Thursday, 30 June 2011

(9.30 am)

PROFESSOR GORDON LOWE (continued)

Questions by MR GARDINER (continued)

MR GARDINER: Good morning, Professor Lowe. When you were last here you told us about the work that you were doing between 1976 and 1985 in caring for patients with haemophilia. Would you be able to estimate how much of your time each week you were spending with patients with haemophilia?

A. Okay. As I think I said last time, patients came up to the ward on which I was usually working on the university medical unit, initially as a registrar in general medicine. So during those first three years I guess I would be seeing maybe two or three patients who were inpatients that day and occasionally asked to help with outpatients who came to the unit, which was a couple of rooms really, just adjacent to the ward.

Q. So how much of your week in percentage terms?

A. I would have thought -- I mean, I would have to explain that we were mostly seeing acutely ill general medical patients. We were doing general medical clinics. So the number of haemophiliacs I would be seeing would be not that many in the average week.

So probably maybe half an hour a week.

Q. Yes.
A. But it would vary so much. Haemophiliacs don't bleed to order. We would get periods of time when we would have maybe ten patients in and periods of time when we had none. So you would have to work out a kind of average.
Q. Yes. I think you told us that you were one of several junior doctors who were working in that unit. Would it be correct to say that by 1985 you were one of the most experienced junior doctors in that area? Would that be right?
A. Yes, clearly I had been around a long time. But as I think I said last time, I never had the position of a haemophilia doctor. So there was always a senior house officer or a registrar with a specific haemophilia job and they would be the people who, nine until five, Monday to Friday, would be sitting in the haemophilia unit and default for seeing the patients as they came up.

So I think I was like the rest of the junior staff who helped out from time to time, that was people like myself, training in general medicine, rheumatologists, haematologists, rotating through to get haemophilia experience. So there was a pool of quite a number of us. But it's certainly true to say that by the time I became a consultant at the end of October 1985, I had

been around. So I knew most of the patients. I had seen most of the patients and, yes, of course, I had accumulated a lot of experience in the management of haemophilia.

Q. Yes. So by 1984/1985, would we be wrong to have the picture of you as Professor Forbes' right-hand man?

A. Well, that's very kind. Dr Prentice, who was the co-director of the haemophilia centre, he left about April 1983. So it was very much Dr Prentice and Dr Forbes sharing the consultant responsibility for haemophilia before that time.

So I suppose, particularly from about April 1983, Dr Forbes was a single-handed consultant on the unit and I probably started to do a bit more but then, as I told you last time, about the middle of 1983 I was seconded to another of the medical units, partly because they were a consultant short, so I was going spare, as it were. So I went to spend most of my clinical work on Professor Lawson's unit and at that time I also started to do a lot more in diabetes, because that was my plan B as I explained last time.

So, yes, I continued to see patients with haemophilia and I suppose, particularly if Dr Forbes was away on holiday or at meetings, whatever, I would be there to offer help and advice, particularly in

emergency situations like difficult bleeds.

Q. So when did you return to Dr Forbes' unit after being with Dr Lawson?

A. Well, in April 1985 I got my promotion from the university -- well, I got intimation that they were to promote me to senior lecturer. I could therefore start the process of applying for a honorary consultant post and that came through, I think, from the health board at the end of October. So I think from April Dr Forbes said, "That's good, I'm going to have a consultant colleague to help me at a consultant level in haemophilia", and from about April 1985 would start to involve me more. But I think I continued my work on Professor Lawson's unit until the end of 1985. So it was a kind of phasing in and phasing out.

Q. April 1985?

A. That was when I got my promotion. That was when Dr Forbes realised that we were going to be working together as co-consultants and I started to get a bit more involved, yes.

Q. Okay, thank you. Could we go back to your statement, please, at [PEN0161252]. I would like to ask you question 4, which is:

"When the possibility that AIDS was a blood-borne disease which affected haemophiliacs became apparent

(around December 1982) did Professor Lowe discuss the implications with his patients before continuing to use factor concentrate therapy?"

Just directed at that specific question, Professor Lowe, could you tell us what the answer is to that, please?

A. Okay. So what I have said in my written statement was that my recollection is that, particularly from about the start of 1983, there was a lot of interest, obviously on the haemophilia units but also within the Haemophilia Society, about AIDS being a risk, at least to patients with haemophilia in America. And I certainly recall that a lot of information was being given out on the unit in terms of the Haemophilia Society's brochures. And as I have said, I do recall that, you know, apart from giving a general update on AIDS, the Haemophilia Society educational leaflets said, you know, "Please discuss your treatment with your haemophilia centre director".

Now, as I have said, I had relatively limited contact with patients with haemophilia about that time, and I really cannot remember any specific dates in 1983 when patients would run up to me and say, "Tell me all about AIDS." As I say, I did not have much involvement in the unit but it may well have been that patients

would say, when I was dealing with them for a bleed, "What's all about this AIDS then?" and obviously I would give them the information known to me; give them any educational leaflets that were available and say, "Well, Dr Prentice" -- prior to April and after April, Dr Forbes -- "is your director and consultant", and I would stress that they spoke to them.

Q. Yes. Is that something that the patient would raise first with you?

A. Yes. My involvement with patients with haemophilia at that time was not doing any regular reviews at the clinic but it would be seeing patients when they came up for a treatment of a bleed. That would be a fairly focused thing where you would be, you know, assessing the patient's bleed, deciding what treatment. And obviously during that time, yes, of course, you know, patients would have been able to say, "While we are talking about treatment here, can you tell me about AIDS?" and I would, in that event, tell them as best I could but, as I say, I cannot remember any specific day in which patient X said, "I have just heard about AIDS. It's terrible. Tell me all about it."

Q. I'm thinking more of your own practice, Dr Lowe. Did you routinely raise this issue with patients that you saw during that time?

A. That is hard to recall.
Q. I'm sorry.
A. It's hard to recall. I mean, what I remember, that on the unit we always had a lot of information from the Haemophilia Society. We had these --
Q. Professor, I'm sorry, with respect, I'm asking you about your communications with the patients. Are you telling us you can't remember?
A. Well, I cannot remember any specific patients asking me about it. It may well have been discussed and in that case I would tell them what I knew.
Q. Yes. When we were here before, we talked about some immune studies that you were involved in, critical review, and that's in 1983. So I'm just trying to be clear. Are you telling us that you didn't routinely make a point of discussing with your patients this emerging risk in 1983?
A. Well, I don't think the -- I think patients were always encouraged, "If you have any questions about your treatment, please ask". I don't think that I really saw, you know, so little of patients with haemophilia apart from treating occasional bleeds, I don't really think I was ever really in the situation of patients asking me.
THE CHAIRMAN: Professor Lowe, I'm not quite sure how to

approach this. I think it's clear from what you say that you were not frequently or regularly the clinician seeing a whole range of haemophilia patients. On the other hand, if there had been a departmental protocol requiring those junior doctors who did see patients from time to time, I would have expected you to know about that. Indeed, the less you did in direct contact, the greater need you would have had to be informed. So was there any standard practice within the department of initiating discussions with patients in and after 1983 about the risk of AIDS?

A. I cannot recall any specific protocol.

THE CHAIRMAN: Well, the word "specific" can cover a multitude of sins. Can you remember any protocol at all?

A. We certainly had protocols about treatment of patients.

THE CHAIRMAN: Yes, but, please, we are really trying to pin something down which is quite important, and it's important particularly because I think that the consistent story from patients, not just those we have heard here but from the 120 or so that I have statements from otherwise, is that there was not a very good communication across Scotland about the risk. So really, could you focus on this particular question of initiating discussions so as to enable patients to be

informed.

A. Well, we had written unit policies right from the 1970s about assessment of bleeds, treatment, et cetera, et cetera. We had policies for testing for hepatitis. I cannot remember in 1983 whether such protocols then had any paragraph inserted about, "Please routinely discuss the risk of AIDS", other than, I think it is -- I mean, AIDS was talked about much in the media. You couldn't open a newspaper without hearing about AIDS. So there may well have been patients asking. In the event that somebody said, "Well, I'm worried about AIDS," then clearly I, like any other member of the haemophilia unit, would say, "Well, look, this is what I know about it. This is the educational material that is available. We don't know about any cases in Scotland or Britain, which is fine," but, you know, at the end of the day, the people who are most knowledgeable would be the consultants and the directors. And if somebody said, "I really would like more information about this," then you would refer them in that direction. But I cannot remember any specific thing saying, "You will tell every patient that you see at any time who is having a bleed about a risk of AIDS."

THE CHAIRMAN: Let's get it down to basics, Professor Lowe. Would I be right in thinking that there has been such

a scouring of every bit of paper in the department in the context of this Inquiry that had there been a slip of paper that suggested a protocol, it would have been found?

A. Yes, I would think so. I think certainly in our centre, as in some other haemophilia centres, we can locate the haemophilia bulletins with AIDS fact sheets and so on and so forth, which, as I recall, were freely distributed, but I don't recall any specific unit one.

THE CHAIRMAN: Yes, I understand that, that the Haemophilia Society material would be readily available, but the translation of that information into a practice statement for clinicians I think is what we are interested in, and I don't think you are producing anything to help me understand that there was such a thing.

A. In answer to that, I cannot recall any specific unit piece of paper that said, "This is what to say to patients about AIDS," but we did have the generic -- the National Haemophilia Society material available.

MR GARDINER: Would you agree, sitting here today, Professor Lowe, that there probably wasn't such a protocol in 1983, was there?

A. You mean in Glasgow or anywhere in Britain?

Q. Where you were working?

A. I never saw one.
Q. Right. Just briefly, how were written policies communicated to doctors like you at that time?
A. Okay. Well, right from 1970s, we had had a unit policy which was read by every doctor, houseman, senior house officer, registrar, et cetera, about what haemophilia is:

"Patients can come up to a unit at any time, this is how you assess them. These are the common problems with pleading. Specific treatments are assigned to each patient. This is how to order them from the blood transfusion department. This is guidance as to the dosage."

And then there would be protocols about the annual assessment, which is the routine blood to be taken --
Q. Who would draft these protocols?
A. The consultants.
Q. So in this case, Dr Forbes?
A. Or Dr Prentice.
Q. Or Dr Prentice. And then how would they be communicated to doctors like you, junior doctors?
A. We would be shown them, asked to keep a copy. Anybody who was on-call for haemophilia was expected to have a copy at home and they would be discussed at regular meetings.

Q. Right. And you have no recollection of seeing a protocol that related to the emerging risk of AIDS, drafted by Dr Forbes and discussed at meetings?
A. I cannot recall any specific addition to the protocol.
Q. Yes. The meetings that you referred to, how often did they take place?
A. Oh, we had, I think, meetings probably about weekly. I'm a little bit vague perhaps because, as I say, between 1983 to 1985 I was on another unit so the frequency during that time ...

Prior to that, I think we had certainly a weekly meeting. My recollection was that this was towards the end of a week because we had the weekend coming up and we would review which patients were on the ward, any problems that might arise over the weekend, particularly for the benefit of the doctor who would be on-call over the weekend.

Q. Yes.
A. And at that time, apart from discussing specific ongoing problems with patients, we would review any general matters.
Q. So would Dr Forbes update you on important developments during those weekly meetings?
A. Oh, yes.
Q. Okay. Let's imagine a situation at about that time

where a patient with haemophilia does raise this question with you, the emerging risk of contracting this new virus by use of factor concentrates.

A. Yes.

Q. What would you tell the patient at that time?

A. Well, what I knew about the condition, depending on the time. So I think it was 1983 that we knew that certain patients in America with haemophilia had developed this syndrome; explain that it was an emerging disease, it was possibly transmitted by blood products and hence there was a lot of research going on to try and find out what was the explanation of this and obviously knowledge during this time was emerging. So I would give them the best of my knowledge about the information.

Q. Yes.

A. I think from memory the main question patients had is, "Have there been any cases in Scotland or Britain". And that was not the case, I think, until 1984.

Q. Yes. In terms of whether to continue with the treatment that the patient was taking or not, is that something that would be discussed at that time?

A. Well, that would be a matter for discussion with the consultants, obviously.

Q. I'm sorry, I would just like to clarify that. For discussion with the consultant by the patient?

A. Yes.
Q. So you wouldn't discuss that with the patient?
A. If a patient said, "Look, I have a concern about my treatments", I would talk them through it and then say, "The people who know most about this condition are Dr Forbes or Dr Prentice. They are the consultants." And I would suggest that, you know, they would have more knowledge about the situation than I would. If they had -- you know, there was a difference between a trainee doctor and a consultant. That would be a consultant-level decision.
Q. Right. So how long would that position subsist? Are we talking right up until 1985? You would refer those questions, would you, to Dr Forbes?
A. Yes. I think that if I became a consultant at the end of October, by that time, as you know, all blood products were virally inactivated, which was reassuring --
Q. It's the timeframe that I'm interested in, Professor Lowe. How long were you referring these questions to Dr Forbes and at what point did you engage with the patient yourself?
A. Well, I would obviously answer any questions at the time to the best of my knowledge. If somebody said, "I'm thinking about stopping my treatment" -- and I cannot

remember any such instance -- I would say, "Okay, that's a major decision and I think you need to discuss that with the consultant."

Q. And that carried on right up until 1985. Is that right?

A. Yes, I think even after that, because Dr Forbes was the director of the unit. He was going to all the haemophilia directors' meetings and was intimately involved in all the research that was going on. Obviously, particularly during 1985, I would be, you know, doing my best to keep up with that but I would not have the same level of expertise.

Q. So you would never discuss the risk/benefit analysis of taking factor concentrates with your patient; you would always refer that question to Dr Forbes? Is that what you are telling us?

A. For the ultimate decision about whether a patient either wanted to change their treatment -- in terms of not taking it, reducing it, changing to a different type of treatment, like cryoprecipitate -- that would be a consultant-level decision. I'm not saying to you that I would say, "Look, I'm not talking to you about this problem." I would talk them through, you know, I would try and answer their questions to the best of my ability. What I'm saying is that a decision about a major change like stopping treatment and hence running

the risk of major bleeds should be properly discussed with the consultant.

Q. Yes. But did you involve yourself in any discussions of that type with the patients or would you just immediately refer it to Dr Forbes as soon as it was raised?

A. I'm talking about the specific instance, of which I can't remember any, in which a patient would say, "I really feel I should stop my treatment" or make some major decision about a change in treatment. So I was happy to discuss that with them but to make it clear that an important principle about medical treatment is you treat patients according to best of your own knowledge and ability and if you feel that, you know, that is going beyond your own personal experience and ability, refer it up the line.

Q. Yes. So there would be some discussion of the risk -- the risk of continuing with therapy and the risk of giving up therapy. Is that right?

A. Yes, indeed. And all the information that we were giving to patients through the Haemophilia Society literature, et cetera, said, "Okay, obviously there are going to be patients who are thinking about, 'Should I use as much treatment,'" et cetera, et cetera, and I think the uniform advice given in this educational

material and the policy across Britain in general was, "If you have any questions about this, discuss it with your director or consultant". That was the right thing to do.

Q. Yes. Just casting your mind back to this period, 1983/1984, do you remember, Professor Lowe any times when you did have such discussions with patients?

A. Oh, yes. I mean -- sorry, over the period 1983, 1984, 1985?

Q. 1983/1984.

A. Yes, obviously there was increasing concern about AIDS and, yes, patients would say, "I'm concerned about it". And as I say, my policy was to sit down with them, talk them through it, give them the best of my knowledge about the risks --

Q. And what was that? The patient is, I imagine, trying to decide what to do about this therapy that they are having, which is potentially going to give them this new virus. So what was your advice about that?

A. Well, you would give them the best estimate of what you thought the risk of AIDS was in general but to point out that, you know, in Europe there was a relatively small number of cases compared to there, and to say that, "At the end of the day, you have to balance the risk of serious consequences of stopping your treatment and

bleeding". And, you know, most of these patients had severe haemophilia, they had seen the benefits of treatment. I can only remember one patient who didn't use treatment, who was a Jehovah's witness, but everybody else said, "Look, we are concerned about AIDS, we have thought about it."

We would discuss it and at the end of the day said, "I don't want to stop my treatment." As I say, I was never in the position of somebody saying, "Okay, I think I need to have a major discussion about stopping my treatment altogether." And I would talk them through to the best of my ability and say, "Well, I think the final decision on that should be with the consultant.

Q. So were you recommending one or another of the balances: continuing with therapy, giving up therapy?

A. I would talk it through with the patient. If a patient felt strongly that they were so worried about the risk of AIDS that they wanted to stop treatment, I would say, "Okay, I understand, but I think you need to go and speak to a consultant about that." But I do not recall any patient stopping their treatment.

Q. So would you recommend any one or the other: stopping treatment or continuing with treatment?

A. You would talk through with the patients the consequences and say, "If you stop your treatment, you

will get more bleeds and you have to decide if that's something you are prepared to take".

Q. Is that "no", Professor Lowe, you wouldn't recommend one approach or the other?

A. Well, patients have rights to decide what the balance of risks and benefits is. All, I think, a doctor can do is to say, "To the best of my knowledge the risk of getting AIDS from a blood transfusion at this moment in time is X", and you would give them the educational material to back that up.

Against that you would have to consider the major consequences of not treating bleeds, which can be crippling or fatal. And my approach as a doctor has always been to say, "This is the treatment, these are the risks," talk them through it, try and answer the questions as best you can. I don't think that I would say to anybody, "I insist that you have your treatment," or "I insist that you don't have your treatment". That's not how it works.

Q. I wasn't using the word "insist", I was using the word "recommend". But I think you are telling us that you wouldn't recommend. Is that right?

A. I have always believed that a discussion about, "Should I have this treatment or not?" should be between a doctor and a patient, where the doctor outlines the

benefits of the treatment, which in the case of haemophilia and clotting factor replacement was a routine treatment for many years and they knew all about it. They knew the consequences of what would happen if they stopped it, and I would just say, "Let's talk it through".

Q. So you wouldn't recommend.

A. I have a feeling you are trying to push me into a corner here. How do you mean I "wouldn't recommend treatment"?

The patients who were concerned were the patients who had to have regular treatment with Factor VIII or Factor IX. That was the standard treatment and if they said, "Right, we are worried about the risk of AIDS," I would talk them through the risks, talk them through the risks of AIDS, talk them through the risks of not treating themselves to try and reduce that risk, and then it was a very much an individual patient decision.

Q. So you would leave it to the patient to decide?

A. Well, I would discuss with the patient. I would not impose any decision.

THE CHAIRMAN: You know, professor, Mr Gardiner is not trying to box you into a corner. He is trying to get a straightforward answer to a relatively straightforward question. I can understand that before one reached the denoument there would be a great deal of discussion,

a great deal of advice, but at the critical point at which a decision may be taken as to whether there should be a change in therapy, there is a simple question: Would you be encouraging the patient to ask for a change or would you be avoiding any encouragement one way or the other?

A. If a patient was seriously concerned --

THE CHAIRMAN: You would refer him to Professor Forbes? I'm almost reaching the point of believing that appointment as a haemophilia director is not so much a promotion as an apotheosis, Professor Lowe. I have no doubt I am going to end up with great respect for Professor Forbes but I'm not quite sure at the moment why, however elevated the platform he is put on, he should deprive you of such professional responsibility as you might have to deal with the patient in front of you. Would you have advised or would you not?

A. I'm sorry, just to clarify, if a patient said, "I'm not sure about whether to continue with treatment? I'm thinking of stopping it", I would talk them through that and say:

"But at the end of the day, this is a decision. If you are deciding not to take treatment at all, of such major importance, that is a consultant, a director level responsibility, and I think you should discuss it with

Professor Forbes."

But having said that, I think that most patients were very happy to talk through the risks and the benefits of treatment with me or with any other junior doctor and take it from there.

MR GARDINER: Yes. I take it then that there wasn't a policy, as far as you can remember, from Dr Forbes that clinicians such as you should be recommending continuing therapy, when such a discussion came up?

A. Well, I think -- I'm sorry, Dr Forbes saying to us as junior doctors ...?

Q. If this question arises, the policy is to recommend continuing factor therapy treatment?

A. I think that was the advice that was consistently coming from directors in haemophilia centres, in all statements at the time, through the Haemophilia Society, through publications and reviews, to say at the end of the day, "Yes, there is a risk but this has to be balanced against the very major risk of bleeding".

Q. Yes.

A. So, yes, I mean, I think the clear message was, "If anybody wanted to stop treatment or change their treatment, send them to me, I'm a consultant, I'm a director, I will make the final decision." I think that's very important.

Q. So if a patient said that they wanted to continue with treatment, you wouldn't refer that patient to Dr Forbes?
A. Well, any patient at any time could say to a junior doctor, "I have chatted to you about anything but I would like to see the consultant". Equally, any trainee doctor would say, "I think things have reached a level in your questions at which I think to refer you on".
Q. Yes. Do you have any recollection of referring Dr Forbes in that context?
A. I cannot recall any patient who said to me, "I really think I would like to stop my treatment," at which I would then say, "Well, you need to speak to Dr Prentice or Dr Forbes."
Q. Dr Prentice left in 1983, did he not?
A. He did.
Q. Yes. Discussions such as we have been talking about with a patient who has raised this question, the risk/benefit of continuing with therapy, if you had such a discussion, is that something that you would have recorded in the medical notes?
A. Oh, yes. I think if somebody was seriously concerned about continuing with their treatment, such that they wanted to discuss it, one would write in the medical notes, "Patient is concerned. Discussed with patient

and recommended discuss with consultant".

Q. Yes, thank you. I would like to move on to another topic. Could we have a look at [PEN0121600].

This is your statement about the immunological testing. If we could go down to paragraph 2, please, I think you are addressing there the report by Melbye et al, and I think we should have a look at that, which is [DHF0026019]. That's, "HTLV-III seropositivity in European haemophiliacs exposed to Factor VIII concentrate imported from the USA". We see that your name is on that paper, Professor Lowe.

I think we can take this fairly short. Again, is this a paper where your involvement was critical review?

A. Yes. I had no part in the actual performance of the study. I think you have got statements from Professor Forbes and Dr Froebel about how the study came about. My first exposure to the study was to read a draft paper.

Q. Yes.

A. As I have said in the statement, to provide critical review, as I did in the previous paper by Dr Froebel. At the same time Dr Forbes asked if I could draft a paragraph about a patient in Scotland, who was actually treated at a centre in England and who had developed AIDS, which was one of the first AIDS cases in

a patient in the United Kingdom, the first Scottish one, which I did. And I did that because I had assisted Dr Forbes and the consultants in infectious disease in the care of that patient when he presented with AIDS.

Q. Yes.

A. So I think the point of the paper clearly was that there was at least one patient with AIDS, with haemophilia, in the United Kingdom and obviously data about the prevalence of this antibody to HTLV-III in two populations: the Scottish haemophilia population and a Danish population.

Q. Yes. I think we can deal with this fairly quickly. I take it that you don't have any personal knowledge of who carried out the testing referred to in this paper?

A. Well, I think the testing was done in America, Dr Gallo's laboratory.

Q. Is that your recollection?

A. I think it's -- I think it probably says that in the paper, does it not? Dr Gallo developed the test that was used.

Q. But is it your recollection that that was where the testing was done?

A. Well, I think the samples were sent to America.

Q. Yes, well. I'm asking you if you have any personal knowledge of that?

A. As distinct from reading the paper?
Q. Indeed.
A. That's what I have been told.
Q. Yes. So what you are telling us is what you have been told but you don't have any personal knowledge. Is that right?
A. No, I was not involved in collecting the samples or sending them to any laboratory.
Q. Certainly we see that Karin Froebel is on the paper and certainly we understand her recollection is that the 77 samples were sent to America by Dr Madhok and Dr Forbes and tested there by Gallo's teams, and that's consistent with your understanding, is it?
A. Yes. I mean, I wasn't involved at the time. Nobody ever said, "We are collecting samples to send them to America". The first I knew of the study was to see a draft manuscript.
Q. Thank you very much. Let's move on to question 7 on the main statement, which is at [PEN0161253]. The question is:

"When did Professor Lowe become aware of the fact that a number of Edinburgh patients with haemophilia, who later became known as the 'Edinburgh cohort', had been infected with HTLV-III by PFC manufactured concentrate and that HTLV-III had therefore entered the

Scottish donor pool?"

What is your answer to that, Professor Lowe?

A. Well, what I have said in the statement is I remember reading the paper when it came out in 1985, but thinking about it subsequently, I do recall hearing, I think, from Professor Forbes, about the end of 1984, that there had been an outbreak -- if you use that word -- of HIV infection in some patients in Edinburgh.

Q. Yes.

A. But I cannot give you a date as to that.

Q. Yes. Well, if we can have a look at [SNF0010255]. This is a note of the meeting of haemophilia doctors and SNBTS representatives on 29 November 1984. We see paragraph 4:

"Dr Forbes describes the finding relating to HTLV-III antibody seroconversion in a comparative study of haemophilia patients in Glasgow and Denmark."

Does that help you estimate when you first became aware of -- I'm sorry, the paragraph before, of course, is the one where Dr Ludlam reports.

A. Yes, as I say, I cannot remember the month at which Dr Forbes told me that there had been a problem with haemophiliacs in Edinburgh. It was some time in late 1984.

Q. Yes. Are you not having weekly meetings with Dr Forbes

at this stage?

A. Weekly meetings were held but, as I have indicated, between about 1983 and 1985 I was on the other units. I didn't attend every meeting.

Q. Yes. How often would you attend these meetings?

A. Hard to say. At least on a monthly basis, I would think.

Q. Yes. I mean, from our perspective, Professor Lowe, it seems quite surprising if Dr Forbes had not passed this information on to you at around about this time. I mean, do you think that it would be end of November 1984 that you first heard about this?

A. Well, we are talking about 25 years ago. To be honest I cannot give you a date about a month.

Q. Yes.

A. It was certainly late 1984 and that would seem to fit what you are showing me here. I mean, I did not go to these meetings, these were meetings attended only by consultants and directors.

Q. Did you know about a plan to have a meeting in Edinburgh in December 1984 to discuss the results that are referred to there in paragraph 3 of that note?

A. I don't think I knew about it in advance of the meeting.

Q. Yes.

A. I can remember Dr Forbes telling me at some stage,

"There has been a meeting in Edinburgh to which patients have been invited," and that he and Dr Ludlam had spoken about recently identified seroconversions, I think both in Edinburgh and Glasgow. But I didn't get any details of it apart from the fact that a meeting had been held. And I was told by Dr Forbes that letters were being sent out to all patients with haemophilia in Scotland, advising about precautions with AIDS as a result, and obviously he told us all about the heat treatment.

Q. Yes. At what stage then did you first hear about this meeting?

A. After it had occurred. Whether that was before Christmas or after Christmas, I can't remember.

Q. Okay. Around about Christmas time then?

A. I remember it was around about Christmas time.

Q. Okay, thank you. What was your involvement in the subsequent events, after this meeting?

A. Well, Dr Forbes told us all, all the junior doctors, involved, about heat treatments and the letters that were going out to patients. I think a letter was sent out about January to all the patients registered at the centre and I understand that was done all across Scotland.

Q. And --

A. And in general the advice that was being given to

patients.

Q. What was your involvement, if anything, in that letter?

A. I had no input into the letter that went out in January. However, there was a subsequent letter, which I think was sent out about April of that year. And as I have already said, April was the month in which the university informed me I was to be promoted, senior lecturer. So at that time Dr Forbes said, "Well, hopefully you will become a consultant in due course", and I think from about April he started to involve me much more in the information given to patients. So I think I had input into that letter that went out in April.

Q. Thank you.

A. What I remember was that Dr Forbes had an copy of a book produced by the Haemophilia Society by Dr Peter Jones that was called --

Q. Are you talking about the April letter at the moment?

A. Yes.

Q. I would like to ask you about the earlier letter, if you wouldn't mind.

A. I understand a letter went out but I don't recall it. I don't recall --

Q. If you just wait for the question, Professor Lowe, if you wouldn't mind. We are under a little bit of time

constraint today so I'm trying to make progress.

A. Sure.

Q. Could we have [LOT0034244]? Do you recognise that?

A. Yes, the date would certainly fit. I remember a letter going out in January.

Q. If we look above the date "GDOL", that's your reference, isn't it?

A. That is my initials, yes.

Q. And who is "DM"?

A. I have no idea. That's probably a secretary.

Q. A secretary?

A. Hm-mm.

Q. Not your secretary?

A. Well, I did not have a secretary at the time. I was a junior doctor.

Q. Right. If we just go to the last page of that letter, please, we see there at the end of the letter, "Yours sincerely, Gordon Lowe". So that's your signature?

A. That's absolutely right.

Q. You have told us that you didn't have any input into this letter. Is that right? I mean, is it coming back to you?

A. I cannot recall up until now having any input into it but clearly I signed the letter, as I did the subsequent one in April. What I do remember was having quite a lot

of input into the letter in April --

Q. Well, I'm talking about this letter at the moment, if you wouldn't mind --

A. -- but clearly I obviously read and signed this one as well.

Q. Do you want to just take a moment then and have a think and see whether you now remember having any input into this letter?

A. Sure. Can I read it?

Q. Please do. (Pause)

A. Okay.

Q. A hard copy is on its way, Professor Lowe. (Handed)

A. Thank you. Yes, thank you very much.

Q. What was your involvement, if anything, in drafting this letter?

A. Well, as I recall, there was, following the meeting in Edinburgh, Dr Forbes and Dr Ludlam, I think, drafted a letter of which the idea was that we sent out all across Scotland and then -- although plainly I had forgotten it, Dr Forbes obviously involved me in co-signing it. And presumably also commenting on it. So I think the idea was that there was a form letter and then each individual centre would send it out on its individual heading.

Q. Yes.

A. I have to say, I have no copy of this in my files and the one I have in my files is the letter from April that was sent out with the Jones booklet. But clearly I obviously saw this and signed it.

Q. If we have a quick look at [PEN0120496].

Professor Ludlam told us that this was the advice sheet.

Could you just show the professor the first page of that, please?

So Professor Ludlam told us that this is the advice sheet that was sent out by his centre?

A. Hm-mm.

Q. Could we go to page 2, paragraph 7? If we see at the end of the first sentence in 7(a):

"Great care must be taken not to contaminate ..."

If you like at the hard copy that you have in front of you at the second page:

"Secondly (a) ..."

Would it be possible to get them up side by side?

So that's them side by side. So you see that the wording from the Professor Ludlam advice sheet, starting at "great care" down to the bottom of the page, where it says "It is to be emphasised ..." is the same as the section in the Glasgow letter, if I can call it that. Do you see that?

A. I can.

Q. Yes. So that appears to be the aspect of the two letters that is common?
A. Sure.
Q. I think you said it was a form letter. So it looks as though some of this Glasgow letter is not form letter, just the same as the Edinburgh one. So I'm wondering, the other bits of the letter, did you have any involvement in drafting them?
A. Yes, I may well have done. Obviously I signed it and I wouldn't sign anything without having some -- without clearly reading it and quite possibly some discussion with Dr Forbes, and I certainly remember having input into the letter in April but I had --
Q. We are not talking about that at the moment --
A. It was within a few months of each other.
Q. Yes. So you now think that you might have drafted some of this letter?
A. Well, I might well have had some input into it.
I think, as I recall, Dr Forbes was also consulting with their haemophilia sister, Sister Campbell, because she would obviously be much involved in a lot of the aspects as well. So I think there was, you know, some discussion amongst the unit and -- in general.
Q. So was there discussion and then you drafted the letter? Is that what happened?

A. I don't think I drafted the letter. I clearly signed it. And obviously we were having a lot of discussion in the unit at the time about what the policy should be. We were, you know, revising our protocols. Heat treatment was coming in and this advice sheet was going out to patients. So clearly I was involved in the discussions. But I cannot recall which bits I would actually draft.

Q. But you might have drafted some of them?

A. It could well have been. I mean, I suspect what happened was that Dr Forbes had the form letter agreed with Dr Ludlam and then each centre was customising it. My assumption is that he, as the director, would have first go at that and then probably gave it to me after that.

Q. In draft form?

A. Well, yes, saying, you know, "What do you think of this? Is there anything else that you think we should add?"

Q. Yes. Do you think you did add some bits?

A. It's quite possible.

Q. Yes.

A. But I cannot look at it a now. I'm seeing this for the first time for 25 years. Clearly I had some input into the April letter because at that time I was now imminently being a consultant and there was a lot more

discussion between Dr Forbes and myself. At the time this letter was written, I was still a junior doctor but clearly he wanted to run it past me, and I think also our haemophilia sister as well.

Q. You are one of several junior doctors, as you told us, but you are the co-signatory to the letter?

A. I am.

Q. Does that again maybe suggest that Dr Forbes thinks of you at this stage as his right-hand man? Is that fair?

A. I was certainly the most experienced of the junior doctors, yes.

Q. Yes. And you have signed it, so obviously you agree with the terms of the letter?

A. Hm-mm.

Q. What was the purpose of this letter?

A. It was clearly an update to all our patients, arising because of many recent developments. There was obviously the discovery that the HIV virus was present in Scottish blood donors and concentrates. There was a lot of publicity in the newspapers, and I think that Dr Forbes and the other haemophilia centre directors said, "We must really get an early letter out to all our patients".

Obviously, the first part of the letter was a bit more information about AIDS. Dr Forbes reiterates that

in general continue treatment with clotting factor concentrates, and pointing out the steps that were now taken to reduce the risk of viruses, the exclusion of blood donors and now the heat treatment of the Factor VIII. It also indicates that Dr Forbes was hoping to have testing arranged for everybody on the unit and I think he was negotiating with Dr Follett of the regional virus centre, to set up a test within the National Health Service that could then be performed.

And he says:

"We hope to have that within the next few months", and that did come in during the year.

Q. Because by this stage, Professor Lowe, Dr Forbes has results, does he not?

A. Yes. Which he goes on to say -- said:

"We have tested stored blood samples, of whom ten per cent have positive antibody tests."

Q. Yes. So in terms of the possibility of communicating these results to patients, what was the purpose of this letter? Can you cast your mind back?

A. Well, the letter then goes on to say, you know, "We need to see you and talk about testing for HIV" and "Happy to give further information and to answer any questions about the virus and the tests".

Q. Yes. So what lies behind the letter in terms of

Dr Forbes' policy about communicating the results that he has?

A. The results that he had from the Melbye study?

Q. Yes.

A. Well, as I recall, when we were discussing the manuscript, many of us said to Dr Forbes, "What happens now about the patients with positive tests?" And as I recall, he said, "I will have to see them and arrange counselling." So the indication was that Dr Forbes was going to speak to the patients and arrange counselling. And I think it was around that time that Mrs Wilkie was being appointed.

Q. What was he going to do about the results, Professor Lowe?

A. He was going to speak to the patients about the results.

Q. Yes. And what was he going to say to them about the results?

A. He was going to tell them, as far as I know. I was not involved in these. Dr Forbes strongly felt that he, as a consultant, should be speaking to patients and telling them about the situation.

Q. Yes. Passing on the results of positive tests?

A. Yes, I assume so. I think he had some reservations about Dr Gallo's test because it was a research test, and it was not a test that had yet, as I understand,

been licensed for clinical testing of patients. Nevertheless, it's clear in my mind that he said, "Right, we have got positive results and I must speak to the patients and I must arrange counselling about the testing".

Q. Yes. If we look at the bottom of the first page of the Glasgow letter, firstly it says:

"Firstly we enclose an appointment to see you. It is important that we take a blood sample from you for the virus tests so that we can monitor virus exposure in all our patients who have received factor concentrates."

So do we take it then that the purpose of this section of the letter is to encourage patients to come and receive their results, if results have been obtained?

A. I think what the letter is saying, "It's important that we take a blood sample so that HIV testing can be performed".

Q. But with some patients you wouldn't need to take a sample, would you, because you already have the results and you have told us that Dr Forbes' policy is to communicate the results. So what I'm asking you is: is that why in this letter you are writing to patients about an appointment, because you want patients to come in so that they can be informed of their results?

A. No, I think, as I said, Dr Forbes' concern with the Gallo test was: were they reliable? And he thought that the best thing to do is to set up with the local regional virus laboratory properly approved tests, which Dr Follett did in due course.

Q. Right.

A. That's what I would read from the letter. And my recollection is that he was concerned that patients should come up and have proper testing performed, after counselling.

Q. Yes. I'm not asking you to look at the letter and tell us what you think it means; I'm asking you to think back and tell us what you remember was the purpose of sending this letter out. And I'm asking you whether it was in part to arrange for patients to come in and to either receive their results or arrange confirmatory testing. Is that the position?

A. I think this was prospective. I think the letter was to say, "Look, there is a problem with HIV in the Scottish haemophilia population. We need to see you and we need to discuss this. And we need to take a fresh blood sample after consent, which can be tested for HIV."

Q. Yes.

A. I do not recall that this was for Dr Forbes to say -- to talk about the research study tests.

Q. Right. Okay. But you have told us that Dr Forbes' decision, when he received the research study tests back, was to communicate those results to his patients. Is that not right?
A. Yes, he said he would do that.
Q. Yes. Is that letter not part of that process?
A. I don't know. I never had a list of any of the patients who had results from Dr Gallo. Dr Forbes said that he would speak to patients about that.
Q. So we don't really know what that bit of the letter is about then?
A. The bit of the letter says:

"We need to see you and we need to discuss HIV testing."

Q. Professor Lowe, am I right in thinking that this is a letter that you signed on 8 January 1985 but you can't really remember very much about it? Is that your position? Or what was going on at that time?
A. Well, as I said at the start, I remember a letter going out in January. I have not kept a copy of that letter. So I'm reading it for the first time and I see that I signed it.
Q. Yes, obviously.
A. I had some input into it and I can remember Dr Forbes saying, "Right, we need now to get all the patients up

and speak to them about it." Mrs Wilkie was in position at this time to counsel them and we need to --

Q. When you say "speak to them about it", do you not mean tell the patients their results?

A. I don't know what Dr Forbes did about the research results from Dr Gallo's study. As far as I was concerned, the policy now was that the patients were being invited up to have NHS testing in Dr Follett's laboratory.

Q. All right. Let's go to question 9, please, in the statement at [PEN0161254].

Before we look at that specific question, do you remember what happened after this letter went out? What happened with patients? How did patients respond?

A. How did patients respond? When patients came up, Dr Wilkie was in place to offer them counselling about HIV and she has given a statement to that effect.

Q. Sorry, when patients came up?

A. For clinic appointments.

Q. Right. So patients didn't respond to the letter? They simply carry on coming to their routine appointments? I mean, this letter says:

"We are sending you an appointment. If this appointment isn't suitable, make another one."

So what happened. Do you not remember,

Professor Lowe?

A. Yes, patients would come up to the clinic and the first stage -- well, as far as I recall, Dr Follett didn't actually get these tests going for some months. So initially it was very much about talking to patients about it, saying that, "We hope to do testing", and for Mrs Wilkie to counsel patients about the significance of HIV testing.

Q. All right. So the results from the Melbye testing were not communicated to patients? It wasn't until confirmatory testing was available that the results were communicated?

A. You would have to ask Dr Forbes. Dr Forbes, when we discussed the paper, he said, "I will speak to the patients about the test results and arrange counselling."

Q. Yes.

A. Now, I was never involved in passing on to patients any of the information about the Gallo tests. But I know that Dr Forbes and Mrs Wilkie did an awful lot of talking to patients around that time.

Q. Yes. So in response to this letter, patients are encouraged to come for an appointment?

A. They are.

Q. You weren't involved in that process?

A. I would see some patients at the clinic but, as I say, at this time my involvement with haemophilia was, you know, less than it had been.
Q. What about a patient that came in response to this letter for an appointment?
A. Yes.
Q. Did you see any of them?
A. I was seeing patients from time to time at the clinic, yes.
Q. So did you see any of them?
A. Yes. I mean, patients would come up for a review and at this time following January --
Q. This isn't really for review, is it? This is an appointment that has been fixed in this letter, an urgent appointment, you might think. Were you involved in any of those appointments?
A. You mean -- sorry, the appointments were arranged by the haemophilia sister.
Q. Right. We have the letter in January 1985 asking patients to come in for an appointment.
A. That's right.
Q. Were you involved in seeing any of those patients that were coming in --
A. Oh, yes.
Q. -- for the appointments that were arranged in the

letter?

A. Yes.

Q. Right. Professor Lowe --

A. Now, this, I think, was sent to all patients receiving clotting factor concentrates.

Q. -- I would like to take this stage by stage because we are under a bit of time constraint.

When you saw those patients, what did you tell them?

A. I would go through the letter, reinforce the precautions which were taken and explain that Dr Forbes was arranging HIV testing to be performed at the regional virus laboratory. But, before such testing was done -- and I think it took some months for Dr Follett to arrange that -- they should have more information about the implications of a positive test and a negative test and the patients then would be seen by Mrs Wilkie.

Q. Yes.

A. So blood would not be taken at that time. We would tell patients what the procedure would be and that we hoped to have the testing in place some time during 1985.

Q. Yes.

A. So we would discuss the precautions, which we felt was the priority, to explain that we hoped that proper tested for HIV would be available from Dr Follett's laboratory in due course and we would try during the

course of the year to get this all done.

Q. And some of --

A. But I would never take blood from the sample for HIV testing until they had been through the process of counselling.

Q. Thank you. Some of these patients had already tested positive?

A. Or negative.

Q. Well, but some of them had tested positive, had they not?

A. Yes.

Q. Yes. Did you see any patients who had tested positive?

A. I never knew the names of these patients.

Q. From the Melbye testing?

A. Yes.

Q. So you don't know whether you did or not?

A. Correct.

Q. Right. Okay. So let's go to question 9:

"When did Professor Lowe start testing his patients for HTLV-III?"

Just looking at the date -- you have described preliminary discussions with the patient. So when was the testing that you are talking about done, which would be the Follett testing?

A. I think probably over the summer but I cannot give

a date to that. I know it certainly took some time for Dr Forbes to arrange testing. I think the concern that Professor Forbes and Dr Follett both had was that the early tests done were not very specific. You could get false positives, you could get false negatives, and a lot of the concern at the time, given the increasing concern about the implications of the positive tests, was that you didn't want an inaccurate test. So Dr Follett took great care to get the test set up and started.

What I have said in the statement is that by October 1985 I think the great majority of the patients registered at the centre had been tested. The reason I recall that was that the results went to Dr Forbes and he had about a dozen patients who were positive and he said, "I think, when it comes to telling patients results of positive tests, we should make special arrangements," and I think I have described that later on in my statement. He very much wanted that one of us, as consultants, should spend a good amount of time with the patient and fully discuss the implications.

Q. Yes. If we go on to 10, I think you have touched on that. It's:

"In what circumstances were blood tests carried out?

When were blood samples taken from patients?"

And so on. And your answer is you recall that:

" ... HTLV-III testing was performed as part of routine blood tests at clinic reviews."

A. Yes.

Q. But I think, in addition to that, you are now saying that it was also arranged after the appointments that were fixed in January 1985? That was the beginning of the process?

A. Yes, the appointments in January were very much to allow patients to discuss the risks, to emphasise the precautions, to talk about the heat treatment and to explain that it was hoped that blood samples would be taken. But in the event it took several months before the blood tests were arranged by Dr Follett and by that time the patients had been pretty intensively educated and counselled.

So I don't want to give the impression that HIV testing was performed just as part of routine blood tests. The testing was taken at the time at the clinic when these other blood tests were being performed, but only after patients had been counselled.

Q. Yes, and if we look at 11, over the page:

"Did Professor Lowe tell his patients that HTLV-III tests were being carried out? Did he obtain consent?"

I think, from what you are telling us, you explained to the patients the purpose of the test and --

A. Very much so.

Q. Did you explain the implications of the test as well?

A. Oh, absolutely. I would say, "Right, have you had the letter in January? Have you had the letter in April? Did you manage to read the book by Dr Jones, 'AIDS and the Blood', sent out with the April letter?"

I presume you have the April letter before the Inquiry.

Q. I have cut you off about the April letter. Can you tell us briefly what was in the April letter? First of all, did you draft it?

A. I had input into it and I co-signed it because that's the copy which I have in my own files. I don't have a copy of the January letter, which I now see that I signed, but I certainly had input into the April letter.

Q. So who else signed it?

A. Sorry?

Q. Who else signed it? Was it just you that signed it?

A. Dr Forbes and myself.

Q. And it enclosed some documents, did it?

A. Yes, it enclosed this booklet which I mentioned in my statement, "AIDS and the Blood". I assume the Inquiry

had it. Basically, Dr Peter Jones was the haemophilia centre director in Newcastle. He wrote a lot of the Haemophilia Society publications and he wrote what I thought was a very good booklet, very detailed, all about AIDS, all about haemophilia, all about what patients should know, a full review of the precautions and the advice --

Q. Is that "AIDS and the Blood"?

A. AIDS and the Blood.

Q. Let's have a look at that. [SNB0046186]. That's on the screen there. Is that the publication that you are talking about?

A. Yes, indeed, and in fact I recognise my handwriting, which is up in the top. It says, "February 1985." That was the date of publication of the document, and the note that it was sent to all the patients --

Q. Yes.

A. -- who were registered at the centre at the time. Dr Forbes ordered a large number of copies of this. He actually had input into the book. If you read the foreword, Dr Jones thanks many individuals, including Dr Forbes, who had input into the booklet. We thought it was an excellent booklet; we couldn't improve upon it. So that was what was sent out in April. Basically, the letter sent in April, I think, was generally along

the lines of the letter in January, with perhaps a bit of updating, recommending the book, and I certainly remember reading through the letter in draft form, and the booklet, and making sure that there was no mixed messages between the letter and the book. We kept copies of this book on the unit and then, when people came up, any that I saw, I said "Right, have you had the letters? The January letter? The April letter? Have you read through the book?" and then very much used the book as a basis to what was generally thought and recommended by haemophilia directors and the Haemophilia Society there.

Q. Is this before testing?

A. Oh, yes.

Q. Can you just tell us, if you can, what those last two words in handwriting are in the top right-hand corner?

A. It looks like, "Off unit funds." I think the explanation would be that Dr Forbes had a haemophilia fund and had --

Q. That's your handwriting, is it?

A. It looks like my handwriting.

Q. Yes. Sorry, I interrupted you.

A. I think Dr Forbes bought it from unit funds and then sent it to all the patients at the centre, with spare

copies at the unit.

Q. Yes. Are you able to tell us what happened about the Melbye results, in terms of communicating them to patients?

A. Only what I have told you already, in that, in discussion of the paper, the question came up to Dr Forbes, "Well, what happens now?" and he said, "I will see the patients, I will speak to them and I will arrange counselling".

Q. When you say "arrange counselling" does, that mean "I will tell the patients the results"?

A. That was the presumption, yes.

Q. Yes. And to your knowledge, is that what happened?

A. Well, as I said, I was on another unit at the time. Dr Forbes did not involve me in any of these discussions with the patients. He said, "Right, I will speak to them. I will discuss the results."

Q. Yes. So you have no reason to believe that it didn't happen?

A. I have got absolutely no reason -- could I say that Dr Forbes, whom I much respect and was my mentor, was an extremely open person and he would spend hours with his patients, discussing all matter of things. I cannot think of any reason why Dr Forbes would not be open and honest with patients.

Q. Yes. So your impression was that Dr Forbes was going to communicate the results of the Melbye testing before confirmatory tests were done in June of that year?
A. Yes, indeed but, as I say, I knew that he had reservations about whether the test was accurate or not. So I do not know, you know -- I never sat in with Dr Forbes when he said "Now, I want to tell you about the results of these Melbye tests", but I do know that he was very keen that the situation now should be that we should have authoritative tests, licensed for, you know, advising and managing patients --
Q. I'm really talking about the Melbye testing. Is your understanding of the position that Dr Forbes told the patients who tested positive under the Melbye testing in about January/February 1985? Is that right?
A. Yes, we would be discussing this when we reviewed the manuscript in, I guess, maybe September/October 1984, that kind of time, and the implications.
Q. Yes.
A. And that's my clear memory, that he said, "Right, I will speak to the patients, that's my responsibility".
Q. And tell them the results of the Melbye testing?
A. Yes. Now, I cannot remember if, you know, this would be the positive patients, the negative patients as well or whatever, but he said, "I will speak to them".

MR GARDINER: Sir, that's maybe a good time for a break.
THE CHAIRMAN: Yes.
MR GARDINER: I wonder if we could restrict it to ten minutes?
THE CHAIRMAN: I think those of us who are in this room could certainly do that.
(11.08 am)
(Short break)
(11.27 am)
THE CHAIRMAN: Mr Gardiner?
MR GARDINER: Thank you, sir. Professor .
Lowe, before the break you told us that for testing done by Dr Follett, all patients received counselling before testing.
A. Yes.
Q. I would just like to ask you to consider something that I'm going to put to you. The Inquiry heard evidence earlier this month from a witness whose recollection is that he was telephoned and asked to come to the hospital to see you in December 1985. He was surprised because he had just seen you at a routine appointment. He went to the hospital, as asked, and at the appointment you gave him the results of a test for HTLV-III.
And this was a test that he didn't know was being carried out.

Now, what I have just suggested to you, is it still your evidence that, before tests, patients were counselled and would know that they were being tested?

A. Well, that was the procedure which I certainly followed. So I would never test any of the patients that I saw at the clinic, without, as I have just described to you, making sure that they fully knew about the test and the implications of a positive or negative result, and usually almost all of us, I think -- they had also been seen by Mrs Wilkie for counselling as well. I think the patient you are talking about --

Q. Before you go on, be very careful not to use the names of patients.

A. Yes, absolutely.

I think that this patient's statement was given to me by our colleagues in the Central Legal Office and I was asked on behalf of the health boards to look at the case records, and in fact this patient had been seen by another doctor, not by me, at the time that blood was taken for HIV testing.

Q. So it sounds as though it really depended on which doctor you saw, whether you were told that you were going to be tested?

A. Well, I have not had a opportunity to speak with that doctor. The doctor was, I think, a senior registrar and

well versed in the procedures and the policies of the haemophilia unit. So I cannot comment. But certainly all the testing that I performed had been preceded by counselling and discussion with the patient. The problem is, of course, that often I would be seeing patients who had been tested -- who had been seen by another doctor at the clinic; Dr Forbes or one of the other colleagues.

Q. But I suppose, Professor Lowe, you are not able to say that you know that all patients were told before testing that they were being tested?

A. I don't think I have said that. What I have said to you is that all the patients that I saw at the clinic, at which time blood was taken, I made sure fully knew, as I have said in my statement, about HIV testing and what it was and the implications.

Having said that, from memory I think that we had in 1985 only about a dozen patients who were positive on Dr Follett's testing and I can remember, when I became a consultant, Dr Forbes and I sitting down and discussing various matters, including, as I think I have already said, that he felt that patients with positive tests should be seen by either himself or myself as a consultant. So that we could have a full discussion about it.

So I think that I would see perhaps about half a dozen patients to tell them that unfortunately they had an HIV positive result, and my memory is that none of the patients that I saw were surprised at this and none of them ever said, "I was never told about that."

I think just about all of these patients were severe haemophiliacs. They had had multiple treatments over the years. They had been fully counselled by Dr Forbes and by Mrs Wilkie, and I cannot recall any of them expressing surprise.

Q. Okay. Let's move on to question 14, [PEN0161255]:

"What was your practice in relation to telling patients positive results?"

I think you have touched on that. In your answer you say that:

"Dr Forbes' policy was that patients would be told at their next clinic review, usually within a few weeks of blood being taken."

Was that the position?

A. Yes, I think. So it would obviously vary from patient to patient. It depends when the results would come back and then, as I say, for the patients who were negative, that was fine, no special arrangements, but for the patients who were positive, as I think I say subsequently in my statement, we tried to make sure that

we had a time outwith the clinic, where we would see patients in privacy and have a long discussion. And often Mrs Guthrie as counsellor was present at that time and shared in the information being given to patients.

Q. You have mentioned Dr Wilkie several times. What was her role, if any, at that time?

A. Well, I can't remember the precise month that Dr Wilkie came to the unit. I'm sure she would tell you but I think certainly by the beginning of 1985 she was coming to the unit regularly, speaking to patients. She came to all the clinics. She was always around and she was trying very much to see all of our patients who had been treated with blood products and were therefore at risk of having a positive result. She spent a lot of time with patients and a lot of time in general discussions within the unit.

She was superb. She was very dedicated and, as I think I have read in her statement, she made herself fully available to all patients and partners and relatives and spent a lot of time, particularly in 1985, discussing all the implications about test results.

Q. Yes --

A. She certainly sat in with me on some of these occasions when we informed patients of results.

Q. She told us that sometimes she actually had

responsibility for passing on results. Is that your recollection?

A. Well, I would be surprised. I think it was more usually done that she would be sitting with Dr Forbes or myself.

Q. Yes. And you have told us that you passed on this news to patients. Would you be able to approximate how many patients you did that for?

A. I think about half a dozen. I think in 1985 -- I mean, we had 12 patients which is very low, as you know, amongst haemophilia centres. We were spared. The problem was, of course, that over subsequent years we inherited a lot of patients who transferred from Yorkhill Hospital, or indeed from other centres. So by about the later 1980s, I think, we got up to a total of about 30 patients. But the majority of these had been tested and informed about their HIV status at other centres. So we had about 12 and as I say, I think Dr Forbes and I just split them half a dozen each. So I was, I think, only involved in giving the bad news about positive test to, say, about half a dozen patients, and as I say, none of them expressed any surprise at all at the result.

Q. But then of these six patients were tested in the Melbye testing? You have told us that?

A. I cannot tell you that. I never had any results of the

Dr Melbye tests. So I don't know.

Q. Right. Okay. So if we just go on to question 16. We have nearly finished this section. What did you tell patients about HTLV-III when you were passing on these results?

A. Well, I would start by reviewing their knowledge about AIDS and HIV testing. Sorry, are you talking about patients with positive results or negative results?

Q. With positive results.

A. With positive results. I would make sure that they had had full counselling about what the test was, what the implications of a positive or a negative test were and --

Q. Before the test?

A. Before testing them, and then when seeing patients who had had a positive result, spend a lot of time discussing the test and its implications before --

Q. Sorry, can I clarify: the pre-test counselling; was that always you who did that?

A. I was involved with that but I was very keen that nobody should be tested without also seeing Mrs Wilkie, because, as I think Mrs Wilkie has said, you know, the purpose of -- a counsellor has a complementary role to that of a doctor. And Mrs Wilkie was an experienced counsellor and knew much more about counselling than

doctors.

Q. So for your patients they would see yourself and Dr Wilkie, before testing?

A. When you say "my patients", patients that I saw in the clinic? I did not have any specific patients.

Q. Let's take the six patients that you passed on the news of their results.

A. Yes.

Q. Apart from the one that you have mentioned, were they not all patients that you had seen before testing?

A. Let me think. Well, obviously, I knew all the patients. Over the years. They were several affected patients that I had seen many times. Whether or not I had seen them at the time their blood had been taken at the clinic, quite probably not because there are many of us seeing patients at the clinic. Sometimes, yes, but within the six, I couldn't really say what the split was between people I had seen before and people that other doctors had seen.

Q. How would you know that these patients had had pre-test counselling when you came to give them their results?

A. I would ask.

Q. Right.

A. I would say, "Right, let's sit down and review all what you have been told, what you have been counselled, what

information you have been given," and then say, "Right, having done all that and having understood the position," and I would not give anybody a positive test result without making sure they had been through all that process and fully understood the situation.

Q. What did they say when you asked them that about whether they had had pre-test counselling?

A. They all said, "Yes".

Q. All the right. Sorry, so you were telling us what you would tell the patients at the time that you were passing on the results?

A. Hm-mm.

Q. What did you tell them about prognosis?

A. Well, that was usually the first question that they then asked. So I said, "Well, this is a new virus. It's a new disease. We know that a percentage of patients who have a positive HIV test will go on and develop AIDS. We still are uncertain about the time course and how many people will develop that."

I would go into -- I would reassure them that at the moment, from the available data, the majority of patients recently found to have a positive HIV test were -- on screening, for example, at haemophilia clinics, were well and we all hoped that they would remain so. However, I made sure that they had current

information about the risk of progression to the milder symptoms and the more severe symptoms; give them reading material and say, "Look, this is a lot to take in at one time. You will be shocked at the result. It's bad news." And always recommend that they would come back within a short period of time, a few days, having thought about it, with a list the questions to ask.

I pointed out that we would want to see the patients more frequently -- initially, I think, every, you know, couple of months -- and that part of their routine examination would now be to ask about any symptoms or signs, we would monitor them closely and that we would also have them reviewed by the local infectious diseases department at Ruchill Hospital.

Now, we set up a close liaison with them. We held joint clinics and because these patients were used to frequently attending a haemophilia centre for review, we kept the reviews there but for the patients who turned out to be HIV positive, we would set up a special clinic day, whereby one of the consultants from the infectious diseases department would come along and we would do a joint review.

So we would see them about their haemophilia and because we knew them as patients, we had known them for a long time, and then they would see the infectious

diseases specialist, who was obviously in a better position to answer all their questions about the risks of progression and the possible treatments that were available.

It was very much a joint exercise and we felt that was important because we were all learning. I mean, the infectious disease doctors as well as ourselves as haemophilia doctors were all learning about a new disease. We needed to keep up with all the developments. Obviously, the infectious diseases doctors were seeing people at different risk groups from haemophilia and getting a more general experience of the condition.

And we said to patients, "It's important that you come. If you ever want to go to the infectious diseases clinic separately from the haemophilia clinic, we will be flexible and do that," but to try and minimise their time and at their convenience, we would try where possible to organise joint management and joint follow-up and that continued. We had a very good liaison with not only the infectious diseases doctors but the whole network that was being set up in Glasgow for the care of HIV positive patients.

So for example, in addition to Mrs Wilkie, we had the psychologists and the social workers and the

counsellors and the pharmacists, and everybody who would be involved in that treatment. We felt it was important that our patients with haemophilia should be fully involved with that. So we really had a very close liaison.

But going back to the patient and the initial explanation of what was going on, as I think Mrs Wilkie has said in her statement, it's a lot for people to take in. So myself, Mrs Wilkie, would say, "Look, you need to go and think about who you want to speak to. We encourage you to speak to whoever in your family and friends who you can trust with this information. We know that there will be major difficulties for you because of the media hysteria, but we are here to help and support. You can come back at any time."

Which our patients did anyway with haemophilia. They could come to the unit or contact us at any time of day or night. We said, "Please do so. This is a difficult thing to keep to yourself. We are very happy to see anybody that you want us to see," like relatives, partners, for example, parents of the younger patients. I said, "With your permission, bring them up". We went fully into the sexual precautions and we said, "We are very happy to see your partners and counsel them and arrange follow-up and support for them

as well".

So we did all this and we just continued to offer patients all our support and the counselling that they wished to have.

Q. Thank you.

Sir, I'm just moving on to a final question, unless you have any questions for the witness.

THE CHAIRMAN: No.

MR GARDINER: Thank you, sir. This is the last question now, Professor Lowe. Go to [PEN0161253]. This is question 8, please:

"The Inquiry team is aware that from December 1984 all factor 8 manufactured by the PFC was heat-treated. Factor IX was not heat-treated by the PFC until October 1985."

Just moving on to the next bit of the question:

"Did Professor Lowe discuss the relative risks of using non-heat-treated PFC Factor IX and heat-treated commercial Factor IX with his patients? Did he discuss the relative risks of using non-heat-treated PFC Factor IX against the risks of non-treatment with mild haemophiliacs?"

So we are talking about the period after we know that the Scottish donor pool has been breached, if you like, in about November 1984, and then we have

Factor VIII heat treatment coming in at the end of 1984, but no heat-treated Factor IX. So we are interested in the communication of the risks to the patients of continuing to use Factor IX. So, Professor Lowe, to the best of your recollection, did you discuss that risk with patients?

A. Yes. Well, let me think. Sorry, first of all, just looking at the question, should that be against the risks of non-treatment with -- should be it Haemophilia B patients rather than mild haemophiliacs?

Q. Well, it's Factor IX that we are interested in.

A. So presumably it's Haemophilia B. Well, obviously, I would see some patients with Haemophilia B during that window period. It's a minority of patients. Yes, I mean, clearly, these patients were all sent the letters which we have been talking about; the letter in January and the letter in April, which I don't have in front of me, but I think both said it's the Factor VIII which is heat-treated.

Q. Yes.

A. So clearly patients with Haemophilia B would ask, "So what's happening about Factor IX?"

What information would I give them? I would certainly say that colleagues in SNBTS were working on heat treatment with Factor IX but it wasn't heat-treated

at that moment in time. On the other hand, I think the Inquiry knows that the risk of HIV infection and AIDS is much lower in patients with Haemophilia B than in Haemophilia A, and that is thought to be related to the different procedures used in preparing Factor IX, compared to Factor VIII.

So we would discuss that the risk, you know, yes, was there but in general terms was smaller and then we would have discussion, as I have already said, about, "Okay, you can continue your treatment with non-heat-treated Factor IX or, if you would prefer not to, you cannot treat bleeds but think again, as we have done already, about the risks of non-treatment in terms of risks of bleeding".

Q. Are you speaking from an actual memory, Professor Lowe, or are you speculating about what would have been done?

A. You are asking me to think back 25 years, during which time I have seen hundreds of thousands of patients. I have had hundreds of thousands of clinic interviews with patients. I cannot remember, yet again, in 1985 how many patients with Haemophilia B that I saw during this period of time --

Q. But you had some -- I'm sorry to interrupt -- but you had some?

A. I presume I would have had some, yes. I can't tell you

how many.

Q. The question of the risk of transmission of the virus by continuing to use Factor IX concentrates, is that something that you would raise routinely with these patients or is it something that you would wait for the patients to raise with you?

A. No, you are looking at letters that went out to all patients, which clearly indicate that there is a risk from clotting factor concentrates, and we are talking about what's being done to reduce that risk. And I would certainly raise it with all the patients with Haemophilia B, saying, "It's not heat-treated yet," as I have said, discuss the risks with them and then, you know, have a discussion about, given that information, what are their thoughts, in the same way as I have said.

I really am a bit puzzled, as I say, at the continued questioning about, "There is a risk of AIDS, do you say to your patients treat or not treat?" This is, I think, against all medical ethos. If there is a risk with a treatment, you discuss it with the patient and you help them come to a decision.

Q. Hm-mm.

A. The universal recommendation by haemophilia doctors during this period of time was, "Yes, there is a risk of HIV. It's difficult to quantitate. We will give you

the best information that we can" --

Q. We are talking about Factor IX at the moment specifically.

A. We are talking about Factor IX?

Q. Just to clarify, throughout 1985 what was the hospital's policy on Factor IX in terms of which product was to be prescribed? Do you remember?

A. Well, Factor IX was always -- Factor IX concentrates had been the routine treatment for patients with severe and moderate Haemophilia B. That was Dr Forbes' policy as director. And Dr Forbes' policy as the director of the unit was that that should continue. I note that there was some question at some stage, I think, about American Factor IX concentrates --

Q. Sorry, it's my fault. I didn't make it clear. There are two options, aren't there? You carry on with the Scottish unheat-treated Factor IX or you use American heat-treated Factor IX when it becomes available.

A. I didn't know about this heat-treated American Factor IX and I think in fact it wasn't licensed or only available to certain centres in England. But it was Dr Forbes' policy, as the haemophilia director, and Dr MacDonald, his co-director over in blood transfusion, to decide what products were to be used and the policy, as far as I recall, was to continue with the SNBTS Factor IX.

Q. Throughout 1985?
A. Yes, well, obviously, it was heat-treated, as you say, from October.
Q. Can we have [SNB0112048]?
Professor Lowe, can you just have a read of that letter?
A. Hm-mm.
Q. First of all, have you seen that before?
A. I don't recall it.
Q. Right, if you just take a minute to read it, please.
(Pause)
A. Right, I don't think I have ever seen that letter.
Q. Right, okay. Have you had a chance to read it now?
A. I have.
Q. If you just look at the second paragraph, the first paragraph is referring to a recent meeting of the haemophilia reference directors. This is April 1985.
A. Hm-mm.
Q. "... agreed that Factor IX concentrate carried a risk of transferring the AIDS virus."
We see that this is a letter from Dr Davidson to Dr Mitchell. It's from the Royal Infirmary, is it not?
A. Yes, it is.
Q. And we see the second paragraph:
"We have therefore decided that we should go over to

heat-treated Factor IX in this hospital and I have made arrangements to obtain this from commercial sources. Our monthly requirement for Factor IX is 40,000 units."

Were you not aware of that?

A. Well, my recall is clearly deficient.

Q. Yes.

A. But again, I'm sorry, I only became a consultant at the end of October.

Q. Hm-mm.

A. And Dr Forbes and Dr Davidson and Dr MacDonald made all the decisions. So clearly I had forgotten that that was the arrangement. So presumably that would be from April to October? During that period of time?

Q. So the "arrangement" you refer to is the policy about Factor IX?

A. Yes.

Q. Yes. So now that you have seen that letter, do you think that maybe the policy wasn't what you just told us a few minutes ago?

A. Well, clearly not. But again, you are asking me to think back 25 years, when I was not a consultant involved in day-to-day decisions about that.

Q. We understand. But does that then mean that you probably didn't have discussions with your patients about the relative merits of the different kinds of

Factor IX concentrate?

A. Well, any patient that I saw at the clinic review, I would say, "Well, your current treatment is ..." So presumably, up until -- when is that? April? Sorry, I can't see --

Q. April 1985 is the date of the letter, that's right.

A. So I suppose I would have to modify what I told you earlier, in that if I saw a patient with Christmas Disease before April, I would say at the moment it is unheat-treated SNBTS Factor IX and discuss the risks of that versus anything else. And then after April, if that was the arrangement, I would discuss it.

Q. Yes.

A. So could I say that before seeing any patient for clinic review, I would review with the haemophilia sister what their current product was, what they are issued with, what their usage had been and then I would discuss whether the patient was -- what they thought of the treatment and were they happy with it. But I'm sorry, as with the letter of January, the passage of time -- I mean, I am looking at letters which I may have seen 25 years ago and have completely forgotten.

Q. Yes. I have no further questions, sir.

Sir, we are under time pressure here and I would

like to suggest that, if my learned friend does have questions for this witness, that we could perhaps deal with them in correspondence later on.

THE CHAIRMAN: What is your position, Mr Di Rollo?

MR DI ROLLO: If that's the way that matters have to be dealt with, then I will put in questions.

THE CHAIRMAN: I'm not prepared to take a view on that unless I know roughly what the scope is. It's one thing to ask one or two questions in correspondence and to get an answer. It's quite different if you have extensive questioning.

MR DI ROLLO: I don't have extensive questioning and the questions that I intended to raise my learned friend has covered now specific matters which I would have asked. So there are just one or two relatively small points.

THE CHAIRMAN: If it's just one or two clarifying points, I think we will do it by correspondence.

MR GARDINER: If my learned friend is going to take about ten or 15 minutes, then maybe we could try and squeeze it in.

MR DI ROLLO: I don't think I will take even ten or 15 minutes.

THE CHAIRMAN: I'm always concerned that the questioner's anticipation of the length of the question may be inversely proportional to the combined effect of

question and answer. Mr Di Rollo, let's see how you get on. We will at least have a trial run at it and see what happens.

Questions by MR DI ROLLO

MR DI ROLLO: Professor Lowe, I just really want to pick up on the point about Factor IX and the information that was given. Do you have any specific recollection of altering the treatment of a Haemophilia B patient in the light of the situation that there was HIV in the Scottish blood supply and that Factor IX would not be heat-treated?

A. Okay. As I think I have said in my written statement, I became a consultant at the end of October 1985.

Q. I think you said that --

A. By which time all the SNBTS concentrate was heat-treated. As I have said already, I can't remember which, if any, patients with Christmas Disease I would see between, what, January/April, the earlier part of 1985. I would never be responsible, as a trainee doctor, who is not a consultant, in changing anybody's treatment. That was a consultant decision. So when you say did I ever change somebody's treatment --

THE CHAIRMAN: Professor, I'm sorry to interrupt but the question was quite specific: do you have any specific recollection of altering the treatment. From what you

have just said, the answer to that would, I would have thought, be a straightforward, unequivocal "no".

A. I agree.

THE CHAIRMAN: Could we please proceed on that basis.

MR DI ROLLO: I'm obliged to you, sir.

It follows from that that, just to give an example, if one of these Haemophilia B patients was in receipt of, say, prophylactic treatment, they wouldn't have been taken off prophylactic treatment or some other arrangement made in terms of their treatment, they would just have continued as before?

A. I'm not sure what question you are asking me. You mean, as regards a change of treatment from SNBTS to this heat treatment?

Q. Or not being given prophylactic treatment, ceasing prophylactic treatment?

A. Ceasing prophylaxis? Well, all the patients on prophylaxis were reviewed regularly, and obviously part of the review would be, "Should a patient stop prophylaxis?" But again, that would be a decision to be taken at the consultant level.

Q. So again, the answer to my question is in the negative?

If someone was on prophylactic treatment, you don't have any specific recollection of that treatment altering from prophylactic to non-prophylactic?

A. Correct.
Q. All right.
The other matter I want to ask you about is your position in relation to counselling of patients who had been tested for the HIV virus. Can we just put up a document? [WIT0040458]. We see 28 January 1985?
A. Hm-mm.
Q. This has obviously been done in Glasgow. Is that right?
A. That's correct, yes.
Q. Did you have any involvement in this at all? There does appear to be -- is that your signature on --
A. That is my handwriting and my signature, yes. I think I know what this is. If I'm correct, this is one -- and again I will be confidential -- one of the patients we perhaps were discussing earlier, who turned out to be HIV positive.
Q. Later on?
A. Later on.
Q. This test is a negative test?
A. Correct.
Q. The question I want to ask you is: was this patient counselled before you took this test -- which was negative -- was carried out?
A. As I understand it, when Dr Forbes asked me to see this patient, and inform him that he had a positive result,

I spent some time looking at the case sheets, and at this time I think Dr Forbes and Dr Madhok were trying to look at the history of all the positive patients and what treatments they have had and when they might have seroconverted. And as I recall, following this patient having a positive test later this year, Dr Forbes asked Dr Follett at Ruchill to test previous samples to see when the patient had seroconverted.

Before I saw the patient, I was trying to work out what the history of the situation was. So as I understand it, Dr Follett was able to look retrospectively at the sample taken in January and do -- and do a test and in fact found that the patient was HIV negative at that time. So presumably had seroconverted some time after that date of 25 January.

Q. Can that be right --

A. So that is --

Q. Can I just interrupt you? The date of the specimen is 25 January --

A. Yes.

Q. -- 1985?

A. Yes.

Q. The date, apparently, of the test is 28 January 1985.

A. That's the date of the report form and that's Dr Follett reporting -- and that was in the patient's case sheet --

their Hepatitis B virus status. So what I did was I just wrote down in shorthand, as part of my preliminary measures, you know, what had been the situation. I think Dr Follett then subsequently -- and I think I saw it in the case sheet -- wrote a formal report to Dr Forbes, to the unit, saying that the first positive test was later that year -- I can't remember if it was October/November, something of that time. And he had then confirmed that he had gone back and tested this sample.

So if you like, this is a shorthand because in the case sheets we were trying to record the history of the -- the history of the event.

Q. So what you are saying is that this patient was not tested in January 1985?

A. Correct.

Q. He was tested after his positive result?

A. Yes, I think Dr Forbes' policy was to try, in all the patients who had positive tests, to then work with Dr Follett to test back as to the date that seroconversion had occurred. And that was clearly important for trying to establish the source of the infection. Could it be located to any particular treatment? And that was obviously of interest to SNBTS and the other concentrate manufacturers as to what

batches, et cetera.

So my recollection is that Dr Forbes, and I think assisted by Dr Madhok, was trying to look at all the patients who had tested positive and to work back, and that is my shorthand, which I think I should probably have written in the case sheet rather than on the report form, but basically I was, you know, in the days before seeing the patient, just trying to look and see what had happened, because many of the patients were then keen to know, "If I have a positive test, when did that occur?"

Q. So "HIV (verbal)", what does that mean?

A. Yes, that is me recording a verbal report from the Ruchill Regional Virus Laboratory that at Dr Forbes' request they had gone back and tested the patient who in fact had been negative back in January but positive later that year.

Q. Sir, I have no further questions.

THE CHAIRMAN: You are quite clear about that? This note refers to a negative test result from a specimen taken on 25 January 1985.

A. That is correct.

THE CHAIRMAN: Yes. Mr Anderson?

MR ANDERSON: I have no questions.

THE CHAIRMAN: Mr Johnston?

MR JOHNSTON: I have no questions either, sir.

THE CHAIRMAN: You are content with that?
MR GARDINER: Yes, thank you, sir.
THE CHAIRMAN: Professor, thank you very much.
MR GARDINER: Dr McClelland next, sir.

DR MCCLELLAND (continued)

Questions by MR GARDINER (continued)

THE CHAIRMAN: Good afternoon, Dr McClelland. Welcome back, I think I might say.
MR GARDINER: Thank you, sir.

Good afternoon, Dr McClelland.

A. Good afternoon.

Q. You have previously given evidence to the Inquiry on several occasions on topic C1, B1 and B2. Today we are concerned with the B5 topic, which is information to patients, and you have provided us with two statements on that topic. I think that's right, isn't it?

A. I have provided you with a recent statement relating specifically to a meeting of patients in December 1984.

Q. Yes, thank you. I think you should have paper copies in front of you?

A. I have.

Q. Yes, thank you. Could we just have a look at the supplementary statement, just to take things chronologically. That's [PEN0121426]. So just to take things chronologically. Could you tell us when you

first heard about the results of patients in Edinburgh who had tested positive?

A. Yes, as in my statement, it was on the evening of Friday 26 October 1984.

Q. Yes. How did you hear?

A. By a telephone call -- a telephone message from Dr Christopher Ludlam.

Q. What did he say?

A. I have absolutely no recollection of the precise words but the substance is as recorded in my note, dated -- my summary of -- dated 20 November, which was -- at that time he referred to six patients in his care with haemophilia who had been found, in what was initially sort of investigative testing, apparently to have antibodies to HTLV-III, and three of those patients, he believed to have been treated only with SNBTS Factor VIII.

Q. Yes. What was your reaction to that?

A. Well, my reaction to that -- again, I cannot remember but I'm sure it would have been of surprise because we certainly did not really anticipate that this would happen so soon. We certainly had anticipated that this was a real risk but I cannot remember my emotional or intellectual reaction. My practical reaction is as summarised in my note of the time.

Q. Yes. We will have a look at that in a minute but can you remember what Dr Ludlam's reaction was to this news?
A. No.
Q. Okay. Were you told in that first phone call how many samples had been sent for testing?
A. No.
Q. Who had done the testing?
A. The testing had been done in the laboratory of Dr Richard Tedder, who was, I think, at that time in the Middlesex Hospital in London.
Q. Yes. Okay. What did you do after you received this news?
A. As I recall, the telephone call was quite late in the evening and on the following morning I telephoned Dr Cash to inform him of the information. Dr Ludlam, as I said, had made it quite clear that he was uncertain how to interpret these initial results and was hoping to get what he described -- what I recall him describing as "confirmatory tests". So I informed Dr Cash of this information, as it had been given to me. Again, I have no recollection of my precise words but they would have been fresh -- whatever I recounted to him would have been as accurately as I could recount what Dr Ludlam had told me the previous evening.
Q. Yes. Is it your recollection that during the first

phone call with Dr Ludlam, he mentioned having done any analysis of the transfusion records, or anything like that, of the patients with a view to identifying the batch of blood that was responsible?

A. I have no recollection of him referring to that.

Q. Yes, okay. So your recollection is simply being told that this news about the six patients testing positive?

A. Yes.

Q. Thank you. So what did you do as a result of this phone call in the next few days?

A. Well, I took no further action at that immediate time, other than calling -- than informing the national medical director of the SNBTS. There wasn't really any other action that I was in a position to take with the information available. I was, looking at my note, apparently on the 29 and 30 October, I was off sick, but my deputy, who was Dr Frank Boulton, who was a consultant -- who had been a haemophilia consultant in Liverpool, so knew his stuff in this area -- was contacted again by Dr Ludlam. And I don't know the nature of this communication but I'm sure it was verbal. I have certainly never seen a record of it. At that time, by whatever process, he had identified that it appeared that these three patients had all been recipients of the same batch of Factor VIII.

Q. Yes. Thank you.
A. Dr Boulton passed that information on to Professor Cash immediately.
THE CHAIRMAN: Dr McClelland, I had noticed that you were off sick on 29 and 30 October and I have to say, it would not have surprised me in the least if you had said that the news that you received at the end of the week was so shattering that it affected you to that extent. You are now giving us a fairly rational objective account of what you can remember and what you can't. But was this not an event of such horrifying significance that it affected you seriously?
A. I cannot recall what my emotional reaction to that was.
MR GARDINER: Thank you, sir.
This supplementary statement you have produced, is this from your own recollection or is it by reference to documents? Where has this come from?
A. This statement marked [PEN1426]--
Q. Yes, the statement we are going through.
A. This is, as I think I have tried to make clear in the statement, based entirely on the documents that I was aware of, that I had prepared contemporaneously -- I mean, within a very short period of the event, which was my attempt to record -- because I obviously realised the importance of this event and was trying to summarise

concisely what we had done and when.

I have to be very clear that beyond these documents I have effectively no more detailed recollection of the -- you know, the background or the other content of this --

Q. I understand that. Has looking at the documents helped you remember?

A. It hasn't -- I'm very suspicious of being helped to remember things that I didn't remember before. I would say the answer to that is no.

Q. Yes. So the evidence that you are giving is based --

A. What I recorded at the time.

Q. I am sorry?

A. It's based entirely on the documents.

Q. Okay. Let's have a look at the next page. You say here that:

"A recall was initiated."

And there is a reference to reference 13, which is [PEN0121376]. That's a letter to you from --

A. Dr Perry.

Q. Dr Perry. That's what has allowed you to remember that there was a recall on 1 November. Is that right?

A. I have quoted this because this is what I assume is the most authoritative source.

Q. Okay. Let's move to [SNB0065996]. This is a memorandum

from yourself to Dr Perry and Dr Cash dated 20 November 1984?

A. Hm-mm.

Q. Have you used this memorandum --

A. Yes.

Q. -- too?

A. Yes.

Q. You have? So we see in paragraph 1, what you told us earlier, about your conversation with Dr Ludlam. Paragraph 3, you were off sick. Paragraph 4, "Dr Ludlam telephoned me at home again."

Can you just tell us what you remember about that second phone call from Dr Ludlam?

A. Again, I do not remember anything more than I recorded here.

Q. And what's that?

A. That he had had a further communication with Dr Tedder and that they had now established that a total of 16 of the patients with haemophilia appeared to have HTLV-III antibody, and Dr Tedder and Dr Ludlam had formed a view, looking at whatever data was in their possession -- and I don't know exactly what data was in their possession -- that either 15 or 16 of these patients had received the same batch that had been received by the first three identified patients.

Q. Yes. Although there is three unaccounted for, are there not? Because I think you told us there are three patients who had received commercial factor --

A. In the initial report on the 26th, Christopher Ludlam had referred to six patients, of whom three -- I assume looking at this note, was confident that there was another source, which presumably was commercial Factor VIII. I have no idea what the strength of the evidence for that presumption was.

Q. Yes. So might it be that Dr Ludlam's initial assessment was that it was three patients who had had commercial concentrate and three who had had SNBTS concentrate, but by the time he comes to November 2, he has discounted the commercial concentrate and he has now got 15 or 16 who are positive, all attributable to SNBTS --

A. That was at the time, and remains, my understanding.

Q. Yes. So more information has come in and --

A. Yes.

Q. -- the preliminary view has changed. Is that the position?

A. Well, yes. Clearly a number of patient samples -- whether it was single or multiple samples I have no idea -- had been submitted by Dr Ludlam to Dr Tedder's laboratory and these initial tests were probably relatively slow and laborious to perform. So the

results are coming out in bits.

Q. Yes. So you, I think, you have told us that from Dr Ludlam's analysis of the data, he had identified a batch that was perhaps implicated in the infection. Is that right?

A. Yes, he had been through the records in his possession and probably had also made reference to records held in the BTS blood bank and come to the conclusion that one batch appeared to be common to all of the 16 patients.

Q. Yes. And did you have any involvement in continuing that analysis in order to try to identify the most likely batch that had infected these patients?

A. Yes -- and that's -- I did slightly later on. The date, which I can tell you in a moment -- yes, on -- I think it's a bad photocopy. I think on 15 November I met with both Dr Ludlam and Dr Perry and I do remember vaguely that meeting took place in my office in the old BTS centre in the Royal Infirmary, essentially to address the question as to what other batches had been received and whether there was evidence that would allow us to recommend to the PFC that they should withdrew batches in addition to the one that had been implicated and had already been withdrawn.

We were aware -- Dr Ludlam had assembled the information, which is referred to in the report -- that

quite number of batches had -- put it the other way round: this group of patients had received one or more vials of Factor VIII from quite a number of different batches and it was, therefore, important for us to try and form a judgment as to whether other batches should be withdrawn and that was the substance of what we were attempting to do at that meeting.

Q. So how long was that meeting?

A. I would think it was two or three hours.

Q. And what evidence were you looking at?

A. Well, we were looking at -- I cannot remember now the specific documents that we reviewed, but -- you know, inferring from my memo to my letter of 15 November to Professor Cash --

Q. Which is that? Have we seen that?

A. No, and I don't know what its number is in the system, I'm sorry.

Q. I think this might be --

A. It's reference --

Q. Is it [SNF0013624] I think? Is it reference 16? Yes. [SNF0013624]. Is that it on the screen there?

A. I think so. Yes, that's it.

Q. Sorry, what do you take from that letter?

A. If we can just go -- that's fine, thank you.

I spent several hours this morning -- that was the

15 November -- with Dr Ludlam and Dr Perry, acting director of the PFC. What we were aiming to do was summarised in the rest of the letter. We were aware that there were patients in whom seroconversion is known to have occurred during 1984 and who, it is believed -- or was believed -- received exclusively PFC Factor VIII and in one case only apparently commercial Factor VIII.

The information from Dr Ludlam was that in that particular patient, the commercial Factor VIII had been received by the patient only sufficiently far in the past to be unlikely to be cause of the HTLV-III infection. That was Dr Ludlam's judgment. I have no additional information about that.

As we have already dealt with, one, Dr Ludlam and Dr Tedder had looked initially at the information they had and concluded that this particular batch, 090, was highly suspect as being the source -- that had been withdrawn. We felt it was essential to look at the other batches used over the relevant period to see if any other batches should be considered for withdrawal, and I then go on to describe very -- you know, what was the very simplistic approach that we adopted to try and quickly come to a judgment on that.

Q. But you are not looking at 090 material at this point?

A. No.

Q. No?
A. No. We had accepted that for operational safety reasons, it was -- 0090 had to be withdrawn. In fact, as it turned out, virtually all of the vials of 0090 had been sent to the Edinburgh centre and had already been infused. There were 50 vials had been sent to Aberdeen, of which 41 had been received back by the PFC during the return.
THE CHAIRMAN: Mr Gardiner, there is one aspect of that question I would like to understand.

Dr McClelland, I have seen material recalling 0090 from Aberdeen and Edinburgh. The one gap in my understanding at the moment is how that was carried forward to finding out whether patients had unused 0090 in the refrigerators or whatever. Could you tell me what happened downstream, as it were, from the centres themselves?
A. I can't actually because that would have been part of the recall procedure which was clearly run by the quality manager of the fractionation centre. It would only have applied in Aberdeen because there was -- all the batches, the thousand or so vials that went to Edinburgh were accounted for and had been infused. So as far as I am aware, there was nothing to recall.
THE CHAIRMAN: The distinction I'm interested in is whether

the 1020 that went to Edinburgh and were distributed some months previously were accounted for in the sense that it was known that the patients had infused them all.

A. At this juncture I cannot answer that, sir. I had always worked on the assumption that we -- let me rephrase that. Looking back at my records of the time, I appear to have assumed or known that they had all been transfused. I'm not aware of any documentary evidence on that point. Sorry.

THE CHAIRMAN: To really reduce it, do you know whether Professor Simmonds' sample, that was eventually found on the shelf, was an Aberdeen or an Edinburgh sample?

A. I don't but I suspect that it may have been a sample that was never released to either of the units but had been retained for quality or research purposes.

THE CHAIRMAN: Thank you.

A. That is a supposition, I don't know that.

THE CHAIRMAN: But it's another explanation --

A. It is another possible explanation.

THE CHAIRMAN: Thank you, Mr Gardiner.

MR GARDINER: Thank you, sir.

Could we go to 1428 of the supplementary statement, please. So that's [PEN0121246]. If you have the top of page 3 of your statement, you are describing the

analysis that you went through at that time and it's all listed there. And having gone through that analysis of the other batches, you come to four conclusions. If we could go back to your letter, your conclusions are:

"1. On the basis of this investigation, the conclusion reached by Dr Perry, Dr Ludlam and myself is that the initial view is correct, namely that the single batch 023110090 is probably responsible for seroconversion.

"2. No other recent batches stand out as being distinctively strongly implicated.

"3. there is therefore no obvious basis on which we could advise a selective withdrawal of one or more other batches.

"4. there may be a need for further confirmatory examination ..."

That was your conclusion at that time, was it?

A. Yes, absolutely.

Q. What other work, if any, was done, Dr McClelland, in order to try to establish whether batch 090 was the batch that had infected these patients?

A. I don't have -- I have not seen, in trying to respond -- to prepare this statement, any other documentation that assists me to answer that question, looking at the period of, you know, a decade or two decades on from

this incident. As you will already have heard elsewhere from other witnesses, a sample was found and was subsequently analysed.

Q. And what's your understanding of the results of that analysis?

A. The results of that, I think, are -- require a much more -- an expert virologist to evaluate or probably a number, who might well not agree. My understanding is that when this sample, which was -- one has to remember -- very elderly by the time it was submitted to the National Institute of Biological Standards and Control for testing. It was possible to detect some HIV-related sequences or an HIV-related sequence of DNA, using really very sophisticated methods. I think 20 base pairs or something like that. A very small bit.

And I'm not competent to interpret what that actually means, bearing in mind the duration over which -- the period over which the sample had been stored and lots of other technical factors. But these tests that are used are not particularly straightforward to assess. But we were, I think -- our -- certainly my reaction to that was that it tended to support -- tended to support the conclusion that this batch probably had been the source, but I personally, in my rather meagre state of the knowledge of the techniques, wouldn't want

to put it more strongly than that. I think one always has to just retain a degree of suspicion about the very obvious conclusions in these things.

Q. Yes.

A. But act on them where they involve patient safety.

Q. Yes. I mean, when the initial assessment was done, how would you describe the conclusion that you came to about the likelihood that batch 090 was the batch that had infected the patients?

A. I think it was a conclusion that we had absolutely had to come to in terms of taking the actions appropriate for patient safety. Viewed from a, if you like, rigorous scientific point of view, I don't think it was at all robust because there were probably numerous other interpretations and much cleverer techniques that I'm sure could have been used to explore this, but we were really looking for operational answers.

Q. Yes. So you wouldn't use a word like "probably" or --

A. No.

Q. -- something?

A. No.

Q. No. Okay. Right.

Let's move on. We should perhaps also mention that I think you tried to do some further investigations into

the batch with Dr Tedder. Is that right? Were you not involved in that subsequently?

A. No. I don't recall having any further involvement with that batch personally.

Q. Okay. Let's have a look at [PEN0121423]. I was meaning in terms of screening donors to the batch?

A. Sorry?

Q. Sorry, it wasn't a good question, my fault?

A. Okay, yes, yes. We were obviously aware of the fact that -- on the assumption that this batch had transmitted, there had to be one or more donors whose plasma had been the source of the virus that was transmitted. So the obvious thing would be, you know -- nowadays, absolutely routine -- would be to test all the donations and I attempted to -- there were two practical problems. One was to get somebody who could do that number of tests because there were around about 4,000 donations, and I approached the only two people that I could -- that I was aware of at the time who had the capability of doing any tests in the UK -- I have to confess I did not think of going to the United States for this question, and in retrospect I should have done, but I didn't -- and that was Dr Richard Tedder and Dr Philip Mortimer.

I actually spoke so both of them -- I spoke to one

of them at a meeting in London and followed it up with a letter, and the other one, Dr Mortimer, I think, I wrote the same letter to. And they both -- I have Dr Tedder's reply, which I think is in court book.

Q. I think we can see your letter to Dr Tedder, which is on the screen, [PEN0121423]. You are inviting him to get involved, and then his reply, [PEN0121424], am I right in thinking that Dr Tedder didn't really think it was worthwhile because you had only managed to track down about half of the donors. Is that right?

A. That was his -- that was his response. I think he also had -- he was overwhelmed with requests, because this had suddenly becoming a big issue, not just in Edinburgh, and I think his lab probably couldn't cope and we knew -- and there is other correspondence which you will have -- that it was going to be extremely difficult to track all the donors, although steps were taken to -- Dr Perry described in a letter -- to try and identify samples from all the donors.

Q. Yes. So that was not pursued then?

A. To my knowledge, that was not further pursued. Again, I think that decision could in retrospect be criticised but it wasn't.

Q. If we put that away and go to your other statement on this topic, which is [PEN0161239]. We are going

backwards in time now, because we are going back to the December 1984 meeting. Could you tell us, please, as briefly as you can manage, what was the purpose of the meeting?

A. Again, I should preface my response by saying that I do have a recollection of this meeting but it is, if you like, more photographs of the venue than any verbal recollection of exactly what took place during, or indeed prior to the meeting. So I have been extremely dependent, in fact, on one source in preparing this statement, as I have said, which was the article from the Edinburgh Evening News, which I found in my own documents and was clearly dated two days, I think, after the meeting took place. Yes, 21 December.

The purpose of the meeting was clearly to try to inform patients with haemophilia that an event had occurred of enormous importance to them, which was that some of their number appeared to have become infected with this dreaded new virus.

Q. And why were you to be at the meeting?

A. Because I was there in a very specific capacity as representing the organisation which had manufactured the product which was believed to have been the source of the infection. There was a secondary role in which I was there, because at that time I had already been

fairly actively involved in work around AIDS for a variety of reasons, including the issues dealing with donors and so on. So I was relatively well informed about the sort of general issues about the interpretation of the test results and so on. So there was a kind of general knowledge element to my presence as well.

Q. What was decided before the meeting about the information that was going to be given out?

A. I have absolutely no recollection.

Q. Okay. What about at the meeting? Do you remember which other doctors were there, if any?

A. As I said in my statement, I did -- I mean, Dr Ludlam was definitely there. I understand from somewhere else that Dr Forbes was there but I have absolutely no recollection of him being present.

Q. You don't remember seeing him there?

A. I don't remember him being there, no.

Q. Do you remember who spoke?

A. I remember I spoke and that is documented because I'm quoted in the Evening News. Christopher Ludlam must have spoken. I don't remember his -- I don't have a mental picture of him speaking to the patients but he clearly must have done so.

Q. Do you remember what he said to the patients?

A. No.
Q. Do you remember what you said to the patients?
A. I can quote from -- well, (a), I can refer to what appears to be really quite a good factual piece of reporting in the Evening News and I could confirm that that was the sort of information that I would have given and had written in other places at around that sort of time. So it's entirely consistent with, you know, other things that are documented that I said or wrote.
Q. Yes. What sort of information was that?
A. This was information about what we understood at that time about the nature of the test, about the nature of the virus, about the likely prognosis for people who were found to have a positive test and ...
Q. Yes.
A. That's about it, I think. No, I also would have told them something about the measures that the BTS, as the manufacturer, was taking to try and minimise risk for the future in terms of donor selection and plans to introduce routine donor testing, which is a whole other issue.
Q. Would you have mentioned the fact of the infection?
A. No, I had -- I mean, I can't remember but I think I would have spoken in -- you know, if you like, in patient information leaflet-type terms, about what

I believed at that time from my own knowledge of, you know, the situation, of the infection and the virus and so on. I would have been trying to say to the patient, "This is what we know", selecting information that I believed would be important for people in that situation.

Q. I mean, obviously --

A. The content is actually -- I suspect -- fairly accurately described in the Evening News article.

Q. Yes. Obviously, the important news is that some Scottish patients with haemophilia have tested positive --

A. Yes.

Q. -- for this new virus. I mean, do you have a recollection of that being communicated to the audience?

A. I do not recall that being said. But it must have been said. That was the purpose of the meeting.

Q. Right. Okay, let's have a quick look at [PEN0161294]. Is that the article that --

A. Yes, that's the article I was referring to.

Q. If we just go down and have a look at the second column under the heading "Vulnerable":

"Dr McClelland said the 15 people were discovered as the result of routine testing of those most vulnerable

because of their reliance on frequent transfusions. The situation was explained to haemophiliacs at a meeting with medical experts in Edinburgh this week ..."

Does that suggest that you did tell the audience that 15 people had tested positive?

A. It certainly -- I mean, it states that I -- it reports that I informed the audience. As I have said, I cannot recall what I said and what Dr Ludlam said. I find it very surprising that, having said this was fairly accurate reporting, I eat my words because I do find it surprising that I would have said that. I'll explain why I say that.

There was a very, very clear delineation between Dr Ludlam's role as the doctor caring for these patients, and it was quite -- and me and Dr Boulton as the people representing the BTS and the manufacturer of the product, and we did not transgress that line. So, from other recollections of the nature over many years of that relationship and that demarcation, if I can use that neutral word, I find it almost inconceivable that I would have been the one to transmit that information -- that critical and shattering information -- to the patients. I'm sure Dr Ludlam would -- I haven't -- I deliberately have not read his evidence about this but I'm sure that he would also

believe that he is the one that would have made that specific and vital statement.

Q. Yes.

A. But recollection, I'm sorry, I don't have.

THE CHAIRMAN: It appears that you were also the person who told the meeting that infection with the virus did not necessarily mean that the people would develop AIDS?

A. That is entirely possible, that I would have said that. Because that was our belief at the time.

MR GARDINER: But maybe we shouldn't set too much store in this article then as a record of what you said.

A. Yes, having -- yes, I think there is a question now, that I hadn't clocked before, I have to say.

THE CHAIRMAN: I'm glad to hear that you are back on the level that most of us would be on most of the time in relation to newspaper reporting, Dr McClelland.

MR GARDINER: Do you have a memory of how many patients were in the audience?

A. I do have a memory of the -- the venue was very familiar to me because I had been there as a student and I had been there as a lecturer. It was a right dismal spot. It was a big lecture theatre that was designed to accommodate a full undergraduate medical class, which would have been of the order of 150. My recollection was that it was relatively well filled. There were

several rows with quite a few people in them but whether -- you know, whether it was 20 or 30 or 40, I couldn't begin to guess.

Q. Between 20 and 40?

A. Well, that's a complete guess. All I can look at is the sort of very dim and distant mental photograph of it and think there were quite a few people there. I wouldn't really want to be more -- less than 150 and more than 1.

Q. What about how the patients were advised about the meeting before they came? Do you have any information about that?

A. I have absolutely no information about that.

Q. Okay. We have heard from other witnesses that it was very cold. Does that ring any bells?

A. It was late December in Edinburgh.

Q. Yes. We were told that due to some malfunction with the heating or something, it was particularly cold?

A. It was just normal for the old Royal Infirmary.

Q. Okay. Let's have a look at 1241 in your statement, please. Question 9:

"What information was given about treatment, risks, testing, significance of positive test ..."

You say, third line down:

"It is possible that commercial Factor VIII may not have been mentioned."

Do you think there was any discussion of commercial Factor VIII and homegrown Factor VIII and the relative risks and so on?

A. I just don't remember.

Q. Okay. Question 10, what about the patients' response to what they were told by the doctors at the meeting?

A. As far as -- as I have said here, I can't recall what patient -- there were some questions from patients. I think they were probably fairly muted because I think they were probably in a state of shock and having considerable difficulty in orientating themselves. Partly because of the nature of the information, partly because it was a very strange spot. It was a very strange situation altogether. So I think it would have been very difficult for patients to really absorb what was happening at that time.

Q. Did you have a memory of a shocked or muted response from patients?

A. Not really. Not really. Nothing that I would hang my hat on, no.

Q. Yes.

A. I think -- if I can just supplement that, I think it probably was fairly muted, because if there had been sort of outbursts, I think one would have been likely to remember -- particular sort of expressions of distress

and so on. But I do not remember.

Q. Yes. Sir, I'm going to move away from the meeting now.

Just a final question about risk warnings in SNBTS products? Can you help us with that, Dr McClelland?

A. Probably not in the way you want.

Q. Okay. Let's have a go. Let's have a look at [PEN0120286]. Could we go over the page, please. Then again the next page please.

We see that this is -- at the top of the page -- a request from the Inquiry for evidence of the warnings of risk of hepatitis issued with certain factor concentrates. If we go down to the bottom of the page, we see paragraph 1, "Warnings concerning coagulation factor concentrates prepared by the SNBTS":

"Warnings concerning coagulation factor concentrates prepared by the SNBTS are given in pages 6 to 21 of the document supplied to Lord Archer. Specifically ..."

There is a reference to:

"Product licence applications.

"General information."

And page 7. The quote that's taken from that is:

"Contra-indications, precautions and warnings.

"The SNBTS advises that the product may carry the risk of transmitting serum hepatitis."

This is from March 1978. Just to see if you can

help us with that, do you know about those warnings at that time? Is that an accurate description of the warnings that were ...?

A. I really couldn't without -- this is unannounced. I really couldn't comment on that. I have no reason to suppose that it's not, but ...

Q. Yes. Perhaps we can just let that stick to the wall at the moment.

If you just bear with me, Dr McClelland. Just maybe a final point of clarification, Dr McClelland. You said, going back to the December 1984 meeting, that it was a "strange situation". I think you said that earlier. That's right, isn't it?

A. Yes.

Q. Can you just explain what you meant?

A. I think it was a strange situation in one or two ways actually. First of all, the venue itself was -- must have been very -- what I really meant was that it was strange for the patients. They weren't used to being ushered into a large lecture theatre on a dismal evening with a -- and it was a very formal lecture, a big sort of table in the front, and I guess we were probably sat or stood behind that thing. So it was the opposite of the comfortable counselling situation, if you like. So that in itself, I think, must have been difficult for

them.

And it was a situation that I had never envisaged I would be in -- or I can't imagine I would ever have envisaged before, and I have never been in since -- of having a group of patients to whom some dire news was being communicated in a group. This was a very strange situation. By saying that, I'm not implying that it was a wrong thing to do. That's a whole other discussion.

Q. Yes. Thank you. Thank you very much.

Sir, I have no further questions and I see that that's two minutes to one, unfortunately.

THE CHAIRMAN: Mr Di Rollo?

MR DI ROLLO: I don't wish to ask any questions at the moment. I wonder whether it would be possible just to consider for ourselves whether there is anything in correspondence we would wish to ask this witness. I do realise the need to move on and not leave things hanging in the air.

THE CHAIRMAN: The one thing Dr McClelland will be worrying about is the sword of Damocles hanging in the air.

MR DI ROLLO: It is not of that manner.

THE CHAIRMAN: It's minor clearing up matters again?

MR DI ROLLO: Yes.

THE CHAIRMAN: Maybe if we can do that in correspondence Dr McClelland, and make things easy, over the summer,

and also to keep your interest going over the summer.
A. Thank you, I am most grateful.
THE CHAIRMAN: Mr Anderson?
MR ANDERSON: I have no questions, and simply I give the caveat that if there are to be questions I would welcome the opportunity to see what they are.
THE CHAIRMAN: I think if there are to be written exchanges, everyone should see them before they go, so as to ensure that it's all dealt with in one and it doesn't become a drawnout, piecemeal process of correspondence.
Mr Johnston, do you have any questions?
MR JOHNSTON: No, I haven't.
THE CHAIRMAN: Is that satisfactory?
MR GARDINER: Yes, sir.
Sir, I think we have finished with this witness for the time being.
THE CHAIRMAN: Thank you very much.
A. Thank you.

HOUSEKEEPING

MR GARDINER: I have two or three bits of housekeeping, which I can deal with simply by referring to documents for the record, which can perhaps be just noted very quickly.
THE CHAIRMAN: If that's a sensible way to go about it.
MR GARDINER: Yes. Sir, the first thing I would like to

mention is a witness statement by George Masterton and that's [PEN01204498]. I propose simply to take it as read and move on to the next one, sir.

THE CHAIRMAN: I have not read it. I assume that my attention will be drawn to anything later that I have to pay particular attention to.

MR GARDINER: Yes. The next thing is a statement by Karin Froebel and that's [PEN0121628]. And if we could just have a very quick look at that.

THE CHAIRMAN: Yes, I would like to know the particulars if it goes beyond what I might reasonably anticipate, from earlier questioning, to be involved.

MR GARDINER: So, the first page, she explains her background, and she says in the second paragraph:

"I'm not medically qualified therefore, for all my work using blood samples, both prior to this time, during this period and subsequently ..."

The important bit about this paragraph is the line five lines down, half way through, which says:

"I believed that they were aware that some of the blood might be used for research."

That's something to note there on consent. But the important bit of this statement is on the next page, 1629, in the third paragraph. If we start six lines down. This is talking about the Melbye testing:

"In Glasgow there was a freezer full of stored serum samples from an earlier study which Dr Forbes suggested could be used. I wrote to both Montagnier and Gallo and had a reply from Dr Gallo directing me to send the samples to his research scientist. The samples, 77, were locate, I think, by Dr Madhok, packed in dry ice, and Dr Forbes and I took them to Glasgow Airport to be air freighted to the laboratory in the US."

So that's helpful evidence about testing. Because if you recall, sir, Professor Forbes was a bit unclear about how that testing had been done and we have had a helpful letter from the Central Legal Office and that's at [PEN0121677].

Sir, this is a letter dated 27 June 2011. We see there on the first page the section of the Froebel statement that we have just looked at. If we go over the page to 1678, we see the second paragraph:

"Professor Forbes' position is that he does not remember the events described in those paragraphs, ie the sending of the samples to Dr Gallo's research scientist in America, albeit he knew of Dr Gallo and the work he was doing. Professor Forbes has advised me that he is happy to defer to Dr Froebel's recollection of events on this matter and accepts that what she describes is a logical explanation of events."

I think that fills in a gap.

THE CHAIRMAN: It does fill in a gap. It perhaps brings to the surface an interesting speculation I have been having myself as to the difference in approaches between Glasgow and Edinburgh and the other bodies who acted in the same way in using Dr Tedder. I have had an impression more than once that there was a much closer relationship between Glasgow and America in some of these areas than was necessarily the case elsewhere.

MR GARDINER: Yes.

THE CHAIRMAN: So if you can bear that in mind and perhaps raise the matter from time to time if an opportunity arises, I would be obliged.

MR GARDINER: Yes. Thank you, sir.

Those are my housekeeping items but I understand that Ms Dunlop has some housekeeping to do as well.

MS DUNLOP: Sir, I should explain that these additional matters relate to topic B6 and Ms Patrick was prepared to address these matters but has had to leave for other reasons.

They are four in number. The first relates to the witness Elaine and it's simply to say that there is a reference in the transcript -- this will be the transcript for day 31, between pages 15 and 17 -- to documents produced by solicitors. References to these

documents may be found at [WIT0040813]. These are medical records and will be treated in the same way as other medical records.

The second point is that Professor Leen produced a number of interesting guidance documents and other materials and again for the record could I perhaps give the numbers of these so that anyone who wants to consult them is able to do so.

[PEN0121130]. That is a set of guidelines from the British HIV Association.

[PEN0121100]. This is a second set of guidelines from the same -- sorry, I should have said that the first set of guidelines relate to antiretroviral therapy; the second set of guidelines relate to the management of co-infection with HIV-1 and Hepatitis B or C.

The third document is an WHO document entitled, "What is the impact of HIV on families?" That is [PEN0121298].

There is then an article from the Journal of Acquired Immune Deficiency Syndrome, entitled, "Mortality in the highly active antiretroviral therapy era". That is [PEN0121092].

Finally another, I think, essentially guidance document, called, "HIV in primary care", and that is

[PEN0121176].

Thirdly, there was reference, I think, on more than one occasion during the B6 evidence to newspaper articles. A selection of articles from the period has been placed in court book and, so that people can refresh their memories about the tone of some these pieces, I will give the numbers of some of them: [DHN0017443], [DHF0017444], [DHF0017790], [DHF0018015], [DHF0018091], [DHF0019316], [DHF0019322], [DHF0019348] and [DHF0024628]. I gather that these articles all come from 1985 apart from one, which is 1986. I think there may actually also be one where the date is a little unclear.

Then, lastly, in relation to the witness Mark, there is a passage in the transcript around about page 86 of his evidence, where you may recall, sir, we were slightly running out of time and there was a reference to a number of letters in the medical records and you asked for later direction to any additional letters at which you should perhaps have a look. Ms Patrick has given one additional number, which is [WIT0040312]. I think that's one at which she was intending to look but didn't really have time. Again, because that's a medical record, it won't be, as I understand it, hyperlinked, but just to supply that reference.

In case you thought that was the end, sir, there is one final article, which is in fact from the B5 topic. It's an article to which Professor Ludlam referred. In fact it's the 1995 article about examining the virus sequences. The title of the article is, "The molecular epidemiology of human immunodeficiency virus type 1 in Edinburgh," by Holmes and others. The reference for that is [PEN0121679].

THE CHAIRMAN: Mr Di Rollo, do you have housekeeping matters to raise?

MR DI ROLLO: Not today.

THE CHAIRMAN: Thank you. Mr Anderson?

MR ANDERSON: No, sir.

THE CHAIRMAN: Mr Johnston?

MR JOHNSTON: None, thank you, sir.

THE CHAIRMAN: Then we will have a break.

(1.13 pm)

(The Inquiry adjourned until not before 6 September 2011)