

<p>1 Tuesday, 25 September 2018 2 (10.00 am) 3 Introduction by SIR BRIAN LANGSTAFF 4 SIR BRIAN LANGSTAFF: Good morning, all. Thank you very 5 much. 6 Now, a couple of notices for you. Yesterday, we 7 began with that very moving commemoration. There may be 8 some of you who were not here, or some who were here, 9 but would have wanted to add their message to it. If 10 you do, you can go to the chapel where the white 11 container of all the messages is. There are spare 12 bottles and you have an opportunity to add your message 13 if you want. 14 I have been asked to remind you that if you want to 15 visit the campaigner's room, it is just next to, near to 16 the chapel. Indeed, if you feel moved and troubled at 17 all there is confidential support available in a room 18 just next to that. 19 So, those are the notices. This morning we have the 20 pleasure of listening, first, to Aidan O'Neill QC on 21 behalf of those largely Scots represented by Thompsons. 22 He will take until 11 o'clock or thereabouts. We may 23 add a couple of minutes to that because we have started 24 a little late, and I would ask those who are to speak to 25 try to keep to timings if they can. It is to give</p> <p style="text-align: center;">Page 1</p>	<p>1 So, first of all, the very fact that we are being 2 asked to give an opening statement shows a major 3 difference from the manner in which the previous 4 Inquiry, which many of those whom I represent were 5 involved in Scotland; that is the Penrose Inquiry, where 6 there was no opportunity for any kind of opening 7 statement. Where, as I understand it, the only 8 statement from the Chair there, at the start, was to 9 remind anyone present that money spent on the Inquiry 10 was money taken away from front line NHS care. 11 That is not an attitude which we think is being 12 repeated here. We are sure it will not be. We are 13 hopeful that this Inquiry will be able to properly and 14 fully answer the so many questions which have been 15 raised by those whom we represent, those questions which 16 for us were left unanswered by our experience in the 17 Penrose Inquiry. 18 The Penrose Inquiry and our experience in it, in 19 a sense, is still useful and we'll come on and set out 20 why because some of the evidence, which will be relevant 21 to this Inquiry, was heard and discussed there. 22 So it is not just individuals whom I represent, but 23 also the charities, Haemophilia Scotland and the 24 Scottish Infected Blood Forum. They have campaigned for 25 many years in seeking to represent the interests and</p> <p style="text-align: center;">Page 3</p>
<p>1 everyone the best that we can do in terms of fair shares 2 in the time available. 3 He will be followed, at 11 o'clock, by 4 Della Ryness-Hirsch, the first of our unrepresented core 5 participants. Enough from me, I want to listen to what 6 Aidan O'Neill has to say. 7 Opening statement by AIDAN O'NEILL 8 MR O'NEILL: Thank you very much, Chair. I'm Aidan O'Neill 9 and I appear along with my learned friends, counsel, 10 Jamie Dawson and Kirsten Sjøvoll, on behalf of almost 11 250 core participants, who are infected and affected 12 clients represented before the Inquiry by Thompsons. 13 We've prepared a written opening statement, which is 14 fairly long, it has to be said, but it is because it has 15 been prepared in a participatory manner as much as 16 possible. So, what is being said is being said by, as 17 much as on behalf of, those whom we have the privilege 18 to represent. This written statement is, I think, being 19 placed on the Inquiry website and is available to all to 20 read at leisure. 21 So, what I would propose to do in this hour or so 22 that I have -- and I really don't want to try your 23 patience -- is pick up some of the themes which we have 24 set out in that written statement, but not necessarily 25 take everything from it.</p> <p style="text-align: center;">Page 2</p>	<p>1 ensure respect for basic rights. 2 It is the basic rights of the infected and affected 3 which have not been respected in the many years in which 4 you have had to live through this contaminated blood 5 disaster. 6 We represent individuals who have been infected and 7 affected by all blood borne pathogens, Hepatitis B and 8 Hepatitis C, clearly, HIV, and we note that variant CJD 9 is also expressly mentioned in the terms of reference. 10 Our experience is that the injury and the deaths, in 11 many cases, which have been suffered, have resulted from 12 wrongful acts on the part of those responsible for 13 providing supplies of blood and blood products. 14 So, the Inquiry is, for us, an exercise, clearly, in 15 establishing the truth of what happened, in bringing 16 past and ongoing wrongs. Past and ongoing wrongs. This 17 is not something which is finished. Bring those wrongs 18 to light. To learn the lessons from the disaster, to 19 protect all patients who rely on the NHS for safe 20 treatment. 21 We want the Inquiry to call those responsible for 22 those past wrongs and failings to account. We want the 23 Inquiry to provide an opportunity for those who were 24 responsible for those wrongs to acknowledge and accept 25 responsibility for them, that what was done by them</p> <p style="text-align: center;">Page 4</p>

<p>1 and/or on their watch.</p> <p>2 We want the Inquiry to be that space in which they</p> <p>3 can apologise fully, and unreservedly and unequivocally</p> <p>4 for the harms which you have suffered.</p> <p>5 Now, I have spent the past couple of weeks going</p> <p>6 round different parts of Scotland meeting with some of</p> <p>7 the 250 or so people I represent. So, as I say, this</p> <p>8 statement is very much drafted by them as much as by the</p> <p>9 lawyers.</p> <p>10 I want to set out a few of the things which I've</p> <p>11 learned in that time, and it has been very much</p> <p>12 a learning experience for me.</p> <p>13 So, first of all, I'll talk to you about the clients</p> <p>14 I represent and their experiences. Much of it is</p> <p>15 familiar to you. The fact is it is unfamiliar to me,</p> <p>16 and that's the shocking part. You know what you've gone</p> <p>17 through and so much of the rest of society didn't know</p> <p>18 that. So, my meeting those clients, as I say, has been</p> <p>19 a revelation.</p> <p>20 It is right and proper that it is your experience of</p> <p>21 the infected and affected which is being placed, in the</p> <p>22 words of the Chair, "front and centre". You are</p> <p>23 physically front and centre. You will be, I hope, at</p> <p>24 all times and in all aspects of the manner in which the</p> <p>25 Inquiry is run.</p> <p style="text-align: center;">Page 5</p>	<p>1 affected and infected, but there are some common themes</p> <p>2 from that diversity.</p> <p>3 One common theme is that everyone has placed their</p> <p>4 trust, put themselves in the hands of health</p> <p>5 professionals. When they needed their help, when they</p> <p>6 were at their most vulnerable, they trusted the doctors</p> <p>7 to whom they turned, they trusted their medical</p> <p>8 expertise, they trusted they would get the best help and</p> <p>9 care available. They presumed they would only be</p> <p>10 treated with safe products and therapies, and they</p> <p>11 thought that the government would ensure that all those</p> <p>12 trusts were fulfilled.</p> <p>13 Instead of this, there are people who attended and</p> <p>14 sought healthcare came out not healthier, not cured, but</p> <p>15 instead crucially weakened in so many ways. Their</p> <p>16 health, in many cases, fundamentally, permanently and</p> <p>17 irretrievably compromised. Left with threatening</p> <p>18 diseases, left with therapies and treatments for those</p> <p>19 diseases and conditions, which in some ways felt even</p> <p>20 worse than the conditions which they were left with.</p> <p>21 Left with subject to debilitating and sometimes</p> <p>22 experimental and untried therapies that left them</p> <p>23 permanently weakened and not even clear of some of the</p> <p>24 viruses.</p> <p>25 That has left many with a sense of their faith in</p> <p style="text-align: center;">Page 7</p>
<p>1 It is the hearing and heeding of stories of the</p> <p>2 infected and affected, only by doing that that the</p> <p>3 Inquiry can properly conduct its business and fulfil the</p> <p>4 hopes and expectations which have been invested in it.</p> <p>5 As I say, I have been humbled by what I have heard,</p> <p>6 by people whose lives have been blighted and burdened by</p> <p>7 infection. I have heard the righteous anger.</p> <p>8 When I appeared in Glasgow, one woman said to me,</p> <p>9 "Tell them we're not grateful, we're angry. Tell them</p> <p>10 it's about bloody time". And it is. So much time has</p> <p>11 been lost in coming here, so much time has been stolen</p> <p>12 from those whose lives should have been otherwise. It</p> <p>13 is also about time, in the sense that who knows how much</p> <p>14 time any of us have before us, so there is clearly</p> <p>15 a desire, a wish, as the Chair has said, that the</p> <p>16 Inquiry is done with all due deliberate speed. That it</p> <p>17 not be rushed, but it be done efficiently, and</p> <p>18 thoroughly and properly, but there not be undue delays</p> <p>19 built into matters, because time is one thing that we've</p> <p>20 spent too much of on this and don't have very much left.</p> <p>21 I'm preaching, as it were, to the converted. You</p> <p>22 know your stories. I don't have to tell you what it's</p> <p>23 been like and the variety of experiences which you have</p> <p>24 undergone. The fact that people from all walks of life,</p> <p>25 all social classes, all backgrounds, all ages have been</p> <p style="text-align: center;">Page 6</p>	<p>1 the system shattered and a feeling, then, that faith has</p> <p>2 not been restored because what they've been faced with</p> <p>3 has been stonewalling, secrecy, invasion, evasiveness</p> <p>4 about the condition, a lack of candour.</p> <p>5 And people have been left fearful. Their lives, in</p> <p>6 many cases, have been dogged by depression about their</p> <p>7 present lives and anxiety about the future. People have</p> <p>8 lived and died in the shadow of infection. The lives</p> <p>9 that were left to them were not the lives they were</p> <p>10 supposed to lead. Those lives were stolen from them.</p> <p>11 As I say, what people have told me is what they want</p> <p>12 is answers, they want matters to be uncovered. They</p> <p>13 want acknowledgement of what happened to them, and we</p> <p>14 are very encouraged from the opening of this Inquiry</p> <p>15 that all those promises have been made.</p> <p>16 My task, which I have been asked to do, in some ways</p> <p>17 is to hold the Inquiry to account, to make sure that it</p> <p>18 lives up to those hopes and expectations that have been</p> <p>19 invested in it.</p> <p>20 We are, after all, as was said by another one,</p> <p>21 another person, with whom I had a meeting, we are core</p> <p>22 participants; the clue is in the name. Those whom</p> <p>23 I represent are ready and willing to participate in the</p> <p>24 process, they expect to be able to do so. They expect</p> <p>25 to be fully participating. Their experience in the</p> <p style="text-align: center;">Page 8</p>

2 (Pages 5 to 8)

<p>1 Penrose Inquiry has to be -- only a very few of the 2 affected and infected were allowed to be designated as 3 core participants, but, even there, they were sidelined, 4 and that was their feeling at least. Their feeling was 5 that Inquiry was captured by the medical establishment 6 and was biased against hearing the voices of patients 7 and their families. The result was that Penrose, rather 8 than giving the possibility of being able to live 9 through and have some kind of closure on matters, simply 10 added to that sense of frustration, of rejection, of 11 loss.</p> <p>12 We don't want this Inquiry to end up with that 13 similar loss of hope.</p> <p>14 That means, Sir, if I may, that one of the main 15 issues which has come out in the meetings I have had is 16 the need to investigate and expose the extent of cover 17 up.</p> <p>18 Now, "cover up" sounds like conspiracy theories writ 19 large. The number of people who have spoken to me 20 independently, have come up with such similar stories of 21 medical records that disappeared, of medical records 22 apparently filleted through, so that evidence or record 23 of actual treatment has gone.</p> <p>24 Now, if it happened in one case, one would think it 25 was incompetence or just lack of proper systems for</p> <p style="text-align: center;">Page 9</p>	<p>1 it's useful for the Inquiry to hear what we think can be 2 drawn from the Penrose Inquiry, so there isn't needless 3 duplication of matters and that we can work on this 4 efficiently and properly, with all due deliberate speed.</p> <p>5 The Penrose final report is a comprehensive work, or 6 is certainly very big. It is five volumes, almost 7 2,000 pages, the executive summary runs to 45 pages.</p> <p>8 There was an initial part of the Inquiry with 9 a preliminary report before anybody among the infected 10 or affected was involved going to 614 pages. Now, that 11 has useful material. It can be mined usefully for some 12 of the chronology, some of the factual matters in terms 13 of medical practice and the like.</p> <p>14 There is a lot of good scientific information 15 contained in that, particularly a useful account of some 16 of the uncontentious scientific aspects. There's 17 a useful chapter on heat treatment of products, at least 18 in Scotland.</p> <p>19 But where we feel that Penrose failed was that it 20 didn't go further. It is simply a great one for setting 21 out what it said what the facts were without asking: 22 well, why did those things happen? How can they be 23 judged? Who was responsible for them?</p> <p>24 And we say that is an essential part of this 25 Inquiry, and that that judgment is not, as it appeared</p> <p style="text-align: center;">Page 11</p>
<p>1 retaining records, but it has happened in so many cases. 2 We want to know why. How has that happened?</p> <p>3 Because the problem is, with a lack of trust, then 4 one's faith is broken and what's replaced by it is, to 5 an extent, the idea of conspiracy. Now, we don't want 6 that. We want to ensure that issue is fully raised, 7 aired, investigated, frowned upon.</p> <p>8 People looked to other parts of the world where 9 there have been criminal prosecutions. People have 10 looked to, for example, Ireland, where victims have been 11 better treated, in terms of financial compensation, than 12 they have to date in the United Kingdom. Although, 13 I have to say and admit, that in Scotland some of the 14 provision, financially, has been better than in the rest 15 of the United Kingdom, but just because it's better 16 doesn't mean to say it's enough.</p> <p>17 So, the aims of the Inquiry. There's a whole series 18 of aims for public inquiries. The first one, obviously, 19 is the issue of establishing the facts and, as you, 20 Chair, have said, that you intend fully, fairly and 21 fearlessly to investigate and expose matters to public 22 scrutiny, and we support you fully in that.</p> <p>23 There are still a number of facts, a lot of facts 24 which need to be uncovered, even after the experience of 25 the Penrose Inquiry, for us. But, as I say, I think</p> <p style="text-align: center;">Page 10</p>	<p>1 to be with the Penrose Inquiry, simply about what was 2 the general, accepted medical practice in the 1970s and 3 1980s? What did responsible doctors do? We are judging 4 this with our standards, with what we know, with our 5 standards in the present to say that it may have been 6 what they did, but that doesn't make it right.</p> <p>7 One of the issues we had with the Penrose Inquiry, 8 also, was the language which was used in the report. It 9 is not just what you say, it is how you say it. The 10 language of the report, ultimately, was very careful, 11 very measured, very lawyerly.</p> <p>12 Careful words like things were "unfortunate", or "we 13 found no evidence of failings", or that certain matters 14 were "noted". For example, the fact that donors with a 15 history of blood transfusion or haemophilia were 16 excluded from donor sessions from May 1983. But there 17 wasn't any analysis, there was no attribution of 18 responsibility for matters which were "noted".</p> <p>19 Then, for example, the difference in treatment about 20 donor exclusion as between the East of Scotland and the 21 West of Scotland referred to the differences being -- 22 one being a less constructive approach. So, again, 23 passing comments. No analysis. No attribution of 24 responsibility.</p> <p>25 The possibility, for example, of the cessation of</p> <p style="text-align: center;">Page 12</p>

3 (Pages 9 to 12)

<p>1 concentrate use for bleeding disorder patients in 2 response to the growing knowledge that there was an 3 issue and a threat of HIV; the idea that could be 4 stopped was dismissed as a minority view, rejected by 5 a large body of "informed" opinion.</p> <p>6 The most it came to criticism was to say that some 7 aspects could have been handled better. Now, that's not 8 good enough frankly. One of the points of this Inquiry, 9 one of the aims of this Inquiry has to be, and is clear 10 from the terms of reference, to look at accountability, 11 to look at blame, to look at calling people, who are 12 responsible, out for the responsibility. That's what 13 justice requires.</p> <p>14 One other major aspect of the Inquiry, as we know 15 from yesterday, is being heard, is catharsis, is 16 actually, for once, being listened to, for your 17 individual stories to be there and at last the subject 18 of other people's attention, that you are no longer in 19 the shadows.</p> <p>20 I have to say that from yesterday's commemoration 21 service and the words spoken that I think very much 22 I can see that is central in the way that this Inquiry 23 is going to proceed.</p> <p>24 There is also the issue of learning from events. 25 Clearly. Those whom I represent wish, are entitled,</p> <p style="text-align: center;">Page 13</p>	<p>1 cowardice. They talked about showing an appalling 2 attitude, a shocking misjudgement and an embarrassing 3 failure on the part of the Scottish Government, 4 particularly when so many Scots, or people from 5 Scotland, are core participants here. 250 is actually 6 disproportionately large, particularly given the clear 7 and express dissatisfaction with the Penrose process and 8 the Penrose result. Particularly against a background 9 that, as we understand it, it was stated by the previous 10 Scottish health minister that the Scottish Government 11 were going to be coming in on this Inquiry and now they 12 seemed to have changed their mind, and we don't know 13 why. We formally call on the Scottish Government to 14 reconsider its attitude to the Inquiry, and recognise 15 its worth and importance to so many of us across these 16 islands and come and join it as a core participant.</p> <p>17 There is much left that the Scottish Government, as with 18 all the other governments represented and 19 administrations, can learn.</p> <p>20 As I say, this matter is not something which is 21 confined to the past. Some unfortunate events happening 22 in the 1970s and 80s, before we ever had devolution, so 23 what concern is it?</p> <p>24 The blood contamination disaster continues to be 25 lived and experienced by all of you who are the</p> <p style="text-align: center;">Page 15</p>
<p>1 have a right to know why this all happened to them. 2 They want to ensure that this or anything like it should 3 never happen again. They want to know what ought to 4 have happened and, as I say, those whom I represent do 5 not want doctors and other professionals to excuse their 6 actions or hide behind the support of colleagues on the 7 claim basis that they were just doing what accepted 8 professional practice was at the time. Learning from 9 events means applying the standards of today. In so 10 doing one can perhaps begin to rebuild confidence, the 11 confidence which so many of you have discovered to have 12 been misplaced. That confidence has to be rebuilt.</p> <p>13 One of the issues which was raised yesterday, of 14 particular resonance for those whom I represent in 15 coming to this issue of confidence, was the need or the 16 failure on the part of the Scottish government to 17 participate in the Inquiry as a core participant.</p> <p>18 As I say, we have found the Penrose Inquiry to be 19 a lost opportunity and unfinished business, and it is 20 against that background that we share the concerns which 21 were expressed by counsel to the Inquiry at the failure 22 of the Scottish government to apply to come in as a core 23 participant. We discussed it yesterday, some strong 24 words were used about that. Some people whom 25 I represent, the 250 or so Scots, talked about</p> <p style="text-align: center;">Page 14</p>	<p>1 survivors of it. So, it is not just about how you were 2 treated in the past. It is about how you are treated 3 today. As part of the recommendations we will be asking 4 this Inquiry to come up with is making, for example, 5 available packages of financial assistance which fully 6 recompense individuals and families for the losses they 7 have suffered. We will be asking for the establishment 8 of proactive medical and nursing services, staffed by 9 health professionals fully trained in all the conditions 10 associated with the contamination for the care of the 11 physical health of the survivors. We will be asking for 12 the provision of dedicated, ongoing support services for 13 the promotion of the emotional and social wellbeing and 14 the protection of the mental health of the survivors 15 because that, the toll that has taken, has not been 16 fully recognised.</p> <p>17 And all those are matters which will concern the 18 Scottish Government and, therefore, that is why we think 19 it should be here.</p> <p>20 We heard yesterday, for the first time, that there 21 are two current ongoing police investigations in 22 Scotland of which we know nothing. It would be nice, 23 actually, if we were kept informed. So, come and join 24 us.</p> <p>25 The terms of reference in this Inquiry were referred</p> <p style="text-align: center;">Page 16</p>

4 (Pages 13 to 16)

<p>1 to by the Chair, yesterday, as having been -- and by 2 counsel to the Inquiry as having been drawn up after 3 consultation with so many of the infected and affected, 4 and we endorse them. We think that those terms of 5 reference are all that we would wish. So, we are 6 thankful that we have been listened to on that. 7 Those terms of references are big issues, but none 8 of them should be lost. They are all in there for 9 a reason and we want them all to be fully and 10 comprehensively covered and looked at. 11 As I say, one of the issues is cover up, which 12 wasn't looked at all in Penrose. There are issues about 13 not just the destruction of medical and governmental 14 records, the failure to heed legitimate calls for an 15 independent Inquiry, but also restrictions on press 16 investigation and reporting, and the use of Crown 17 immunity to prevent investigation of domestic 18 manufacturing processes. 19 One thing we say that the Inquiry should be careful 20 of is not, indeed, also to be blinded by or mired in the 21 science of all this. It can get very easy to be caught 22 up in this as a fascinating issue of responses to 23 unknown viruses and the like. It is always to be 24 remembered that what happened disastrously affected real 25 people.</p> <p style="text-align: center;">Page 17</p>	<p>1 products which they were given. The consent wasn't even 2 thought relevant. There was not informed consent. 3 There was no consent, in some ways. Those are issues 4 which this Inquiry must look at. 5 The attitude towards patients as people whose 6 consent isn't really required because they are simply 7 the subjects of this therapy also extended to the 8 failure to inform patients that they were being tested 9 and monitored for the evidence and development of 10 infection. Many were not told that they had become 11 infected, even when it was with viruses whose 12 transmission pathways were already known. Far from 13 putting their right to know at the forefront, it wasn't 14 even considered to exist. That has to be tackled with 15 by this Inquiry. There has to be a need to counter 16 medical complacency. Why was blood sourced and injected 17 into patients, and blood products that were taken from 18 foreign, paid donors? For example, a whole series of 19 boys with haemophilia, who were being treated at 20 Yorkhill Hospital, in Glasgow, and so many of them 21 developed HIV. 22 Why were local hospitals and individual consultants 23 allowed to continue with treatments long after they had 24 been abandoned in other parts of the country because in 25 those other parts of the country the risks they posed</p> <p style="text-align: center;">Page 19</p>
<p>1 One cannot, and should not, differentiate between 2 the purely scientific and the pastoral, what happened to 3 patients. 4 One has to apply, we say, a sceptical, 5 investigative, inquisitorial approach to some of the 6 issues which might be claimed, in terms of "well, it was 7 just what was known" or "practice at the time". For 8 example, risks were known about the possibility of blood 9 borne infection from pooled products well before the 10 emergence of either Non-A or Non-B Hepatitis or what was 11 then called the HTLV-3, which was subsequently HIV. The 12 Inquiry, therefore, has to, we say, look at the 13 historical context in which therapeutic and political 14 decisions were made. 15 We say there should be a need, always, to see things 16 from the patient's perspective. We say that in 17 producing and using its products the patients should 18 have been at the forefront of NHS decision-making 19 throughout. If ever they were not, that requires to be 20 uncovered. We say that patients should have been and 21 should be informed of their opinions, of their options, 22 and that should count. If that didn't happen, that 23 requires to be stated. 24 We have heard from so many that people were simply 25 not advised about the risks of the blood or the blood</p> <p style="text-align: center;">Page 18</p>	<p>1 were thought to be unacceptable? Why did doctors using 2 whole blood for transfusion appear to know so little 3 about the risks inherent in the products which had been 4 provided, when it seemed to be common knowledge among 5 the transfusionists, they knew that what was being 6 supplied was infected? 7 And why were patients who had not received treatment 8 before not afforded the opportunity to benefit from 9 developments in other parts of the country in relation 10 to viral inactivation. In some parts of the country, 11 heat treatment was brought in, in terms of blood and 12 blood products, but it wasn't done uniformly. So, it 13 meant that some were exposed to unsafe blood and unsafe 14 blood products when there was a known method of making 15 them safer, if not completely safe. Why did that 16 happen? 17 That comes down to the need for communication. The 18 issue of lack of communication has been central to the 19 experience of so many whom I represent. Lack of 20 communication between clinicians and parents and 21 patients and their family, lack of communication between 22 the government and the medical profession, as well as 23 between different branches of the profession, between 24 haematologists and those responsible for transfusions in 25 different regional centres and local hospitals. Lack of</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 communication between the agencies in different parts of 2 the United Kingdom, and lack of communication between 3 professionals with a developed interest in blood and 4 blood products.</p> <p>5 Clearly, the consequences for those infected and 6 affected has to be understood. The financial 7 consequences are important; they cannot be gainsaid, 8 they cannot be simply sidelined. The financial 9 consequences, which have been suffered, have not been 10 compensated for, have not been recognised and, insofar 11 as have been recognised, derisory sums have been 12 awarded.</p> <p>13 Even talking about money is thought to be not quite 14 right. There is a recording that was taken as part of 15 an oral history project curated by the Royal College of 16 Physicians into the early days of the AIDS epidemic. 17 There is a recording there of one former consultant 18 haematologist making the following remarks: 19 "I mean, cynically, I think the patients, the few 20 patients who are driving this are probably after money, 21 actually." 22 Those remarks are symptomatic, frankly, of 23 a disgraceful attitude taken by a number of medics, who 24 see those -- like those whom I represent, who are 25 seeking answers, who want redress -- as simply being</p> <p style="text-align: center;">Page 21</p>	<p>1 them. They have asked me, and those lawyers with me, 2 Kirsten and Jamie and the Thompsons team, to ensure 3 that, as I say, this Inquiry fulfils those expectations 4 and that I am asked, we are asked, to call it to 5 account. We need to be able to do our work. We want to 6 help the Inquiry. We want to assist with counsel to the 7 Inquiry. What we don't want is simply, again, to be 8 treated as sitting passively there and just listening to 9 matters for 40 hours in a week in Inquiries, or 10 60 hours, and doing nothing and not contributing.</p> <p>11 This Inquiry, if it is to work, if it has to 12 maintain the faith which has been invested in it, has to 13 allow for an active and collaborative approach from the 14 infected and affected through the lawyers who have come 15 here.</p> <p>16 So we are aware of our responsibilities. We are not 17 here, as the lawyers, to simply be out here to make as 18 much money out of this as we can because that's the kind 19 of accusation which is sometimes pressed. We are aware 20 of our responsibilities to the public purse. We will do 21 such work as we need to, as we think is responsible and 22 necessary to further our clients' interests, and we 23 expect those judgments to be respected by the Inquiry.</p> <p>24 Because the essential part is maintaining the trust 25 and confidence of the infected and affected. This</p> <p style="text-align: center;">Page 23</p>
<p>1 ungrateful for what was done to them, and who would now 2 seek to blame them and continue to stigmatise them 3 because they want to call their doctors to account. 4 That is the kind of attitude which needs to be called 5 out and condemned by this Inquiry.</p> <p>6 We've got a number of procedural experiences from 7 Penrose and expectations we think we can help in how the 8 Inquiry might be run. One has to be realistic about 9 what those procedural expectations are, but we just want 10 to set out a few of those.</p> <p>11 The first one is, as I have said, those whom 12 I represent are participants, are Core Participants, 13 they are not going to be sidelined again. They are not 14 going to be silenced, they are not going to be ignored.</p> <p>15 Many of them -- many of them are here -- have spent 16 years understanding this phenomenon. They are 17 phenomenal experts. That expertise needs to be called 18 upon by this Inquiry. They know so much more. They 19 have lived through this for so many years. Their 20 voices, their expertise, they are willing to give that 21 to this Inquiry. This Inquiry should take advantage of 22 that.</p> <p>23 Then there is the role of the lawyers. I have been 24 tasked, I have got the honour of representing these 250 25 people primarily from Scotland. I've got work to do for</p> <p style="text-align: center;">Page 22</p>	<p>1 Inquiry's efforts will come to nought unless it 2 maintains that trust and confidence. So, those whom 3 I represent and the way in which I represent them, we 4 have to feel we are getting a fair crack of the whip; 5 that our designation as Core Participants is not some 6 nice gesture, an exercise in tokenism. This is their 7 Inquiry. They want it to work. They want it to 8 succeed. We want to work with it.</p> <p>9 So as I say, we are Core Participants, we are not 10 passive spectators, we are not officious bystanders. We 11 are here to work with you.</p> <p>12 As part of that, one of the issues which arose, 13 really, from the Penrose Inquiry at some point, an awful 14 lot of documentation was disclosed, but it was disclosed 15 at very, very short notice, which meant, again, that 16 although they could say, "Well, you have got all the 17 documents". If you get them two days before the hearing 18 begins, then you are not really getting much active 19 participation. So, the procedure which is adopted 20 clearly has to allow for proper time, proper 21 consideration with our clients, all of the information 22 as it is uncovered, because there will be lines that we 23 wish to push and run for, and we need the proper time to 24 find those and to substantiate them and push them. I am 25 heartened to hear from the counsel to the Inquiry that</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 there will be a very much proactive approach on those 2 issues, those practical issues.</p> <p>3 Clearly the structuring of topics will come up, and 4 we will be feeding in the Inquiry on that issue.</p> <p>5 One of the points we think which may be raised in 6 future is the possibility of examination of witnesses 7 directly by or on behalf of the Core Participants. It 8 may be there are questions which counsel to the Inquiry 9 thinks, "Oh well, we don't need to ask those", but if we 10 are going to maintain the trust and confidence of the 11 Core Participants, if their lawyers think they're worth 12 asking, then let us ask them.</p> <p>13 We want witnesses to be put on oath. All witnesses, 14 I think, really. It is not that some witnesses can just 15 come here and give an account which they can be 16 comfortable with. Everyone, as a matter of course, so 17 that this evidence is compellable and on oath.</p> <p>18 We want transparency. On one of the issues which 19 has arisen, a practical issue, is this issue about 20 expert panels. We can understand the idea of expert 21 panels. There is an awful lot of technical matters, a 22 myriad of them which will require, as it were, you, Sir, 23 having to, as it were, learn an awful lot and we can 24 absolutely understand the idea that experts assisting 25 you in a teach in, a tutorial and the like, is a great</p> <p style="text-align: center;">Page 25</p>	<p>1 the infected and affected. Maybe, but just maybe, the 2 possibility of some kind of reconciliation between those 3 responsible for the infections, both from the NHS and 4 government and those who have suffered. That needs an 5 apology. That needs an acceptance of responsibility. 6 Thus far, certainly post-penrose, we have seen no signs 7 of contrition or regret from the medical establishment 8 or individuals who have come to that Inquiry.</p> <p>9 Various lessons clearly have to be learned for the 10 future. One of them is stating the obvious, no blood 11 from prisoners. No paid-for blood. There's always 12 a temptation to source blood and/or blood products in 13 the most economically efficient way possible, but that 14 should not allow for a compromise in safety. Safety has 15 to come first.</p> <p>16 Part of that, we say, part of our recommendations, 17 which we will be arguing for, is that positively there 18 might be a safety -- that this Inquiry might recommend 19 that a safety levy be imposed on the large 20 pharmaceutical companies, because companies which 21 introduce new products and treatments in a sense 22 benefit, they profit from that if they work. But when 23 they don't work, the cost of that falls on the 24 population as a whole. Those who profit from treatments 25 should be ready to pay for the failures in those</p> <p style="text-align: center;">Page 27</p>
<p>1 way of doing that, but we still want to be involved in 2 that.</p> <p>3 One of the things which you have said is that the 4 reports of the groups will be fully open and accessible, 5 and where there are significant disagreements among the 6 experts on the panel they will be tested and challenged 7 openly in the public hearings.</p> <p>8 But one of the things that has been raised with me 9 is what if there is a consensus amongst the experts and 10 the received wisdom is not one which our clients, in 11 their expertise and knowledge, think to be well founded.</p> <p>12 Part of the issue is that we have always been fobbed 13 off with a complacency of experts: this is how we do it, 14 who are you to question us?</p> <p>15 So, we can see the advantages of expert panels. We 16 can see we think it is a good idea that we get to 17 suggest those who might be appointed. We hope, also, 18 that if there are concerns about some of those who are 19 appointed, that we can raise those and they might be 20 listened to.</p> <p>21 What about the future?</p> <p>22 There are a number of issues which we say this 23 Inquiry should seek to establish as part of learning 24 from the infected and affected experience. As you say, 25 this has to be an opportunity for truth and justice for</p> <p style="text-align: center;">Page 26</p>	<p>1 treatments. So, therefore, we say it would be 2 appropriate that some kind of hypothecated levy be taken 3 as part of the profits of pharmaceutical companies to 4 set up a fund which can be called upon should ever 5 anything of this sort happen and can be called upon by 6 those who have already suffered.</p> <p>7 A duty of candour. It is already now been brought 8 into the law. There have been changes in legislation to 9 ensure that medical professionals actually involve and 10 say and state, at an early stage, potential risks or 11 problems with treatments past, current or future are 12 identified. We require full patient involvement.</p> <p>13 Now, all those good standards have come in very, 14 very recently in Scotland, only enforced the duty of 15 candour. Regulations came into force only on 1 April of 16 this year. But it is important, I think, that legal 17 duty become a reality and that the recommendations focus 18 on that because so much of the anger has been because of 19 the lack of candour, the unwillingness to just tell 20 people what's happening.</p> <p>21 So that is incredibly important. The security and 22 reliability of medical records. I have said often 23 enough that, in so many cases, it appears that medical 24 records have been redacted by persons unknown and 25 important information has gone. But, also, false</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 information has been added. In so many cases where part 2 of this culture of blaming the infected and affected, 3 the suggestions have sometimes come, in those medical 4 records which have been recovered, that this person must 5 be an intravenous drug user or a secret alcoholic 6 because they are just not owning up to these issues. 7 Those are false. That has to be taken out. So, those 8 aspects, in terms of medical records, their security and 9 their accuracy are issues which are very much at the 10 forefront.</p> <p>11 Being informed and getting consent about being the 12 subject of medical research studies. We know there are 13 changes in the law with that, but it is important they 14 be underlined because one of the attitudes has been that 15 the infected have been objects of anonymous study and 16 they have not been told. Their lives have become data 17 sets to be mined, and they didn't know about it, and 18 that's a violation.</p> <p>19 There were two brothers, at one of the meetings 20 I was at, who said that they were haemophiliacs, young 21 boys having to come in after having been infected, but 22 not knowing of their infection, but being the subject of 23 a study. The doctor referred to them as "there's my 24 young PUPs". They thought it was a term of affection. 25 They thought it was because he liked them. They didn't</p> <p style="text-align: center;">Page 29</p>	<p>1 There's got to be recommendations about further 2 medical research. We believe that the Inquiry will 3 cover many areas where further medical research is 4 required to understand fully the implications of the 5 contaminated blood disaster for victims. We say that 6 the UK Government should establish a research fund to 7 support work in these areas. For example, are there any 8 clinical implications of being repeatedly infected by 9 different genotypes of Hepatitis C or does multiple 10 exposure have an impact on clearing the virus with the 11 immune response fatigue? And do the long-term sexual 12 partners of people with an inherited bleeding disorder 13 who have been exposed to contaminated blood or blood 14 products, do they have an elevated rate of any 15 particular conditions? Those are matters which have yet 16 to be uncovered, have to be researched into, but we have 17 our suspicions. These are not simply unfounded issues.</p> <p>18 So, in conclusion, the 250 or so individuals who 19 have asked me and the Thompsons team, and Jamie and 20 Kirsten to represent them, we have entered this Inquiry 21 process with confidence that it can and the hope that it 22 will deliver on the terms of reference and meet the 23 objectives, which are detailed in that statement. The 24 Inquiry has got to be about the infected and affected 25 whom we represent, and others from around the country.</p> <p style="text-align: center;">Page 31</p>
<p>1 know it was an acronym for Previously Uninfected 2 Patients. That kind of attitude, once again that lack 3 of respect, that lack of understanding of patients, 4 integrity of patients, individuals, 'stop classifying me 5 as a subject of your attention. Treat me as an equal. 6 Tell me the truth'.</p> <p>7 Caring for the infected and affected. There has got 8 to be follow up. There has got to be long-term follow 9 up by those who have been infected and affected. This 10 is not something which happened once and then can be 11 forgotten and closed off. There are continuing 12 consequences. There is a need for psychosocial support. 13 There is a need, as we said, for full compensation. 14 Full compensation is awarded in Ireland. If it can be 15 done in Ireland, surely, surely we can do it here.</p> <p>16 We say there should be a lifting of time bars on 17 court actions. That could be part of an issue in 18 relation to the full funding which should be set up. If 19 we can't agree on full funding, then we should be able 20 to at least have the option of opening court actions. 21 There should be a secure stream for funding for the 22 charities who have done such sterling work and have kept 23 this issue alive, and the fact that we are all here is 24 tribute to the work which they did. They have to be 25 supported.</p> <p style="text-align: center;">Page 30</p>	<p>1 They are the people who have to be at the heart of this 2 process in any meaningful way. They are committed. We, 3 as their legal representatives, are committed to working 4 with the Inquiry, to ensure that it reaches a positive 5 outcome, where so many other investigations, bodies and 6 inquiries have failed. That commitment is based on the 7 legitimate and, we hope, well-founded expectation that 8 we will find in this Inquiry the investigation, the 9 respect, the trust and the fearless honesty, which was 10 lacking in so much of our experience to date with other 11 bodies.</p> <p>12 So can I commend you, Sir, for your opening remarks 13 in which you celebrated the fundamental dignity, the 14 perseverance, the sheer courage of the infected and 15 affected.</p> <p>16 What we have seen to date has given those whom 17 I represent hope and a cautious optimism, which is as 18 much optimism as you are likely to get from Scots.</p> <p>19 So, we look forward to working with the Inquiry in 20 a fully collaborative and active way, with a view to 21 achieving our common objectives of fulfilling the terms 22 of reference, bringing justice to those who have died 23 and to those whose lives have been unutterably altered 24 and burdened by this scandal.</p> <p>25 It is to those lost lives, to those stolen lives</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

<p>1 that we commit ourselves. Thank you.</p> <p>2 SIR BRIAN LANGSTAFF: Having myself grown up in Scotland,</p> <p>3 I feel honoured to be the recipient of cautious</p> <p>4 optimism.</p> <p>5 Can I just say, in some response, that I believe, as</p> <p>6 Mr O'Neill has said, that core participant contains two</p> <p>7 words, the second of which is "participant" and I look</p> <p>8 forward to all core participants playing a full and</p> <p>9 contributive part in this Inquiry.</p> <p>10 Our second speaker is the first unrepresented core</p> <p>11 participant, Della Ryness-Hirsch.</p> <p>12 Opening statement by DELLA RYNESS-HIRSCH</p> <p>13 MS HIRSCH: I'll introduce myself, first. My name is</p> <p>14 Della Ryness-Hirsch. My husband, Dan, and I had twin</p> <p>15 sons in 1976, one of whom was diagnosed with</p> <p>16 haemophilia.</p> <p>17 Dan and I had met in San Francisco, where I was</p> <p>18 living in the 60s. I mention this because it will have</p> <p>19 significance later on in the Inquiry when I give my</p> <p>20 evidence, but I feel overwhelmed and somewhat</p> <p>21 disbelieving that after all these long years of struggle</p> <p>22 and heartache we, the devastated community, are to</p> <p>23 finally be able to tell, in public, before a judge and</p> <p>24 his advisers, the absolutely unbelievably terrible story</p> <p>25 of contaminated blood products.</p> <p style="text-align: center;">Page 33</p>	<p>1 know more. One area that definitely needs a stronger</p> <p>2 and harder light shone on it, mentioned by the previous</p> <p>3 speaker, is exactly why so many in the medical and ADDI</p> <p>4 professions not only did not share their suspicions, but</p> <p>5 not even when they had real knowledge of what was</p> <p>6 happening, but at the same time made it impossible for</p> <p>7 any of their clients, us, to ask questions or raise</p> <p>8 doubts.</p> <p>9 It is now quite clear that many doctors and others</p> <p>10 involved in the medical field did know that the</p> <p>11 treatment they were using was suspect. In my local</p> <p>12 paper, I live in London, in Highgate, the Ham & High,</p> <p>13 last week the front page was completely given over to an</p> <p>14 article about a well-known professor, head of</p> <p>15 a haemophilia centre, stating that she knew, and</p> <p>16 I quote, that:</p> <p>17 "Everyone in her haemophilia unit would get</p> <p>18 Hepatitis C."</p> <p>19 That will come back later in my evidence because</p> <p>20 I had quite a lot of interaction there.</p> <p>21 Whilst another haemophilia centre head, talking on</p> <p>22 a panel on radio 4 some months ago that Dan and I were</p> <p>23 listening to, became irate when being challenged on this</p> <p>24 subject. So, it would be my suggestion that had both</p> <p>25 the medical profession and all of the others and here we</p> <p style="text-align: center;">Page 35</p>
<p>1 Some of the wider world might only think of blood</p> <p>2 products being just for those with haemophilia, like our</p> <p>3 son, who died at the age of 35, leaving a loving partner</p> <p>4 of 12 years and their baby of 10 months old. But, as we</p> <p>5 all know now, contaminated products find their way</p> <p>6 outside that cohort and manage to kill that young mother</p> <p>7 having her first baby and needing a small transfusion,</p> <p>8 that road accident victim run over by some careless</p> <p>9 speeding driver. Those women having relationships with</p> <p>10 their husbands or partners, and all the myriad ways that</p> <p>11 other people became infected.</p> <p>12 I was so moved to see, yesterday, the wonderful</p> <p>13 expression of all that has happened in our community</p> <p>14 that had been put together by the committee. It chose</p> <p>15 through film and music and speech, and wonderful photos,</p> <p>16 including one of our son, the truly horrendous role that</p> <p>17 has been visited on us.</p> <p>18 So, how did this all happen and when did the medical</p> <p>19 profession know, and what made them continue to use</p> <p>20 these products for many years after contamination was</p> <p>21 both suspected and realised?</p> <p>22 I was asked to comment on the Inquiry's terms of</p> <p>23 reference and now, having read and re-read these terms</p> <p>24 that they have put together, I would say that they do</p> <p>25 cover many of the areas about which we would all like to</p> <p style="text-align: center;">Page 34</p>	<p>1 might mention the Department of Health who were involved</p> <p>2 in blood product treatment, were engaged in what I call</p> <p>3 a complicity of silence and, therefore, did not call out</p> <p>4 their suspicions and their anxieties about this for</p> <p>5 years and this led, I believe, to the long, long delay</p> <p>6 in looking for new ways to produce safe alternatives.</p> <p>7 We also cannot forget that looming over the entire</p> <p>8 world of blood was the Department of Health. The one</p> <p>9 area of government that were directly and, even more</p> <p>10 worrying, still is responsible for the nation's health.</p> <p>11 We have all heard the stories about the destruction of</p> <p>12 documents and more and more than that, but stories --</p> <p>13 no, sorry, and now with our Inquiry launched under the</p> <p>14 auspices of the cabinet office, and not the Department</p> <p>15 of Health, we, the community of the affected and</p> <p>16 infected can finally hope to see our Inquiry quietly but</p> <p>17 firmly look into all the Department of Health's dark</p> <p>18 corners.</p> <p>19 I contend that all of these that I have just named,</p> <p>20 had they been called out by discussing suspicions about</p> <p>21 their treatment, I would suggest that this would have</p> <p>22 caused such an uproar at the time and this in turn would</p> <p>23 have hit the drug companies' bottom line, otherwise</p> <p>24 known as their profitability, which certainly gives</p> <p>25 sufficient motivation for the companies, researchers and</p> <p style="text-align: center;">Page 36</p>

9 (Pages 33 to 36)

<p>1 the DoH to have started rapidly working at top speed on 2 what might have been done about it and heat treated 3 products would have been available in a short time 4 followed by a recombinant Factor 8. I want to point out 5 that in fact this is exactly what happened eventually, 6 when various television programmes covering the blood 7 contamination were shown years later and the public were 8 finally alerted to it. Newspapers had leaders about it, 9 television continued to publicise it and, within a short 10 time, unbelievably, there was heat treatment followed 11 shortly by recombinant.</p> <p>12 So, that silence screwed us.</p> <p>13 The adage, necessity is the mother of invention, 14 springs to mind. I do believe by lying and keeping this 15 truth from the community we were denied the possibility 16 of safe treatment years earlier. I suggest that this 17 would be an area which the Inquiry address in some 18 detail.</p> <p>19 We were often made -- the people who were affected 20 that is -- to feel that in some way we were to blame. 21 They would hear no word of warning and we, who did know 22 something was happening, were treated as pariahs: I'm 23 the doctor and, if I think it's okay, it is okay.</p> <p>24 As the diseases and ill health persisted, and people 25 became even sicker with new terrors heaped upon them --</p> <p style="text-align: center;">Page 37</p>	<p>1 of this at the appropriate time.</p> <p>2 At the time of these conversations, our son had been 3 dead for three weeks, so that is an area which I cannot 4 emphasise more strongly. Their trustees turned up 5 perhaps once a month. So, if you called in, in 6 desperate need, you often had to wait until the next 7 trustee was due, next month, to sign the necessary 8 papers. Their website pages were of such poor quality 9 that if there was any information it was 10 incomprehensible. I have had my own experiences with 11 them and have heard of many more who have suffered even 12 worse treatment than they had meted out on this already 13 decimated community. They needed a very bright light 14 indeed shone upon them.</p> <p>15 This is what I say to you: this is our Inquiry. 16 This is where we get to ask all those questions that we 17 were not allowed to get out of our mouths and where 18 under the careful gaze of the Inquiry they will finally 19 have to be answered.</p> <p>20 As I said at the beginning of this speech, we, the 21 affected community, acquired these infections via very 22 many different means and when, at a recent meeting at 23 the Inquiry headquarters, I came to understand that 24 there was a tremendous discord amongst many different 25 groups of people who had become infected in many</p> <p style="text-align: center;">Page 39</p>
<p>1 and I can testify this because it happened to our son 2 several times -- there seemed to be a standard procedure 3 of whipping some poor sod off from the waiting area at 4 the haemophilia centres and breezily telling them that 5 they had been exposed to yet another horrifying disease, 6 and then sending them off into the night sadly not 7 whistling a cheery song.</p> <p>8 Two other important areas in which the Inquiry have 9 already said they wish to look more closely, which 10 I totally endorse, are the Haemophilia Society, who my 11 husband and I have supported financially ever since our 12 son was born, even when they refused when called upon to 13 stand up and fight for the affected community, telling 14 me, "We really only deal with newly diagnosed and young 15 children".</p> <p>16 They resisted that call. Perhaps even more 17 terribly, the terrible trusts that were created to help 18 the afflicted community. The misery and the appalling 19 lack of care or even of interest in the disaster that 20 was unfolding can never be overstated. I myself was 21 appalled when I was dealing with them on behalf of my 22 son's family. They were chaotic, they were offensive. 23 Certainly talking to me they referred to any financial 24 assistance as "charity". Charity! This was so 25 appalling that I took it further and will give evidence</p> <p style="text-align: center;">Page 38</p>	<p>1 different ways: transfusions; haemophiliacs; sexual 2 activity. There was bad feeling and I found it 3 distressing.</p> <p>4 I have worked alone since my son was diagnosed with 5 haemophilia in 1976, a few weeks after he was born. 6 There had been no haemophilia in our family, so we had 7 no advice or knowledge in-house as they say. Right back 8 then I saw a terrible disconnect between the groups 9 representing haemophiliacs and those who acquired a HIV 10 or Hep C via other routes.</p> <p>11 I therefore would like to repeat what I said at the 12 beginning and what I said earlier, that I see no 13 difference. All had been infected through blood that 14 was known to be contaminated by the very doctors and 15 authorities who were supposed to be looking after us.</p> <p>16 Dying, as our son did, is dying whatever the method 17 of infection. Living a sick life as an infected person 18 is horrible enough without those infected by a different 19 route driving wedges between us. So, as I said at the 20 beginning of the speech, it was so wonderful and healing 21 to see how inclusive the film and the opening was 22 yesterday, and I do hope that all of those divisions are 23 gone. Instead of all of us so destroyed by what 24 happened fighting each other, we can work together with 25 this terrific Inquiry team we have been given, to bring</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 justice to the entire community. 2 Before I end my speech, I do want to bring forward 3 those who have stood so firmly on my side and on the 4 side of those seeking truth and justice to this affected 5 community of ours. 6 I want to thank Diana Johnson and 7 Sir Peter Bottomley and all those who proceeded them on 8 the APPG for contaminated blood. Over the years, they 9 all kept going, fighting for justice on our behalf, 10 doggedly and determinedly. Our local MP, 11 Catherine West, has remained interested and concerned 12 about the wrongs that have been visited on us. 13 I especially want to mention my friend, Lynne Kelly, 14 head of Haemophilia Wales, who I met years ago at 15 a Department of Health board that I was on, where we had 16 a meeting with the heads of the haemophilia units. They 17 had asked her to give a talk about the fact that the 18 affected community in Wales had collected enough money 19 to buy a fibroscan, but did not have enough money to 20 fund a technician who could work it and analyse the 21 results. She gave a brilliantly clear exposition on 22 this subject, and when she sat down, no one thanked her. 23 They hardly had listened. They immediately, the 24 haemophilia chiefs, started arguing between themselves 25 about their funding.</p> <p style="text-align: center;">Page 41</p>	<p>1 Opening statement by DAVID LOCK 2 MR LOCK: Thank you very much, Sir Brian. 3 Ladies and gentlemen, I don't have very much voice 4 thanks to the ravages of a cold, so I will do my best. 5 I have the privilege -- and it is an enormous 6 privilege -- of being instructed by Leigh Day, together 7 with my learned friend, Ms Hannah Gibbs on behalf of 251 8 victims of the infected blood scandal. Many of our 9 clients are active members of the contaminated blood 10 campaign, CBC, and Leigh Day have given pro bono legal 11 assistance to the CBC for about the past four years. We 12 have been involved in a series of challenges to the 13 chaotic and ad hoc ex gratia payment schemes and, along 14 with a number of other people, have been responsible for 15 the challenges which led to the present changes -- not 16 enough change, but at least some change -- to the 17 schemes. 18 The one thing which links all our clients is that 19 they are or are related to individuals who became 20 infected with Hepatitis C or HCV as a result of NHS 21 contaminated blood or contaminated blood products. 22 Despite this unifying feature, every one of our 23 clients has suffered in different ways for different 24 reasons; that is a reflection of the devastatingly large 25 reach of the contaminated blood scandal.</p> <p style="text-align: center;">Page 43</p>
<p>1 I resigned from the committee, found out who she 2 was, got in touch and, in the years since, she has been 3 my friend and my guide into all things haemophilia. 4 Most of all I want to call out my sister, 5 Baroness Lynne Featherstone, my younger sister, you must 6 understand, who has supported and helped not just me, 7 but those in our community who approached her for help, 8 with an energy and understanding that was able to take 9 us further and in more depth than we could have 10 imagined. 11 Finally, to my husband, Dan, who listened to me 12 recite this speech and changed it ten times at least, 13 and not particularly patiently, but with an attention 14 and a care shared and a love of me and our family. 15 So, finally, against the odds, we have an Inquiry 16 with a judge and a team who are totally committed to 17 bringing out all the truths and untruths of this 18 terrible tragedy. Thanks, guys. 19 SIR BRIAN LANGSTAFF: We'll take a 20 minute break. Be 20 back, please, at 11.40. 21 (11.20 am) 22 (A short break) 23 (11.40 am) 24 SIR BRIAN LANGSTAFF: David Lock QC on behalf of the core 25 participants represented by Leigh Day & Co.</p> <p style="text-align: center;">Page 42</p>	<p>1 Some of our clients contracted Hepatitis C and 2 continue to carry the virus, and they have developed 3 very significant physical, psychological and cognitive 4 disabilities as a result of carrying the virus in their 5 bodies for decades. 6 Others contracted Hepatitis C and, after undergoing 7 one of a number of deeply unpleasant and painful 8 treatments over a period of many months, have been 9 cleared of the virus. The fact that the virus is no 10 longer detectable in their bodies does not signify an 11 end to their suffering. 12 Many of these individuals developed very significant 13 disabilities as a result of carrying the virus. Medical 14 treatment may have cleared the virus from their bodies, 15 but they have been left with the permanent, significant 16 physical, psychological and cognitive disabilities. 17 Some of our clients are relatives of victims who 18 contracted the Hepatitis C virus from NHS contaminated 19 blood or blood products, many of whom are now deceased. 20 In all cases, the relatives have seen their loved ones 21 suffering significant disabilities and developing 22 serious conditions, which in many cases led to a painful 23 and distressing death. 24 Some of our clients are co-infected because they 25 carry the HIV virus as well as Hepatitis C, or they are</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 relatives of people who are or were co-infected. 2 It is important to emphasise that the impact of the 3 infected blood scandal on many of our clients is not 4 limited to HIV and Hepatitis C. They have been exposed 5 to a wide range of other diseases and receive warning 6 letters which suggest they may carry dormant pathogens 7 for which there is no test, such as new variant CJD. 8 For those who are not familiar with this disease, new 9 variant CJD is a prion disease for which there is no 10 cure. There is strong evidence that it is caused by the 11 same agent that led to the outbreak of mad cow disease. 12 Many of you will remember the utter shock when it was 13 discovered that mad cow disease was affecting humans and 14 the climate of fear associated with beef products. 15 The worry that those who ate beef might develop 16 symptoms of this incurable and terrifying disease was 17 widespread, but thankfully few in the general population 18 have shown signs of the condition. But, in contrast, 19 the real risk of developing CJD is something our clients 20 have to live with every day. 21 The continuing psychological impact of these unknown 22 risks is difficult to overestimate. So is the distress 23 caused to our clients by the need to explain, every time 24 one of them visits a hospital or a dentist, that there 25 is a risk of transmission.</p> <p style="text-align: center;">Page 45</p>	<p>1 victims. 2 My clients ask this Inquiry to be the first occasion 3 on which there is formal recognition of the devastating 4 impact this disaster has had on parents who have seen 5 their children suffer terrible disabilities or die at 6 far too early an age, or those devoted spouses and 7 carers whose entire lives have been shared by their 8 commitment to a victim. 9 We thus welcome the recognition the Inquiry offers 10 in its focus on all those whose lives have been affected 11 by these terrible events, only some of whom are actually 12 infected. 13 We also welcome the fact the government has finally 14 agreed to set up this formal public Inquiry, and our 15 clients are determined to do everything they can to 16 assist you, Sir Brian, as Chairman of the Inquiry, and 17 your staff, to undertake the almost impossible job of 18 peeling away the obfuscation, the delay and the denial, 19 which has characterised the official response to this 20 tragedy over the past three decades. 21 There are a series of specific points our clients 22 want me to make on their behalf, and I am delighted to 23 do so. 24 First of all, the terms of reference. Our clients 25 want to welcome the width of the terms of reference, but</p> <p style="text-align: center;">Page 47</p>
<p>1 We strongly welcome the fact this Inquiry recognises 2 the victims are not limited to those who were infected 3 with the viruses, the result of NHS contaminated blood 4 or blood products. All our clients live in families, 5 they all live in communities. The impact of this 6 disaster has spread through families and communities. 7 Poetry was used to great effect in the commemoration 8 yesterday, but my clients have asked me to refer to 9 another poet, to John Donne, whose words famously set 10 out how they feel. He said: 11 "No man is an island, entire of itself; every man is 12 a piece of the Continent, a part of the main. If a clod 13 be washed away by the sea, Europe is the less, as well 14 as if a promontory were, as well as any manor of thy 15 friend's or of thine own were: any man's death 16 diminishes me, because I am involved in mankind, and 17 therefore never send to know for whom the bells tolls; 18 it tolls for thee." 19 The bell has tolled for many men and women, all 20 victims of this tragedy. The victims include parents, 21 family members, carers and friends of both the living 22 and the dead. Some limited recognition has been given 23 through the haphazard and grudging way the ex gratia 24 compensation schemes have been set up, but in the main, 25 they have only offered support directly to the affected</p> <p style="text-align: center;">Page 46</p>	<p>1 they also welcome the fact that the terms of reference 2 for the Inquiry were agreed following a wide-ranging 3 consultation. They are grateful they have their voice 4 heard in setting the terms of reference. 5 You will expect our clients to be rigorous in 6 ensuring that you investigate comprehensively across the 7 whole range of issues raised by your terms of reference. 8 Now, we understand the need for expedition, but we 9 have very clear instructions that full respect is given 10 to the width of the terms of reference and no attempt is 11 made to cut them down for administrative convenience or 12 to spare the embarrassment of those whose administrative 13 decision means they are discovered to be key players in 14 the sequence of events that led to the tragedy. 15 That brings me to the second point, that the victims 16 I have the privilege of representing wish to raise. 17 That is: how should the Inquiry approach individuals who 18 have been involved in these events, but can no longer 19 defend their action? 20 Many individuals who are key decision-makers will no 21 longer be able to defend their own reputations because 22 they are deceased, long retired, or have no memory of 23 the relevant events. We appreciate there will be an 24 enormous temptation to protect the reputations of those 25 who cannot speak for themselves because they're</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 deceased, because they're living in retirement, because 2 they cannot be expected to recall events of many, many 3 years ago. Our clients do not want this Inquiry to turn 4 into a witch-hunt.</p> <p>5 But the evidence is likely to show reckless, 6 uncaring, incompetent or wholly inappropriate behaviour 7 by NHS and government decision makers. We invite the 8 Inquiry to follow the evidence chain wherever it leads. 9 The Inquiry process should not hold back from 10 investigating what really went on, what decisions were 11 made, what risks were ignored, what errors were 12 committed, even though this may result in reaching some 13 difficult, unpalatable or appalling conclusions, which 14 will affect the reputations of individual civil 15 servants, ministers, doctors or NHS officials.</p> <p>16 The reason for that is that public officials working 17 for public bodies, whether in government, the NHS or 18 elsewhere in the public services, must be held publicly 19 accountable for what they did or did not do.</p> <p>20 My clients fully accept any judgment must be based 21 upon the information available to a decision maker at 22 the time, but legitimate questions we think should be 23 asked about what the individuals knew, what inquiries he 24 or she made to establish the truth about the risks or 25 benefits of a course of action and what he or she ought</p> <p style="text-align: center;">Page 49</p>	<p>1 wholly innocent NHS patients, and how the lives of so 2 many others came to be permanently blighted by serious 3 physical, psychological and cognitive disabilities, and 4 in the balance of interests between transparency and the 5 protection of reputations, we expect no stone to be left 6 unturned however much unturning that stone reveals 7 events which demonstrate incompetence, a lack of 8 understanding, inadequate inquiry before decisions were 9 made, shortcomings as a result of resource constraints, 10 plain incompetence or worse.</p> <p>11 Now, my clients respect the inquisitorial nature of 12 this Inquiry. We won't seek to routinely cross-examine 13 any witnesses. We may suggest questions to be put by 14 counsel to the Inquiry, but we accept for most cases the 15 choice of questions must be a matter for the Inquiry 16 team to decide.</p> <p>17 There will be a small number of critical witnesses 18 where we will be inviting the Inquiry to take 19 a different course. Where a key senior decision-maker 20 is giving evidence, we will be inviting the Chair to 21 accept that our clients will want to hear that senior 22 decision-maker answering their questions, put by their 23 chosen representative.</p> <p>24 Next, I need to say something about disclosure. 25 On 29 March 1991, the inquests into the deaths of</p> <p style="text-align: center;">Page 51</p>
<p>1 to have known before making key decisions.</p> <p>2 We hope this Inquiry will not refrain from holding 3 public servants properly to account for their acts and 4 omissions merely because the individual is deceased or 5 cannot now recall the circumstances which led to the 6 decision in question.</p> <p>7 We accept there will be a fine line to tread between 8 appropriate respect for those who cannot speak for 9 themselves, and proper transparency and accountability. 10 But, in treading that line, we urge the Inquiry to bear 11 in mind that every employee of a government body knows, 12 and has always known, that he or she will be called to 13 account for the discharge of his or her public functions 14 at an undefined date in the future. The function this 15 Inquiry will be undertaking, of scrutinising 16 decision-making of public bodies carried out by 17 individuals, is one that all public officials know is 18 possible because public officials are accountable to the 19 public for their actions, just as they are paid by the 20 public for their services.</p> <p>21 Accordingly, whilst we are always seeking to be fair 22 to protect the reputations of those who cannot speak for 23 themselves, we expect the Inquiry to be rigorous in 24 exploring precisely how the decisions were made by named 25 individuals which led to the thousands of deaths of</p> <p style="text-align: center;">Page 50</p>	<p>1 96 football fans, who died at Hillsborough returned 2 a verdict of accidental death. That judicial process 3 was in part informed by the outcome of a report by 4 Lord Justice Taylor into the tragedy. Those two 5 processes were both utterly inadequate to get to the 6 truth of what happened at Hillsborough, primarily 7 because of inadequate disclosure of the records made at 8 the time by all the relevant individuals who had a part 9 to play in the events, the tragic events of 10 29 March 1989.</p> <p>11 The lack of disclosure did not stop there. On 12 5 November 1993, the divisional court refused an 13 application for judicial review of the inquest verdicts.</p> <p>14 On 13 February 1998, Lord Justice Stuart-Smith 15 reviewed new evidence in relation to the tragedy at 16 Hillsborough and recommended no action should be taken 17 to reopen the inquests or commence investigations into 18 possible prosecution of individuals whose decisions may 19 have led to those deaths.</p> <p>20 Those who were closely involved with the events knew 21 that the official account was far from the truth. They 22 knew the real story of events, which happened at 23 Hillsborough, had not yet been told. The families of 24 the 96 knew the truth had not been told, and they were 25 a thorn in the side of the establishment for year after</p> <p style="text-align: center;">Page 52</p>

13 (Pages 49 to 52)

<p>1 year as they made what seemed impossible demands to 2 reopen findings made in an official report, in inquest 3 and in a judicial investigation, but -- and this is the 4 chilling lesson we invite this Inquiry to focus on -- 5 the families were repeatedly right and the establishment 6 was repeatedly wrong.</p> <p>7 The families campaigning eventually persuaded the 8 government to set up the Hillsborough Panel. That panel 9 examined 450,000 documents in their quest to find the 10 truth. Personal records by former police officers were 11 obtained from lofts up and down the country. Legal 12 professional privilege was set aside in the interests of 13 finding the truth. Official documents were discovered 14 for the first time, and they painted a very different 15 picture to the story that had been told to 16 Lord Justice Taylor, to the inquest and to 17 Lord Justice Stuart-Smith.</p> <p>18 Eventually, on 12 September 2012, the Hillsborough 19 Panel published its report, properly informed by a vast 20 number of previously undisclosed documents. That led to 21 new inquests, which in turn led to the findings handed 22 down by the jury on 26 April 2016, that 96 Liverpool 23 fans were unlawfully killed.</p> <p>24 My clients are entitled to believe there are lessons 25 that this Inquiry can learn from the Hillsborough</p> <p style="text-align: center;">Page 53</p>	<p>1 clients were required to live with the consequences of 2 the decisions made by public officials for the rest of 3 their lives, and many had their lives cut short as 4 a result of those decisions.</p> <p>5 The reality, as you will know, Sir Brian, as your 6 Inquiry team are trying to find out, is that a single 7 copy of a document is a rarity in government. The 8 nature of government is that multiple copies of any 9 significant documents are created. They are filed in 10 numerous different places, and not every civil servant 11 will have considered the deliberate destruction of 12 documents was an appropriate policy response to this 13 disaster.</p> <p>14 Our clients are confident it is possible to find 15 copies of virtually all documents generated by the 16 government in relation to this disaster, albeit it will 17 be a painstaking, massive task. It will require 18 persistence and ingenuity, and will require the 19 investigators to use all the skills and techniques 20 developed in Hillsborough and the Gosport Inquiry. We 21 are confident that a thorough document disclosure 22 process will assist in uncovering the whole story.</p> <p>23 We would therefore welcome the clear statements by 24 Jenni Richards QC, yesterday, that the Inquiry has an 25 expectation that public bodies responding to its</p> <p style="text-align: center;">Page 55</p>
<p>1 process.</p> <p>2 Now, very considerable credit needs to be given to 3 the late Lord Archer of Sandwell, the former solicitor 4 general, who chaired the non-statutory inquiry into the 5 infected blood scandal, which reported in 2009. But 6 there is a telling phrase in the Archer report, where 7 Sir Nigel Crisp is reported to have told Lord Jenkin, 8 the former Secretary of State, that potentially 9 incriminating documents relating to this disaster had 10 been destroyed "with intent to draw a line under the 11 disaster".</p> <p>12 We understand there are reports that the private 13 papers of the former Secretary of State, David Owen, 14 were part of this destruction exercise, and that is 15 clearly something which the Inquiry will want to 16 investigate, to ensure that this type of exercise is 17 never repeated by any government body, in any 18 circumstance, at any point in the future, however 19 convenient that might have appeared to the civil 20 servants or the governments of the day.</p> <p>21 If it is true that civil servants deliberately 22 destroyed documents to draw a line under the disaster, 23 the civil servants were the only individuals who could 24 walk away from this disaster as a result of the 25 deliberate act of wanton destruction of records. Our</p> <p style="text-align: center;">Page 54</p>	<p>1 requests for disclosure will waive legal professional 2 privilege.</p> <p>3 Legal professional privilege should not be used as 4 a shield to prevent those who were paid by the public 5 from being accountable to the public, in this Inquiry. 6 We hope the government will accept, whatever the 7 embarrassment or the potential financial cost, the time 8 for secrecy about what went on is over. Just as legal 9 professional privilege can be overridden in the public 10 interest under the Freedom of Information Act, something 11 of which you will be very well aware, legal professional 12 privilege should not be raised to prevent the full truth 13 being disclosed to this Inquiry.</p> <p>14 Therefore, we hope the Department of Health, and 15 those acting for the various NHS bodies, will put no 16 obstacles whatsoever in the way of the Inquiry team 17 discovering all of the relevant documents.</p> <p>18 This Inquiry only happened because of the tireless 19 campaigning of a number of groups, including my clients, 20 the Contaminated Blood Campaign and many others. Now 21 that it is set up, all public bodies should assist by 22 providing all relevant documents, so that this final 23 chance to discover the truth can be as much of a success 24 as it possibly can, however awkward or embarrassing 25 those disclosures may be.</p> <p style="text-align: center;">Page 56</p>

14 (Pages 53 to 56)

<p>1 Warnings, the fourth point. The terms of reference 2 rightly focus on the sequence of events that led to this 3 disaster and the information that was provided to the 4 government that ought to have led to identification of 5 the risks of using untested blood and blood products. 6 Others have spoken of the need to establish precisely 7 what public officials were told about the risks of 8 importing contaminated blood, when those warnings were 9 given, when they should have been given, and how the 10 government and the NHS responded and why they delayed in 11 acting on those warnings.</p> <p>12 It is clear that the failure to act earlier resulted 13 in deaths and blighted lives. So, we will support the 14 Inquiry in vigorously investigating how blood products 15 came to be used in the NHS and why those warnings were 16 not heeded.</p> <p>17 Fifthly, informed consent. The issue of informed 18 consent lies at the very heart of any lawful medical 19 treatment. Following the seminal judgment in 20 Montgomery, informed consent has been established to be 21 part of the common law, but it was always part of the 22 common law. Montgomery did not change the law. The 23 need for medical consent by a patient to be informed of 24 the risks has always been present. One important aspect 25 of the risks that my clients are particularly keen to</p> <p style="text-align: center;">Page 57</p>	<p>1 The extent to which inadequacies in our own domestic 2 NHS blood collection service led to NHS contaminated 3 blood or blood products will be a very important area 4 for this Inquiry.</p> <p>5 Seventh, disclosure to infected patients. This 6 Inquiry will wish to investigate why patients were not 7 told about their infections, even when this knowledge 8 was held by doctors. The evidence will show some 9 patients had to wait many years before their diagnosis 10 was confirmed, putting them and their loved ones and 11 members of their families at risk. Whether and, if so, 12 why there was any systematic monitoring of patients with 13 infections must be vigorously investigated. In 14 particular, was there monitoring of patients who were 15 infected by the NHS without the knowledge or consent of 16 those patients.</p> <p>17 That brings us directly to the next point my clients 18 want you to investigate. The attempt to deflect blame 19 from the NHS.</p> <p>20 The Inquiry will want to know why so many infected 21 patients were accused of having acquired the viruses by 22 drug taking, alcoholism, sexual promiscuity or any 23 number of other potential reasons. The experience of my 24 clients is the NHS was often keen to find any cause as 25 to why individual patients carried the Hepatitis C</p> <p style="text-align: center;">Page 59</p>
<p>1 have investigated is the justification of treating 2 people with bleeding disorders with massively pooled 3 factor products. In particular, to understand the 4 nature of the risks faced by those with severe, moderate 5 or mild bleeding disorders, because the Inquiry needs to 6 discover why NHS patients were exposed to the risk of 7 contracting viruses from contaminated blood and whether 8 they were given proper information about the risks they 9 were running. Particularly, why they were exposed to 10 those risks when there was no immediate or urgent need 11 for the application of blood products.</p> <p>12 Some of my clients were affected as a result of 13 regular prophylactic treatment that was meant to be 14 preventative of future ill-health, but in fact became 15 causative of devastating disabilities. The extent to 16 which these patients had the risk of such prophylactic 17 treatment explained to them, or not explained to them, 18 is plainly an area for this Inquiry to examine.</p> <p>19 Sixthly, the source of the infected blood products. 20 There has been an assumption in some of the literature 21 that all the NHS infected blood came from abroad, 22 typically from US-based prisoners or those on the 23 margins of society. However, it will be part of this 24 Inquiry to determine whether that is a largely correct 25 picture or is a convenient myth.</p> <p style="text-align: center;">Page 58</p>	<p>1 virus, rather than admitting the individual contracted 2 the virus from NHS contaminated blood.</p> <p>3 Those accusations appear to my clients to have been 4 made on a systematic basis, regardless of the supporting 5 evidence in an individual case, and the damage of victim 6 blaming cannot be underestimated.</p> <p>7 Next, treatment regimes. We support the Inquiry 8 examining whether victims have received the right 9 treatments, particularly as those treatments have 10 developed from research into clinical practice. Victims 11 whose lives were blighted by the NHS decision-making 12 have never been prioritised for emerging curative or 13 symptom-relieving treatments by the NHS. The argument 14 has always been advanced: the NHS cannot prioritise the 15 treatment of some patients who carry a virus over others 16 who carry the same virus based on the underlying cause 17 of the infection, but the Inquiry will have to look to 18 determine whether that is a morally defensible position 19 or an appropriate way for the NHS to respond. That 20 raises profound ethical questions.</p> <p>21 In summary, the position of my clients is they are 22 entirely blameless for the disabilities inflicted on 23 them by the NHS and they ought, therefore, to have been 24 at the front of the queue for any emerging treatments. 25 Medical records. I was interested in what</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 Mr O'Neill had to say about medical records. There is 2 an enormous concern amongst my clients about repeated 3 patterns of the NHS losing medical records relating to 4 patients who have been damaged by the NHS's own actions. 5 They do not accept for a moment that this loss of 6 medical records from these patients was unrelated to the 7 cause of their infections. This appears to them to be 8 a case of the NHS getting rid of the evidence of the 9 sins of the past. But, if so, who organised it? Who 10 made the decisions? 11 The Inquiry will want to look to see the extent to 12 which this is supported in the evidence and a culture 13 emerged of losing records which were embarrassing to the 14 service. 15 Was this a series of coincidences, or was this 16 a pattern of behaviour by NHS bodies in an attempt to 17 limit the reputational damage to the health service? 18 Next, the role undertaken by other parties. The 19 main focus of this Inquiry will undoubtedly be on 20 individuals working for the government, ministers and 21 senior officials for the NHS. But there are very large 22 numbers of other bodies whose actions or omissions 23 played a significant part in the sequence of events or 24 influenced disproportionate, unbalanced or inappropriate 25 responses to the tragedy.</p> <p style="text-align: center;">Page 61</p>	<p>1 how the mortality rates of the affected community have 2 changed over time, and there are five specific 3 categories we would urge the Inquiry to focus on: 4 Co-infected patients, HCV patients at stage 2, 5 co-infected patients at HCV stage 1, monoinfected 6 patients at stage 2, monoinfected HCV patients at stage 7 1 and, of course, monoinfected HIV patients. The 8 mortality rates will be different between those groups. 9 Thirteenth point, we are nearly there. Support for 10 spouses, partners and victims. It is mystifying as to 11 how anyone in government could have thought it was 12 appropriate to provide financial support to spouses, 13 partners, or children of individuals, who died as a 14 direct result of acquiring one type of virus from NHS 15 infected blood, but to deny a similar level of financial 16 support to spouses, or partners, or children of 17 individuals who died as a result of acquiring 18 a different type of virus from the NHS. 19 Until very recently that was how government public 20 money was used across the various schemes. This Inquiry 21 will want to look to see how that utterly indefensible 22 set of circumstances emerged and why it took so long 23 before that obvious disparity was corrected. 24 Looking forward to the end. It is a sad but 25 inevitable fact that some of my clients will not live to</p> <p style="text-align: center;">Page 63</p>
<p>1 The prioritisation of one group of victims over 2 another may seem entirely justifiable to someone who is 3 promoting the cause of that particular group of victims. 4 It is easy to see, objectively, different victim groups 5 have been treated differently, but this is utterly 6 indefensible and is a part of the sorry history of this 7 tragedy. 8 The focus, we suggest, should not be on those groups 9 who acted for victims and who were pressing for and 10 acting in the interests of those they represent, 11 perfectly properly. The focus must be on government 12 decision-makers who had a duty to all victims and, we 13 suggest, failed to act equitably between different 14 categories of victims. 15 Next, mortality rates. A very different approach is 16 taken to different victims is perhaps illustrated best 17 by the absence of any comprehensive analysis of 18 different mortality rates across the different viruses 19 caused by infected blood and infected blood products. 20 My clients hope the Inquiry will for the first time be 21 able to gain a full and complete picture of 22 the mortality rate within our infected community. To do 23 so will require a detailed analysis of the data held by 24 the five previously separate ex gratia schemes. This 25 information will need to be collected in a way to show</p> <p style="text-align: center;">Page 62</p>	<p>1 see the final report produced by this Inquiry. They 2 have already had to wait far too long, but, for some, 3 they will never see the final outcome. There is 4 a balance between urgency and the need to be 5 comprehensive. We do not urge the Inquiry to restrict 6 the scope of investigations nor to produce a report too 7 quickly, but we equally commend the steps that have been 8 taken to proceed with the Inquiry as expeditiously as 9 possible. Can we invite the Inquiry now to focus on and 10 to set the ground rules that will be taken following the 11 end of the evidence. 12 My clients are particularly concerned this Inquiry 13 should learn the lessons from other public inquiries 14 where there have been very extensive delays, sometimes 15 running into multiple years between the conclusion of 16 the evidence and the publication of the final report. 17 Some delay is inevitable and proper. Other public 18 inquiries have been dogged by disputes, endless 19 disputes, often mitigated in the court, where 20 individuals seek to prevent the Inquiry reaching 21 conclusions with which they do not agree or being 22 subject to criticisms which they do not accept. 23 Now, the trigger for this post-evidence series of 24 confidential disputes has been the practice of sending 25 warning letters known as "Salmon Letters" or "Maxwell</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)

<p>1 Letters" to individuals whose conduct is proposed to be 2 criticised in the final Inquiry report.</p> <p>3 However, that process is confidential and is thus 4 inherently unfair to the other participants who are 5 excluded from the debate about the extent to which any 6 individual organisation is being criticised.</p> <p>7 Now, individuals who give evidence in a court of law 8 do not have the opportunity to debate the merit of the 9 judge's conclusions before the publication of 10 a judgment. The judge discharges his or her functions 11 by ensuring fairness within the process, but there is no 12 requirement for an additional sequence of events before 13 judgment is handed down.</p> <p>14 Given the need that this report should be published 15 as quickly as possible, and given the unfortunate 16 experience of other public inquiries, we invite the 17 Chair to indicate now that fairness to individuals and 18 organisations will be discharged within the Inquiry 19 process and not by way of warning letters sent during 20 the writing up phase.</p> <p>21 We accept this may, on occasion, mean the Inquiry 22 recalling individuals to give further evidence, or 23 organisations, the opportunity to answer criticisms 24 which emerge at a later stage of the evidence, but that 25 process has three advantages.</p> <p style="text-align: center;">Page 65</p>	<p>1 It is also the final opportunity to recognise the 2 extent to which lives were cut short for those victims 3 who died before they had a chance to take part.</p> <p>4 There will always be errors in organisations as 5 complex as the NHS, and this Inquiry has the opportunity 6 to identify the monumental errors that were made in 7 relation to infected blood and blood products, and to 8 lay bare the decision-making process which failed to 9 prioritise the interests of patients over the system and 10 led to those errors remaining uncorrected for too many 11 years with the disastrous consequences that everybody 12 knows about.</p> <p>13 The sincere hope of our clients is that future 14 generations of NHS and government decision-makers will 15 understand what went so tragically and repeatedly wrong 16 in relation to NHS infected blood and blood products.</p> <p>17 That, of course, does not guarantee that future 18 decision-makers will not follow a similar course in 19 future, but the legacy of a report which understands how 20 and why things went so terribly wrong will very 21 substantially reduce the chance of another tragedy.</p> <p>22 So, Mr Chairman, our clients will endeavour to see 23 this process through as a cooperative venture with 24 everyone involved, with the focus on establishing 25 a comprehensive account of who, how, why, when and where</p> <p style="text-align: center;">Page 67</p>
<p>1 First, it's fair and gives due respect to the rights 2 of all participants. The confidential debate and 3 subsequent litigation arising from warning letters is 4 unfair to other participants by the very nature of the 5 confidential process which is being undertaken.</p> <p>6 Secondly, not sending warning letters, perhaps save 7 in exceptional circumstances, will speed up the process 8 between the end of the evidence and the publication of 9 the final report.</p> <p>10 Thirdly, it will ensure that all relevant debate on 11 material issues meets the high standards of transparency 12 and accountability to which this Inquiry has rightly 13 committed itself.</p> <p>14 Therefore, we invite the Chair to reflect on whether 15 this is an area where he considers to set out the ground 16 rules at the outset of the Inquiry.</p> <p>17 So, Mr Chairman, in summary, our clients have lived 18 with this blight over their lives for decades. They 19 have repeatedly knocked on the door of government to ask 20 for answers knowing that every year that passed would 21 make the task of finding those answers more difficult. 22 This will be their final chance of securing truth and 23 justice for those who are living, albeit they are still 24 suffering profound disabilities as a result of the 25 tragedy.</p> <p style="text-align: center;">Page 66</p>	<p>1 decisions were made that blighted the lives of thousands 2 and led to so many premature deaths.</p> <p>3 We will be supportive but critical friends of the 4 Inquiry, holding it to account and playing our part in 5 getting to the truth before it is too late to find out 6 the truth.</p> <p>7 SIR BRIAN LANGSTAFF: Thank you very much, Mr Lock. Our 8 next contributor is Michelle Tolley.</p> <p>9 Opening statement by MICHELLE TOLLEY</p> <p>10 MS TOLLEY: Good afternoon, everyone, Sir Brian, Inquiry 11 team, members of the press. My name is Michelle Tolley 12 and I am 53 years old, and I run a wonderful support 13 group called Contaminated Whole Blood UK, which I'm very 14 proud of.</p> <p>15 My story. I had two blood transfusions, one 16 in September 1987 and the second in February 1991, after 17 childbirth. During the mid-1990s, there was some 18 campaign that came on the TV regarding bloods that had 19 not been screened, HIV, where you could have been 20 infected via tattoos, dentistry, operations abroad, 21 blood transfusions and several other methods.</p> <p>22 I telephoned the number, received the information 23 through and dutifully went along to see my GP at that 24 time with my worries and concerns, as I was already 25 feeling severe fatigue.</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

<p>1 I went along to my GP, explained that I had severe 2 fatigue, to which he replied, "Well, of course you have. 3 You've got four young children, what do you expect?" 4 I then spoke about the adverts I'd seen on the 5 television and my concerns that I'd had two blood 6 transfusions before the bloods were screened. His reply 7 to that was, "Don't be silly, of course you won't have 8 that". 9 Now, when you're a young mum responsible for four 10 children, you look at your health professional with 11 trust that they are telling you the truth and I jollied 12 along on my way, still very tired. 13 Apparently there was a look-back. A look-back 14 exercise to try to identify those who may have been 15 infected. Well, they didn't look very far, did they? 16 As there are so many of us infected victims, who still 17 do not know today that they've been given a death 18 sentence without even committing a crime. 19 I was finally diagnosed in November 2015, by chance, 20 and with a new GP, I might add, that I did in fact have 21 Hepatitis C. 22 The impact on our lives has been one of devastation, 23 destruction and, ultimately, death. The ripple effect 24 from innocent infected victims to the innocent affected 25 victims has seen children, brothers, sisters, aunts,</p> <p style="text-align: center;">Page 69</p>	<p>1 Opening statement by PAUL DESMOND 2 MR DESMOND: Thank you, Brian. Good morning. 3 First of all, I'd like to start with a question. 4 I recently read an August 2018 comment from a Department 5 of Health spokesperson that went: 6 "Hepatitis C infections from blood transfusions were 7 an inadvertent, unavoidable accident for which the terms 8 "liability" and "compensation" are inappropriate." 9 Does anyone in this hall agree with that statement; 10 that it is an accident; that it couldn't have been done 11 better; that no one made a mistake? Does anyone agree? 12 Not a single hand. That's what I thought. 13 So, a quick statement about liabilities or things 14 that went wrong in the Department of Health. 15 Due to running a medically negligent, filthy blood 16 supply from 1970 to 1991, it seems urgently needed. 17 Firstly, the planned, avoidable harvesting of 18 hundreds of thousands of units of blood from British 19 prisons was no accident. It was a negligence avoided by 20 many, many nations. It is a joy to see our Inquiry 21 lawyer laptops ablaze with data detailing the mass 22 harvesting of highly infection Hepatitis C prison blood 23 in the UK. 24 This went on until 1985, at which time Dr Doe 25 harvested some samples and kept them. In 1991, when the</p> <p style="text-align: center;">Page 71</p>
<p>1 uncles, cousins, mothers, fathers, husbands, wives, 2 grandparents, in fact, in some cases, a complete 3 generation lost. 4 But this wasn't only whole blood. Of course, there 5 were blood products. What was the cause of this bloody 6 mess? 7 Blood products, such as Factor 8 and Factor 9, were 8 also responsible for not only Hepatitis C, but 9 Hepatitis B, HIV and other pathogens, which killed 10 thousands of innocent lives. 11 Those responsible for this historic and horrific 12 tragedy, which has lasted decades, must be identified. 13 They must be held responsible for the consequences of 14 their actions and prosecuted if necessary. 15 Just to finish off, I would like to send my sincere 16 thanks to the love of my life, my husband, Dean, who has 17 been my strength and my support, and believed in me and 18 given me the courage to come up and speak out in front 19 of everybody. To my lovely family for being very 20 understanding also. But also to the members of the 21 various groups that I belong to, but especially to those 22 from those Contaminated Whole Blood UK, and also to the 23 Hepatitis C Trust, who have been my friend and ally 24 throughout. Thank you. 25 SIR BRIAN LANGSTAFF: Thank you, Michelle. Paul Desmond.</p> <p style="text-align: center;">Page 70</p>	<p>1 test became available for hep C, he found prison blood 2 was 65 per cent Hepatitis C positive in his samples. 3 This goes a long way, those 500,000 units from prisons, 4 to explaining our peak of 585,000 Hepatitis C patients 5 in 1985. That's the first negligence. 6 Second negligence. There was a complete failure in 7 the UK to surrogate blood test for liver disease markers 8 blood donations. This was planned and this was no 9 accident. The Gunson Report studied by our transfusion 10 service head executives, in 1985, estimated 40 per cent 11 or 8,000 of our annual 20,000 Hepatitis C transfusion 12 infections could have been avoided with surrogate blood 13 screening. 14 Third negligence. There was an idiotic notion 15 prevalent in the blood executives, the working party, 16 that Hepatitis C was benign. This idiotic notion was 17 unique to the UK, and it was also created, defended and 18 certainly no accident and it did not happen in other 19 countries. 20 Fourth negligence. The use of pooled plasma 21 factors, bought, sometimes, from overseas, was chosen 22 over safer alternatives and was also definitely not an 23 accident. 24 All the above plans were chosen by our blood service 25 and often avoided elsewhere. We were agonisingly slow</p> <p style="text-align: center;">Page 72</p>

<p>1 in stopping prison blood harvesting, completely out of 2 step at safety testing for liver disease markers, our 3 donations, and even amongst the last in the developed 4 world to initiate ELISA blood testing, 5 in September 1991. 6 Moving on. I have been asked by the Inquiry legal 7 team to just touch on numbers infected with Hep C via 8 NHS care. This time we truly need to get to the 9 industrial scale of our contaminated healthcare 10 disaster, and get it admitted and get it cared for. 11 To make it crystal clear, every report from experts 12 in the 1980s, before the cover up, every survey done on 13 testing the transfused, including thousands of blood 14 tests done on the transfused, and every one of the three 15 internationally respected models for counting 16 transfusion Hepatitis in a country, all three models 17 suggest we had approximately 300,000 infected 18 transfusion survivors in England, in 1990. I would very 19 much like to thank our Inquiry team for building an 20 experts statistics group, which will of course drill 21 into this suggestion. Also, for bringing global 22 figures, such as Dr Penny Chan, who are completely 23 independent and more than able to add up these numbers 24 on our behalf in the near future, I hope. 25 Simply speaking for the lawyers, laymen and press</p> <p style="text-align: center;">Page 73</p>	<p>1 this method you count the number of people with 2 Hepatitis C in your country, you subtract those from 3 injecting drug use and other causes, and that leaves you 4 your contaminated residue. 5 In the UK there could not have been more than 6 200,000 injecting drug user infections in 1990, this is 7 according to police reports at the time. At 85,000 8 infections from other causes. 285,000 from our A5 9 figure gives us, again, 300,000 NHS healthcare 10 survivors. 11 The third method is testing of population cohorts. 12 Here, suspiciously, alone in the developed world, the UK 13 has never mass tested its C section or high bleed 14 maternity mothers. It has never tested its child 15 surgery or blood product given children. It has never 16 tested its dialysis, its transplant or comprehensively 17 tested its trauma patients. This hall is full of 18 patients who had to wait 5, 10, 20, even 30 years to 19 stumble upon a diagnosis. 20 However, some smaller studies have been done, in the 21 UK, of the transfused, and they note, when tested, 1 in 22 50 transfused children had Hepatitis C. They also note 23 1 in 14 dialysis patients when tested had Hepatitis C. 24 They also note that heart patients, when tested, were 25 2 per cent Hep C positive. They also note that</p> <p style="text-align: center;">Page 75</p>
<p>1 present, one method to count a nation's contaminated 2 healthcare outbreak is called the per transfusion 3 method. You work out how transfusions a nation did, 4 what percentage were infected, infectious of Hep C, and 5 there you have your number. 6 In the UK, every report suggests our transfusions 7 were one in 40 infectious, or 2.4 per cent infectious. 8 We did 12 million transfusions from 1965 to 1985, 9 2.5 per cent of 12 million transfusions gives you 10 approximately 300,000 survivors in 1990. 11 With this method France noted 400,000 survivors in 12 1990 infected at a rate of 40,000 a year. In the US, 13 they noted 2 million survivors infected at a rate of 14 250,000 a year, and this method gives us 300,000 UK 15 survivors, in 1990, infected at a rate of 20,000 a year, 16 and that figure was studied by our blood service in the 17 1980s. 18 Sadly, in the UK, we have pretended transfusions 19 were one in 2,000, one in 500 infectious. This wild 20 speculation from spin doctors has created this figure of 21 28,000 infections. 28,000 is 15 times less than the EU 22 national average or the numbers recorded by Spain, 23 France, Italy, the USA and Poland to name a few. 24 Another method to understand transfusion infections, 25 it is called the population prevalence method. With</p> <p style="text-align: center;">Page 74</p>	<p>1 Thalassaemia major patients receiving 100 units of blood 2 were 100 per cent infected. 3 This level of infection again suggests a far higher 4 level of Hepatitis C infections from the NHS's health 5 care than we have been led to believe. 6 Finally, on numbers, 28,000 is a figure offered by 7 the only Department of Health in the world to have 8 systematically refused to mass warn and test its 9 patients; it is a figure offered by the only Department 10 of Health in the world that lost two entire tranches of 11 ministerial related notes; it is a figure offered by the 12 only Department of Health in the world to force 13 a settlement out of court on the handful diagnosed in 14 1990. 15 None of these are the actions of a health service 16 searching for the truth and infected patients. All of 17 these are the actions of an organisation covering up the 18 facts. 19 Finally, a brief statement about the UK cover up of 20 the World Health recommended guidelines for testing. 21 In the 1990s, as France rushed to diagnose 22 80 per cent of its 400,000 survivors, in the 1990s, as 23 the USA rushed to diagnose its 2 million survivors, our 24 several hundred thousand NHS contaminated healthcare 25 survivors have simply been lied to and denied a safety</p> <p style="text-align: center;">Page 76</p>

19 (Pages 73 to 76)

<p>1 test warning; most of them have even been denied the 2 fact that they exist. As the World Health rushed to air 3 its "stop, caution, get tested" message globally and 4 fined the 100 million plus infected via transfusions in 5 healthcare and rushed to warn them that 21 units of 6 alcohol can kill them, that many modern common 7 prescriptions, like paracetamol, can kill them, our 8 health service did next to nothing.</p> <p>9 In 1995, in fact, our Chief Medical Officer, 10 Dr Calman, simply stated, instead of half a million 11 people having Hep C, in his letters to GPs and hospitals 12 he said it might just be 50,000, it might be a quarter 13 of a million, "we don't know".</p> <p>14 From that point on, hundreds of thousands with 15 contaminated blood from healthcare in their veins were 16 left to die as soon as possible.</p> <p>17 It should be remembered that, in France, doctors 18 were imprisoned for the crime of even thinking of 19 leaving people in such danger as ours were left in for 20 decades.</p> <p>21 Dr Calman also stated in his letter to the GPs and 22 the hospitals, there are reasons -- wait for this one -- 23 when "it is preferable not to inform patients of their 24 transfusion Hep C infections or risks."</p> <p>25 He refused all testing to those infected from 1945</p> <p style="text-align: center;">Page 77</p>	<p>1 contaminated blood survivors.</p> <p>2 Sadly, this boom was actually predicted in the 3 Commons in 2002, in the Hepatitis scandal report and by 4 myself, again to Lord Archer, in 2007.</p> <p>5 We need to realise, also, that as fast as we have 6 left 300,000 NHS survivors without testing, we have 7 imported up to 200,000 more survivors from contaminated 8 healthcare from overseas with Hepatitis C and 9 Hepatitis B.</p> <p>10 We need to understand, if we have lost 20,000 lives 11 to this disaster and its cover up, we cannot afford to 12 lose another similar number.</p> <p>13 It doesn't matter if we have an advanced cure for 14 Hep C, it doesn't matter if we have treatments for help 15 B and transplants for both if we don't have the truth to 16 warn people they are infected.</p> <p>17 Finally -- I am sorry if this is a little 18 adversarial -- but our health care services harbour 19 a few key Department of Health quangocrats, who have run 20 this cover up, and who see it as their job to protect 21 their organisation and its reputation and perhaps their 22 pensions. We need to claim our health service back from 23 these people and give it to doctors who want to save 24 lives whatever the cost.</p> <p>25 We know who these quangocrats are and I hope we will</p> <p style="text-align: center;">Page 79</p>
<p>1 to 1987. In fact, not until the Hepatitis scandal 2 report was tabled in the Commons was any effort made to 3 create a national Hep C testing strategy, in 2004.</p> <p>4 Contrast this with the 1990s contaminated blood 5 statement of the US surgeon general, in the early 90s. 6 Dr Everett Koop stated to the American people and the 7 world:</p> <p>8 "We stand on the precipice of a grave threat to our 9 public health. It affects people from every walk of 10 life. It affects people in every country and, unless we 11 do something about it soon, it will kill more people 12 than HIV/AIDS."</p> <p>13 Our Department of Health spin doctors, when finally 14 bullied into making a plan more than a decade later, 15 decided they needed a small, low key campaign, aimed at 16 not being sensational and focusing on highly 17 marginalised addict groups.</p> <p>18 We need to just admit that the UK tripling of 19 cirrhosis and liver cancer in a time of falling alcohol 20 use is motored by our cover up by the fact that 1 in 100 21 UK citizens had a deadly liver carcinogen called Hep C, 22 at the end of our harvesting blood wholesale from 23 prisons.</p> <p>24 This worst in the EU boom in liver death is mirrored 25 by our worst in the EU effort at diagnosing our</p> <p style="text-align: center;">Page 78</p>	<p>1 hunt them down for questioning and, I sincerely hope, 2 punish them after extracting some confessions from them. 3 It may be blood for blood, but it is also justice.</p> <p>4 Thank you.</p> <p>5 SIR BRIAN LANGSTAFF: Ladies and gentlemen, something like 6 ten minutes early we are breaking for lunch. Can I ask 7 you therefore, please, to be back here by 2 o'clock 8 rather than the 2.05, which is on the programme. 9 I shall see you then. 10 (12.50 pm) 11 (A short break) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 80</p>

20 (Pages 77 to 80)

A				
A5 75:8	acted 62:9	afforded 20:8	66:20,21	article 35:14
abandoned 19:24	acting 56:15 57:11	afternoon 68:10	anxieties 36:4	aside 53:12
ablaze 71:21	62:10	age 34:3 47:6	anxiety 8:7	asked 1:14 3:2 8:16
able 3:13 8:24 9:8	action 48:19 49:25	agencies 21:1	anybody 11:9	23:1,4,4 31:19
23:5 30:19 33:23	52:16	agent 45:11	apologise 5:3	34:22 41:17 46:8
42:8 48:21 62:21	actions 14:6 30:17	ages 6:25	apology 27:5	49:23 73:6
73:23	30:20 50:19 61:4	ago 35:22 41:14	appalled 38:21	asking 11:21 16:3,7
abroad 58:21 68:20	61:22 70:14 76:15	49:3	appalling 15:1	16:11 25:12
absence 62:17	76:17	agonisingly 72:25	38:18,25 49:13	aspect 13:14 57:24
absolutely 25:24	active 23:13 24:18	agree 30:19 64:21	apparently 9:22	aspects 5:24 11:16
33:24	32:20 43:9	71:9,11	69:13	13:7 29:8
accept 4:24 49:20	activity 40:2	agreed 47:14 48:2	appear 2:9 20:2	assist 23:6 47:16
50:7 51:14,21	acts 4:12 50:3	Aidan 1:20 2:6,7,8	60:3	55:22 56:21
56:6 61:5 64:22	actual 9:23	AIDS 21:16	appeared 6:8 11:25	assistance 16:5
65:21	ad 43:13	aimed 78:15	54:19	38:24 43:11
acceptance 27:5	adage 37:13	aims 10:17,18 13:9	appears 28:23 61:7	assisting 25:24
accepted 12:2 14:7	add 1:9,12,23	air 77:2	APPG 41:8	associated 16:10
accessible 26:4	69:20 73:23	aired 10:7	application 52:13	45:14
accident 34:8 71:7	added 9:10 29:1	albeit 55:16 66:23	58:11	assumption 58:20
71:10,19 72:9,18	ADDI 35:3	alcohol 77:6 78:19	apply 14:22 18:4	ate 45:15
72:23	addict 78:17	alcoholic 29:5	applying 14:9	attempt 48:10
accidental 52:2	additional 65:12	alcoholism 59:22	appointed 26:17,19	59:18 61:16
account 4:22 8:17	address 37:17	alerted 37:8	appreciate 48:23	attended 7:13
11:15 22:3 23:5	administrations	alive 30:23	approach 12:22	attention 13:18
25:15 50:3,13	15:19	allow 23:13 24:20	18:5 23:13 25:1	30:5 42:13
52:21 67:25 68:4	administrative	27:14	48:17 62:15	attitude 3:11 15:2
accountability	48:11,12	allowed 9:2 19:23	approached 42:7	15:14 19:5 21:23
13:10 50:9 66:12	admit 10:13 78:18	39:17	appropriate 28:2	22:4 30:2
accountable 49:19	admitted 73:10	ally 70:23	39:1 50:8 55:12	attitudes 29:14
50:18 56:5	admitting 60:1	altered 32:23	60:19 63:12	attribution 12:17
accuracy 29:9	adopted 24:19	alternatives 36:6	approximately	12:23
accusation 23:19	advanced 60:14	72:22	73:17 74:10	August 71:4
accusations 60:3	79:13	American 78:6	April 28:15 53:22	aunts 69:25
accused 59:21	advantage 22:21	analyse 41:20	Archer 54:3,6 79:4	auspices 36:14
achieving 32:21	advantages 26:15	analysis 12:17,23	area 35:1 36:9	authorities 40:15
acknowledge 4:24	65:25	62:17,23	37:17 38:3 39:3	available 1:17 2:2
acknowledgement	adversarial 79:18	and/or 5:1 27:12	58:18 59:3 66:15	2:19 7:9 16:5
8:13	advert 69:4	anger 6:7 28:18	areas 31:3,7 34:25	37:3 49:21 72:1
acquired 39:21	advice 40:7	angry 6:9	38:8	average 74:22
40:9 59:21	advised 18:25	annual 72:11	arguing 27:17	avoidable 71:17
acquiring 63:14,17	advisers 33:24	anonymous 29:15	41:24	avoided 71:19
acronym 30:1	affect 49:14	answer 3:14 65:23	argument 60:13	72:12,25
act 54:25 56:10	affection 29:24	answered 39:19	arisen 25:19	awarded 21:12
57:12 62:13	afflicted 38:18	answering 51:22	arising 66:3	30:14
	afford 79:11	answers 8:12 21:25	arose 24:12	aware 23:16,19

56:11 awful 24:13 25:21 25:23 awkward 56:24	62:16 better 10:11,14,15 13:7 71:11 biased 9:6 big 11:6 17:7 blame 13:11 22:2 37:20 59:18 blameless 60:22 blaming 29:2 60:6 bleed 75:13 bleeding 13:1 31:12 58:2,5 blight 66:18 blighted 6:6 51:2 57:13 60:11 68:1 blinded 17:20 blood 3:24 4:4,7,13 4:13 12:15 15:24 18:8,25,25 19:16 19:17 20:2,11,12 20:13,14 21:3,4 27:10,11,12,12 31:5,13,13 33:25 34:1 36:2,8 37:6 40:13 41:8 43:8,9 43:21,21,25 44:19 44:19 45:3 46:3,4 54:5 56:20 57:5,5 57:8,14 58:7,11 58:19,21 59:2,3,3 60:2 62:19,19 63:15 67:7,7,16 67:16 68:13,15,21 69:5 70:4,5,7,22 71:6,15,18,22 72:1,7,8,12,15,24 73:1,4,13 74:16 75:15 76:1 77:15 78:4,22 79:1 80:3 80:3 bloods 68:18 69:6 bloody 6:10 70:5 board 41:15 bodies 32:5,11 44:5 44:10,14 49:17	50:16 55:25 56:15 56:21 61:16,22 body 13:5 50:11 54:17 bono 43:10 boom 78:24 79:2 born 38:12 40:5 borne 4:7 18:9 bottles 1:12 bottom 36:23 Bottomley 41:7 bought 72:21 boys 19:19 29:21 branches 20:23 break 42:19,22 80:11 breaking 80:6 breezily 38:4 Brian 1:3,4 33:2 42:19,24 43:2 47:16 55:5 68:7 68:10 70:25 71:2 80:5 brief 76:19 bright 39:13 brilliantly 41:21 bring 4:17 40:25 41:2 bringing 4:15 32:22 42:17 73:21 brings 48:15 59:17 British 71:18 broken 10:4 brothers 29:19 69:25 brought 20:11 28:7 building 73:19 built 6:19 bullied 78:14 burdened 6:6 32:24 business 6:3 14:19 buy 41:19 bystanders 24:10	C 4:8 31:9 35:18 40:10 43:20 44:1 44:6,18,25 45:4 59:25 69:21 70:8 70:23 71:6,22 72:1,2,4,11,16 73:7 74:4 75:2,13 75:22,23,25 76:4 77:11,24 78:3,21 79:8,14 cabinet 36:14 call 4:21 15:13 22:3 23:4 36:2,3 38:16 42:4 called 18:11 22:4 22:17 28:4,5 36:20 38:12 39:5 50:12 68:13 74:2 74:25 78:21 calling 13:11 calls 17:14 Calman 77:10,21 campaign 43:10 56:20 68:18 78:15 campaigned 3:24 campaigner's 1:15 campaigning 53:7 56:19 cancer 78:19 candour 8:4 28:7 28:15,19 captured 9:5 carcinogen 78:21 care 3:10 7:9 16:10 38:19 42:14 73:8 76:5 79:18 cared 73:10 careful 12:10,12 17:19 39:18 careless 34:8 carers 46:21 47:7 Caring 30:7 carried 50:16 59:25 carry 44:2,25 45:6	60:15,16 carrying 44:4,13 case 9:24 60:5 61:8 cases 4:11 7:16 8:6 10:1 28:23 29:1 44:20,22 51:14 70:2 categories 62:14 63:3 catharsis 13:15 Catherine 41:11 caught 17:21 causative 58:15 cause 59:24 60:16 61:7 62:3 70:5 caused 36:22 45:10 45:23 62:19 causes 75:3,8 caution 77:3 cautious 32:17 33:3 CBC 43:10,11 celebrated 32:13 cent 72:2,10 74:7,9 75:25 76:2,22 central 13:22 20:18 centre 5:22,23 35:15,21 centres 20:25 38:4 certain 12:13 certainly 11:6 27:6 36:24 38:23 72:18 cessation 12:25 chain 49:8 Chair 2:8 3:8 5:22 6:15 10:20 17:1 51:20 65:17 66:14 chaired 54:4 Chairman 47:16 66:17 67:22 challenged 26:6 35:23 challenges 43:12 43:15 Chan 73:22 chance 56:23 66:22
		C		

<p>67:3,21 69:19 change 43:16,16 57:22 changed 15:12 42:12 63:2 changes 28:8 29:13 43:15 chaotic 38:22 43:13 chapel 1:10,16 chapter 11:17 characterised 47:19 charities 3:23 30:22 charity 38:24,24 cheery 38:7 Chief 77:9 chiefs 41:24 child 75:14 childbirth 68:17 children 38:15 47:5 63:13,16 69:3,10 69:25 75:15,22 chilling 53:4 choice 51:15 chose 34:14 chosen 51:23 72:21 72:24 chronology 11:12 circumstance 54:18 circumstances 50:5 63:22 66:7 cirrhosis 78:19 citizens 78:21 civil 49:14 54:19,21 54:23 55:10 CJD 4:8 45:7,9,19 claim 14:7 79:22 claimed 18:6 classes 6:25 classifying 30:4 clear 7:23 13:9 15:6 35:9 41:21 48:9 55:23 57:12</p>	<p>73:11 cleared 44:9,14 clearing 31:10 clearly 4:8,14 6:14 13:25 21:5 24:20 25:3 27:9 54:15 clients 2:12 5:13,18 24:21 26:10 35:7 43:9,18,23 44:1 44:17,24 45:3,19 45:23 46:4,8 47:2 47:15,21,24 48:5 49:3,20 51:11,21 53:24 55:1,14 56:19 57:25 58:12 59:17,24 60:3,21 61:2 62:20 63:25 64:12 66:17 67:13 67:22 clients' 23:22 climate 45:14 clinical 31:8 60:10 clinicians 20:20 clod 46:12 closed 30:11 closely 38:9 52:20 closure 9:9 clue 8:22 co-infected 44:24 45:1 63:4,5 cognitive 44:3,16 51:3 cohort 34:6 cohorts 75:11 coincidences 61:15 cold 43:4 collaborative 23:13 32:20 colleagues 14:6 collected 41:18 62:25 collection 59:2 College 21:15 come 3:19 9:15,20 14:22 15:16 16:4</p>	<p>16:23 23:14 24:1 25:3,15 27:8,15 28:13 29:3,21 35:19 70:18 comes 20:17 comfortable 25:16 coming 6:11 14:15 15:11 commemoration 1:7 13:20 46:7 commence 52:17 commend 32:12 64:7 comment 34:22 71:4 comments 12:23 commit 33:1 commitment 32:6 47:8 committed 32:2,3 42:16 49:12 66:13 committee 34:14 42:1 committing 69:18 common 7:1,3 20:4 32:21 57:21,22 77:6 Commons 78:2 79:3 communication 20:17,18,20,21 21:1,2 communities 46:5 46:6 community 33:22 34:13 36:15 37:15 38:13,18 39:13,21 41:1,5,18 42:7 62:22 63:1 companies 27:20 27:20 28:3 36:25 companies' 36:23 compellable 25:17 compensated 21:10 compensation</p>	<p>10:11 30:13,14 46:24 71:8 complacency 19:16 26:13 complete 62:21 70:2 72:6 completely 20:15 35:13 73:1,22 complex 67:5 complicity 36:3 comprehensive 11:5 62:17 64:5 67:25 comprehensively 17:10 48:6 75:16 compromise 27:14 compromised 7:17 concentrate 13:1 concern 15:23 16:17 61:2 concerned 41:11 64:12 concerns 14:20 26:18 68:24 69:5 conclusion 31:18 64:15 conclusions 49:13 64:21 65:9 condemned 22:5 condition 8:4 45:18 conditions 7:19,20 16:9 31:15 44:22 conduct 6:3 65:1 confessions 80:2 confidence 14:10 14:11,12,15 23:25 24:2 25:10 31:21 confident 55:14,21 confidential 1:17 64:24 65:3 66:2,5 confined 15:21 confirmed 59:10 consensus 26:9 consent 19:1,2,3,6 29:11 57:17,18,20</p>	<p>57:23 59:15 consequences 21:5 21:7,9 30:12 55:1 67:11 70:13 considerable 54:2 consideration 24:21 considered 19:14 55:11 considers 66:15 conspiracy 9:18 10:5 constraints 51:9 constructive 12:22 consultant 21:17 consultants 19:22 consultation 17:3 48:3 contained 11:15 container 1:11 contains 33:6 contaminated 4:4 31:5,13 33:25 34:5 40:14 41:8 43:9,21,21,25 44:18 46:3 56:20 57:8 58:7 59:2 60:2 68:13 70:22 73:9 74:1 75:4 76:24 77:15 78:4 79:1,7 contamination 15:24 16:10 34:20 37:7 contend 36:19 context 18:13 Continent 46:12 continue 19:23 22:2 34:19 44:2 continued 37:9 continues 15:24 continuing 30:11 45:21 contracted 44:1,6 44:18 60:1</p>
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<p>contracting 58:7 contrast 45:18 78:4 contributing 23:10 contributive 33:9 contributor 68:8 contrition 27:7 convenience 48:11 convenient 54:19 58:25 conversations 39:2 converted 6:21 cooperative 67:23 copies 55:8,15 copy 55:7 core 2:4,11 8:21 9:3 14:17,22 15:5 15:16 22:12 24:5 24:9 25:7,11 33:6 33:8,10 42:24 corners 36:18 correct 58:24 corrected 63:23 cost 27:23 56:7 79:24 counsel 2:9 14:21 17:2 23:6 24:25 25:8 51:14 count 18:22 74:1 75:1 counter 19:15 counting 73:15 countries 72:19 country 19:24,25 20:9,10 31:25 53:11 73:16 75:2 78:10 couple 1:6,23 5:5 courage 32:14 70:18 course 25:16 49:25 51:19 63:7 67:17 67:18 69:2,7 70:4 73:20 court 30:17,20 52:12 64:19 65:7</p>	<p>76:13 cousins 70:1 cover 9:16,18 17:11 31:3 34:25 73:12 76:19 78:20 79:11 79:20 covered 17:10 covering 37:6 76:17 cow 45:11,13 cowardice 15:1 crack 24:4 create 78:3 created 38:17 55:9 72:17 74:20 credit 54:2 crime 69:18 77:18 criminal 10:9 Crisp 54:7 critical 51:17 68:3 criticised 65:2,6 criticism 13:6 criticisms 64:22 65:23 cross-examine 51:12 Crown 17:16 crucially 7:15 crystal 73:11 culture 29:2 61:12 curated 21:15 curative 60:12 cure 45:10 79:13 cured 7:14 current 16:21 28:11 cut 48:11 55:3 67:2 cynically 21:19</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>damage 60:5 61:17 damaged 61:4 Dan 33:14,17 35:22 42:11 danger 77:19 dark 36:17</p>	<p>data 29:16 62:23 71:21 date 10:12 32:10,16 50:14 David 42:24 43:1 54:13 Dawson 2:10 day 42:25 43:6,10 45:20 54:20 days 21:16 24:17 dead 39:3 46:22 deadly 78:21 deal 38:14 dealing 38:21 Dean 70:16 death 44:23 46:15 52:2 69:17,23 78:24 deaths 4:10 50:25 51:25 52:19 57:13 68:2 debate 65:5,8 66:2 66:10 debilitating 7:21 decade 78:14 decades 44:5 47:20 66:18 70:12 77:20 deceased 44:19 48:22 49:1 50:4 decide 51:16 decided 78:15 decimated 39:13 decision 48:13 49:7 49:21 50:6 decision-maker 51:19,22 decision-makers 48:20 62:12 67:14 67:18 decision-making 18:18 50:16 60:11 67:8 decisions 18:14 49:10 50:1,24 51:8 52:18 55:2,4</p>	<p>61:10 68:1 dedicated 16:12 deeply 44:7 defend 48:19,21 defended 72:17 defensible 60:18 definitely 35:1 72:22 deflect 59:18 delay 36:5 47:18 64:17 delayed 57:10 delays 6:18 64:14 deliberate 6:16 11:4 54:25 55:11 deliberately 54:21 delighted 47:22 deliver 31:22 Della 2:4 33:11,12 33:14 demands 53:1 demonstrate 51:7 denial 47:18 denied 37:15 76:25 77:1 dentist 45:24 dentistry 68:20 deny 63:15 Department 36:1,8 36:14,17 41:15 56:14 71:4,14 76:7,9,12 78:13 79:19 depression 8:6 depth 42:9 derisory 21:11 designated 9:2 designation 24:5 desire 6:15 Desmond 70:25 71:1,2 desperate 39:6 Despite 43:22 destroyed 40:23 54:10,22</p>	<p>destruction 17:13 36:11 54:14,25 55:11 69:23 detail 37:18 detailed 31:23 62:23 detailing 71:21 detectable 44:10 determine 58:24 60:18 determined 47:15 determinedly 41:10 devastated 33:22 devastating 47:3 58:15 devastatingly 43:24 devastation 69:22 develop 45:15 developed 19:21 21:3 44:2,12 55:20 60:10 73:3 75:12 developing 44:21 45:19 development 19:9 developments 20:9 devolution 15:22 devoted 47:6 diagnose 76:21,23 diagnosed 33:15 38:14 40:4 69:19 76:13 diagnosing 78:25 diagnosis 59:9 75:19 dialysis 75:16,23 Diana 41:6 die 47:5 77:16 died 8:8 32:22 34:3 52:1 63:13,17 67:3 difference 3:3 12:19 40:13</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>differences 12:21 different 5:6 20:23 20:25 21:1 31:9 39:22,24 40:1,18 43:23,23 51:19 53:14 55:10 62:4 62:13,15,16,18,18 63:8,18 differentiate 18:1 differently 62:5 difficult 45:22 49:13 66:21 dignity 32:13 diminishes 46:16 direct 63:14 directly 25:7 36:9 46:25 59:17 disabilities 44:4,13 44:16,21 47:5 51:3 58:15 60:22 66:24 disagreements 26:5 disappeared 9:21 disaster 4:5,18 15:24 31:5 38:19 46:6 47:4 54:9,11 54:22,24 55:13,16 57:3 73:10 79:11 disastrous 67:11 disastrously 17:24 disbelieving 33:21 discharge 50:13 discharged 65:18 discharges 65:10 disclosed 24:14,14 56:13 disclosure 51:24 52:7,11 55:21 56:1 59:5 disclosures 56:25 disconnect 40:8 discord 39:24 discover 56:23 58:6 discovered 14:11 45:13 48:13 53:13</p>	<p>discovering 56:17 discussed 3:21 14:23 discussing 36:20 disease 38:5 45:8,9 45:11,13,16 72:7 73:2 diseases 7:18,19 37:24 45:5 disgraceful 21:23 dismissed 13:4 disorder 13:1 31:12 disorders 58:2,5 disparity 63:23 disproportionate 61:24 disproportionately 15:6 disputes 64:18,19 64:24 dissatisfaction 15:7 distress 45:22 distressing 40:3 44:23 diversity 7:2 divisional 52:12 divisions 40:22 doctor 29:23 37:23 doctors 7:6 12:3 14:5 20:1 22:3 35:9 40:14 49:15 59:8 74:20 77:17 78:13 79:23 document 55:7,21 documentation 24:14 documents 24:17 36:12 53:9,13,20 54:9,22 55:9,12 55:15 56:17,22 Doe 71:24 dogged 8:6 64:18 doggedly 41:10 DoH 37:1</p>	<p>doing 6:2 14:7,10 23:10 26:1 domestic 17:17 59:1 donations 72:8 73:3 Donne 46:9 donor 12:16,20 donors 12:14 19:18 door 66:19 dormant 45:6 doubts 35:8 Dr 71:24 73:22 77:10,21 78:6 drafted 5:8 draw 54:10,22 drawn 11:2 17:2 drill 73:20 driver 34:9 driving 21:20 40:19 drug 29:5 36:23 59:22 75:3,6 due 6:16 11:4 39:7 66:1 71:15 duplication 11:3 dutifully 68:23 duty 28:7,14,17 62:12 dying 40:16,16</p> <hr/> <p style="text-align: center;">E</p> <p>earlier 37:16 40:12 57:12 early 21:16 28:10 47:6 78:5 80:6 East 12:20 easy 17:21 62:4 economically 27:13 effect 46:7 69:23 efficient 27:13 efficiently 6:17 11:4 effort 78:2,25 efforts 24:1 either 18:10</p>	<p>elevated 31:14 ELISA 73:4 embarrassing 15:2 56:24 61:13 embarrassment 48:12 56:7 emerge 65:24 emerged 61:13 63:22 emergence 18:10 emerging 60:12,24 emotional 16:13 emphasise 39:4 45:2 employee 50:11 encouraged 8:14 endeavour 67:22 endless 64:18 endorse 17:4 38:10 energy 42:8 enforced 28:14 engaged 36:2 England 73:18 enormous 43:5 48:24 61:2 ensure 4:1 7:11 10:6 14:2 23:2 28:9 32:4 54:16 66:10 ensuring 48:6 65:11 entered 31:20 entire 36:7 41:1 46:11 47:7 76:10 entirely 60:22 62:2 entitled 13:25 53:24 epidemic 21:16 equal 30:5 equally 64:7 equitably 62:13 errors 49:11 67:4,6 67:10 especially 41:13 70:21</p>	<p>essential 11:24 23:24 establish 26:23 31:6 49:24 57:6 established 57:20 establishing 4:15 10:19 67:24 establishment 9:5 16:7 27:7 52:25 53:5 estimated 72:10 ethical 60:20 EU 74:21 78:24,25 Europe 46:13 evasiveness 8:3 events 13:24 14:9 15:21 47:11 48:14 48:18,23 49:2 51:7 52:9,9,20,22 57:2 61:23 65:12 eventually 37:5 53:7,18 Everett 78:6 everybody 67:11 70:19 evidence 3:20 9:22 12:13 19:9 25:17 33:20 35:19 38:25 45:10 49:5,8 51:20 52:15 59:8 60:5 61:8,12 64:11,16 65:7,22 65:24 66:8 ex 43:13 46:23 62:24 exactly 35:3 37:5 examination 25:6 examine 58:18 examined 53:9 examining 60:8 example 10:10 12:14,19,25 16:4 18:8 19:18 31:7 exceptional 66:7 excluded 12:16</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

65:5 exclusion 12:20 excuse 14:5 executive 11:7 executives 72:10,15 exercise 4:14 24:6 54:14,16 69:14 exist 19:14 77:2 expect 8:24,24 23:23 48:5 50:23 51:5 69:3 expectation 32:7 55:25 expectations 6:4 8:18 22:7,9 23:3 expected 49:2 expedition 48:8 expeditiously 64:8 experience 3:16,18 4:10 5:12,20 8:25 10:24 20:19 26:24 32:10 59:23 65:16 experienced 15:25 experiences 5:14 6:23 22:6 39:10 experimental 7:22 expert 25:20,20 26:15 expertise 7:8 22:17 22:20 26:11 experts 22:17 25:24 26:6,9,13 73:11,20 explain 45:23 explained 58:17,17 69:1 explaining 72:4 exploring 50:24 expose 9:16 10:21 exposed 20:13 31:13 38:5 45:4 58:6,9 exposition 41:21 exposure 31:10 express 15:7	expressed 14:21 expression 34:13 expressly 4:9 extended 19:7 extensive 64:14 extent 9:16 10:5 58:15 59:1 61:11 65:5 67:2 extracting 80:2 <hr/> F faced 8:2 58:4 fact 3:1 5:15 6:24 12:14 30:23 37:5 41:17 44:9 46:1 47:13 48:1 58:14 63:25 69:20 70:2 77:2,9 78:1,20 factor 37:4 58:3 70:7,7 factors 72:21 facts 10:19,23,23 11:21 76:18 factual 11:12 failed 11:19 32:6 62:13 67:8 failings 4:22 12:13 failure 14:16,21 15:3 17:14 19:8 57:12 72:6 failures 27:25 fair 2:1 24:4 50:21 66:1 fairly 2:14 10:20 fairness 65:11,17 faith 7:25 8:1 10:4 23:12 falling 78:19 falls 27:23 false 28:25 29:7 familiar 5:15 45:8 families 9:7 16:6 46:4,6 52:23 53:5 53:7 59:11 family 20:21 38:22 40:6 42:14 46:21	70:19 famously 46:9 fans 52:1 53:23 far 19:12 27:6 47:6 52:21 64:2 69:15 76:3 fascinating 17:22 fast 79:5 fathers 70:1 fatigue 31:11 68:25 69:2 fear 45:14 fearful 8:5 fearless 32:9 fearlessly 10:21 Featherstone 42:5 feature 43:22 February 52:14 68:16 feeding 25:4 feel 1:16 11:19 24:4 33:3,20 37:20 46:10 feeling 8:1 9:4,4 40:2 68:25 felt 7:19 fibroscan 41:19 field 35:10 Fifthly 57:17 fight 38:13 fighting 40:24 41:9 figure 74:16,20 75:9 76:6,9,11 figures 73:22 filed 55:9 filleted 9:22 film 34:15 40:21 filthy 71:15 final 11:5 56:22 64:1,3,16 65:2 66:9,22 67:1 finally 33:23 36:16 37:8 39:18 42:11 42:15 47:13 69:19 76:6,19 78:13	79:17 financial 10:11 16:5 21:6,8 38:23 56:7 63:12,15 financially 10:14 38:11 find 24:24 32:8 34:5 53:9 55:6,14 59:24 68:5 finding 53:13 66:21 findings 53:2,21 fine 50:7 fined 77:4 finish 70:15 finished 4:17 firmly 36:17 41:3 first 1:20 2:4 3:1 5:13 10:18 16:20 22:11 27:15 33:10 33:13 34:7 47:2 47:24 53:14 62:20 66:1 71:3 72:5 Firstly 71:17 five 11:6 62:24 63:2 fobbed 26:12 focus 28:17 47:10 53:4 57:2 61:19 62:8,11 63:3 64:9 67:24 focusing 78:16 follow 30:8,8 49:8 67:18 followed 2:3 37:4 37:10 following 21:18 48:2 57:19 64:10 football 52:1 force 28:15 76:12 forefront 18:18 19:13 29:10 foreign 19:18 forget 36:7 forgotten 30:11 formal 47:3,14 formally 15:13	former 21:17 53:10 54:3,8,13 Forum 3:24 forward 32:19 33:8 41:2 63:24 found 12:13 14:18 40:2 42:1 72:1 founded 26:11 four 43:11 69:3,9 fourth 57:1 72:20 France 74:11,23 76:21 77:17 Francisco 33:17 frankly 13:8 21:22 Freedom 56:10 friend 41:13 42:3 43:7 70:23 friend's 46:15 friends 2:9 46:21 68:3 front 3:10 5:22,23 35:13 60:24 70:18 frowned 10:7 frustration 9:10 fulfil 6:3 fulfilled 7:12 fulfilling 32:21 fulfils 23:3 full 28:12 30:13,14 30:18,19 33:8 48:9 56:12 62:21 75:17 fully 3:14 5:3 8:25 10:6,20,22 16:5,9 16:16 17:9 26:4 31:4 32:20 49:20 function 50:14 functions 50:13 65:10 fund 28:4 31:6 41:20 fundamental 32:13 fundamentally 7:16 funding 30:18,19
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

30:21 41:25 further 11:20 23:22 31:1,3 38:25 42:9 65:22 future 8:7 25:6 26:21 27:10 28:11 50:14 54:18 58:14 67:13,17,19 73:24	41:9 good 1:4 11:14 13:8 26:16 28:13 68:10 71:2 Gospport 55:20 government 7:11 14:16,22 15:3,10 15:13,17 16:18 20:22 27:4 31:6 36:9 47:13 49:7 49:17 50:11 53:8 54:17 55:7,8,16 56:6 57:4,10 61:20 62:11 63:11 63:19 66:19 67:14 governmental 17:13 governments 15:18 54:20 GP 68:23 69:1,20 GPs 77:11,21 grandparents 70:2 grateful 6:9 48:3 gratia 43:13 46:23 62:24 grave 78:8 great 11:20 25:25 46:7 ground 64:10 66:15 group 62:1,3 68:13 73:20 groups 26:4 39:25 40:8 56:19 62:4,8 63:8 70:21 78:17 growing 13:2 grown 33:2 grudging 46:23 guarantee 67:17 guide 42:3 guidelines 76:20 Gunson 72:9 guys 42:18	21:18 haematologists 20:24 haemophilia 3:23 12:15 19:19 33:16 34:2 35:15,17,21 38:4,10 40:5,6 41:14,16,24 42:3 haemophiliacs 29:20 40:1,9 half 77:10 hall 71:9 75:17 Ham 35:12 hand 71:12 handed 53:21 65:13 handful 76:13 handled 13:7 hands 7:4 Hannah 43:7 haphazard 46:23 happen 11:22 14:3 18:22 20:16 28:5 34:18 72:18 happened 4:15 8:13 9:24 10:1,2 14:1,4 17:24 18:2 30:10 34:13 37:5 38:1 40:24 52:6 52:22 56:18 happening 15:21 28:20 35:6 37:22 harbour 79:18 harder 35:2 harms 5:4 harvested 71:25 harvesting 71:17 71:22 73:1 78:22 HCV 43:20 63:4,5 63:6 head 35:14,21 41:14 72:10 headquarters 39:23 heads 41:16	healing 40:20 health 7:4,16 15:10 16:9,11,14 36:1,8 36:10,15 37:24 41:15 56:14 61:17 69:10 71:5,14 76:4,7,10,12,15 76:20 77:2,8 78:9 78:13 79:18,19,22 Health's 36:17 healthcare 7:14 73:9 74:2 75:9 76:24 77:5,15 79:8 healthier 7:14 heaped 37:25 hear 11:1 24:25 37:21 51:21 heard 3:21 6:5,7 13:15 16:20 18:24 36:11 39:11 48:4 hearing 6:1 9:6 24:17 hearings 26:7 heart 32:1 57:18 75:24 heartache 33:22 heartened 24:25 heat 11:17 20:11 37:2,10 heed 17:14 heeded 57:16 heeding 6:1 held 49:18 59:8 62:23 70:13 help 7:5,8 22:7 23:6 38:17 42:7 79:14 helped 42:6 hep 40:10 72:1 73:7 74:4 75:25 77:11 77:24 78:3,21 79:14 Hepatitis 4:7,8 18:10 31:9 35:18	43:20 44:1,6,18 44:25 45:4 59:25 69:21 70:8,9,23 71:6,22 72:2,4,11 72:16 73:16 75:2 75:22,23 76:4 78:1 79:3,8,9 hide 14:6 high 35:12 66:11 75:13 higher 76:3 Highgate 35:12 highly 71:22 78:16 Hillsborough 52:1 52:6,16,23 53:8 53:18,25 55:20 HIRSCH 33:13 historic 70:11 historical 18:13 history 12:15 21:15 62:6 hit 36:23 HIV 4:8 13:3 18:11 19:21 40:9 44:25 45:4 63:7 68:19 70:9 HIV/AIDS 78:12 hoc 43:13 hold 8:17 49:9 holding 50:2 68:4 honesty 32:9 honour 22:24 honoured 33:3 hope 5:23 9:13 26:17 31:21 32:7 32:17 36:16 40:22 50:2 56:6,14 62:20 67:13 73:24 79:25 80:1 hopeful 3:13 hopes 6:4 8:18 horrendous 34:16 horrible 40:18 horrific 70:11 horrifying 38:5
<hr/> G <hr/> gain 62:21 gainsaid 21:7 gaze 39:18 general 12:2 45:17 54:4 78:5 generated 55:15 generation 70:3 generations 67:14 genotypes 31:9 gentlemen 43:3 80:5 gesture 24:6 getting 24:4,18 29:11 61:8 68:5 Gibbs 43:7 give 1:25 3:2 22:20 25:15 33:19 38:25 41:17 65:7,22 79:23 given 15:6 19:1 32:16 35:13 40:25 43:10 46:22 48:9 54:2 57:9,9 58:8 65:14,15 69:17 70:18 75:15 gives 36:24 66:1 74:9,14 75:9 giving 9:8 51:20 Glasgow 6:8 19:20 global 73:21 globally 77:3 go 1:10 11:20 goes 72:3 going 5:5 11:10 13:23 15:11 22:13 22:14,14 25:10	<hr/> H <hr/> haematologist			

<p>hospital 19:20 45:24</p> <p>hospitals 19:22 20:25 77:11,22</p> <p>hour 2:21</p> <p>hours 23:9,10</p> <p>HTLV-3 18:11</p> <p>humans 45:13</p> <p>humbled 6:5</p> <p>hundred 76:24</p> <p>hundreds 71:18 77:14</p> <p>hunt 80:1</p> <p>husband 33:14 38:11 42:11 70:16</p> <p>husbands 34:10 70:1</p> <p>hypothecated 28:2</p> <hr/> <p style="text-align: center;">I</p> <p>idea 10:5 13:3 25:20,24 26:16</p> <p>identification 57:4</p> <p>identified 28:12 70:12</p> <p>identify 67:6 69:14</p> <p>idiotic 72:14,16</p> <p>ignored 22:14 49:11</p> <p>ill 37:24</p> <p>ill-health 58:14</p> <p>illustrated 62:16</p> <p>imagined 42:10</p> <p>immediate 58:10</p> <p>immediately 41:23</p> <p>immune 31:11</p> <p>immunity 17:17</p> <p>impact 31:10 45:2 45:21 46:5 47:4 69:22</p> <p>implications 31:4,8</p> <p>importance 15:15</p> <p>important 21:7 28:16,21,25 29:13 38:8 45:2 57:24 59:3</p>	<p>imported 79:7</p> <p>importing 57:8</p> <p>imposed 27:19</p> <p>impossible 35:6 47:17 53:1</p> <p>imprisoned 77:18</p> <p>in-house 40:7</p> <p>inactivation 20:10</p> <p>inadequacies 59:1</p> <p>inadequate 51:8 52:5,7</p> <p>inadvertent 71:7</p> <p>inappropriate 49:6 61:24 71:8</p> <p>include 46:20</p> <p>including 34:16 56:19 73:13</p> <p>inclusive 40:21</p> <p>incompetence 9:25 51:7,10</p> <p>incompetent 49:6</p> <p>incomprehensible 39:10</p> <p>incredibly 28:21</p> <p>incriminating 54:9</p> <p>incurable 45:16</p> <p>indefensible 62:6 63:21</p> <p>independent 17:15 73:23</p> <p>independently 9:20</p> <p>indicate 65:17</p> <p>individual 13:17 19:22 49:14 50:4 59:25 60:1,5 65:6</p> <p>individuals 3:22 4:6 16:6 27:8 30:4 31:18 43:19 44:12 48:17,20 49:23 50:17,25 52:8,18 54:23 61:20 63:13,17 64:20 65:1,7,17 65:22</p> <p>industrial 73:9</p>	<p>inevitable 63:25 64:17</p> <p>infected 2:11 3:24 4:2,6 5:21 6:2 7:1 9:2 11:9 17:3 19:11 20:6 21:5 23:14,25 26:24 27:1 29:2,15,21 30:7,9 31:8,24 32:14 34:11 36:16 39:25 40:13,17,18 43:8,20 45:3 46:2 47:12 54:5 58:19 58:21 59:5,15,20 62:19,19,22 63:15 67:7,16 68:20 69:15,16,24 73:7 73:17 74:4,12,13 74:15 76:2,16 77:4,25 79:16</p> <p>infection 6:7 8:8 18:9 19:10 29:22 40:17 60:17 71:22 76:3</p> <p>infections 27:3 39:21 59:7,13 61:7 71:6 72:12 74:21,24 75:6,8 76:4 77:24</p> <p>infectious 74:4,7,7 74:19</p> <p>inflicted 60:22</p> <p>influenced 61:24</p> <p>inform 19:8 77:23</p> <p>information 11:14 24:21 28:25 29:1 39:9 49:21 56:10 57:3 58:8 62:25 68:22</p> <p>informed 13:5 16:23 18:21 19:2 29:11 52:3 53:19 57:17,17,20,23</p> <p>ingenuity 55:18</p> <p>inherent 20:3</p>	<p>inherently 65:4</p> <p>inherited 31:12</p> <p>initial 11:8</p> <p>initiate 73:4</p> <p>injected 19:16</p> <p>injecting 75:3,6</p> <p>injury 4:10</p> <p>innocent 51:1 69:24,24 70:10</p> <p>inquest 52:13 53:2 53:16</p> <p>inquests 51:25 52:17 53:21</p> <p>inquiries 10:18 23:9 32:6 49:23 64:13,18 65:16</p> <p>inquiry 2:12,19 3:4 3:5,9,13,17,18,21 4:14,21,23 5:2,25 6:3,16 8:14,17 9:1 9:5,12 10:17,25 11:1,2,8,25 12:1,7 13:8,9,14,22 14:17,18,21 15:11 15:14 16:4,25 17:2,15,19 18:12 19:4,15 22:5,8,18 22:21,21 23:3,6,7 23:11,23 24:7,13 24:25 25:4,8 26:23 27:8,18 31:2,20,24 32:4,8 32:19 33:9,19 36:13,16 37:17 38:8 39:15,18,23 40:25 42:15 46:1 47:2,9,14,16 48:2 48:17 49:3,8,9 50:2,10,15,23 51:8,12,14,15,18 53:4,25 54:4,15 55:6,20,24 56:5 56:13,16,18 57:14 58:5,18,24 59:4,6 59:20 60:7,17</p>	<p>61:11,19 62:20 63:3,20 64:1,5,8,9 64:12,20 65:2,18 65:21 66:12,16 67:5 68:4,10 71:20 73:6,19</p> <p>Inquiry's 24:1 34:22</p> <p>inquisitorial 18:5 51:11</p> <p>insofar 21:10</p> <p>instructed 43:6</p> <p>instructions 48:9</p> <p>integrity 30:4</p> <p>intend 10:20</p> <p>intent 54:10</p> <p>interaction 35:20</p> <p>interest 21:3 38:19 56:10</p> <p>interested 41:11 60:25</p> <p>interests 3:25 23:22 51:4 53:12 62:10 67:9</p> <p>internationally 73:15</p> <p>intravenous 29:5</p> <p>introduce 27:21 33:13</p> <p>Introduction 1:3</p> <p>invasion 8:3</p> <p>invention 37:13</p> <p>invested 6:4 8:19 23:12</p> <p>investigate 9:16 10:21 48:6 54:16 59:6,18</p> <p>investigated 10:7 58:1 59:13</p> <p>investigating 49:10 57:14</p> <p>investigation 17:16 17:17 32:8 53:3</p> <p>investigations 16:21 32:5 52:17</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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64:6 investigative 18:5 investigators 55:19 invite 49:7 53:4 64:9 65:16 66:14 inviting 51:18,20 involve 28:9 involved 3:5 11:10 26:1 35:10 36:1 43:12 46:16 48:18 52:20 67:24 involvement 28:12 irate 35:23 Ireland 10:10 30:14,15 irretrievably 7:17 island 46:11 islands 15:16 issue 10:6,19 13:3 13:24 14:15 17:22 20:18 25:4,19,19 26:12 30:17,23 57:17 issues 9:15 12:7 14:13 17:7,11,12 18:6 19:3 24:12 25:2,2,18 26:22 29:6,9 31:17 48:7 66:11 Italy 74:23	judging 12:3 judgment 11:25 49:20 57:19 65:10 65:13 judgments 23:23 judicial 52:2,13 53:3 jury 53:22 justice 13:13 26:25 32:22 41:1,4,9 52:4,14 53:16,17 66:23 80:3 justifiable 62:2 justification 58:1	knowing 29:22 66:20 knowledge 13:2 20:4 26:11 35:5 40:7 59:7,15 known 18:7,8 19:12 20:14 36:24 40:14 50:1,12 64:25 knows 6:13 50:11 67:12 Koop 78:6	25:23 53:25 64:13 learned 2:9 5:11 27:9 43:7 learning 5:12 13:24 14:8 26:23 leaves 75:3 leaving 34:3 77:19 led 36:5 43:15 44:22 45:11 48:14 50:5,25 52:19 53:20,21 57:2,4 59:2 67:10 68:2 76:5 left 3:16 6:20 7:17 7:18,20,21,22,25 8:5,9 15:17 44:15 51:5 77:16,19 79:6 legacy 67:19 legal 28:16 32:3 43:10 53:11 56:1 56:3,8,11 73:6 legislation 28:8 legitimate 17:14 32:7 49:22 Leigh 42:25 43:6 43:10 leisure 2:20 lesson 53:4 lessons 4:18 27:9 53:24 64:13 letter 77:21 letters 45:6 64:25 64:25 65:1,19 66:3,6 77:11 level 63:15 76:3,4 levy 27:19 28:2 liabilities 71:13 liability 71:8 lied 76:25 lies 57:18 life 6:24 40:17 70:16 78:10 lifting 30:16 light 4:18 35:2	39:13 liked 29:25 limit 61:17 limited 45:4 46:2 46:22 line 3:10 36:23 50:7 50:10 54:10,22 lines 24:22 links 43:18 listen 2:5 listened 13:16 17:6 26:20 41:23 42:11 listening 1:20 23:8 35:23 literature 58:20 litigation 66:3 little 1:24 20:2 79:17 live 4:4 9:8 35:12 45:20 46:4,5 55:1 63:25 lived 8:8 15:25 22:19 66:17 liver 72:7 73:2 78:19,21,24 Liverpool 53:22 lives 6:6,12 8:5,7,8 8:9,10,18 29:16 32:23,25,25 47:7 47:10 51:1 55:3,3 57:13 60:11 66:18 67:2 68:1 69:22 70:10 79:10,24 living 33:18 40:17 46:21 49:1 66:23 local 19:22 20:25 35:11 41:10 Lock 42:24 43:1,2 68:7 lofts 53:11 London 35:12 long 2:14 19:23 33:21 36:5,5 48:22 63:22 64:2 72:3
J	K	L		
Jamie 2:10 23:2 31:19 Jenkin 54:7 Jenni 55:24 job 47:17 79:20 John 46:9 Johnson 41:6 join 15:16 16:23 jollied 69:11 joy 71:20 judge 33:23 42:16 65:10 judge's 65:9 judged 11:23	keen 57:25 59:24 keep 1:25 keeping 37:14 Kelly 41:13 kept 16:23 30:22 41:9 71:25 key 48:13,20 50:1 51:19 78:15 79:19 kill 34:6 77:6,7 78:11 killed 53:23 70:9 kind 3:6 9:9 22:4 23:18 27:2 28:2 30:2 Kingdom 10:12,15 21:2 Kirsten 2:10 23:2 31:20 knew 20:5 35:15 49:23 52:20,22,24 knocked 66:19 know 5:16,17 6:22 10:2 12:4 13:14 14:1,3 15:12 16:22 19:13 20:2 22:18 29:12,17 30:1 34:5,19 35:1 35:10 37:21 46:17 50:17 55:5 59:20 69:17 77:13 79:25	lack 8:4 9:25 10:3 20:18,19,21,25 21:2 28:19 30:2,3 38:19 51:7 52:11 lacking 32:10 Ladies 43:3 80:5 LANGSTAFF 1:3 1:4 33:2 42:19,24 68:7 70:25 80:5 language 12:8,10 laptops 71:21 large 9:19 13:5 15:6 27:19 43:24 61:21 largely 1:21 58:24 lasted 70:12 late 1:24 54:3 68:5 launched 36:13 law 28:8 29:13 57:21,22,22 65:7 lawful 57:18 lawyer 71:21 lawyerly 12:11 lawyers 5:9 22:23 23:1,14,17 25:11 73:25 lay 67:8 laymen 73:25 lead 8:10 leaders 37:8 leads 49:8 learn 4:18 15:19		

long-term 30:8 31:11	maker 49:21	34:18 35:3,10,25	ministers 49:15 61:20	mum 69:9
longer 13:18 44:10 48:18,21	makers 49:7	44:13 57:18,23	minority 13:4	music 34:15
look 13:10,11,11 18:12 19:4 32:19 33:7 36:17 38:9 60:17 61:11 63:21 69:10,15	making 16:4 20:14 21:18 50:1 78:14	60:25 61:1,3,6 77:9	minute 42:19	myriad 25:22 34:10
look-back 69:13,13	man 46:11,11	medically 71:15	minutes 1:23 80:6	mystifying 63:10
looked 10:8,10 17:10,12	man's 46:15	medics 21:23	mired 17:20	myth 58:25
looking 36:6 40:15 63:24	manage 34:6	meet 31:22	mirrored 78:24	N
looming 36:7	mankind 46:16	meeting 5:6,18 8:21 39:22 41:16	misery 38:18	name 8:22 33:13 68:11 74:23
Lord 52:4,14 53:16 53:17 54:3,7 79:4	manner 2:15 3:3 5:24	meetings 9:15 29:19	misjudgement 15:2	named 36:19 50:24
lose 79:12	manor 46:14	meets 66:11	misplaced 14:12	nation 74:3
losing 61:3,13	manufacturing 17:18	members 43:9 46:21 59:11 68:11 70:20	mistake 71:11	nation's 36:10 74:1
loss 9:11,13 61:5	March 51:25 52:10	memory 48:22	mitigated 64:19	national 74:22 78:3
losses 16:6	marginalised 78:17	men 46:19	models 73:15,16	nations 71:20
lost 6:11 14:19 17:8 32:25 70:3 76:10 79:10	margins 58:23	mental 16:14	moderate 58:4	nature 51:11 55:8 58:4 66:4
lot 10:23 11:14 24:14 25:21,23 35:20	markers 72:7 73:2	mention 33:18 36:1 41:13	modern 77:6	near 1:15 73:24
love 42:14 70:16	mass 71:21 75:13 76:8	mentioned 4:9 35:2	moment 61:5	nearly 63:9
loved 44:20 59:10	massive 55:17	merely 50:4	money 3:9,10 21:13 21:20 23:18 41:18 41:19 63:20	necessarily 2:24
lovely 70:19	massively 58:2	merit 65:8	monitored 19:9	necessary 23:22 39:7 70:14
loving 34:3	material 11:11 66:11	mess 70:6	monoinfected 63:5 63:6,7	necessity 37:13
low 78:15	maternity 75:14	message 1:9,12 77:3	Montgomery 57:20 57:22	need 9:16 10:24 14:15 18:15 19:15 20:17 23:5,21 24:23 25:9 30:12 30:13 39:6 45:23 48:8 51:24 57:6 57:23 58:10 62:25 64:4 65:14 73:8 78:18 79:5,10,22
lunch 80:6	matter 15:20 25:16 51:15 79:13,14	messages 1:11	month 39:5,7	needed 7:5 39:13 71:16 78:15
lying 37:14	matters 6:19 8:12 9:9 10:21 11:3,12 12:13,18 16:17 23:9 25:21 31:15	met 33:17 41:14	months 34:4 35:22 44:8	needing 34:7
Lynne 41:13 42:5	Maxwell 64:25	meted 39:12	monumental 67:6	needless 11:2
M	mean 10:16 21:19 65:21	method 20:14 40:16 74:1,3,11 74:14,24,25 75:1 75:11	morally 60:18	needs 22:4,17 27:4 27:5 35:1 54:2 58:5
mad 45:11,13	meaningful 32:2	methods 68:21	morning 1:4,19 71:2	negligence 71:19 72:5,6,14,20
main 9:14 46:12,24 61:19	means 9:14 14:9 39:22 48:13	Michelle 68:8,9,11 70:25	mortality 62:15,18 62:22 63:1,8	negligent 71:15
maintain 23:12 25:10	meant 20:13 24:15 58:13	mid-1990s 68:17	mother 34:6 37:13	never 14:3 38:20 46:17 54:17 60:12 64:3 75:13,14,15
maintaining 23:24	measured 12:11	mild 58:5	mothers 70:1 75:14	new 27:21 36:6
maintains 24:2	medical 7:7 9:5,21 9:21 11:13 12:2 16:8 17:13 19:16 20:22 27:7 28:9 28:22,23 29:3,8 29:12 31:2,3	million 74:8,9,13 76:23 77:4,10,13	motivation 36:25	
major 3:2 13:14 76:1		mind 15:12 37:14 50:11	motored 78:20	
		mined 11:11 29:17	mouths 39:17	
		minister 15:10	moved 1:16 34:12	
		ministerial 76:11	moving 1:7 73:6	
			MP 41:10	
			multiple 31:9 55:8 64:15	

<p>37:25 45:7,8 52:15 53:21 69:20 newly 38:14 Newspapers 37:8 NHS 3:10 4:19 18:18 27:3 43:20 44:18 46:3 49:7 49:15,17 51:1 56:15 57:10,15 58:6,21 59:2,2,15 59:19,24 60:2,11 60:13,14,19,23 61:3,8,16,21 63:14,18 67:5,14 67:16 73:8 75:9 76:24 79:6 NHS's 61:4 76:4 nice 16:22 24:6 Nigel 54:7 night 38:6 Non-A 18:10 Non-B 18:10 non-statutory 54:4 note 4:8 75:21,22 75:24,25 noted 12:14,18 74:11,13 notes 76:11 notice 24:15 notices 1:6,19 notion 72:14,16 nought 24:1 November 52:12 69:19 number 9:19 10:23 21:23 22:6 26:22 43:14 44:7 51:17 53:20 56:19 59:23 68:22 74:5 75:1 79:12 numbers 61:22 73:7,23 74:22 76:6 numerous 55:10 nursing 16:8</p>	<p style="text-align: center;">O</p> <p>o'clock 1:22 2:3 80:7 O'Neill 1:20 2:6,7,8 2:8 33:6 61:1 oath 25:13,17 obfuscation 47:18 objectively 62:4 objectives 31:23 32:21 objects 29:15 obstacles 56:16 obtained 53:11 obvious 27:10 63:23 obviously 10:18 occasion 47:2 65:21 odds 42:15 offensive 38:22 offered 46:25 76:6 76:9,11 offers 47:9 office 36:14 Officer 77:9 officers 53:10 official 47:19 52:21 53:2,13 officials 49:15,16 50:17,18 55:2 57:7 61:21 officious 24:10 Oh 25:9 okay 37:23,23 old 34:4 68:12 omissions 50:4 61:22 once 13:16 30:2,10 39:5 one's 10:4 ones 44:20 59:10 ongoing 4:16,16 16:12,21 open 26:4 opening 2:7,13 3:2</p>	<p>3:6 8:14 30:20 32:12 33:12 40:21 43:1 68:9 71:1 openly 26:7 operations 68:20 opinion 13:5 opinions 18:21 opportunity 1:12 3:6 4:23 14:19 20:8 26:25 65:8 65:23 67:1,5 optimism 32:17,18 33:4 option 30:20 options 18:21 oral 21:15 organisation 65:6 76:17 79:21 organisations 65:18,23 67:4 organised 61:9 ought 14:3 49:25 57:4 60:23 outbreak 45:11 74:2 outcome 32:5 52:3 64:3 outset 66:16 outside 34:6 overestimate 45:22 overridden 56:9 overseas 72:21 79:8 overstated 38:20 overwhelmed 33:20 Owen 54:13 owning 29:6</p> <p style="text-align: center;">P</p> <p>packages 16:5 page 35:13 pages 11:7,7,10 39:8 paid 19:18 50:19 56:4</p>	<p>paid-for 27:11 painful 44:7,22 painstaking 55:17 painted 53:14 panel 26:6 35:22 53:8,8,19 panels 25:20,21 26:15 paper 35:12 papers 39:8 54:13 paracetamol 77:7 parents 20:20 46:20 47:4 pariahs 37:22 part 4:12 5:16 11:8 11:24 14:16 15:3 16:3 21:14 23:24 24:12 26:12,23 27:16,16 28:3 29:1 30:17 33:9 46:12 52:3,8 54:14 57:21,21 58:23 61:23 62:6 67:3 68:4 participant 14:17 14:23 15:16 33:6 33:7,11 participants 2:5,11 8:22 9:3 15:5 22:12,12 24:5,9 25:7,11 33:8 42:25 65:4 66:2,4 participate 8:23 14:17 participating 8:25 participation 24:19 participatory 2:15 particular 14:14 31:15 58:3 59:14 62:3 particularly 11:15 15:4,6,8 42:13 57:25 58:9 60:9 64:12 parties 61:18</p>	<p>partner 34:3 partners 31:12 34:10 63:10,13,16 parts 5:6 10:8 19:24,25 20:9,10 21:1 party 72:15 passed 66:20 passing 12:23 passive 24:10 passively 23:8 pastoral 18:2 pathogens 4:7 45:6 70:9 pathways 19:12 patience 2:23 patient 28:12 57:23 patient's 18:16 patiently 42:13 patients 4:19 9:6 13:1 18:3,17,20 19:5,8,17 20:7,21 21:19,20 30:2,3,4 51:1 58:6,16 59:5 59:6,9,12,14,16 59:21,25 60:15 61:4,6 63:4,4,5,6 63:6,7 67:9 72:4 75:17,18,23,24 76:1,9,16 77:23 pattern 61:16 patterns 61:3 Paul 70:25 71:1 pay 27:25 payment 43:13 peak 72:4 peeling 47:18 Penny 73:22 Penrose 3:5,17,18 9:1,7 10:25 11:2,5 11:19 12:1,7 14:18 15:7,8 17:12 22:7 24:13 pensions 79:22 people 5:7 6:6,24</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>7:13 8:5,7,11 9:19 10:8,9 13:11 14:24 15:4 17:25 18:24 19:5 22:25 28:20 31:12 32:1 34:11 37:19,24 39:25 43:14 45:1 58:2 75:1 77:11 77:19 78:6,9,10 78:11 79:16,23</p> <p>people's 13:18 percentage 74:4 perfectly 62:11 period 44:8 permanent 44:15 permanently 7:16 7:23 51:2 perseverance 32:14 persisted 37:24 persistence 55:18 person 8:21 29:4 40:17 Personal 53:10 persons 28:24 perspective 18:16 persuaded 53:7 Peter 41:7 pharmaceutical 27:20 28:3 phase 65:20 phenomenal 22:17 phenomenon 22:16 photos 34:15 phrase 54:6 physical 16:11 44:3 44:16 51:3 physically 5:23 Physicians 21:16 pick 2:23 picture 53:15 58:25 62:21 piece 46:12 placed 2:19 5:21 7:3 places 55:10</p>	<p>plain 51:10 plainly 58:18 plan 78:14 planned 71:17 72:8 plans 72:24 plasma 72:20 play 52:9 played 61:23 players 48:13 playing 33:8 68:4 please 42:20 80:7 pleasure 1:20 plus 77:4 pm 80:10 poet 46:9 Poetry 46:7 point 24:13 37:4 48:15 54:18 57:1 59:17 63:9 77:14 points 13:8 25:5 47:21 Poland 74:23 police 16:21 53:10 75:7 policy 55:12 political 18:13 pooled 18:9 58:2 72:20 poor 38:3 39:8 population 27:24 45:17 74:25 75:11 posed 19:25 position 60:18,21 positive 32:4 72:2 75:25 positively 27:17 possibility 9:8 12:25 18:8 25:6 27:2 37:15 possible 2:16 27:13 50:18 52:18 55:14 64:9 65:15 77:16 possibly 56:24 post-evidence 64:23</p>	<p>post-penrose 27:6 potential 28:10 56:7 59:23 potentially 54:8 practical 25:2,19 practice 11:13 12:2 14:8 18:7 60:10 64:24 preaching 6:21 precipice 78:8 precisely 50:24 57:6 predicted 79:2 preferable 77:23 preliminary 11:9 premature 68:2 prepared 2:13,15 prescriptions 77:7 present 3:9 8:7 12:5 43:15 57:24 74:1 press 17:15 68:11 73:25 pressed 23:19 pressing 62:9 presumed 7:9 pretended 74:18 prevalence 74:25 prevalent 72:15 prevent 17:17 56:4 56:12 64:20 preventative 58:14 previous 3:3 15:9 35:2 previously 30:1 53:20 62:24 primarily 22:25 52:6 prion 45:9 prioritisation 62:1 prioritise 60:14 67:9 prioritised 60:12 prison 71:22 72:1 73:1</p>	<p>prisoners 27:11 58:22 prisons 71:19 72:3 78:23 private 54:12 privilege 2:17 43:5 43:6 48:16 53:12 56:2,3,9,12 pro 43:10 proactive 16:8 25:1 probably 21:20 problem 10:3 problems 28:11 procedural 22:6,9 procedure 24:19 38:2 proceed 13:23 64:8 proceeded 41:7 process 8:24 15:7 31:21 32:2 49:9 52:2 54:1 55:22 65:3,11,19,25 66:5,7 67:8,23 processes 17:18 52:5 produce 36:6 64:6 produced 64:1 producing 18:17 product 36:2 75:15 products 4:13 7:10 11:17 18:9,17 19:1,17 20:3,12 20:14 21:4 27:12 27:21 31:14 33:25 34:2,5,20 37:3 43:21 44:19 45:14 46:4 57:5,14 58:3 58:11,19 59:3 62:19 67:7,16 70:5,7 profession 20:22 20:23 34:19 35:25 professional 14:8 53:12 56:1,3,9,11 69:10</p>	<p>professionals 7:5 14:5 16:9 21:3 28:9 professions 35:4 professor 35:14 profit 27:22,24 profitability 36:24 profits 28:3 profound 60:20 66:24 programme 80:8 programmes 37:6 project 21:15 promiscuity 59:22 promises 8:15 promontory 46:14 promoting 62:3 promotion 16:13 proper 5:20 9:25 24:20,20,23 50:9 58:8 64:17 properly 3:13 6:3 6:18 11:4 50:3 53:19 62:11 prophylactic 58:13 58:16 propose 2:21 proposed 65:1 prosecuted 70:14 prosecution 52:18 prosecutions 10:9 protect 4:19 48:24 50:22 79:20 protection 16:14 51:5 proud 68:14 provide 4:23 63:12 provided 20:4 57:3 providing 4:13 56:22 provision 10:14 16:12 psychological 44:3 44:16 45:21 51:3 psychosocial 30:12</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>public 10:18,21 23:20 26:7 33:23 37:7 47:14 49:16 49:17,18 50:3,13 50:16,17,18,19,20 55:2,25 56:4,5,9 56:21 57:7 63:19 64:13,17 65:16 78:9</p> <p>publication 64:16 65:9 66:8</p> <p>publicise 37:9</p> <p>publicly 49:18</p> <p>published 53:19 65:14</p> <p>punish 80:2</p> <p>PUPs 29:24</p> <p>purely 18:2</p> <p>purse 23:20</p> <p>push 24:23,24</p> <p>put 7:4 25:13 34:14 34:24 51:13,22 56:15</p> <p>putting 19:13 59:10</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>QC 1:20 42:24 55:24</p> <p>quality 39:8</p> <p>quangocrats 79:19 79:25</p> <p>quarter 77:12</p> <p>quest 53:9</p> <p>question 26:14 50:6 71:3</p> <p>questioning 80:1</p> <p>questions 3:14,15 25:8 35:7 39:16 49:22 51:13,15,22 60:20</p> <p>queue 60:24</p> <p>quick 71:13</p> <p>quickly 64:7 65:15</p> <p>quietly 36:16</p> <p>quite 21:13 35:9,20</p>	<p>quote 35:16</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>radio 35:22</p> <p>raise 26:19 35:7 48:16</p> <p>raised 3:15 10:6 14:13 25:5 26:8 48:7 56:12</p> <p>raises 60:20</p> <p>range 45:5 48:7</p> <p>rapidly 37:1</p> <p>rarity 55:7</p> <p>rate 31:14 62:22 74:12,13,15</p> <p>rates 62:15,18 63:1 63:8</p> <p>ravages 43:4</p> <p>re-read 34:23</p> <p>reach 43:25</p> <p>reaches 32:4</p> <p>reaching 49:12 64:20</p> <p>read 2:20 34:23 71:4</p> <p>ready 8:23 27:25</p> <p>real 17:24 35:5 45:19 52:22</p> <p>realise 79:5</p> <p>realised 34:21</p> <p>realistic 22:8</p> <p>reality 28:17 55:5</p> <p>really 2:22 19:6 24:13,18 25:14 38:14 49:10</p> <p>reason 17:9 49:16</p> <p>reasons 43:24 59:23 77:22</p> <p>rebuild 14:10</p> <p>rebuilt 14:12</p> <p>recall 49:2 50:5</p> <p>recalling 65:22</p> <p>receive 45:5</p> <p>received 20:7 26:10 60:8 68:22</p> <p>receiving 76:1</p>	<p>recipient 33:3</p> <p>recite 42:12</p> <p>reckless 49:5</p> <p>recognise 15:14 67:1</p> <p>recognised 16:16 21:10,11</p> <p>recognises 46:1</p> <p>recognition 46:22 47:3,9</p> <p>recombinant 37:4 37:11</p> <p>recommend 27:18</p> <p>recommendations 16:3 27:16 28:17 31:1</p> <p>recommended 52:16 76:20</p> <p>recompense 16:6</p> <p>reconciliation 27:2</p> <p>reconsider 15:14</p> <p>record 9:22</p> <p>recorded 74:22</p> <p>recording 21:14,17</p> <p>records 9:21,21 10:1 17:14 28:22 28:24 29:4,8 52:7 53:10 54:25 60:25 61:1,3,6,13</p> <p>recovered 29:4</p> <p>redacted 28:24</p> <p>redress 21:25</p> <p>reduce 67:21</p> <p>refer 46:8</p> <p>reference 4:9 13:10 16:25 17:5 31:22 32:22 34:23 47:24 47:25 48:1,4,7,10 57:1</p> <p>references 17:7</p> <p>referred 12:21 16:25 29:23 38:23</p> <p>reflect 66:14</p> <p>reflection 43:24</p> <p>refrain 50:2</p>	<p>refused 38:12 52:12 76:8 77:25</p> <p>regarding 68:18</p> <p>regardless 60:4</p> <p>regimes 60:7</p> <p>regional 20:25</p> <p>regret 27:7</p> <p>regular 58:13</p> <p>Regulations 28:15</p> <p>rejected 13:4</p> <p>rejection 9:10</p> <p>related 43:19 76:11</p> <p>relating 54:9 61:3</p> <p>relation 20:9 30:18 52:15 55:16 67:7 67:16</p> <p>relationships 34:9</p> <p>relatives 44:17,20 45:1</p> <p>relevant 3:20 19:2 48:23 52:8 56:17 56:22 66:10</p> <p>reliability 28:22</p> <p>rely 4:19</p> <p>remained 41:11</p> <p>remaining 67:10</p> <p>remarks 21:18,22 32:12</p> <p>remember 45:12</p> <p>remembered 17:24 77:17</p> <p>remind 1:14 3:9</p> <p>reopen 52:17 53:2</p> <p>repeat 40:11</p> <p>repeated 3:12 54:17 61:2</p> <p>repeatedly 31:8 53:5,6 66:19 67:15</p> <p>replaced 10:4</p> <p>replied 69:2</p> <p>reply 69:6</p> <p>report 11:5,9 12:8 12:10 52:3 53:2 53:19 54:6 64:1,6</p>	<p>64:16 65:2,14 66:9 67:19 72:9 73:11 74:6 78:2 79:3</p> <p>reported 54:5,7</p> <p>reporting 17:16</p> <p>reports 26:4 54:12 75:7</p> <p>represent 2:18 3:4 3:15,22,25 4:6 5:7 5:14 8:23 13:25 14:4,14,25 20:19 21:24 22:12 24:3 24:3 31:20,25 32:17 62:10</p> <p>representative 51:23</p> <p>representatives 32:3</p> <p>represented 1:21 2:12 15:18 42:25</p> <p>representing 22:24 40:9 48:16</p> <p>reputation 79:21</p> <p>reputational 61:17</p> <p>reputations 48:21 48:24 49:14 50:22 51:5</p> <p>requests 56:1</p> <p>require 25:22 28:12 55:17,18 62:23</p> <p>required 19:6 31:4 55:1</p> <p>requirement 65:12</p> <p>requires 13:13 18:19,23</p> <p>research 29:12 31:2,3,6 60:10</p> <p>researched 31:16</p> <p>researchers 36:25</p> <p>residue 75:4</p> <p>resigned 42:1</p> <p>resisted 38:16</p> <p>resonance 14:14</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

resource 51:9	rid 61:8	Salmon 64:25	see 13:22 18:15	22:10 28:4 30:18
respect 4:1 30:3	right 5:20 12:6	samples 71:25 72:2	21:24 26:15,16	46:9,24 47:14
32:9 48:9 50:8	14:1 19:13 21:14	San 33:17	34:12 36:16 40:12	53:8,12 56:21
51:11 66:1	40:7 53:5 60:8	Sandwell 54:3	40:21 61:11 62:4	63:22 64:10 66:15
respected 4:3 23:23	righteous 6:7	sat 41:22	63:21 64:1,3	sets 29:17
73:15	rightly 57:2 66:12	save 66:6 79:23	67:22 68:23 71:20	setting 11:20 48:4
respond 60:19	rights 4:1,2 66:1	saw 40:8	79:20 80:9	settlement 76:13
responded 57:10	rigorous 48:5	scale 73:9	seek 22:2 26:23	Seventh 59:5
responding 55:25	50:23	scandal 32:24 43:8	51:12 64:20	severe 58:4 68:25
response 13:2	ripple 69:23	43:25 45:3 54:5	seeking 3:25 21:25	69:1
31:11 33:5 47:19	risk 45:19,25 58:6	78:1 79:3	41:4 50:21	sexual 31:11 40:1
55:12	58:16 59:11	sceptical 18:4	seen 27:6 32:16	59:22
responses 17:22	risks 18:8,25 19:25	schemes 43:13,17	44:20 47:4 69:4	shadow 8:8
61:25	20:3 28:10 45:22	46:24 62:24 63:20	69:25	shadows 13:19
responsibilities	49:11,24 57:5,7	science 17:21	seminal 57:19	share 14:20 35:4
23:16,20	57:24,25 58:4,8	scientific 11:14,16	send 46:17 70:15	shared 42:14 47:7
responsibility 4:25	58:10 77:24	18:2	sending 38:6 64:24	shares 2:1
12:18,24 13:12	road 34:8	scope 64:6	66:6	shattered 8:1
27:5	role 22:23 34:16	Scotland 3:5,23 5:6	senior 51:19,21	sheer 32:14
responsible 4:12,21	61:18	10:13 11:18 12:20	61:21	shield 56:4
4:24 11:23 12:3	room 1:15,17	12:21 15:5 16:22	sensational 78:16	shock 45:12
13:12 20:24 23:21	round 5:6	22:25 28:14 33:2	sense 3:19 6:13	shocking 5:16 15:2
27:3 36:10 43:14	route 40:19	Scots 1:21 14:25	7:25 9:10 27:21	shone 35:2 39:14
69:9 70:8,11,13	routes 40:10	15:4 32:18	sent 65:19	short 24:15 37:3,9
rest 5:17 10:14	routinely 51:12	Scottish 3:24 14:16	sentence 69:18	42:22 55:3 67:2
55:2	Royal 21:15	14:22 15:3,10,10	separate 62:24	80:11
restored 8:2	rules 64:10 66:16	15:13,17 16:18	September 1:1	shortcomings 51:9
restrict 64:5	run 5:25 22:8 24:23	screened 68:19	53:18 68:16 73:5	shortly 37:11
restrictions 17:15	34:8 68:12 79:19	69:6	sequence 48:14	show 49:5 59:8
result 9:7 15:8	running 58:9 64:15	screening 72:13	57:2 61:23 65:12	62:25
43:20 44:4,13	71:15	screwed 37:12	series 10:17 19:18	showing 15:1
46:3 49:12 51:9	runs 11:7	scrutinising 50:15	43:12 47:21 61:15	shown 37:7 45:18
54:24 55:4 58:12	rushed 6:17 76:21	scrutiny 10:22	64:23	shows 3:2
63:14,17 66:24	76:23 77:2,5	sea 46:13	serious 44:22 51:2	sick 40:17
resulted 4:11 57:12	Ryness-Hirsch 2:4	searching 76:16	servant 55:10	sicker 37:25
results 41:21	33:11,12,14	second 33:7,10	servants 49:15 50:3	side 41:3,4 52:25
retaining 10:1	S	48:15 68:16 72:6	54:20,21,23	sidelined 9:3 21:8
retired 48:22	sad 63:24	Secondly 66:6	service 13:21 59:2	22:13
retirement 49:1	sadly 38:6 74:18	secrecy 8:3 56:8	61:14,17 72:10,24	sign 39:7
returned 52:1	79:2	secret 29:5	74:16 76:15 77:8	significance 33:19
reveals 51:6	safe 4:19 7:10	Secretary 54:8,13	79:22	significant 26:5
revelation 5:19	20:15 36:6 37:16	section 75:13	services 16:8,12	44:3,12,15,21
review 52:13	safer 20:15 72:22	secure 30:21	49:18 50:20 79:18	55:9 61:23
reviewed 52:15	safety 27:14,14,18	securing 66:22	sessions 12:16	signify 44:10
Richards 55:24	27:19 73:2 76:25	security 28:21 29:8	set 2:24 3:19 5:10	signs 27:6 45:18

<p>silence 36:3 37:12 silenced 22:14 silly 69:7 similar 9:13,20 63:15 67:18 79:12 simply 9:9 11:20 12:1 18:24 19:6 21:8,25 23:7,17 31:17 73:25 76:25 77:10 sincere 67:13 70:15 sincerely 80:1 single 55:6 71:12 sins 61:9 Sir 1:3,4 9:14 25:22 32:12 33:2 41:7 42:19,24 43:2 47:16 54:7 55:5 68:7,10 70:25 80:5 sister 42:4,5 sisters 69:25 sitting 23:8 Sixthly 58:19 Sjøvoll 2:10 skills 55:19 slow 72:25 small 34:7 51:17 78:15 smaller 75:20 social 6:25 16:13 society 5:17 38:10 58:23 sod 38:3 solicitor 54:3 somewhat 33:20 son 34:3,16 38:1,12 39:2 40:4,16 son's 38:22 song 38:7 sons 33:15 soon 77:16 78:11 sorry 36:13 62:6 79:17 sort 28:5</p>	<p>sought 7:14 sounds 9:18 source 27:12 58:19 sourced 19:16 space 5:2 Spain 74:22 spare 1:11 48:12 speak 1:24 48:25 50:8,22 70:18 speaker 33:10 35:3 speaking 73:25 specific 47:21 63:2 spectators 24:10 speculation 74:20 speech 34:15 39:20 40:20 41:2 42:12 speed 6:16 11:4 37:1 66:7 speeding 34:9 spent 3:9 5:5 6:20 22:15 spin 74:20 78:13 spoke 69:4 spoken 9:19 13:21 57:6 spokesperson 71:5 spouses 47:6 63:10 63:12,16 spread 46:6 springs 37:14 staff 47:17 staffed 16:8 stage 28:10 63:4,5 63:6,6 65:24 stand 38:13 78:8 standard 38:2 standards 12:4,5 14:9 28:13 66:11 start 3:8 71:3 started 1:23 37:1 41:24 state 28:10 54:8,13 stated 15:9 18:23 77:10,21 78:6 statement 2:7,13</p>	<p>2:18,24 3:2,7,8 5:8 31:23 33:12 43:1 68:9 71:1,9 71:13 76:19 78:5 statements 55:23 stating 27:10 35:15 statistics 73:20 step 73:2 steps 64:7 sterling 30:22 stigmatise 22:2 stolen 6:11 8:10 32:25 stone 51:5,6 stonewalling 8:3 stood 41:3 stop 30:4 52:11 77:3 stopped 13:4 stopping 73:1 stories 6:1,22 9:20 13:17 36:11,12 story 33:24 52:22 53:15 55:22 68:15 strategy 78:3 stream 30:21 strength 70:17 strong 14:23 45:10 stronger 35:1 strongly 39:4 46:1 structuring 25:3 struggle 33:21 Stuart-Smith 52:14 53:17 studied 72:9 74:16 studies 29:12 75:20 study 29:15,23 stumble 75:19 subject 7:21 13:17 29:12,22 30:5 35:24 41:22 64:22 subjects 19:7 subsequent 66:3 subsequently 18:11 substantially 67:21</p>	<p>substantiate 24:24 subtract 75:2 succeed 24:8 success 56:23 suffer 47:5 suffered 4:11 5:4 16:7 21:9 27:4 28:6 39:11 43:23 suffering 44:11,21 66:24 sufficient 36:25 suggest 26:17 36:21 37:16 45:6 51:13 62:8,13 73:17 suggestion 35:24 73:21 suggestions 29:3 suggests 74:6 76:3 summary 11:7 60:21 66:17 sums 21:11 supplied 20:6 supplies 4:13 supply 71:16 support 1:17 10:22 14:6 16:12 30:12 31:7 46:25 57:13 60:7 63:9,12,16 68:12 70:17 supported 30:25 38:11 42:6 61:12 supporting 60:4 supportive 68:3 supposed 8:10 40:15 sure 3:12 8:17 surely 30:15,15 surgeon 78:5 surgery 75:15 surrogate 72:7,12 survey 73:12 survivors 16:1,11 16:14 73:18 74:10 74:11,13,15 75:10</p>	<p>76:22,23,25 79:1 79:6,7 suspect 35:11 suspected 34:21 suspicious 31:17 35:4 36:4,20 suspiciously 75:12 symptom-relieving 60:13 symptomatic 21:22 symptoms 45:16 system 8:1 67:9 systematic 59:12 60:4 systematically 76:8 systems 9:25</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tabled 78:2 tackled 19:14 take 1:22 2:25 22:21 42:8,19 51:18 67:3 taken 3:10 16:15 19:17 21:14,23 28:2 29:7 52:16 62:16 64:8,10 talk 5:13 41:17 talked 14:25 15:1 talking 21:13 35:21 38:23 task 8:16 55:17 66:21 tasked 22:24 tattoos 68:20 Taylor 52:4 53:16 teach 25:25 team 23:2 31:19 40:25 42:16 51:16 55:6 56:16 68:11 73:7,19 technical 25:21 technician 41:20 techniques 55:19 telephoned 68:22 television 37:6,9</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

69:5	theme 7:3	6:10,11,13,14,19	20:5	37:15 41:4 49:24
tell 6:9,9,22 28:19	themes 2:23 7:1	14:8 16:20 18:7	transfusions 20:24	52:6,21,24 53:10
30:6 33:23	theories 9:18	24:20,23 30:16	40:1 68:15,21	53:13 56:12,23
telling 38:4,13 54:6	therapeutic 18:13	35:6 36:22 37:3	69:6 71:6 74:3,6,8	66:22 68:5,6
69:11	therapies 7:10,18	37:10 39:1,2	74:9,18 77:4	69:11 76:16 79:15
temptation 27:12	7:22	45:23 49:22 52:8	transmission 19:12	truth' 30:6
48:24	therapy 19:7	53:14 56:7 62:20	45:25	truths 42:17
ten 42:12 80:6	thereabouts 1:22	63:2 68:24 71:24	transparency	try 1:25 2:22 69:14
term 29:24	thine 46:15	73:8 75:7 78:19	25:18 50:9 51:4	trying 55:6
terms 2:1 4:9 10:11	thing 6:19 17:19	times 5:24 38:2	66:11	Tuesday 1:1
11:12 13:10 16:25	43:18	42:12 74:21	transplant 75:16	turn 36:22 49:3
17:4,7 18:6 20:11	things 5:10 11:22	timings 1:25	transplants 79:15	53:21
29:8 31:22 32:21	12:12 18:15 26:3	tired 69:12	trauma 75:17	turned 7:7 39:4
34:22,23 47:24,25	26:8 42:3 67:20	tireless 56:18	tread 50:7	tutorial 25:25
48:1,4,7,10 57:1	71:13	today 14:9 16:3	treading 50:10	TV 68:18
71:7	think 2:18 3:11	69:17	Treat 30:5	twin 33:14
terrible 33:24	9:24 10:25 11:1	tokenism 24:6	treated 7:10 10:11	two 16:21 24:17
38:17 40:8 42:18	13:21 16:18 17:4	told 8:11 19:10	16:2,2 19:19 23:8	29:19 33:6 38:8
47:5,11	21:19 22:7 23:21	29:16 52:23,24	37:2,22 62:5	52:4 68:15 69:5
terribly 38:17	25:5,11,14 26:11	53:15 54:7 57:7	treating 58:1	76:10
67:20	26:16 28:16 34:1	59:7	treatment 4:20	type 54:16 63:14,18
terrific 40:25	37:23 49:22	toll 16:15	9:23 11:17 12:19	typically 58:22
terrifying 45:16	thinking 77:18	tolled 46:19	20:7,11 35:11	
terrors 37:25	thinks 25:9	Tolley 68:8,9,10,11	36:2,21 37:10,16	U
test 45:7 72:1,7	third 72:14 75:11	tolls 46:17,18	39:12 44:14 57:19	UK 31:6 68:13
76:8 77:1	Thirdly 66:10	top 37:1	58:13,17 60:7,15	70:22 71:23 72:7
tested 19:8 26:6	Thirteenth 63:9	topics 25:3	treatments 7:18	72:17 74:6,14,18
75:13,14,16,17,21	Thompsons 1:21	totally 38:10 42:16	19:23 27:21,24	75:5,12,21 76:19
75:23,24 77:3	2:12 23:2 31:19	touch 42:2 73:7	28:1,11 44:8 60:9	78:18,21
testify 38:1	thorn 52:25	tragedy 42:18	60:9,13,24 79:14	ultimately 12:10
testing 73:2,4,13	thorough 55:21	46:20 47:20 48:14	tremendous 39:24	69:23
75:11 76:20 77:25	thoroughly 6:18	52:4,15 61:25	tribute 30:24	unacceptable 20:1
78:3 79:6	thought 7:11 19:2	62:7 66:25 67:21	trigger 64:23	unanswered 3:16
tests 73:14	20:1 21:13 29:24	70:12	tripling 78:18	unavoidable 71:7
Thalassaemia 76:1	29:25 63:11 71:12	tragic 52:9	troubled 1:16	unbalanced 61:24
thank 1:4 2:8 33:1	thousand 76:24	tragically 67:15	true 54:21	37:10
41:6 43:2 68:7	thousands 50:25	trained 16:9	truly 34:16 73:8	uncaring 49:6
70:24,25 71:2	68:1 70:10 71:18	tranches 76:10	trust 7:4 10:3 23:24	uncles 70:1
73:19 80:4	73:13 77:14	transfused 73:13	24:2 25:10 32:9	uncontentious
thanked 41:22	threat 13:3 78:8	73:14 75:21,22	69:11 70:23	11:16
thankful 17:6	threatening 7:17	transfusion 12:15	trusted 7:6,7,8	uncorrected 67:10
thankfully 45:17	three 39:3 47:20	20:2 34:7 72:9,11	trustee 39:7	uncovered 8:12
thanks 42:18 43:4	65:25 73:14,16	73:16,18 74:2,24	trustees 39:4	10:24 18:20 24:22
70:16	thy 46:14	77:24	trusts 7:12 38:17	31:16
thee 46:18	time 2:2 5:11 6:10	transfusionists	truth 4:15 26:25	uncovering 55:22

<p>undefined 50:14 underestimated 60:6 undergoing 44:6 undergone 6:24 underlined 29:14 underlying 60:16 understand 3:7 15:9 25:20,24 31:4 39:23 42:6 48:8 54:12 58:3 67:15 74:24 79:10 understanding 22:16 30:3 42:8 51:8 70:20 understands 67:19 understood 21:6 undertake 47:17 undertaken 61:18 66:5 undertaking 50:15 undisclosed 53:20 undoubtedly 61:19 undue 6:18 unequivocally 5:3 unfair 65:4 66:4 unfamiliar 5:15 unfinished 14:19 unfolding 38:20 unfortunate 12:12 15:21 65:15 unfounded 31:17 ungrateful 22:1 uniformly 20:12 unifying 43:22 Uninfected 30:1 unique 72:17 unit 35:17 United 10:12,15 21:2 units 41:16 71:18 72:3 76:1 77:5 unknown 17:23 28:24 45:21 unlawfully 53:23</p>	<p>unpalatable 49:13 unpleasant 44:7 unrelated 61:6 unrepresented 2:4 33:10 unreservedly 5:3 unsafe 20:13,13 untested 57:5 untried 7:22 untruths 42:17 unturned 51:6 unturning 51:6 unutterably 32:23 unwillingness 28:19 uproar 36:22 urge 50:10 63:3 64:5 urgency 64:4 urgent 58:10 urgently 71:16 US-based 58:22 USA 74:23 76:23 use 13:1 17:16 34:19 55:19 72:20 75:3 78:20 useful 3:19 11:1,11 11:15,17 usefully 11:11 user 29:5 75:6 utter 45:12 utterly 52:5 62:5 63:21</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>variant 4:8 45:7,9 variety 6:23 various 27:9 37:6 56:15 63:20 70:21 vast 53:19 veins 77:15 venture 67:23 verdict 52:2 verdicts 52:13 victim 34:8 47:8 60:5 62:4</p>	<p>victims 10:10 31:5 43:8 44:17 46:2 46:20,20 47:1 48:15 60:8,10 62:1,3,9,12,14,16 63:10 67:2 69:16 69:24,25 view 13:4 32:20 vigorously 57:14 59:13 violation 29:18 viral 20:10 virtually 55:15 virus 31:10 44:2,4 44:9,9,13,14,18 44:25 60:1,2,15 60:16 63:14,18 viruses 7:24 17:23 19:11 46:3 58:7 59:21 62:18 visit 1:15 visited 34:17 41:12 visits 45:24 voice 43:3 48:3 voices 9:6 22:20 volumes 11:6 vulnerable 7:6</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 39:6 59:9 64:2 75:18 77:22 waiting 38:3 waive 56:1 Wales 41:14,18 walk 54:24 78:9 walks 6:24 want 1:13,14 2:5,22 4:21,22 5:2,10 8:11,12,13 9:12 10:2,5,6 14:2,3,5 17:9 21:25 22:3,9 23:5,6,7 24:7,7,8 25:13,18 26:1 37:4 41:2,6,13 42:4 47:22,25 49:3 51:21 54:15</p>	<p>59:18,20 61:11 63:21 79:23 wanted 1:9 wanton 54:25 warn 76:8 77:5 79:16 warning 37:21 45:5 64:25 65:19 66:3 66:6 77:1 warnings 57:1,8,11 57:15 washed 46:13 wasn't 12:17 17:12 19:1,13 20:12 70:4 watch 5:1 way 13:22 24:3 26:1 27:13 32:2 32:20 34:5 37:20 46:23 56:16 60:19 62:25 65:19 69:12 72:3 ways 7:15,19 8:16 19:3 34:10 36:6 40:1 43:23 we'll 3:19 42:19 we're 6:9,9 we've 2:13 6:19 22:6 weakened 7:15,23 website 2:19 39:8 wedges 40:19 week 23:9 35:13 weeks 5:5 39:3 40:5 welcome 46:1 47:9 47:13,25 48:1 55:23 well-founded 32:7 well-known 35:14 wellbeing 16:13 went 49:10 56:8 67:15,20 68:23 69:1 71:5,14,24 West 12:21 41:11 whatsoever 56:16</p>	<p>whilst 35:21 50:21 whip 24:4 whipping 38:3 whistling 38:7 white 1:10 wholesale 78:22 wholly 49:6 51:1 wide 45:5 wide-ranging 48:2 wider 34:1 widespread 45:17 width 47:25 48:10 wild 74:19 willing 8:23 22:20 wisdom 26:10 wish 6:15 13:25 17:5 24:23 38:9 48:16 59:6 witch-hunt 49:4 witnesses 25:6,13 25:13,14 51:13,17 wives 70:1 woman 6:8 women 34:9 46:19 wonderful 34:12,15 40:20 68:12 word 37:21 words 5:22 12:12 13:21 14:24 33:7 46:9 work 11:3,5 22:25 23:5,11,21 24:7,8 24:11 27:22,23 30:22,24 31:7 40:24 41:20 74:3 worked 40:4 working 32:3,19 37:1 49:16 61:20 72:15 world 10:8 34:1 36:8 73:4 75:12 76:7,10,12,20 77:2 78:7 worries 68:24 worry 45:15</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

worrying 36:10	100 76:1,2 77:4	2004 78:3	60s 33:18
worse 7:20 39:12	78:20	2007 79:4	614 11:10
51:10	11 1:22 2:3	2009 54:5	65 72:2
worst 78:24,25	11.20 42:21	2012 53:18	<hr/>
worth 15:15 25:11	11.40 42:20,23	2015 69:19	7
writ 9:18	12 34:4 53:18 74:8	2016 53:22	<hr/>
writing 65:20	74:9	2018 1:1 71:4	8
written 2:13,18,24	12.50 80:10	21 77:5	8 37:4 70:7
wrong 53:6 67:15	13 52:14	25 1:1	8,000 72:11
67:20 71:14	14 75:23	250 2:11 5:7 14:25	80 76:22
wrongful 4:12	15 74:21	15:5 22:24 31:18	80s 15:22
wrongs 4:16,16,17	1945 77:25	250,000 74:14	85,000 75:7
4:22,24 41:12	1965 74:8	251 43:7	<hr/>
<hr/>	1970 71:16	26 53:22	9
X	1970s 12:2 15:22	28,000 74:21,21	9 70:7
<hr/>	1976 33:15 40:5	76:6	90s 78:5
Y	1980s 12:3 73:12	285,000 75:8	96 52:1,24 53:22
<hr/>	74:17	29 51:25 52:10	
year 28:16 52:25	1983 12:16	<hr/>	
53:1 66:20 74:12	1985 71:24 72:5,10	3	
74:14,15	74:8	30 75:18	
years 3:25 4:3	1987 68:16 78:1	300,000 73:17	
22:16,19 33:21	1989 52:10	74:10,14 75:9	
34:4,20 36:5 37:7	1990 73:18 74:10	79:6	
37:16 41:8,14	74:12,15 75:6	35 34:3	
42:2 43:11 49:3	76:14	<hr/>	
59:9 64:15 67:11	1990s 76:21,22	4	
68:12 75:18	78:4	4 35:22	
yesterday 1:6	1991 51:25 68:16	40 23:9 72:10 74:7	
13:15 14:13,23	71:16,25 73:5	40,000 74:12	
16:20 17:1 34:12	1993 52:12	400,000 74:11	
40:22 46:8 55:24	1995 77:9	76:22	
yesterday's 13:20	1998 52:14	45 11:7	
Yorkhill 19:20	<hr/>	450,000 53:9	
young 29:20,24	2	<hr/>	
34:6 38:14 69:3,9	2 63:4,6 74:13	5 52:12 75:18	
younger 42:5	75:25 76:23 80:7	50 75:22	
<hr/>	2,000 11:7 74:19	50,000 77:12	
Z	2.05 80:8	500 74:19	
<hr/>	2.4 74:7	500,000 72:3	
0	2.5 74:9	53 68:12	
<hr/>	20 42:19 75:18	585,000 72:4	
1	20,000 72:11 74:15	<hr/>	
1 28:15 63:5,7	79:10	6	
75:21,23 78:20	200,000 75:6 79:7	<hr/>	
10 34:4 75:18	2002 79:3	60 23:10	
10.00 1:2			