier.

MS BARRETT: Could we go back please.

SIR BRIAN LANGSTAFF: About ten pages earlier I noticed.

MS BARRETT: To page 60.

SIR BRIAN LANGSTAFF: Just go back to it. It's -- I'm not sure if it's -- the problem is the electronic numbering but I think go back to 51 just to check.

MS BARRETT: Go back one page. The electronic numbering is eight pages on from the internal page numbering.

SIR BRIAN LANGSTAFF: And on, I think. Because there is a description of AIDS. And on. Right could we just take it through page by page. I think we may come to some description.

MS BARRETT: So we're at the start of the chapter.

SIR BRIAN LANGSTAFF: Up the numbering scale towards 100 rather than down.

MS BARRETT: So from page -- what page electronically are you on now.

SIR BRIAN LANGSTAFF: 48 internal.

MS BARRETT: So are you on 56 electronic? So go back to the page you were just on a moment ago. Go forwards. Just go forwards page by page, please.

SIR BRIAN LANGSTAFF: And on. And on. It's under the "Communicable diseases" section.

MS BARRETT: So the next page is the start of the relevant chapter, and then in this chapter if we could just go forwards slowly page by page while we look for the reference that Sir Brian has in mind.

SIR BRIAN LANGSTAFF: And on, please. And on. And on. That's it, "Kaposi's sarcoma and AIDS", 53.

MS BARRETT: Thank you. So that dates 1982 as the beginning of surveillance.

SIR BRIAN LANGSTAFF: That's by the CDSC (so that's the UK surveillance of what was an American discovery or realisation) and it then describes how the data was collected, which is a matter of some interest, and then the paragraph:

"During 1982 and the early weeks of 1983, case reports suggestive of the classical type of Kaposi's Sarcoma were received ..." which suggests that in the UK there had been a number of reports of something which might be the syndrome, and:

"It is now believed there is under-reporting of these conditions, although research is proceeding in a number of scattered centres."

So you then have what's to be done in terms of surveillance. It it's a little more informative I think

than what comes later, isn't it?

MS BARRETT: Yes, and thank you for taking us there. It does show that measures were being taken in terms of surveillance which were within the purview of the Chief Medical Officer at least by this stage this report was compiled.

SIR BRIAN LANGSTAFF: So the information he had, as reflected in this document, was that the information that was being collected by the regulatory or the surveillance authority in the UK was not properly reflective of the full extent of what was actually happening, and that might be important if one's looking at the degree of prevalence and, therefore, any supposed risk.

MS BARRETT: Yes and the measures that it would be proportionate to take in response.

SIR BRIAN LANGSTAFF: Absolutely.

MS BARRETT: If I just take us back then to electronic page, we looked at electronic page 70. Could we look next at electronic page 71 and look at the top paragraph. So just for context for those following what is happening on screen we were looking at the section in the communicable diseases chapter and we're now in the sexually transmitted diseases chapter, which is why there are two entries in the same report.

Here it is said that -- it's noted that there's over 1,000 cases reported in the United States, that there's a death rate of over 40 per cent, that it's a serious and often fatal syndrome. Where it says "Cases are now being reported in England and Western Europe", I think it is helpful, Sir Brian, that you took us to the earlier point where we could see the context of the reporting that was being set out in the report in relation to the UK.

But what's interesting here is that the cause of the serious and often fatal syndrome is unknown, which was correct at that point, but the information that we saw in the internal briefings, which was a lot more detailed, about modes of transmission aren't at this stage being set out in the public report.

This is the last document that we have identified showing personal involvement from Sir Henry Yellowlees in response to AIDS and I'll just reiterate that this may or is likely to be because we haven't yet identified the documents or because he may have had oral discussions which are not recorded in documents. To an extent it may reflect that matters were not escalated to him personally during this period, but we don't know as between whether things weren't being escalated or whether things weren't being recorded or we just don't

have the records. We don't know. But I do refer back to the early observation about the size of the Chief Medical Officer's brief and the fact that he wouldn't be expected to have been personally involved in every public health concern at all times.

There were other issues of which he spearheaded and we know he focused on. So a history of the role of the Chief Medical Officer praises Sir Henry Yellowlees for successfully campaigning to have lead removed from petrol and for working through the World Health Organisation to eradicate smallpox. So insofar as there were particular issues that he was focusing on, he is not known in the way that his successor, Sir Donald Acheson, is known, for focusing on AIDS.

I will move then to what we know about Sir Donald Acheson's early response to the risk of AIDS. We've seen the letter that he wrote to Dr Gunson on 14 October 1983 asking for advice. It might actually be helpful to put that back on screen if possible? It's NHBT001066 and it's the second page of that document.

So Sir Donald Acheson when he was appointed was an outside appointment. While Sir Henry Yellowlees had been a Deputy Chief Medical Officer before being promoted to Chief Medical Officer and that had tended to be the pattern for previous Chief Medical Officers,

Sir Donald Acheson was an outsider. He was previously Dean of Medicine at Southampton University Medical School and he spent some time in this three-month crossover period familiarising himself with aspects of his brief.

We can see that he -- it says he's very much looking forward to receiving the briefing from Dr Gunson and says kind things about how extraordinarily interesting it is to have colleagues senior colleagues to help him with these matters.

Dr Gunson's reply is at page 1 of this document. So a few days later, four days later, he wrote back enclosing an account of the advances in the last five years and those anticipated in the next five years in blood transfusion. That paper is enclosed and it's at page 3 of the document. So we can see this is Dr Gunson's briefing to Sir Donald Acheson five years back and five years forward.

Can we flip to the next page, please, page 4, and look at the bottom two paragraphs under the sub-heading "Disease transmission". Dr Gunson is briefing Sir Donald Acheson, as he comes to the role, that:

"Certain products have always carried the danger of transmission of hepatitis."

And he talks about the introduction of screening

for hepatitis B and the vaccine for that condition. He flags the problem of non-A, non-B hepatitis which remains, and says:

"... and there is now the potential transmission of AIDS, about which I spoke at the last Consultant Advisers' Meeting."

This is the document which I didn't have immediately to hand which shows that that was specifically discussed as he had requested of Sir Henry Yellowlees.

Then could we go to the next page, page 5, and look at the heading under the heading "The next five years". What Dr Gunson told Sir Donald Acheson would be the major advance that could be made, and he underlines it, is "self-sufficiency in blood products for the UK". He noted that approximately 60 per cent of Factor VIII was purchased commercially and was largely imported from the USA.

If we go over to page 6, please, so underneath the narrower paragraphs on the first wide paragraph on the page he notes that:

"It will be an advantage when all blood products can be derived from the UK donor population."

But he notes that:

"Nevertheless, the transmission of non-A, non-B

hepatitis, particularly from the products derived from pooled plasma will still be a problem in groups of patients, such as haemophiliacs, who receive these products regularly."

He anticipates a diagnostic test within the next five years, but goes on to say that exposure needs to be minimised as well. Then he goes on to see:

"With respect to AIDS, it is too early to anticipate the effects in the UK, but it is important that every opportunity is taken to investigate possible ways in which the ... donor population can be screened."

The next document we'll go to, please, is DHSC0003823_173 and this is a briefing dated 4 November 1983, so about two weeks, just over two weeks, after the letter and paper from Dr Gunson. We can see that it's a "Briefing on AIDS for CMO", consultant advisers meeting.

Now, we don't know, because it doesn't say, which CMO this is for. The pattern of the documents with the preceding correspondence with Dr Gunson and Sir Donald Acheson tends to suggest it might have been for Sir Donald Acheson, but it just says CMO, it doesn't give a name, and, at this point in the chronology, there were two overlapping CMOs. So with that health warning, could we have a look, please, at the second paragraph --

we're there already -- which notes:

"CMO will already be well aware of the general background to AIDS ..."

Sir Brian, it goes back to your point that this is also a live issue in the press and it would have been something that was part of the general fabric of knowledge and discussion as well as specific briefings.

It says:

"... there is little to report in the way of scientific developments."

The definition is broadly accepted, although it has been modified in some countries, and goes on to see that no specific marker test has been developed. It says that cases continue to rise with 24 notifications by then in Britain, including two people with haemophilia.

If we look at the fourth paragraph, towards the bottom of what's on screen, we know that there's intensive research activity in the USA and elsewhere directed at searching for the causative agent as well as the basic immunology of the syndrome.

So that was the state of DHSS internal briefing in early November of 1983.

SIR BRIAN LANGSTAFF: It's, what, five lines down:

"Although there is a fairly general acceptance of

viral aetiology ..."

MS BARRETT: Yes.

SIR BRIAN LANGSTAFF: So that's the briefing note which has been given.

MS BARRETT: Yes, absolutely. It's not a definite certainty at this stage. They are saying the possibility of other causes has not been dismissed but that is the generally accepted theory.

SIR BRIAN LANGSTAFF: So most people think it's a virus.

MS BARRETT: Yes, yes. If we look at the previous sentence as well, the question is also being asked is whether the pre-existing immune dysfunction allows infection by an AIDS virus or whether the agent itself causes the immune defect. So there was also a question about whether an inherent susceptibility played part of the causation of the syndrome, which of course we know later was not the case but that was still something that was being considered at the time.

In terms of internal briefings, if we could next go, please, to DHSC0001966. So this is in February 1984, we've got another communication from Dr Gunson. This time he's writing to Dr Harris, who's one of the Deputy Chief Medical Officers, rather than directly to the CMO. He appended a report which I don't think we need to go to entitled "Plasma supply for

self-sufficiency in blood products" and essentially what he was doing was recommending that additional blood collection should be financed through the CBLA. So it was a request for financing to increase the collection of plasma in support of the goal of self-sufficiency.

Then the reply is at DHSC0046942_114, and this is Dr Harris' reply of 15 February 1984, and we can see in the big central paragraph he tells Dr Gunson:

"We are taking this matter extremely seriously in the Department and, following discussions with Donald Acheson and my DCMO colleagues, we have decided that a submission to Ministers will be required. This will state the nature of the problem ..." and so forth.

Now, in fact, you will have heard in other sessions of this Inquiry that the matter was taken forward by Dr Harris through the NHS management group rather than via submission to ministers, but I take you here just to demonstrate that we know that Donald Acheson was personally involved at this stage in discussion. So this was something that the DCMO thought worthy of escalation to him as of February 1984.

There is then another gap in the evidence that we have identified to show any personal involvement of Sir Donald Acheson in matters relating to AIDS between February and October 1984, but I repeat the same health

warning as with respect to Sir Henry Yellowlees: we don't know what that signifies. It may have been that, as this letter reflects, he was having verbal conversations with his DCMOs and other personal in DHSS. It may be that there are documents we haven't identified yet or it may be that his focus was elsewhere, but we can't draw that as a conclusion. There's just a gap in the documents that we have identified.

So we pick up again in October of 1984. Could we go to DHSC0002323_009.

What we see on screen here is a briefing minute from Dr Alison Smithies, principal medical officer in DHSS, dated 19 October 1984 and we can see that under the heading "AIDS" it says:

"CMO has requested information about the problem of AIDS and blood donations."

So this was in response to a specific enquiry by Sir Donald Acheson and they ask two questions. At (a):

"When can we expect that no blood/plasma will be donated without prior testing?"

Then if we could scroll down just to see (b) at the bottom of the page -- thank you -- he also asked:

"What is the position about blood transfusion/plasma related AIDS in the UK and its controls?"

If we go back up to the answer under (a), please, Dr Smithies responded to the question about, "When can we expect that no blood/plasma will be donated without prior testing", that so far only pilot studies had been carried out into blood donor testing for the HLTV3 antibody and that there was a limited supply of test re-agents so that the time-frame for universal testing was uncertain.

She said in the second paragraph, in the bit that someone has drawn brackets round, at the end of that paragraph -- could we highlight it -- that:

"... it is felt that there is a danger in making this too public in the event of high risk groups using blood donations as a means of finding at their HTLV antibody status."

So that was something that was raised as a concern internally at DHSS at that time, that introducing antibody testing for prospective blood donors at blood transfusion centres could create an incentive for people who were at high risk to donate blood in order to access the tests.

It's not stated that there was any evidence that that was likely to happen, but it was flagged as a concern.

At the bottom of the page, we have the reply to

the second question about what's the position about blood transfusion and plasma related AIDS in the UK and its control. She told the CMO that they had yet no known case of AIDS reliably related to blood transfusion. There were about 40 cases in the United States. Officially there were three cases by this point of haemophiliacs who had contracted AIDS and then just going over to the top of the next page please, one of them had sadly died. She said that in the view of the prevalence of HTLV antibody in haemophiliacs, which was about 35 per cent, that it was likely that there would be more; so likely there would be more cases of AIDS in people with haemophilia.

She notes that the two cases which had arisen long enough ago to be well documented had received Factor VIII from the United States and the recipients of the same batches of Factor VIII were being followed up through Dr Craske of the Public Health Laboratory Service. DHSS had allocated research funds to assist Dr Craske in that study.

She also noted there was a concern about recent batches known to be associated with AIDS donors, one of which came from the United States and one of which was contaminated by a donor from Wessex.

She told the Chief Medical Officer, and this is

something that we see he took on board seriously, that:

"The only protection recipients of blood and blood products [had] from contracting AIDS from donors [was] the publicity given to the possibility of transmission from high risk groups."

She went on to explain that the risk was higher in large pooled products or products made from large pools, and she mentioned the leaflet that was used to advise donors from high-risk groups to desist from giving blood issued in August 1983 which was at that stage being redrafted.

We can see the CMO's reply.

Oh, actually, shall we take a break and then we'll see the CMO's reply?

SIR BRIAN LANGSTAFF: Well, shall we have the reply and then have a break?

MS BARRETT: Yes. It's at DHSC0000569. It's very short. On 25 October 1984, the reply was sent with his comment:

"It is agreed that we should move to the position where HTLV III testing is put on the same basis as Australia antibody ie negativity is a prerequisite for donation of blood or plasma. Also what is the timetable and cost?"

SIR BRIAN LANGSTAFF: Yes.

MS BARRETT: So if we pause there for the morning break.

SIR BRIAN LANGSTAFF: Yes, we will take a break now until 11.45 and then we'll hear the next part of the saga.

MS BARRETT: Thank you, sir.

(11.17 am)

(A short break)

(11.45 am)

SIR BRIAN LANGSTAFF: Yes.

MS BARRETT: There is one correction I need to make. Can I ask that NHBT0001065 be put back up on screen, please. These are the minutes of the consultant advisers meeting on 27 November 1981. It has been drawn to my attention over the break that what I had thought was an attendance list and apologies is in fact just the new attendees and the apologies. So that's five new joiners and three apologies. We don't have a complete list of the advisers who were on the panel and at attendance in that meeting other than the new joiners. So just to correct what I said there and to add that what we do have is evidence, the evidence of Dr Walford, who told the Inquiry in the section of her witness statement dealing with her time as a principal medical officer in the medical SEB division from September 1979 onwards in DHSS, she said:

"The CMOs were each advised by an external expert, who was designated the Consultant Adviser in Blood

Transfusion. Such Consultant Adviser appointments existed for only a few other specialties."

That evidence is set out in paragraph 22 of the written presentation for those following at home.

So what we know or what we have is Dr Walford's evidence that there are few other specialties in addition to blood transfusion as at the beginning of the 1980s, and we have the evidence we looked at of Donald Acheson's statement to the BSE Inquiry in 1998 that, by that time, there were over 80 consultant advisers. But what we don't have is a complete list of the specialties as at the early 1980s.

Sir, I apologise for giving that impression of this document and correct the record in that respect.

SIR BRIAN LANGSTAFF: It leads to this question, I think, which is, do we know if there was any consultant specifically in public health as you might be thought such as a communicable disease specialist, or for that matter a public health specialist?

MS BARRETT: That's something I don't know now but we will look into.

SIR BRIAN LANGSTAFF: Thank you.

MS BARRETT: Before the break we had looked at a briefing from Dr Smithies during October of 1984 and the response from the CMO.

The next document, going back to that part of the narrative, is at DHSC0002249_034.

This is a further minute which Dr Smithies submitted on 20 November 1984 for the attention of the CMO.

In the first paragraph she updated him that the Central Blood Laboratory authority had announced the day before that they planned to heat treat all Factor VIII manufactured there from April 1985 onwards. In the last paragraph that's up on screen she noted that the use of heat-treated Factor VIII -- sorry, if we could just zoom out -- yes, it is that paragraph, that the pilot trials had shown that the heat treatment did not inactivate non-A, non-B hepatitis and that there would be a programme of intended introduction of heat-treated Factor VIII in order to make that available to haemophiliac patients in the UK, but there wasn't a time-frame given at that time.

If we next go then to the annual report for 1983, which is at DHSC0007005, and could we look at page 16, please, which is the last page of the introduction section. You'll see, sir, that it's signed by Donald Acheson but he acknowledges in the paragraph above that throughout 1983 Sir Henry Yellowlees was in post and that the report describes the events that took place

during his term of office and he had helped in the preparation of the report. This report can be seen to some extent as a joint production between the two of them.

Could we go back to page 13 in this document, please. We can see that within the introduction section there is a part on communicable diseases and the second paragraph there on the page refers to AIDS. We can see that it's being foregrounded as an issue by the 1983 report, which we know the introduction to which was written in December 1984; the same caveats apply as to we don't know exactly when all parts of the report were drafted.

Then if we go to page 54 within the document, please, we are within the "Communicable diseases" chapter, so this is the equivalent chapter we went through for the previous year's report, and we can there see that there is now a page and a half devoted to AIDS.

Can we look at the penultimate paragraph on that page, please. It refers to "AIDS and the UK blood donor" and explains that a leaflet had been distributed in blood transfusion centres and sexually transmitted disease clinics.

Then the bottom paragraph on that page is "AIDS and the general public", and what is said that is:

"Expert opinion suggests that there is no risk of contracting AIDS as a result of casual or social contact with AIDS patients, eg on public transport, in restaurants, or in private dwellings. The spread of AIDS appears to require intimate contact."

The relevance of that thematically, we'll see some other documents as well, is that Sir Donald Acheson appears to have seen part of his role as addressing misinformation and stigma. So as well as providing information about AIDS there are places in the documents where he corrects misinformation and so that is an element of the CMO role which also is developed thematically through the presentation.

SIR BRIAN LANGSTAFF: The purpose of the document, the report on the health of the nation, who was it intended should be the readership?

MS BARRETT: That's a really good question. It was a public document, so it wasn't just for doctors. Anybody could read it.

SIR BRIAN LANGSTAFF: The reason I ask is because of the language. If you look at the very top of that page and the sentence, "The spread of AIDS appears to require intimate contact", there may be a number of people who would understand that to mean sex. Others might have a different idea about what "intimate contact" might be,

and it may not transmit the meaning which I take to be sex. Am I right?

MS BARRETT: I would assume you are right, looking at the page, yes.

SIR BRIAN LANGSTAFF: But "intimate contact" could be other contacts. Is kissing intimate contact, for instance?

MS BARRETT: I don't know if I'm qualified to opine.

SIR BRIAN LANGSTAFF: It's a rhetorical question, really, as to the quality of the language in transmitting its information to an audience who will have different ideas.

MS BARRETT: The imprecision of language is something that comes back later as well. When we're looking at the later public education campaigns, we'll come to a part of Sir Donald Acheson's autobiography where he talks about the difficulty he had in persuading ministers, including the Prime Minister Margaret Thatcher, to use blunt enough language that people would know what they were talking about, because there is a tendency to use euphemism because it's politer but the problem is if people don't understand what that really means then the public health message and in particular people understanding what they can and cannot do, is lost or muddied.

I hadn't picked up on that when preparing the

presentation but I think it is also a theme that gradually develops in that the language used becomes more specific as that problem is realised and those conversations are had.

SIR BRIAN LANGSTAFF: I mean, it might be thought important that a public health message, if this is one, is put in the most obvious and plain language.

MS BARRETT: Yes.

SIR BRIAN LANGSTAFF: But there we are. That's a comment rather than anything else.

MS BARRETT: In terms of public statements, the next document we're going to go to is BART0000814, which is a press release of 20 -- well, this is the front page enclosing a copy of the Chief Medical Officer's press release on 20 December 1984 and the context was it followed media enquiries after a report in the Guardian newspaper on that date about two cases of suspected or alleged AIDS transmission through blood donation.

If we could go to the second page of the document, where the press release is set out, we can see from the second paragraph onwards there is a quote from Sir Donald Acheson. He says that:

"Donations of blood and blood plasma have been given by a person who was subsequently to hospital in Wessex in October and later diagnosed as suffering from

AIDS."

And that:

"His donations of both blood and blood plasma have been traced, and all possible remedial action taken."

Then if we skip the next two paragraphs and focus on page 3, top of page 3, please, he goes on to say that:

"None of the recipients of the blood donations or the Factor VIII made from this donor's blood plasma has shown any clinical signs of developing AIDS."

And continues that he would:

"... like to stress that anyone who is advised to have a blood transfusion, or who has been given a transfusion, should not worry because the risk of getting contaminated blood is extremely small. Even if a person is proved positive in the antibody screening test it does not mean that he or she will develop AIDS. Only a very small proportion of people with positive results go on to show symptoms."

Then under the next three subheadings the press statement noted measures that were being taken, including that revised leaflet for high-risk groups, the development of a screening test, and heat treatment which it was hoped would be introduced from April of 1985.

This is an example of a public statement portraying a reassuring or somewhat reassuring message to the general public in relation to media concern about transmission of AIDS.

SIR BRIAN LANGSTAFF: What's fascinating perhaps about this is that it refers to a case of ordinary blood transfusion given to three recipients to whom the disease may have been transmitted, but on the same day that the article was published in the Guardian to which this responds, 20 December, there was, was there not, a publication in the Yorkshire Post and for that matter elsewhere talking about what people have come to know as the "Edinburgh cohort", and we've heard evidence that on 19 December there was a meeting held by Professor Ludlam in order to tell people who had been affected by transmission of HIV to them that that was the case. That doesn't feature in this at all.

MS BARRETT: No, and I hadn't realised the context. You're quite right, this is a separate or parallel conversation that seems to be taking place without any reference to the Edinburgh cohort.

SIR BRIAN LANGSTAFF: Do we have any sense as to whether and when that knowledge must have reached us as one exposes it ought to have done to the Chief Medical Officer of the UK or at least of England, or was it perhaps because

it was Scotland that it didn't feature? But it's still relevant one would have thought to his expression of how the risk of getting contaminated blood is extremely small.

MS BARRETT: Yes, I haven't seen a document that briefs him on that issue. We will check and see if there's anything else that could help illuminate that point.

SIR BRIAN LANGSTAFF: Thank you.

MS BARRETT: The next internal briefing document we have is at DHSC0001693 and it is another briefing from Dr Smithies dated 31 December 1984, setting out the current position with regard to AIDS as requested by the Chief Medical Officer.

At page 2 of the document, we can see the position paper itself "AIDS and its prevention in the United Kingdom". She reports that cases in the UK since 1981 to the end of November 1984 had reached 102. Four people had died. She noted that there were three cases in people with haemophilia A of whom two had died and there's an annex setting out the statistics.

Under "Causative Agent", we can see at the bottom of the screen now:

"It [was] now accepted that the isolates of retrovirus HTLV III ... [were] probably the causative agent of AIDS, either singly or in association with

other unknown agents."

Could we look at the penultimate paragraph on the page. It's noted in that indented citation that the incidence of HLTV III seropositivity in 800 haemophiliacs screened in the UK was about 35 per cent and in patients with severe haemophilia it was 75 per cent.

Could we go to page 3.

SIR BRIAN LANGSTAFF: Where do we get the 75 per cent?

MS BARRETT: Yes, I've got it in my note as this page but is just want to check over at page 3. I might have got myself out of order.

SIR BRIAN LANGSTAFF: It doesn't seem to be there.

MS BARRETT: Could we go to page 7, please.

Yes, here we go.

Sorry, I'd mistranscribed the reference. So it's in the section "AIDS in Blood Products". The case numbers are given, then about halfway down the paragraph is the statistic that I cited: 800 haemophiliacs had been tested and the incidence was 35 per cent, and with severe haemophilia it was 75 per cent.

Could we go back to page 4, please, and look at section 6, "Blood Transfusion and AIDS". Dr Smithies noted that:

"Although no-one has yet contracted AIDS from

a blood transfusion in the UK there were three seropositive recipients of blood from a donor in Wessex ..."

And the donor had AIDS, and that:

"There may well be other donors who are unaware that they are infected."

Then in the final paragraph of that page, please, she wrote four lines down that:

"The only way to prevent [further infections] is to institute screening of all blood donations."

If we could go to the next page, please, page 5, and look at section 7, we can see that the NBTS Working Group on AIDS, a panel of expert advisers, had agreed that a screening test for HTLV-III antibody should be introduced to all Regional Transfusion Centres as soon as possible. That was the advice that was being provided to Sir Donald Acheson as at 31 December 1984.

I'm going to go now back into Sir Donald Acheson's autobiography to look at his recollection of what he made of the information that he was being given about AIDS in late 1984 and early 1985. That's at WITN0771088. It's the sideways front cover again. Then could you go to page 13, please.

This is the chapter of Sir Donald Acheson autobiography touching on the response to AIDS in

the 1980s. He says in the second paragraph on the page that on his arrival in Whitehall, so that was October 1983, a handful of cases of a mysterious new disease had already occurred.

It was probably more than a handful by that stage but that's what his recollection is of what he knew.

He recollects that these had not been shown to be due to an infection and their significance was uncertain, but he remembers two developments striking him particularly. The first, in 1984, was the discovery that AIDS was due to a retrovirus and likely to prove incurable, and the second was that it could be transmitted by vaginal as well as anal intercourse.

Then over on the next page, please, he says that:

"Perhaps due to wishful thinking [he] did not at first grasp the full implications of this. But the defining moment was not long delayed. It occurred early in the following year and came from a different continent."

He goes on to describe that hearing about the situation at that time in Zambia and then in Uganda made him realise the severity of the situation that could unfold in the United Kingdom.

He says in the second paragraph there that he was horrified and that he immediately sought -- or that he

sought rather an urgent appointment with his political boss, who was Lord Fowler, the Secretary of State for Health, whose reaction was one of deep concern. For the rest of his time, Sir Donald Acheson's time in Whitehall, he found Lord Fowler's unfailing encouragement and support enabled him to give the AIDS epidemic a place close to the top of his priorities.

So he describes there in around early 1985 coming to a personal realisation as to the severity of the unfolding risk and taking steps to prioritise the issue as amongst we've hearing he had a broad and heavy workload as CMO, but it's at this point that he decides that this is a priority. His recollection in his autobiography is consistent with the contemporaneous documents which do show that increasing prioritisation of the issue in his personal workload from early 1985 onwards, and we're going to come to some of those documents.

The first one we'll take, please, is DHSC0000562. This is a draft ministerial submission which Dr Smithies sent to the CMO's private office with a covering summary. She says:

"CMO wished to consider this submission prepared with administrative colleagues for Ministers to obtain approval in principle for the introduction of

a screening test for AIDS antibodies in the National Blood Transfusion Service."

She goes on to describe the test and the necessity of scaling up the production of the reagent so that the test can be applied more widely. So there was a submission requesting approval for the introduction of universal testing in national Blood Transfusion Services. We don't have the final submission. We do know that it was sent to -- it was endorsed by Sir Donald Acheson and he put it to ministers on 15 January 1985 and, from contextual documents, it's understood final submission was in identical or near identical terms to Dr Smithies draft which we have here.

We do have the Minister of Health, Kenneth Clarke's, reply to that submission, which is at DHSC0002482_012. This is Kenneth Clarke, then Minister for Health, replying to that submission on introduction of testing. He says:

"Thank you for your submission of 15 January."

So we have the date it was sent. This is his reply on 22 January. He says:

"This looks inevitable, I suppose.

"Could I have drafts please of the proposed public announcement of both points.

"Could I also have a draft of a letter to go to

all Chairmen of [Regional Health Authorities] explaining our proposals."

Asks about Wellcome who were developing the test. He asked whether the cost would:

"... be met from the income now going to the blood transfusion service from the charges introduced for the handling of blood products to private hospitals?"

Then he says:

"Before we all panic further, it is presumably the case that the ending of the collection of blood from homosexuals greatly reduces the risk from blood collected in this country. Also, as only haemophiliacs have died and they may have had Factor VIII from American blood, is it the case that we have not had one AIDS fatality from blood donated in this country yet?

"Do we need this and heat treatment of the blood?"

So those questions went to Sir Donald Acheson regarding his submission that testing should be introduced as well as heat treatment, which we know was underway.

His reply is at --

SIR BRIAN LANGSTAFF: What's the date of this?

MS BARRETT: This is 22 January.

SIR BRIAN LANGSTAFF: Thank you.

MS BARRETT: It's just the handwritten "22nd" above the

distribution list.

We have --

SIR BRIAN LANGSTAFF: Could I just pick up on what's happening in the background to this. As at 31 December, if you go to that particular part of the memo from Dr Smithies to the CMO, but I think there's a description in it of how it was proposed that Wellcome have access to Porton Down CAMR in order to scale up the production of the reagent, it being necessary to have something to test against. If you are testing something you have to have something to test it against and you have to have enough of it if it's going to be a test around the country.

I think it was anticipated that that might be available in the first quarter of 1985. Now, we know that a test was not universally adopted for screening until October 1985 and the delay is a matter of importance to the Inquiry to investigate as thoroughly as it might. So here we have the CMO being told that there is a widespread emergency in Africa early in 1985, it may well be about this time. The profession is calling out for an urgent test and Dr Smithies is writing in that sort of vein to the Minister of State for Health.

So it's what then happens might be a matter of

some interest as far as the CMO papers may reveal it. The CMO's lending his shoulder, is he, to getting testing done?

MS BARRETT: We'll see in his response, which is at DHSC0002311_051.

Just to answer your question, Sir Brian, we'll come on in more detail through the documents but he does push for the introduction of testing. Then we'll come to a question about the timescale for the introduction of that testing, and he agrees that the Wellcome development process should be followed through and there is a period during which he is supporting submissions about making sure that the time-frame is sufficient to allow for the testing to be properly developed before it is implemented in all of the Regional Transfusion Centres. So that's a summary but we'll come through via the documents.

So this is the reply to Sir Kenneth Clarke on 31 January 1985, and he answers the queries raised that we just looked at, and if we look under "AIDS from UK Blood and Blood Products", he reiterates his previous advice in the submission. He says:

"While as [Minister of State for Health] suggests, it is hoped that the revised leaflet will substantially reduce the risk, we cannot guarantee that all

homosexuals will desist from donating blood even with the additional publicity alerting them of the dangers. There may be considerable social pressure on the individual to continue donation. Additionally, heterosexual contacts of bisexual men and drug abusers, and other risks groups may be unaware that they have been contacts with infected persons. My advice must be that in view of the fact that 2 million units of blood are used annually without a test it will be inevitable that further transmission of the virus will take place as a result of blood transfusion."

Then you will recall he was asked specifically whether there was any case of transmission by blood transfusion in the UK and he says as far as it's known there are no cases of the actual disease AIDS in the UK having arisen following blood transfusion and that the three haemophiliac patients with AIDS had received imported Factor VIII. He says:

"However, there are three the further patients to whom the infection has been transmitted by blood donated in the UK who may yet develop the disease."

Then over the page, in the second page of the document, please, under "Heat Treatment and Screening", he says that:

"The proposed antibody test is not infallible but

it is the best at present we can do for whole blood. Blood products are made from pools of many thousands of donations and so the risk of contamination is very much increased."

He says:

"It is believed that heat treatment will reduce this risk, and therefore until a specific test is generally available (and this will take time) [he advises] that the heat treatment for pooled blood products will continue to be necessary and should be provided."

That's his answer to the challenge as to whether both heat treatment and screening are required.

Then he further proposed at the bottom of that letter that a press release and a letter to Regional Health Authorities should be circulated announcing that funds would be earmarked.

Can we next then go to DHSC0002327_028. In fact he replies twice to Kenneth Clarke's questions because after having sent the document we just saw on 31 January, he follows up on 1 February with this communication entitled "AIDS - The need for heat treatment as well as an antibody test", and he says:

"1. [Minister of State for Health] asked for clarification of the need for heat treatment as well as

an antibody test.

"2. As the Minister knows, blood for transfusion once it has been tested for its blood group and for evidence of infection ... is delivered straight to hospital blood banks for use."

He says:

"This is the blood which we wish in addition to screen for AIDS antibody. Heat treatment of blood for transfusion is not possible because of the damage it would do to the cells it contains."

So making the point that heat treatment is for Factor products, but not for whole blood, and goes on to explain pooling and fractionation to make Factor VIII, which needs heat treatment and the additional risk coming from pools.

So he has replied not only once but twice to Lord Clarke to emphasise the need for the introduction of the screen tests.

We know that that advice was heeded and Lord Clarke has provided evidence to the Inquiry. He says that the process for the introduction of screening tests was a topic which closely concerned the medical advisers and in particular the Chief Medical Officer advised on the strategy for evaluation of the tests and his advice was accepted. The press

release and letters to Regional Health Authorities that we saw the CMO asking to be sent were issued on 20 February of 1985.

In around this same time in the chronology, Sir Donald Acheson established an Expert Advisory Group on AIDS, and it was this group, which is known by the acronym EAGA, Expert Advisory Group on AIDS. It was their advice that he relied on in pressing that recommendation that we just saw for screening to be introduced with the minister.

I'm just going to take us back to the autobiography to see what Sir Donald Acheson recalled about the establishment of EAGA.

So that's WITN0771088 again, please, and page 15 of the autobiography.

It's the bottom left-hand paragraph where he says:

"As far as HIV/AIDS was concerned, a few cases of what was already seen as a fatal virus infection associated with infected blood and sexual intercourse had already occurred prior to my appointment."

And that he:

"... decided that the implications of the infection were so serious and our knowledge so limited that [he needed to] seek expert advice as soon as possible. The expert advisory groups on AIDS (EAGA) was

set up and having met seven times in 1985 and regularly thereafter, it made a series of recommendations which led to more effective control of HIV/AIDS within the UK, than in any other country that had links with the African continent" he says with hindsight.

He says that:

"The authoritative advice of EAGA led to a secure understanding of how the retrovirus was and was not spread which stemmed the risk of mass hysteria. In DHSS, we found ourselves dealing with a seemingly endless series of questions not only on those points but on worries about possible cross infection from butchers, bakers, waiters and ticket collectors."

So that's what he says about how and why he established the EAGA.

If we go to PRSE0002734, we can see the minutes of the first meeting on 29 January 1985. Now, as we've just seen in the autobiography, there were seven meetings in 1985, and further meetings thereafter. We're not going to go all of the minutes, but we will just look at the first meeting and in particular what was said about the introduction of screening.

We can see there is an attendance list for this group. We can see that Dr Abrams chaired. He was one of the Deputy Chief Medical Officers and in further

minutes sometimes Dr Acheson chairs and sometimes one of the Deputy Chief Medical Officers chairs. On this occasion he was an attendee at the top of the right-hand list. He attended for part of the meeting.

At paragraph 2 on that page we can see that Dr Abrams:

"... thanked members for responding so quickly to the CMO's invitation to serve on the Expert Advisory Group. He emphasised the importance of the subject on which they were being asked to provide advice, and drew attention to the fact that papers circulated ... were not for publication."

The meetings were private and treated in strict confidence.

Could we turn to the next page, please, and look at paragraph 4:

"CMO added his personal thanks ... He stressed the potentially serious epidemiological problem posed by AIDS."

He noted that:

"The terms of reference drawn up for the Group were very wide; specific issues on which advice was sought included measures necessary - in the field of public health - to control the spread of AIDS. Also, [Chief Medical Officer] hoped for unequivocal advice

from the Group on the question of the introduction of a screening test into the NBTS."

So, for context, this meeting is on 29 January, so it's two days before the reply he sent to Sir Kenneth Clarke on the 31st that we've just looked at.

So that group discussed a number of measures but we're focusing please, at page 4, paragraph 19, on screening in particular:

"The Chairman reminded members that the November meeting of the BTS Advisory Group on AIDS had concluded that a screening test for all blood donors should be made available as soon as possible. He asked whether the EAGA endorsed this view."

Then if we go down to paragraph 20, we can see that there was general support for the introduction of a blood donor screening test as soon as practicable.

So it was with the support and advice of this group on 29 January that Sir Donald Acheson made his recommendation to Kenneth Clarke on 31 January and reiterated it in the follow-up letter we saw of 1 February.

I'm just checking the time. I think there is time to go on a slight detour and look at three documents relating to the report of an inquest which show

Sir Donald Acheson's position as at around this time.

So if we could go first, please, to DHSC0000373 and go to page 2 of that document, we can see that in April 1985 the coroner for Inner North District Greater London wrote to Sir Donald Acheson describing an inquest which had been conducted into the death of a child who had died from AIDS-related pneumonia caused by a blood transfusion he had received in Washington DC.

The coroner wrote to the CMO stating that the case fell within the rule concerning reporting on prevention of future fatalities, so very politely and obliquely requiring Sir Donald Acheson to reply with a report on prevention of future deaths. Sir Donald Acheson received that letter and viewed it, as well as an internal briefing on the case in DHSS.

Can we go back to page 1 of the document, please. Here we have a note from the CMO's office to Dr Harris, who was one of the DCMOs, on 17 April 1985, and it says:

"I agree with everything Mr Arthur says."

I'll take you to the contextual document to make sense of that in a moment. He goes on to say that:

"... three people have already been infected with HTLV III as a result of blood transfusion in the United Kingdom. Almost certainly others have as we know that several AIDS patients have donated blood in the

months prior to diagnosis. I shall be very surprised if 'native' cases of AIDS due to blood transfusion do not appear in the next year."

That is Sir Donald Acheson's comment in April of 1985 and, just for context, when he says he agrees with everything Mr Arthur says, could we go to DHSC0000375, please.

This is the briefing note on the death of the baby that was circulated internally in DHSS.

If we go to the next page, please, there's a "Summary of Line[s] to take", and it's signed by Mr Arthur. So these are the lines to take, which Sir Donald Acheson is saying he agrees with, but he added to those lines to take his belief that almost certainly others who had received donated blood from patients who had gone on to develop AIDS might go on themselves to suffer from the illness.

Then to round off this episode, the report back to the coroner is at DHSC0000372 and he replied personally. It's not from his office, it's a personal letter to the coroner in response to the request for a report and he sets out the measures which are being taken. So at paragraph 2 or the second paragraph he says:

"You will be interested to know that we are taking active steps to try to prevent the possible transmission

of the AIDS virus via blood and blood products."

He says it is an advantage that blood is donated voluntarily in the UK, unlike in the United States.

He goes on to describe circulating leaflets in regular regional blood transfusion centres for potential donors requesting those at high risk do not donate. He says they are acting as quick as possible to introduce a screening test.

He adds:

"Unfortunately these tests have not been evaluated and we have therefore asked the Public Health Laboratory Service to carry out full evaluation before any test is approved for use."

So that comes back, sir, to the issue of timing of introduction of the tests.

He goes on to describe heat treatment, and in the final paragraph he says he will be sending out to all doctors in England information on AIDS and advice on how to counsel patients that either have the disease of have a positive antibody test, and he refers to the expert advisory group EAGA constantly reviewing the problem.

The information for doctors that he there refers to was published on 15 May 1985 and that is at DHSC0105232. I mentioned in the opening of this presentation that a part of the function of the Chief

Medical Officer was from time to time to circulate what are referred to colloquially as "Dear Doctor" letters, and his recollection that it wasn't for him to provide direction to doctors, but they do provide what could be described as guidance.

This is the first "Dear Doctor" letter that related to the topic of AIDS, sent on 15 May 1985. It's sent enclosing a paper, "AIDS - General Information for Doctors", which sets out information on groups at risk, presentation, diagnosis, measures taken to control the spread, and other information which includes recommendations about counselling.

If we go over to the next page, please, at the sign-off of the covering letter you can see he says:

"I take the liberty of sending this information because AIDS is a new disease (the first UK case was diagnosed in 1981) about which information has not yet got into text books but which has been widely discussed in the media often in an inaccurate and misleading way. Although at the time of writing only 159 cases have been reported, AIDS will undoubtedly become substantially more frequent in the immediate future and cases will occur more widely throughout the country.

"I hope you find the information helpful."

Sir, it might be taken from the tone of this that

it's a tone consistent with the role being to provide guidance but not direction. He's not ordering anyone or telling them what to do but he is providing guidance and information.

The enclosed paper is at page 3 of the document onwards. So it's "AIDS - General Information for Doctors".

Could we go to page 5, please. At the bottom of page 5 you can see there's a sub-heading "The Cause". So the CMO is telling doctors as at May 1985 that it now seems almost certain that the cause of AIDS is the virus which is now known as HTLV-III and that he will use that term.

Then could we go to page 6, please. Under the first heading he notes about halfway into that paragraph that:

"It is important to point out that the majority of the infected individuals are asymptomatic. Unfortunately there is at present no method of distinguishing those asymptomatic individuals who are infectious, from those who are not."

But he also goes on at the end of that section, just what we can see at the bottom of the page, to note that:

"The incubation period between infection and

development of AIDS is prolonged and has been found to vary from between 15 and 58 months."

At page 7, please, just at the top of the page you can see he says that:

"The risk of infection as a result of blood transfusion is extremely low."

He goes on to say at page 12, at the top of the page, under "Special Investigations" that:

"An HTLV-III antibody test should become more widely available in 1985. It indicates, if the result is positive and confirmed, that the patient has definitely been infected with HTLV-III."

He reiterates that:

"... this does not imply that the patient concerned will develop AIDS, but on the basis of present knowledge they should be regarded as being capable of transmitting the disease."

That was the state of the information being circulated by the CMO to doctors widely in May 1985.

The next document in our narrative is at DHSC --

SIR BRIAN LANGSTAFF: Just before you do that, if you flick back to the page we were looking at before this --

MS BARRETT: So that was --

SIR BRIAN LANGSTAFF: And the page before that, and again, and again, and again -- that's it. It was the table

which just caught my eye as we went past, the number of AIDS cases as at 28 February 1985. So the number which had been reported earlier in the hundreds in the States is now in the thousands: 6,293 amongst homosexuals, bisexuals -- 8,697 altogether. You can see there the blood transfusion recipients, 104 in the States, 62 haemophiliacs.

So that's, if you like, what's the position in the States, who may be thought to be ahead of the UK in the development of infection. Yes. It shows the extent to which what is being considered is set against the growth of an epidemic.

MS BARRETT: Yes and of course doctors receiving this letter and browsing through the attached leaflet would see the headline points being made but also they are here being provided with the raw data showing the spread and the rate of the spread.

SIR BRIAN LANGSTAFF: It shows also the risk to female sexual partners, to children of infected mothers. Yes. Yes, thank you.

MS BARRETT: Thank you.

Could we next go, please, to DHSC0002269_054, please. This is a minute dated 31 May 1985 from DCMO Dr Harris. It's copied to the Dr Abrams who's another DCMO and Dr Hunt and it says:

"Resources ..."

Sorry, I'm just looking for my reference.

(Pause)

Do you have WITN0771099? Yes, this is the document. Sorry, apologies, I gave the wrong reference before.

This is 31 May 1985 communication, "Resources for HTLV3 antibody tests". We can see that it says:

"At CMO's meeting reviewing the AIDS situation yesterday you are able to give assurances that the financial resources needed to cover [Public Health Laboratory Service's] evaluation of the commercial kits has been made available. CMO was questioned later that evening by the [Parliamentary Secretary Health] on the overall position and it is quite clear that Ministers need to know of the timescale for the evaluation of the test and, if satisfactory, for the introduction of the test at every transfusion centre."

It goes on to say that the director of PHLS has provided an estimate of the funds required for testing within the Service and has been asked to provide a critical path analysis of the entire exercise.

SIR BRIAN LANGSTAFF: Who's this from?

MS BARRETT: So this is from, if we scroll down, Dr Harris, who is a DCMO, to Mr Harris who is in DHSS.

SIR BRIAN LANGSTAFF: So this is suggests that the finance to cover evaluation has only just been made available.

MS BARRETT: Yes, and that discussions are ongoing at this point about evaluation of the testing kits.

SIR BRIAN LANGSTAFF: So it hasn't started yet.

MS BARRETT: No.

SIR BRIAN LANGSTAFF: This is in order to evaluate a test which it was common ground at the start of the year needed to be introduced as soon as possible.

MS BARRETT: Yes.

The next document also on this topic is DHSC0002311_021 and this is from Sir Donald Acheson himself to John Patten, Parliamentary Undersecretary for Health, on screening of blood donations for HTLV-III, and the context of this letter, it's about a recommendation which had been sent on 7 June by Mr Harris, the recipient of the document we just looked at, to John Patten, and Mr Harris had recommended that a test ought not to be selected until after that PHLS evaluation and field trials had been completed, which might take five months to implement. The other option for consideration was proceeding to select a test within the next two months without undergoing that evaluation process.

The CMO wrote about that issue to John Patten in

this document:

"There is a finely balanced decision here but I am in favour of the suggested line."

I.e. he agrees with taking the time to evaluate first. He says:

"I think, however, that we must do everything possible to ensure that PHLS is able to keep to its schedule."

He says:

"As far as the option to introduce a partially evaluated test forthwith is concerned I think the prospect of wasting a relatively small quantity of blood from false positive tests is not the major objection. The major problem is that scientists concerned at PHLS do not yet have confidence that the suppliers could produce testing kits which are reliable on a large scale and which would continue to be reliable on the shelf."

He takes the view that:

"It would be worse to be in the position of having to withdraw a test once introduced than to be in our present position of carefully evaluating the tests. There could also be ethical problems in refusing to tell donors (who are volunteers in this country) the result of a test carried out on their blood if they wish to have it."

He goes on to say that:

"Ministers should recognise ... that support for a different view [i.e. in support of earlier introduction of testing] is likely to appear in the medical press."

He says:

"... (see Professor Bloom's letter attached) ..."

We'll go there in a minute for context.

He says that:

"... considerable public pressure would develop if in the meantime a case of AIDS developed in a recipient of UK blood. Such a case or cases is likely to occur sooner or later due to infection one or more years prior to our warnings to people at risk not to donate blood."

So he is here siding with the argument for evaluation first, but acknowledging that there may be public pressure on the other side of the argument.

I mentioned for context we'd look at the letter he enclosed. That's at DHSC00003828_191. You can see it's a letter in a medical journal signed by Drs Bloom, Forbes and Rizza on HTLV-III haemophilia and blood transfusion. If we look towards the bottom of the middle paragraph -- the screen is perfect at the moment. So just at the bottom in the middle column, they say:

"All these considerations underline the need

rapidly to introduce screening for HTLV-III antibody for all blood donations."

Notes that three commercial test kits have been approved in America by the FDA:

"... and, although there may be a small number of false positives, it is unreasonable to delay testing until this possibility is eliminated."

So we know that Sir Donald Acheson was alive to this argument, but he took a different view.

His recommendation for evaluation first was accepted and the announcement was made on 27 June 1985 that the screening test would be introduced once the PHLS evaluation programme had been completed, and then in that August it was announced that the screening would be introduced on 14 October 1985.

The next place we're going to go to are two "Dear Doctor" letters to support the introduction of that screening.

So the first is at NHBT0057007_001.

This is a letter of 23 September 1985. It was the second "Dear Doctor" letter which Sir Donald Acheson sent in relation to AIDS and you can see that he's titled it "HTLV III antibody testing outside the National Blood Transfusion Service". So this letter referred to general testing facilities which he sought

to raise awareness of in advance of the introduction of testing for blood donors. He says, if we go down, please, in the bottom paragraph that:

"There is already evidence of widespread public interest in the introduction of the test and how it will be provided. It is important that doctors, particularly general practitioners, are fully aware of the local facilities which have been established when they are approached by patients about the need for a test. May I therefore ask you to consider how your local arrangements can be made known ..."

This ties in with the concern that was flagged by Dr Smithies in her internal briefing that an incentive might be created for people in high-risk groups to donate blood if testing facilities were to be introduced widely in Regional Transfusion Centres first before being widely available in sexual health clinics and otherwise in the NHS and that was something which was a factor in the way that testing was rolled out and Dr Acheson publicised first the need for awareness of general testing facilities before, shortly before, the introduction of testing at transfusion centres.

Then we can see he sent a further letter at WITN0771110. Sorry, I've taken you to the publicity rather than the letter itself. But what this sets out

is that there is a press notice and a "Dear Doctor" letter sent out on 1 October regarding the introduction of testing at blood donation sites. We can see there that to obtain maximum coverage for the letter and accompanying advice there was a media round and he was invited on television programmes and promoted the introduction of testing for blood donors there.

I'll come back then to the "Dear Doctor" letter at the end of the presentation when we look thematically at those as a category.

I've gone slightly out of chronological order to follow through to the introduction of testing. The next theme that I'm going to address is the introduction of the public awareness campaign of AIDS and how Sir Donald Acheson was involved in that from mid-1985 and through 1986. As that is a new topic in itself, might it be convenient to break a few minutes early for lunch so we can start fresh with a new topic after lunch?

SIR BRIAN LANGSTAFF: Very well. We will take a break in that case until 2.00. So 2.00 and we start again on our new topic.

MS BARRETT: Thank you.

(12.56 pm)

(Luncheon Adjournment)

(2.00 pm)

SIR BRIAN LANGSTAFF: Yes.

MS BARRETT: As I mentioned before the lunch break, the next topic to explore is the development of a public education campaign around the risks of AIDS.

The first document I'd like to go to is at DHSC0002114. This is the front page of a strategic paper circulated by Sir Donald Acheson entitled "HTLV3 infection, the AIDS epidemic and the control of its spread in the UK". It was sent to the Secretary of State, Norman Fowler, for his very urgent attention and it was copied to other DHSS ministers.

Could we go to the next page.

We can just see the beginning of the paper. Then within that paper could we go to page 12, please, and have a look at paragraph 1 of the summary. Sorry, look at the first paragraph on the page under "Control of spread of infection".

We can see that Sir Donald Acheson was warning or flagging that:

"In the absence of effective immunisation of susceptibles ..."

I'm not sure if that's a reference to the possibility that some people could be immunologically more vulnerable -- he says:

"... control of the epidemic must depend upon

reducing the frequency of transmission of infection. This will require the urgent development of a properly surveyed and evaluated programme of health education and counselling with the assistance of experts and the active co-operation of the groups at risk."

SIR BRIAN LANGSTAFF: I think the answer to your question about immunologically more vulnerable must not be the case because there was no immunisation and I think therefore "susceptibles" means those people who are most at risk of contracting it because they are most exposed to transmission.

MS BARRETT: I see. So high-risk groups makes sense there.

SIR BRIAN LANGSTAFF: Yes.

MS BARRETT: Thank you, yes, that makes more sense.

Lord Fowler's evidence about this document was that it was around this time that the CMO sought an urgent meeting with him to prioritise the response to the AIDS crisis, and Lord Fowler told the Inquiry that it was the coming together, I think, of Donald and myself that really changed the things.

So this is the beginning of a collaboration between them in relation particularly to public education. I'll just pick that up I'm going back into Sir Donald Acheson's autobiography please, which is at WITN0771088 and at page 15 of the document. If we look

at the final paragraph on the right-hand side, beginning "In 1985", he said that:

"In 1985, it became clear that our current approach in the Department to deal with each of these crises as they arose was no longer tenable. Instead what was needed was to take the bull by the horns and with the help of expert advice make available to everyone in the country a frank and full explanation of the facts - how HIV is and is not spread."

He says:

"[He] was able to advise the public that HIV does not pass from a close contact as occurs in the tube in rush hour or in the cinema nor in food or water but that it did spread or could spread during sexual intercourse with an infected person without a condom or by infected blood during a transfusion."

He notes that:

"Although this would inevitably involve distributing explicit information about sex which some people might find offensive, that could not be helped."

He says:

"When [he] put this proposal to Norman Fowler, whatever concerns he may have had privately about the effect of approving such a campaign might have on his future political career, he set those aside and subject

to one condition ..."

I don't propose to go into it but it was that he had consent from major religious figures, so he had to go and talk to the Archbishop of Canterbury, I think, about it. He:

"... gave the 'Don't Die of Ignorance' Campaign his enthusiastic support."

Then if we could go, please, to page 16 and look at the middle paragraph on the right-hand side of the page, beginning "Fortunately for the United Kingdom", you will see there that Sir Donald Acheson described facing disapproval from the Prime Minister Margaret Thatcher regarding the sexually explicit public health education system that he proposed. So that's what I was referring to earlier in relation to the concern that making the specifics public, as was necessary so that people understood what the risks were, was politically unattractive.

But he had the support of the Deputy Prime Minister William Whitelaw and he was able to obtain approval for a universal leaflet drop, for free time on radio and TV, and for a set of newspaper and magazine advertisements.

We can pick that up in terms of what that campaign looked like in the 1985 annual report, which is

at DHSC0007007.

We can see that this is "On the State of The Public Health for the year 1985". This report was published in 1986 and Sir Donald Acheson's introduction is dated July 1986. So the same caveats apply about when exactly it was drafted we're not sure.

Could we go to page 45, please. Ah, could we try page 83. I think I've given you the internal page number rather than the electronic page number. Yes.

So if we look at the bottom of that page there's a section on "Health education", and we can see that:

"Planning commenced in 1985 for a major national campaign of public information to begin in the Spring of 1986. An inter-departmental group has been formed and an AIDS and Education sub-group set up, jointly with the Department of Education and Science. The aim of the campaign ..."

And this is being set out in a public document in itself was:

"... to provide information to the general public and to those in at-risk groups in order to increase understanding about HTLV-III infection, and ways in which its spread can be controlled."

An additional £2.5 million was set aside for public health education, in addition to financial

allocations set out on the next page which related to research and so on.

Then the next document I'd like to go to please is HMTR0000008_045.

So we've seen that the public document, the 1985 annual report, talks about the successes and the finances that were allocated to a public health education campaign in 1985 and particularly 1986, but internally, on 3 October 1986, Sir Donald Acheson sent this letter to Sir Kenneth Stowe, who was the Permanent Secretary at the DHSS. At paragraph 1, if we could focus in, please, he noted that:

"People who are infected with HIV are in many ways more important than patients with AIDS ..."

Just pausing there, I don't think he meant in terms of their human value, but in terms of the risk of transmission. He went on:

"... because they are unusually unaware they are infected, but they are infectious in terms of sexual contacts, unborn babies ... and blood for years, probably for life. We know that incubation period can be at least 6 years."

Then could we go to paragraph 2 next. He estimated that there were at least 50 cases of HIV infection for every case of AIDS, which in the UK

would equate to 25,000 or more infected carriers.

If we could go next to paragraph 3, please, he noted that at least 25 per cent of that group would develop AIDS, and said:

"... it is thought by some that this proportion will continue to be revised upwards as the years pass."

He warned that:

"Many experts believe that most of those people (almost all young) will eventually develop AIDS and die. Unless the rate of spread of infection is curtailed the social and economic cost will be calamitous."

He advised, and if we could go to the second page now, please, and look at paragraph 6 and 7, that:

"From the medical point of view, the Government's response has been inadequate and is now substantially less to educate the public than some European countries."

Perhaps there's a word missing, but what was being done was substantially less to educate the public than in some other European countries. He said:

"It is increasingly difficult to defend in public. Pressure will mount as the numbers of cases increases."

He says that he has:

"... advised Ministers that from the public health point of view the education campaign to reduce the

spread of infection should take priority over all other calls on finance. Furthermore, in view of the multiplying effect of the means of spread it is desperately urgent that action should be taken immediately. A proper centrally coordinated programme involving all the media and together with the involvement of District Health and Local Authorities and the voluntary sector is urgently required and the relatively small amount of money needed should not be [underlined], spared."

He said:

"There is no time for protracted evaluations."

SIR BRIAN LANGSTAFF: Can you help with what it is about the Government's response thus far that Sir Donald is saying has been inadequate?

MS BARRETT: Could we go back up to the first page. So he doesn't set there out what measures have been taken, I don't think. I'm just checking. Could we go down to paragraph 4 as well. No? What he's setting out is the rates of spread in infection but not what has been done and so it's a little difficult to trace what it is he says is inadequate. We know what was being done from the annual report which I just cited and there was a public health campaign already in place at this time, but it seems, or you may infer from reading this letter,

that he thought that what he was doing in terms of the public health campaign was not sufficient or big enough or well funded enough to have the effect that he sought.

SIR BRIAN LANGSTAFF: Or hadn't been previously.

MS BARRETT: Hadn't been previously. This is dated ...

SIR BRIAN LANGSTAFF: This is October '86.

MS BARRETT: October '86, and the 1985 report that we went to, his introduction to that report had been signed off in July 1986. So as at July 1986 or previously and leading up to July 1986 we know that some public health education measures had been taken and those are detailed, but we know that by October he was saying that they weren't enough. I don't have a document that sets out any more specifically what it was that he thought was inadequate.

SIR BRIAN LANGSTAFF: So it may well be a reference to the lack of or/and the lack of impact of anything which had been said to the public, to inform the public previously about what the risks truly were.

MS BARRETT: That might be an inference that you could draw, yes.

SIR BRIAN LANGSTAFF: One of the issues for me is to look at what, for instance, might have been done to combat stigma, and education is the answer which has been given by some witnesses. That, of course, depends upon the

quality and quantity of the information.

MS BARRETT: Yes.

SIR BRIAN LANGSTAFF: And its timeliness.

MS BARRETT: Yes.

SIR BRIAN LANGSTAFF: So it may be something that is relevant to that, I don't know. But if any further light can be shed on what he meant by that, I would be interested.

MS BARRETT: We do have what happened next.

We have got at HMTR0000008_044, this is a letter from Sir Kenneth Stowe, discussing the matter with Cabinet Secretary Sir Robert Armstrong, and you can see in the first paragraph it says:

"We discussed on Friday evening the issues that lie behind the troubled minute to me from Sir Donald Acheson - copy at Annex ..."

That's the letter we just looked at:

"... and concluded that it would be desirable for you to brief the Prime Minister for next weekend, with advice on how we should proceed."

Sir Robert Armstrong in turn called a meeting of permanent secretaries on 8 October 1986. We can see documents pertaining to that meeting and SHTM0001041. So the first page of this document shows a note prepared in advance of the meeting on 8 October and it gives the

context of the meeting, referring to Sir Kenneth Stowe's letter of 6 October attaching Sir Donald Acheson's minute that we've looked at expressing a deep concern at lack of action to prevent the spread of AIDS.

Then the background is set out that Mr Fowler had minuted the Prime Minister about the AIDS problem in the September of the previous year, that the ministerial steering group had been set up, and then other measures as set out there.

Then at the bottom of the page it says:

"However, as the CMO notes, these measures have proved insufficient to halt the spread of the disease."

So what the author of this note seems to have taken from Sir Donald Acheson's minute is that despite the measures which were being taken, the concern was the spread of infection and so what it was that was insufficient is that, despite everything that had been done, cases were still going up. Whether that is a correct reading or not of the nature of the concern is a matter for you.

SIR BRIAN LANGSTAFF: Can we just scroll up that page. Thank you. Just to put it in context, yes, it says what measures have proved insufficient. Thank you, yes.

MS BARRETT: Then if we could just go on to the next page, please, the author of the note identifies two major

difficulties by way of obstacles to progress. They are, firstly:

"identifying measures that will have the effect of containing the disease ..."

And, secondly:

"persuading Ministers to introduce those measures which would be effective, but which appear to condone behaviour normally regarded as unacceptable."

Which you might read as a coded reference to the issue we have discussed about being explicit about what poses a sexual risk and what doesn't.

The minutes of the meeting are in this document as well.

Could we go to page 4, please.

This is the beginning of the note or minute of the meeting, record of the meeting, and we can see that those present included Sir Donald Acheson amongst the Permanent Secretaries who also attended.

Can we go to the next page please, page 5 of the document.

At paragraph 3, we can see Sir Donald Acheson's contribution to the meeting. He said that -- so they are talking about setting up a public body to be specifically responsible for AIDS education and that's what he's referring to when he says "a 'stand-off'

public authority". He notes that:

"Given the scale of the task, the proposed education council would have to be headed by a steady and experienced man ..."

He doesn't seem to consider a steady and experienced woman at that stage, but a sign of the times.

"... capable of withstanding strong public and political measures."

He says:

"On the spread of the disease, we have fewer facts than we would like, and it would be wrong at there is stage to be over-alarmist."

So you may compare the language used in the minute and the words expressed or at least recorded to be expressed in this note of the meeting where he is saying it would be wrong to be over-alarmist.

He says that:

"[They] know that the virus is spreading very fast among the drug addict and homosexual population and their sexual partners, and indeed their sexual partners' babies."

But he says:

"At this stage, however, the spread to the population at large was relatively slow."

And notes that:

"... of 2.14 million blood donations by 1.5 million donors in the most recent period, only 50 had proved HIV positive ..."

He said that there was not enough evidence to explain why the disease was spreading much more rapidly in Africa and that there was a difficult balance to be drawn between complacency and overreaction.

So that perhaps more balanced or looking at both sides of the question approach is notable in the meeting whereas the urgency that was conveyed in his minute which prompted the meeting perhaps was more on one side of the issue.

He was successful, we know, in obtaining more funding for the public education campaign that he sought, and we can see that in the 1986 annual report which is at DHSC0007008.

We can see it's "On the State of The Public Health for the year 1986". This report was published the following year and Sir Donald Acheson's introduction for that report was dated September 1987. If we could go, please, to page 10, this is part of the introduction to the report and we can see from the third paragraph down it said that:

"In the absence of an effective vaccine or

treatment, the principal means of reducing the spread of HIV is to educate the public how the virus is transmitted and how to protect themselves and others."

That's strikingly similar to what had been said in some internal documents about the importance of public education. It says:

"The public information campaign which began in 1986 has continued to gather momentum and has attracted much international interest. In the first two weeks of January 1987 an AIDS leaflet was delivered to every household in the country. This was accompanied by television and cinema advertising. The broadcasting authorities gave additional 'air time' to AIDS advertising on all channels and by broadcasting 19 hours of television programmes in an 'AIDS Television Week'. In the same month a two-tier free telephone information and advice service was established ..."

It goes on to discuss that advice service.

Then at page 65, please, of the report -- so this is within the "Communicable diseases" chapter in the subsection on AIDS -- there's further information about the public education campaign under "Measures taken to prevent the spread of HIV infection", and it's explaining that a campaign was launched in March of 1986 and goes on to give details. Then we can see -- so I'm

now about halfway down the big paragraph in the middle of the page. It says:

"In November 1986 the campaign was greatly widened and intensified, newspaper advertising was increased and the campaign aimed at young people started through magazines, cinema and radio advertisements."

So it does seem that the concerns flagged resulted in a boost to what had previously been the public education campaign and more resource was put in in late 1986.

A "Dear Doctor" letter was sent to complement this acceleration of the public health campaign, and that is at OXUH0002238_007.

It was sent on 2 December 1986 and it says that the letter has two objectives. To inform the doctors receiving it. You can see at the top of the screen it is "All doctors in England":

"a. to inform [them] about the latest phase of the public education campaign. This emphasises the increasing risk of infection with HIV as a result of vaginal intercourse and is likely to stimulate a number of patients to turn to you for advice."

So it's a bit clearer about what it is that causes the risk.

And:

"b. to explain the current AIDS situation in the UK, and to give further information [and] advice which may be offered to those who think they have been at risk ..."

Then it goes on to outline the measures that we've also just seen in the annual report in terms of the modes of communication that were used in that campaign, including sending a leaflet to all households.

If we could just flip to page 4 of that document and look under the subheading "National Blood Transfusion Service", so at the same time as raising awareness of the risks, the letter does also talk about misconceptions and emphasises that there's no risk in donating blood and goes on to say that within the UK all blood donations have been screened for HIV antibodies since 14 October 1985.

We can see that the leaflet referred to that was sent to every household --

SIR BRIAN LANGSTAFF: Just before we go there, can we just look at the chronology which is set out in the document you have just taken me to because it talks about the campaign being launched in 1986 -- this is the media campaign, the making available of time on TV -- and in November 1986, widened and intensified. But if the campaign its launched in 1986 and had the features which

are mentioned, what you talk me to earlier was October '86, where the CMO appeared to think that even that response had inadequacy about it.

MS BARRETT: So the widening of the campaign took place in the November of 1986 and we're now looking at December 1986 and they are preparing for the leaflet drop to all households which took place in the January of 1987.

SIR BRIAN LANGSTAFF: So that's the big change?

MS BARRETT: Yes. You are quite right, the measures were already commenced from round about the March of 1986 and they had been in the pipeline since June of 1985. That's where the genesis of the idea came from that we traced through.

The public explanation of that campaign in the 1985 annual report, which was published in 1986, was quite positive but in the October of 1986 we saw the deep concern being raised in the minute that was circulated internally and discussed by Kenneth Stowe and the Permanent Secretaries, and a month after that there was a boost to the campaign, it was widened, more channels of communication were used, the "Dear Doctor" letter then went out in the December, and what we're just about to come to is the leaflet that went to all households in the January of 1987.

SIR BRIAN LANGSTAFF: Thank you.

MS BARRETT: So that is at MRCO0000554_005.

This is the leaflet that went to all households. We can see at the bottom of the page it says "Government Information 1987". It's quite hard-hitting. Probably people will be familiar with the slogan "AIDS, don't die of ignorance". And if we just look at the next page, to give a flavour:

"Why are you being sent this leaflet?

"This leaflet is being sent to every household in the country."

And it talks about matters of health and sex. If we go to the next page, when asked, "How do you become infected?", it explains, "Because the virus can be present in semen and vaginal fluid", and talks about the danger of sexual intercourse, vaginal or anal sex.

So at this point Norman Fowler and Donald Acheson have won the argument about using clearer terminology in public health information.

We're looking at the details of a leaflet which might be thought to be too forensic for a presentation about the Chief Medical Officer who was responsible for policy advice but, in fact, we know from Lord Fowler, as evidence he told the Inquiry, that every advertisement in this campaign was approved personally by himself and

the Chief Medical Officer. So his evidence is that Sir Donald Acheson looked at each of the adverts that went out, including this leaflet, and approved them.

The next topic in the written presentation is the introduction of heat treatment. I don't propose to go in detail through that topic or the documents pertaining to that topic. They are dealt with at paragraphs 153 to 162 of the written presentation for those who want to look.

What those documents show is that the Chief Medical Officer kept abreast of the developments in relation to heat treated Factor VIII and there's just one document that I will pick up on which is at DHSC0000514.

We can see that on 30 July 1985 Sir Donald Acheson wrote to the Secretary of State, who was Sir Norman Fowler, about AIDS and the treatment of haemophiliacs. He says, following their recent conversation he has checked on the position regarding the treatment of haemophiliacs with Factor VIII, and he has been advised that all Factor VIII produced at the Blood Products Laboratory has been heat-treated since April 1985.

He talks about the importance of avoiding using any commercial unheat-treated Factor VIII which may remain from 1984.

Then in the final paragraph says he's satisfied that it's extremely unlikely that any patients with haemophilia treated in the UK will in future be infected with HTLV-III virus.

Then it is quite interesting to see that he added a personal manuscript addition. We know it's him because in Norman Fowler's evidence he says this was the manuscript addition from Sir Donald Acheson. He says:

"- but sadly a very high proportion of the haemophilic population already are infected due to previous use of non heat treated Factor VIII."

So that was his personal reflection at that time.

The next topic I will deal with similarly by reference to the written presentation and that's the topic of consent to testing.

Paragraphs 163 to 172 of the written presentation deal with the theme of consents to testing and anonymised testing.

The documents show that Sir Donald Acheson sought advice and ultimately considered that this was an issue for ministers to decide, but I won't take us through the documents now.

I will pick up on a few documents relating to Sir Donald Acheson's views on compensation for HIV infection. The Inquiry has heard considerable evidence

about the litigation brought between 1988 and 1991 by people with haemophilia who had been infected with HIV as a result of use of blood products.

Sir Donald Acheson met with the Minister of State for Health to discuss that litigation on 30 August 1989, but otherwise he doesn't appear to have been heavily personally involved in the Government's response to that litigation.

However, there is one letter he wrote which we'll go to, which is at HSOC0017025_004. We can see that this is a letter from the Chief Medical Officer to the Secretary of State, who was by then Sir Kenneth Clarke, dated 20 July 1980 (sic), and if we could just zoom in on the paragraph he said that he hoped that the Secretary of State would take --

SIR BRIAN LANGSTAFF: 1980 or?

MS BARRETT: Sorry, 1990.

SIR BRIAN LANGSTAFF: It was wrongly put down in the transcript.

MS BARRETT: 20 July 1990.

SIR BRIAN LANGSTAFF: Thank you.

MS BARRETT: Referring to the AIDS litigation, he was commenting on an intervention of the trial judge, Mr Justice Ognall, who had urged all sides to consider a compromise and Sir Donald wrote:

"I hope Secretary of State will take account of my view that the problem of HIV infection in haemophiliacs can in fact be regarded as a unique catastrophe. The key feature which is not brought out particularly well in the memorandum of the Directors of Public Health is that HIV infection in addition to almost inevitably causing a very unpleasant progressive illness and death, results in a substantial proportion of cases in infection of the female sexual partner and also on average one quarter of the subsequently conceived children. In both wife and children the infection will also prove fatal; in the case of the children fatality takes place in infancy. The only remedy which will certainly prevent the transmission by sexual contact is the invariable use of a condom throughout the partnership. Unlike the position in Hepatitis B which can occur as the result of a therapeutic accident, there is no vaccination available to protect the sexual partner. Furthermore, in Hepatitis B the outcome is only rarely fatal and infectiveness is present in a small minority of cases."

Then if we could go to page 2, please, he goes on summarise the particular aspects of infection with HIV and says that the tragedy goes beyond anything which has ever been described as a result of a therapeutic

accident and is very likely indeed never to occur again.

Then what he is requesting in this letter he says in the final paragraph:

"I hope therefore, that for humanitarian reasons the Government will find some way to make an *ex gratia* settlement to the infected haemophiliacs in relation to this unique tragedy. I cannot personally see how these could be regarded as implying any responsibility for other accidents such as benzodiazepine dependence, cerebral palsy following obstetric misadventure etc."

So that was his request to the Secretary of State.

We've got one more letter in relation to possible settlement, which is at DHSC0004365_015.

This is a letter of 5 December 1990 which Dr Hilary Pickles wrote to CMO. As I mentioned earlier, Dr Hilary Pickles worked at DHSS in the AIDS unit and she wrote to express her concern. She said she:

"... spoke to him this morning about my concern at the possible implications of one of the options being considered for our [Secretary of State] to use in tomorrow's discussions with the Chief Secretary."

She said that:

"... this presents the best arguments for encouraging Treasury to cover settlement costs and could be used for 'ring-fencing' this deal, it may be very

difficult to present this line of argument in a way which does not damage the reputation of the professionals concerned. If there is said to be a risk of losing which is sufficient to justify a settlement, then either the case is weak because there was negligence or the judge and legal system [is] biased, yet neither of these reasons are ones we could/should use."

When asked about this letter in her oral evidence, Dr Pickles said that it was very unusual for her to write to a Chief Medical Officer in this format and she said it was obvious that she had had a discussion with him and he said "put that in writing" so he could then put on the record that he felt there had been no negligence.

So we only have the letter to him and we don't have any reply from him, but we do have her evidence that he had asked her to put that in writing. So we have on the one hand a letter asking for a settlement to be favourably considered by the Secretary of State and then we have Dr Pickles' evidence that to some extent he supported her concern that that shouldn't result in any implication of negligence or damage to the reputation of clinicians.

Then there's a related although slightly different

issue where we have documents showing Sir Donald Acheson's view on compensation.

Can we go, please, to DHSC0004365_015. Is that a wrong ... let me see. We'll go first then, I think, to DHSC0002862_006.

What this is, is a communication setting out Sir Donald Acheson's view on a minute which I will find the reference to and take us to next, if I can. But for context the issue was whether to extend financial support to people who did not have haemophilia but who had been infected with HIV through the use of blood and, in rare cases, blood products.

He says that he's seen the minute about that issue and about the cost that would be incurred if the compensation scheme for haemophiliacs were to be extended. He has commented that he thinks that:

"... the only tenable argument of a differentiation from haemophilia of any weight is in paragraph 3 of Annex A."

And if I can, I will take you there momentarily. He said that:

"The number of cases arising from other types of 'tissue transplanting' eg organ transplants, and sperm would be unlikely to go beyond the fingers of both hands, maximum. CMO would be concerned with 'spread' to

hepatitis cases of various sorts."

So he's there expressing some dubiousness about arguments being made to refuse the extension of compensation to victims of infected blood who did not have haemophilia, but at the same time noting a concern was spread to hepatitis cases of various sorts. So he's not enthusiastically campaigning for widespread compensation by any means.

Then could we go, please, to DHSC0003560_051. This is the document with a note on the:

"... present position on compensation for people infected with HIV through blood transfusion, and on the costs which would be incurred if we were to extend to them a compensation scheme for haemophiliacs."

And if we go to annex A, please, which should be at page 2, and then go through to page 4 and look at paragraph 3.

So this is paragraph 3 of annex A. The only argument which Sir Donald Acheson thought might tenably hold any weight was a distinction between haemophiliacs and those without haemophilia who were victims of infected blood, because haemophiliacs were doubly disadvantaged by the pre-existing haemophilia, which affected their employment, mortgage and insurance prospects, and by their HIV infection, and because the

hereditary nature of haemophilia can mean that more than one member of the family might be infected.

So he was there to an extent supporting an argument for a distinction in disadvantage, but I think that's as far as I can probably take it from the limited response that we have from him.

So those are the documents chronologically that I wanted to take you to. I mentioned that I would come back towards the end of the presentation to two particular categories of documents and the first was the what is referred to as "Dear Doctor" letters. So one of the functions of the Chief Medical Officer, as we've heard, is public guidance on health issues and one means he had of disseminating advice and guidance was in letters to the medical profession, but we've seen in his witness statement to the BSE Inquiry that he considered himself first among equals and that it wasn't his place to be directive.

We looked at the first letter that was sent out about AIDS in the May of 1985, which took a fairly polite and humble tone in encouraging doctors to accept his advice if it were to be helpful.

Just a note on frequency. Set out at paragraph 31 of the written presentation are all of the "Dear Doctor" letters pertaining to infected blood issues in the 1980s

which the Inquiry has so far identified. Sir Henry Yellowlees sent three on the topic of hepatitis B in the period from 1981 to 1984. Sir Donald Acheson sent nine on the topic of AIDS between 1985 and 1990. So there was an increase in frequency of "Dear Doctor" letters on infected blood topics. That doesn't mean to say there was necessarily an increase of "Dear Doctor" letters in all, because we haven't examined the letters which went on other issues.

We've looked at two letters so far. One was on the introduction of HIV testing in general facilities and one was on the public education campaigner in the December of 1986 and I'm just going to pick up on two more -- sorry, we've looked at three so far: one was the initial information on AIDS, the second was on the introduction of general testing and the third was on public education and I'm going to pick up on two more.

The first I want to pick up on is at DHSC0000177, and could we go to page 2, please. So you will recall that we looked at a document showing the publicity round that Sir Donald Acheson engaged in on 1 October 1985 when HTLV-III testing was introduced in blood transfusion centres and it referred to a "Dear Doctor" letter of the same date. This is that letter. He refers back to his letter of 15 May with the "General

Information for Doctors" about AIDS. He also refers back to the information he'd previously circulated about alternative facilities for providing antibody tests at sexual health clinics and through GPs and, just below the (a) and (b), we can see that he says:

"The synchronous provision of these arrangements is to ensure that people who believe themselves at risk of infection do not donate blood in order to be tested. This is crucial because even a reliable test cannot detect very early infections to which an antibody response has not yet been generated."

Goes on to talk about arrangements for counselling those people.

Now this again relates back to the concern flagged in internal briefings about the possibility of creating an incentive for people from high-risk groups to donate blood in order to get tested and that being a factor in the way that testing was rolled out. He goes on to say that:

"It is essential that all individuals who are found to have positive ... tests receive counselling ..."

Then over the page he talks about counselling services, training services for counsellors, and he concludes by saying:

"The antibody test is an important tool, in the control of the spread of HTLV III infection. If it is to be used effectively, very strict confidentiality must be maintained in respect of positive results ..."

You may reflect on the tone of this letter when compared to the very first letter he sent out to doctors regarding AIDS. It is, or it could be inferred to be more directive and more urgent in the way he sets out what must be done rather than saying here is some information for your benefit should you choose to look at it.

Then there's just one more "Dear Doctor" letter that it would be interesting to go to.

It's at BART00000728.

This is on 14 January 1986. So this follows on from the "Dear Doctor" letter that we saw in December -- no, it doesn't, I'm sorry. There will be a letter in December of 1986. I've got my chronology confused. This is a stand-alone letter of 14 January 1986 entitled "Children at school and problems related to AIDS", and it mentions that the previous autumn, so in autumn 1985, following publicity about a schoolchild who was found to be infected with HTLV-III, the Government undertook to issue guidance on AIDS as it affects schools and the letter appends an information booklet on that topic.

If we look at the third paragraph on the page, please, he says that:

"Doctors also have an important role to play in achieving improved health education on the HTLV III infection. Members of the general public who have worries about AIDS and those who are directly involved with infected people need to be told about the nature of the HTLV III infection and reassured about the limited ways it can be spread."

So when you are thinking about stigma and combating stigma I've also referred earlier in this presentation to occasions on which it might be inferred that it was part of the CMO's role to address misinformation as well as promote information. This letter is quite interesting because it's really geared at the stigma that might be experienced particularly by children in schools.

The other category of document which it would be interesting to look at is that of the annual reports which we have come to bit by bit as they are relevant to the other themes that we have looked at. They are set out from paragraph 45 onwards of the written presentation and what's interesting looking at them collectively in relation to the risk of AIDS is to see how the space devoted to the topic and the prominence in

which that information is placed develops throughout the 1980s.

So we looked at the 1983 annual report. If we put it back up on screen, it's DHSC0007004, and if we could go, please, to page 61.

This was the part, sir, that you took us to in the "Communicable diseases" section, on "Kaposi's sarcoma and AIDS", noting the reporting to the CDSC.

So approximately half a page there, and then the brief section that we looked at was at page 70, please, just the paragraph that goes over to the top of the next page noting the appearance of this new and frequently fatal syndrome and saying merely that the cause was unknown.

The next year, the 1984 annual report is at DHSC0007005. This was the year that we looked at that Sir Donald Acheson signed off the report but acknowledged that the work had been done during the year of Sir Henry Yellowlees' tenure.

At page 54, please, we can see that there is a one-page section on AIDS. It just goes on to the next page as well and it notes the number of cases in the USA and the steps taken in the UK.

Then, just over to the next page, "UK research" and the establishment of the MRC AIDS Working Party.

Then at page 66, in the "Sexually Transmitted Diseases" section, there's a further two paragraphs giving the statistics, noting that in the USA at that point there had been a cumulative total of 3,000 cases to the end of 1983, with a mortality rate of 43 per cent. Noting the surveillance of AIDS in the UK by CDSC, to the end of 1983 there had been 31 cases and 16 of them had died -- 16 of those patients, sorry, had died -- and that the cause remained unknown, but this year it says:

"... [it] is likely to be a viral agent transmitted by sexual contact, transfusion of blood and certain blood products. The incubation period can be as long as three years or more."

So the difference between 1982 report and 1983 report, bearing in mind they are each published the subsequent year, is that the cause is set out in the 1983 report whereas in the 1982 report it was just said to be unknown.

Then in 1984 it's at DHSC0007006, please. This annual report was published in 1986. The introduction by Sir Donald Acheson was dated the October of 1985. For the first time, in this report, AIDS is featured in the introduction to the report, so could we go, please, to page 8. We can see there that under the public

health section of the introduction it's noted that there has been a major step forward in identifying the causal agent, that there had been an increase in the number of cases and a reference to the need for the control of the spread of the infection to be regarded as an issue of prime importance to the future of the nation.

So by the time Sir Donald Acheson signed off on this introduction in October 1985, it postdates what he said in his autobiography to have been the realisation of the gravity of the issue in early 1985 and in his annual report that was published subsequent to that realisation he is saying in a public document that the need for the control of the spread of infection was to be regarded as an issue of prime importance to the future of the nation.

There's also a much longer section in this report in the "Communicable diseases" chapter. That's at page 41, please. It's the bottom two paragraphs in that page and we'll look here, before going on to the next couple of pages.

In the 1984 report, it's noted that 77 cases of AIDS had been reported in the UK between 1 January and 31 December, that was on top of a previous 31 cases reported up to the end of 1983, and that by the end of 1984, 108 cases had been reported to the CDSC. There

had been three cases of people with haemophilia and notes a number of patients with Kaposi's sarcoma, pneumocystic carinii pneumonia and other opportunistic infections.

If we can go over the page, please. From this report onwards, there are fairly detailed statistics provided in relation to various aspects of the disease. So here we're looking at presentations and, if we could scroll down, please, there's a section on transmission by blood and blood products in the UK and it's noted that:

"... three recipients were known to have become HTLV III antibody positive following blood donations from one donor who subsequently developed AIDS. The plasma from one on his donations also contaminated a batch of Factor VIII. During 1984 there were no cases of AIDS arising from this or other blood transfusions."

But three haemophiliacs had developed AIDS and two had died after receiving imported commercial Factor VIII.

Then the next section is "Measures Taken to Control the Spread of AIDS" and this really picks up on some of the chronology that we have already looked at. There's the establishment of EAGA. Then on the next page leaflets and guidance provided by the Advisory

Committee on dangerous pathogens and the Health Education Council, and the introduction of -- or the work done on the introduction of screening and the use of the AIDS and blood donors leaflet in transfusion centres, work done on heat treatment, and the work towards self-sufficiency. So outlining the various limbs or measures that were at that point being worked on to address the spread of AIDS. There's a section on international collaboration. Then over on the next page, please -- oh, no, that's the end.

So it is two and a half pages in "Communicable diseases" and then the another section under the "Sexually Transmitted Diseases", or the "Sexually Transmitted Diseases" chapter, which is at page 56. It's a brief paragraph but it sets out there the statistics and notes the uncertainty about how many people who are infected with HTLV would develop AIDS. It says at that point it is certain to be at least 10 per cent.

When it says "AIDS is discussed in more detail", that's the section we just looked at.

The 1985 annual report is at DHSC007007. This report was published the following year and Sir Donald Acheson's introduction is dated July of 1986. This report again featured a section on AIDS in the

introduction, which is at page 12.

If we just focus, please, on the "Communicable diseases" at the bottom, it's noted that:

"The spread of HTLV III ... within the population of the UK, and ... throughout the world, provides one of the greatest challenges in communicable disease control in this century."

So the emphasis and tone in this report, as in the previous year's report, is really focused on the gravity of the issue and is consistent with Sir Donald Acheson's autobiography and what he says about the prominence and priority which he accorded to AIDS.

He goes on to say that the key feature which makes control of spread difficult is that infection is usually transmitted by sexual intercourse with persons who are often unaware that they are carrying the virus and notes that there is a latent period of up to five years between the date of infection and the development of the illness, but also says that not all carriers of antibodies develop the syndrome.

Then at the bottom of the page it says:

"In the absence of any antiviral drug or effective vaccine we have limited means at our disposal. The three most important means to control the virus are first informing public on how the infection is and is

not spread, providing a safe supply of blood and blood products and advising infected persons on how they might avoid infecting others."

Then it goes on to say:

"Public education is essential. Programmes should be aimed at the general public as well as persons actually or possibly at risk. It is essential that everyone receives accurate information and that myths are exposed."

So that's consistent with Sir Donald Acheson's preoccupation during 1986 with the need for effective and efficient public health information on AIDS.

It goes on to note testing and guidelines being introduced.

So that was just the introduction. There was then seven pages on AIDS under the "Communicable diseases" chapter, which is at page 49. I won't go through all seven pages but it can be seen that the statistics provided were broken down in a fairly detailed manner. So they include, if we go down please, under "Characteristics of AIDS patients", numbers of people who are recipients of blood who have contracted AIDS. If we scroll out again, please, and back out, please, and then to the next page, please, the control methods are then set out in a great deal more detail but it's

similar information that we saw in the introduction as expanded in the chapter.

Would that be a convenient moment to take an afternoon break? I'm aware that we've got a few more annual reports to go, but we won't take all of this afternoon's allocated time.

SIR BRIAN LANGSTAFF: Yes. We'll take a break now in that case until 3.40.

MS BARRETT: Thank you, sir.

(3.11 pm)

(A short break)

(3.39 pm)

MS BARRETT: Thank you.

The next document that we'll go to then is the 1986 annual report, which is at DHSC0007008. This report was published the following year, in 1987, and Sir Donald Acheson's introduction was dated September 1987; so it must have been published towards the end of that year.

In the 1986 annual report, Sir Donald Acheson addressed AIDS as the first topic in his introduction and devoted two pages to it in the introduction.

That's at page 9, please.

So we can see after the first introductory remarks the first sub-heading towards the bottom of that page is

"Acquired immune deficiency syndrome ... and HIV infection". He noted the number of cases reported to CDSC that year in the first six months. So he's talking about the first six months of 1987 even though this is the 1986 annual report, just to add to our slight confusion about where the cut-off date is for the information in these reports.

He notes that there were 281 cases of AIDS reported compared to 107 in the comparable period during 1986 and he notes the difficulty which arose because the nature of the definition of AIDS introduced an arbitrary element to the dating of diagnosis and the delays of varying length between the diagnosis and reported of cases. He estimated that if the date of diagnosis was taken as the point of reference, the epidemic curve of cases in the UK was at that time exponential, with a doubling time of about ten months and he found a similar curve, so a similar exponential curve, looking at deaths attributed to AIDS plotted by date of death.

He noted that the future trend of the epidemic would depend on the number of people currently infected and the rate of incidence of new infections, and that there were no reliable estimates of either, but a total of 5,009 positive tests had been reported from England, up to June 1987. So again he's looking at the data to

mid-1987 in his 1986 report. He notes that almost all of those people were believed to be in high-risk groups.

Now, we've looked at what he said already in the middle of that page about the importance of a public information campaign. Could we next go, please, to page 63 of this document.

Here we are in the "Communicable diseases" chapter of the report and we can see that more detailed statistics were provided. There is a six-page-section on AIDS under "Communicable diseases" in the 1986 report.

As a general note, when people are looking for statistics, these Chief Medical Officer annual reports are quite interesting because they year on year break down the reported cases by transmission characteristics, and so we can trace year by year what happened in relation to -- and if we look at table 4.3 for example -- cumulative totals of reports of AIDS cases by transmission characteristics for people with haemophilia and recipients of blood both abroad and in the UK.

So we can see that there were, for example, six cases of transmission by blood transfusion abroad and three in the UK as at December 1986 and 21 people with haemophilia.

Could we go to page 64, please, and look at the

top of that page. Similarly, this is HIV positive cases reported in England by transmission characteristics and we can see that there were 405 people with haemophilia who were HIV positive that year and 26 recipients of blood. So that's the 1986 annual report.

If we could go next to the 1987 annual report, please, which is at DHSC007009. So the 1987 annual report was published the following year, in 1988, and Sir Donald Acheson's introduction is dated August 1988. In this report he again addressed AIDS in his introduction, and if we could go to page 15, please, we can see that.

So it's in the introduction but it's in a slightly less prominent position than the year before, and he devotes one and a half pages towards the end of the section in his introduction. I don't need to zoom in particularly, but if we just flip to the next page, broadly the focus is what's going on internationally at this point.

The more detailed information comes in this report. For the first time there's a dedicated chapter titled "AIDS HIV infection and sexually transmitted diseases", with 12 pages devoted to AIDS, and that starts at page 123, please. This is that chapter. It starts by saying that:

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"During 1987 the Government devoted much time and effort to the problems caused by the HIV epidemic. The intense public awareness which developed earlier has been maintained."

And it talks about four main areas of activity: public education, research, the development of services for care and treatment -- and I missed surveillance, that's why I've only got to three. Four in total.

It talks about international co-operation a little bit more.

Then if we look at the "Surveillance" section, we can see that reporting continued, then, down at the bottom of the page, that there was a cumulative UK total of 8,017 cases of HIV positive tests.

Then if we could go next, please, to page 125 within the same chapter and zoom in on the table 6.1, please.

Again, this year, detailed information is given, "Cumulative totals of HIV-positive cases" -- this is just in England, not the UK -- "by transmission category", and they've got the cumulative totals then in brackets, the totals for the year.

So, for example, could we highlight the rows for "Haemophiliac" and "Recipient of blood/blood products", please. That's really helpful, thank you.

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So we can see for people with haemophilia there was a cumulative total of 978 cases to the end of 1987 and, of that total, 573 had tested positive that year. For recipients of blood transfusions or blood products, that was a cumulative total of 63 and 37 people had tested positive that year.

Could we next go to page 129, please.

SIR BRIAN LANGSTAFF: What's the distinction -- oh, I think I understand it. I was just thinking the recipient of blood and blood products, that could be somebody who's a transfusee, or it could be someone who is given blood products not being a haemophiliac but in the course of their treatment. I see.

MS BARRETT: Yes, I think that must be right, because otherwise the figures don't make sense. To be completely accurate, all of the people with haemophilia would also fall under the category of people who are recipients of blood products, but it's clear from the figures that that's not the way round that it's organised.

SIR BRIAN LANGSTAFF: What might be a bit surprising about the figures for the people who have haemophilia is that more than half of the total are said to have been first reported during 1987 when what we have heard about testing being offered to those who were haemophiliac and

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had had blood products, you might have thought they would have shown up earlier.

MS BARRETT: That's a good point. I don't have any more contextual information for comparison, but I do highlight that this is a helpful source and it might bear more investigation and more weight could be placed on these figures to see how they do fit with the information we have from other sources in terms of testing and when those tests were carried out and when the results were known. It is apparently, on the face of this table, a majority of the cumulative total who had received their results that year.

SIR BRIAN LANGSTAFF: It may be some evidence of delayed reporting, but that's a question which has to be answered by others and it can't necessarily be inferred.

MS BARRETT: Yes.

SIR BRIAN LANGSTAFF: Thank you.

MS BARRETT: Thank you.

So if we could go to page 129, please, we can see that there's a section there on HIV and blood donations, if we could zoom in a little. It's noted that that year:

"The NBTS [had] continued to screen all blood donations, and the standard of HIV antibody testing at the regional transfusion centres continues to be

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regularly monitored ..."

All the would-be donors were given the AIDS leaflet and it notes that by the end of 1987, a large number of donations had been screened for antibodies to HIV. 90 had been confirmed to be positive.

The proportion of positives in 1987 was significantly less than it was in 1986, which was considered to confirm that many donors had been screened out and people who tested negative on their first test donated more than once since. So insofar as those statistics go, that was a positive trend.

Then if we go to the section below, please, "Public education". We've looked at this, showing that in the autumn of 1986 it decided to expand the campaign. This just gives the finances that I don't think we've brought out so far today. A further 20 million was allocated for the 12 months from November 1986. Between November 1986 and March 1987, 7.5 million were spent on advertising in all the main media and on the distribution to the households of the leaflet that we looked at.

So that was the 1987 report. Then just the very last document we'll look at today is the 1988 annual report, which is at DHSC0007010.

So this report was published in 1989. Sir Donald

Acheson's introduction was dated September 1989, so we can infer that it was published towards the end of 1989.

If we look at the introduction, again could we go to page 18, please, and look at -- sorry, could we just go to the page before. I might have given you the wrong ... okay, thank you.

So we can see at this page there's the beginning of the introductory section on HIV, AIDS and sexually transmitted diseases. It's noted that there's a longer section in chapter 5. It's referred to the statistics which are provided and then towards the end of the page he talks about an expert group working on statistics on the incidence and cases of AIDS and other HIV-associated conditions.

Then on the next page if we could focus on the top half -- perfect, thank you -- we can see that:

"The group concluded that between 10,000 and 30,000 cases of AIDS would have been diagnosed by the end of 1992 in England and Wales, and that over the next 10-15 years, at least 16,000 to 40,000 cases of AIDS must be expected among people already infected."

But in the next paragraph it's noted that the numbers of new AIDS cases per month were by then, so by 1988:

"... increasing less rapidly than in earlier

stages of the epidemic. Past behavioural changes in the homosexual community, and current effects of therapeutic advances [were thought to both have probably contributed] to this welcome development. However [Sir Donald Acheson says], it would be a gross error to allow this change to engender complacency ..."

He notes the need to maintain and for others to adopt the safer behaviours because otherwise he thinks that improvement will be temporary.

It's interesting that he notes that there's a trend downwards in other sexually transmitted diseases noticed in genitourinary medicine clinics, including gonorrhoea, and he suggests that that shows changes in sexual behaviour which have been brought about by the public education campaign aimed at minimising the spread of HIV infection. So it's a knock-on effect but in some ways it could be taken to be a proxy to show the effectiveness of the public education campaign that we've heard so much about today.

If we then go to page 120, please, this is the section in the communicable diseases chapter on "AIDS and HIV infection". If we flip to page 121, or scroll, we can see under AIDS cases, please -- sorry, under "The present state of the epidemic", please, just at the bottom of that page -- that:

"At the end of 1988, the cumulative total of reports of HIV-infected people in England was 8,156. In 1988, 1,630 new reports were received, considerably fewer than in 1987."

Again, it was noted that:

"It would be rash to assume from this evidence alone that the incidence of new infections is falling."

But this was the last annual report where AIDS took such a prominent position and subsequent volumes showed that the flattening of the curve which began this year continued. They continued to refer to public education campaigns at a local and national level, but the degree of prominence and priority that was placed on AIDS began to decline from this report onwards.

SIR BRIAN LANGSTAFF: Is there a table in this report which corresponds to the table for the routes of transmission in the previous reports?

MS BARRETT: Could we go back to page 120 and then just flip through that section because I can't remember off the tomorrow of my head, but it will be here if there is become.

Yes, so the equivalent table --

SIR BRIAN LANGSTAFF: That is the cumulative total?

MS BARRETT: Yes, that is right.

If we go forwards, it might be that there may be

more information given the yearly figures.

SIR BRIAN LANGSTAFF: That's to 31 December.

Can you just help me with this: Was it in 1988 that the writ was issued in the HIV litigation?

MS BARRETT: I can't immediately, but I'm sure we can find that information.

Yes, I'm being instructed yes.

SIR BRIAN LANGSTAFF: And that had over 960 claimants, plaintiffs, did it not?

MS BARRETT: I'm being instructed that the figure changed during the litigation. We'll investigate and get back to everybody.

SIR BRIAN LANGSTAFF: The other question, in the same vein, which all goes to the accuracy of reporting and its reliability, is that when the Macfarlane Trust was topped up by £24 million, which was in 1988 I think, maybe 1989, that was in respect of 1,200 people, each of whom would be given a flat sum of £2,000. Where do you get the 1,200 from if the total here is 965 in the end of 1988? It doesn't seem to fit easily if these figures are actually accurate. It looks as though there may have been some underreporting. That's the question: has there been underreporting? Because I'm not altogether sure how the figures fit.

MS BARRETT: That's something that we will do some further

investigation into.

SIR BRIAN LANGSTAFF: Thank you.

MS BARRETT: Thank you.

So that concludes the presentation on the role of the Chief Medical Officer. Tomorrow the Inquiry will hear evidence from Carol Grayson.

SIR BRIAN LANGSTAFF: Yes. Well, thank you very much, Ms Barrett.

Tomorrow, 10.00, Ms Carol Grayson.

(4.02 pm)

(Adjourned until 10.00 am the following day)