

GOSPORT WAR MEMORIAL HOSPITAL INQUESTS

Wednesday 18 March 2009

The Law Courts
Winston Churchill Avenue
Portsmouth,
PO1 2DQ

B E F O R E:

Mr Anthony Bradley
Coroner for North Hampshire
Assistant Deputy Coroner for South East Hampshire

In the matter of Mr Leslie Pittock & 9 Ors

(DAY ONE)

MR ALAN JENKINS QC, instructed by ??, appeared on behalf of Dr Jane Barton.

MR JAMES TOWNSEND, Counsel, instructed by the Royal College of Nursing, appeared on behalf of a number of nurse witnesses.

MS BRIONY BALLARD, Counsel, instructed by ??, appeared on behalf of the acute trust and the PCT.

MR TOM LEIPER, Counsel, instructed by Messrs Blake Laphorn, Solicitors, appeared on behalf of the families of Brian Cunningham, Michael Packman, Elsie Devine and Sheila Gregory.

MR PATRICK SADD, Counsel, (instructed from 23/03/09), appeared on behalf of the Wilson family.

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(In the absence of the waiting jury)

THE CORONER: I am resuming the inquests in respect of ten deceased from Gosport War Memorial Hospital. We will go through the details of that in due course. There are some matters I need to raise before the jury comes in and no doubt there are one or two matters that you might want to raise with me.

B Can I first of all deal with Gillian Hamblin. She is not well. I have a letter from Dr Stuart Morgan which sets out her condition which is quite serious and if I may hand that to the advocates so they can see the state of her condition. I propose dealing with her under rule 37. If you are going to object to that, the only alternative I have is to exclude the evidence all together and I do not want to do that because I think she is very helpful, but she is not going to be in a condition to join us. You may wish to consider that and address me in due course.

C The other matter I wanted to raise at this stage was the question of rule 37. Clearly I do not want to be dealing with rule 37 in front of the jury if there is an issue about it. The schedule of witnesses I gave you originally has two omissions in it – Dr Taylor for Lavender and Professor Baker for Wilson – I was proposing that they should be included in the rule 37 and I do not know why that are omitted from the original list. I think that is a clerical error on my part for which I apologise. Otherwise, you should all have the original list that looks like *that* which details those that are live and those that are rule 37. If any of you has an issue on the witnesses to be adduced under rule 37, if you can let me know and we will deal with that in the absence of the jury at some point.

D Representation this morning – who have we got?

MR JENKINS: Sir, my name is Alan Jenkins. I am a barrister and I am acting on behalf of Dr Jane Barton.

E MR TOWNSEND: I am James Townsend, counsel, instructed by the Royal College of Nursing, representing a number of the nurse witnesses. I know that you, sir, have a list. Would you wish me to read those out?

THE CORONER: No, that is all right. I was under the impression that you are not an interested person, but I am more than happy to accommodate you in any way I can.

F MR TOWNSEND: I am most grateful.

MS BALLARD: Ms Ballard, sir, representing both the acute trust and the PCT, also a barrister.

G MR LEIPER: Sir, my name is Tom Leiper. I am counsel instructed on behalf of the families of Brian Cunningham, Michael Packman, Elsie Devine and Sheila Gregory.

H THE CORONER: For the other family members that are here, if you can possibly stand up so that I know who you are and where I am looking. Thank you, do sit down now. As we go through, if there is anything you want to ask and anything you are not clear about do say so. This is part of your exercise as well. I do not want you to feel strange about it in any way at all. It is easy for lawyers because it is our forum, it is where we belong and it is what we do. It is probably difficult for you but do not feel awkward about it, please.

Are there any applications this morning before the jury come in?

MR JENKINS: Sir, I have written a document which I know you have seen.

B THE CORONER: I have no objection to everyone else seeing it? I am more than happy that they do. I will raise the issues with the jury. The point 3 that you raise I intend to deal with slightly differently but I will address it.

MR JENKINS: I understand. What I have done is made sure that the lawyers here have a copy. I have not, I am afraid, spoken to those other interested parties. I recognise Mr Wilson who was at the pre-inquest hearing in January, but I do not know who else is here who would like to see a copy of the submissions that I make. I certainly have enough copies to distribute them.

C THE CORONER: That is excellent if you could do that and we will get the jury in whilst that is happening. Is there anything else, Mr Jenkins?

D MR JENKINS: Sir, there is one other matter. You have mentioned Gillian Hamblin and that she is not very well. Those instructing me have taken a statement from her that does amplify some of the matters that the statements that you are proposing to read deal with. If you are content we will ensure that you have a copy of that additional statement so that you can consider it.

THE CORONER: If I could have that before lunch, I will read it over lunch. Thank you. Is there anything else?

E MR LEIPER: Sir, there are various matters in relation to documentation that I would seek to raise and it now seems to be the appropriate time to do that.

F THE CORONER: Certainly. I have had the letter from your instructing solicitors. I know that the majority of paperwork is available. I do not know that I want to refer to it. I am trying to limit the ambit of the inquiry and I know it is not to everybody's taste but it is a situation where I need to be aware of just how much information I am going to give this jury. If you want to see the paperwork I am more than happy that we do that.

G The other point I think perhaps Code A has some difficulty with is evidence. I am not bound by the strict rules of evidence and the concerns that she was expressing to me outside this room were that various people should be called to say certain things to me and to the jury. So far as her mother is concerned, there is no reason that she should not tell me about her mother and that comes to me as evidence and I am more than content. She was also saying that she wanted her Code A to give evidence. If that is the case I am more than happy that that happens. I do not want to exclude people. I just want to be reasonable in the ambit of the inquiry, that is all. I will listen to most things that people tell me.

MR LEIPER: Sir, I am very grateful for that and for your indication that documents may be seen should we want to see them. What would be the mechanism for accessing?

H THE CORONER: That man over there. DC Stephenson is the man that has his finger on the pulse of – how many boxes of paper?

DS STEPHENSON: Ten.

THE CORONER: There is a vast amount of paperwork. When you asked for copies of the hospital notes you could have no conception of what you asked. The New Forest would have to disappear. There are copies available to you that you can see.

B MR LEIPER: Would there be any difficulty about taking copies away?

THE CORONER: There may be difficulty. If you can identify those documents that you want to take copies of, but as to taking the copies away, no, I do not think you can do that.

C MR LEIPER: There is no difficulty about getting them copied. There are two particular categories that are interested in are the paginated bundle of medical records in relation to the deceased which are the 21 experts.

THE CORONER: I think I am right in saying that the medical records you have got they were the bundles of medical records that were made available to your predecessor, whoever was there, so they have been produced to you but you can check through them with DS Stephenson and he will deal with that.

D MR LEIPER: The other particular area of documentation is in relation to those documents relevant to the standard of care, the Wessex protocols being an example. There is a range of documents referred to.

THE CORONER: One of them has very kindly made copies of those available to me quite recently and I am sure that they have copies with them. Ms Ballard hopefully has copies with her and those who instruct her.

E MS BALLARD: Copies of what, sir?

THE CORONER: The Wessex Protocol, the various documents.

MS BALLARD: Yes.

F THE CORONER: If you can make a copy of your list available then I am sure Ms Ballard will assist.

MS BALLARD: I will assist as much as I can, sir.

MR LEIPER: I am very grateful for that.

G So far as applications are concerned, there is, it is understood, a report from a Professor Baker which was commissioned by Sir Liam Donaldson, which I understand my learned friend, Mr Jenkins, for Dr Barton has seen and that is a document that the families that I represent are keen to have a look at. In the first instance might I enquire as to whether or not you, sir, have a copy of that document?

H THE CORONER: I do and I have not admitted it and I am not introducing it. I feel that I would be more than happy for it to be disclosed after the evidence.

MR LEIPER: Do you have any objection to the families seeing it yet at this stage? I understand from Mr Jenkins that ---

THE CORONER: There is no problem with that, is there?

MR JENKINS: No.

THE CORONER: There is a problem with it. After the inquest you will not have that problem.

MR LEIPER: The families obviously feel as though it contains relevant evidence.

THE CORONER: It does not, does it, because it is after the event and that is what I am trying to avoid. After the event it is very easy to be judgmental. What I am actually trying to do is to limit our experts to those that are dispassionate and objective to avoid finger-pointing, to avoid issues of liability and the report is two directional. I do not want it to be adduced in these proceedings. If your families disagree with me they will have to disagree really.

MR LEIPER: Would sir consider advanced disclosure of it so that submissions can take place?

THE CORONER: I think the police have some problems with that and I will talk to DS Stephenson this morning at some point and I will come back to you, if I may, if you raise it with me again.

MR LEIPER: Sir, I also understand that there has been some correspondence between yourself and one of the families in connection with the report from Professor Forrest.

THE CORONER: There is not a report from Professor Forrest. As I understand it, this again does not form part of it because Professor Forrest was instructed for another purpose. I think I am right in saying that there is not a report from Dr Forrest. I think the police consulted Dr Forrest but there is not a report from him. I have not got one; I have never seen one.

MR LEIPER: Sir, so far as the case of Brian Cunningham is concerned, you may be aware of the fact that at the moment there is an intention to call Mr Black and Mr Wilcock. At an earlier occasion a Professor Ford was instructed to prepare a report which addresses circumstances surrounding Brian Cunningham's death. Is that a report that you, sir, have seen?

THE CORONER: I think it is. I think it was in my original papers. It is sometime since I visited that but I will have another look at it if that is what Mr Cunningham wants me to do.

MR LEIPER: I would be very grateful, sir. I will review it with a view to hearing from me as to whether or not Professor Ford should be called as a witness when it comes to hearing evidence in relation to Brian Cunningham.

THE CORONER: It is likely that I will take the same view as I have just taken.

MR LEIPER: So be it, but that is the reason for my asking you to read it.

So far as Michael Packman is concerned, there is a reference in the expert report of Mr Wilcock to a report from a gastroenterologist called Dr Jonathan Marshall.

B THE CORONER: It is a long time since I have read that as well. If you want to see it I would have no objection to that. I do not think there is any problem with that. I think because Professor Wilcock refers to it I do not propose taking it any further. If you want to raise anything with Professor Wilcock then I am more than happy that you do that.

MR LEIPER: The police officer in the corner will give out the appropriate ---

THE CORONER: He is a fount of all wisdom for these purposes.

C MR LEIPER: So far as Elsie Devine is concerned, I understand there has been some correspondence between you and the family in relation to hearing the evidence from Sandra Briggs.

THE CORONER: I have just said that I am more than happy that if she wants to talk to me I am happy to take her.

D MR LEIPER: You are happy to admit her as a live witness.

THE CORONER: Yes. It is not my intention to exclude families in any way at all. All I am trying to do is to limit the ambit of the inquiry and to make it reasonable and something that the jury can relate to.

E MR LEIPER: I am grateful. So far as rule 37 is concerned in the case of Devine, at the moment there is a proposal that the report of Professor Dudley should be read. The position of the family is that that would be agreeable subject to it being edited in some ways because there are a number of opinions expressed by Professor Dudley which in our submission go outside of the area of his expertise.

F THE CORONER: If I could ask you to edit that and let me have a copy of your edited version so that I can check it before we get there.

MR LEIPER: Of course. Sir, I think you have also been forwarded some documentation in relation to events in 1991 at the Redcliffe Annex. I understand that there were a series of meetings in 1991 which dealt with concerns which had been raised by two nurses.

THE CORONER: Very recently?

G MR LEIPER: What, that you have had this document?

THE CORONER: Has that come in very recently?

DS STEPHENSON: (?) It was received by me recently.

H THE CORONER: It relates to meetings of what?

MR LEIPER: It relates to meetings which addressed concerns raised by Nurses Giffin and Tubritt.

THE CORONER: Yes, I have.

MR LEIPER: In relation to matters at the Redcliffe Annex.

B THE CORONER: Do you have copies with you that I could have a look at and tie up with what I have here so I know what I am looking at? (Documents handed) Thank you very much.

MR LEIPER: Sir, there will be reference to that documentation in the course of the inquest. I think there has also been some correspondence between you, sir, and the Devine family in relation to some correspondence from Elsie Devine in the days preceding her death.

C THE CORONER: I do not think I have seen those but I am more than happy that they are adduced. I have no problem with it being produced to us and to the jury. I will look at them now and we can let the jury see them as and when. (Documents handed) If the other advocates could look at those at some point and make sure you get them back and as and when you want to produce them that is fine.

D MR LEIPER: Is it possible to trouble the police officer for copies?

THE CORONER: I am not sure that they will copy well but if he can get copies then I am sure he will.

E MR LEIPER: Lastly, sir, while I am on my feet, Mr Jenkins has already helpfully provided some suggested questions in relation to proposed questions. For the purposes of empanelling a jury, there are three further suggestions for questions from the family. I have reduced them to writing and if I could hand up a copy. (Document handed)

F THE CORONER: The change that I was proposing to your questions was with respect to question 3 and to temper that slightly and it would not be an embargo to a jury member; it would be to assess by how much they have been affected. I will deal with that when they come in. You know what happens next, do you not? They all say yes and we all go home! If you want it to be that specific, then yes, I will take it.

MR LEIPER: Subject to any representations from my learned friends those are questions that the families will be keen should be asked.

THE CORONER: I am content with those as they are. Have you all seen them?

G MR LEIPER: I am afraid they have not seen them.

THE CORONER: I was talking to the families. Very well.

H MR LEIPER: Sir, in light of your responses and in relation to the existence or otherwise of a report from Professor Forrest, I am asked that sir should given consideration to him being called as a witness in the course of the hearing on the basis that he is clearly an eminent toxicologist and we are not going to be hearing from anybody with the same area of expertise

in the course of the next few weeks and the family, particularly the family of Mr Cunningham, are of the opinion that his evidence would be of enormous assistance so far as these matters are concerned.

THE CORONER: If that is going to feature on the landscape then we need to address that today because to get hold of somebody like Professor Forrest is going to be very difficult. I will talk to you later, if I may, and just find out what we are doing. Is there anything else?

MR JENKINS: Could I respond on the point of Professor Forrest. My understanding is that he has retired from (inaudible).

THE CORONER: Has he?

MR JENKINS: Yes. He is based in Sheffield and my understanding is that he has a fairly busy medico-legal diary as well. I would be troubled at the prospect of Professor Forrest just being called blind, as it were, without us knowing what he has seen or what he has got to say.

THE CORONER: I think my difficulty goes beyond that in that Mr Cunningham is the only person who had a post mortem and taking the post mortem results from there I would find it quite difficult to entertain toxicological evidence at that point. The other thing is the obvious point of what has toxicology got to tell us. I have great problems with that after 20 years sitting in this position. I need to consider it. I hear what you say and I will consider it and come back to you.

MR JENKINS: Can I raise one or two other matters about witness timetable? We have a schedule of those cases that you propose to deal with.

THE CORONER: It is not set in stone. I think we are going to have to jig it around as we go because of people taking longer or shorter. I also understand that Dr Barton is content to give her evidence after each section and that would be extremely helpful.

MR JENKINS: It has certainly been my view that we need to give all the assistance we can to the jury to compartmentalise the cases that they are considering and to that end Dr Barton it would seem to me would naturally be called as part of the evidence that the jury consider for each of the patients one after the other. The difficulty that may cause is with experts coming at that different point. We cannot compartmentalise the whole case.

THE CORONER: Is the answer to take Dr Barton's evidence after each deceased and then she can come back after the experts if there is anything that arises if you could make a note of any points arising in that.

MR JENKINS: If one looks at the timetable that we have, Dr Barton would be coming back after Professor Black.

THE CORONER: That was done on the basis that I would take Dr Barton's evidence last, but if we are going to interpose them I am happy to do that. I am quite happy to fit in with any arrangement that facilitates the inquiry to happen.

MR JENKINS: Staying with witnesses and timetable, there are one or two witnesses obviously who give evidence in addition to Dr Barton for several of the patients. I am

thinking of Dr Lee. Several of the nurses give evidence clearly in relation to the subject, and I was wondering if you were anticipating calling those witnesses several times or whether you were going to call them ---

B THE CORONER: I was going to take them as part of the generic evidence rather than recalling them again and again. I think there are only four, are there not, five including Dr Lee. Jane Hamblin now will not be called, and subject to any observation I will take her under rule 37. I think there are only four direct witnesses or five from the experts.

MR JENKINS: All I would ask is that I have notice overnight of who is going to be called the following day.

C THE CORONER: That is something you will have to talk about because as witnesses are warned and present I suspect by the time we have gone through two weeks there will be a complete re-jig of the timetable anyway. If we could keep an eye on that and I would be grateful for any assistance you can give me.

MR JENKINS: I suspect I speak for the other advocates here and also family members who may not be planning to be here every day that obviously the more notice we have of which witnesses are to be called on which day, the easier it will be to manage them.

D THE CORONER: When we come to the close of business today we may look at it again because I do not anticipate that you will all be in the front row for the duration and those that wish to be here for any particular part or not here for any other part will have to accommodate you.

E MR JENKINS: Can I raise one of the matters that I spoke of in my document. It is the bottom of the second page for those that have it and the paragraph at the top of the third page. I raise the concern that witnesses should not be permitted to give evidence about deaths other than those ten with which the jury are to be concerned.

F THE CORONER: Absolutely, but that is something the families must understand. This is the point I was trying to make some considerable time ago that these are ten inquests in respect of ten deaths. They do not extent anywhere else and it goes to the report of the inquiry. I am limited to the function that I can perform, and I will outline that to the jury. The families really do need to understand that. It is very case specific and the fact that we have put ten together is for convenience and to enable the matter to proceed rather than doing it ten times over, but they are individual inquests into individual deaths.

G MR JENKINS: Sir, I am grateful for that. Can I just illustrate the point if, for example, a nurse were to give evidence that a different patient about whom we know nothing had been put on a syringe driver and morphine had been prescribed and patient had subsequently died, there is no way anyone here could explore that case to see how it is relevant or not relevant. There is no way if Dr Barton were said to be the prescriber that I could explore what is being said or the clinical course of that patient's history. That is why the practice, i.e. that it was accepted practice to do that, I do not think it is something I cannot admit and I cannot even think about. It would have to be explored.

H THE CORONER: Thank you very much.

MR JENKINS: If we find ourselves going down that particular avenue we will have to stop and if I miss it if you could perhaps help me with it, I would be grateful.

THE CORONER: These things are sent to try us.

B MR JENKINS: Sir you will see the other matter that I raise at the end of my document in relation to experts Professor Black and Dr Wilcock do make comments about the adequacy of the medical records. I have indicated to you and those who have this document that in other circumstances I would be concerned and would object to any such comments from experts being allowed into evidence, but in the particular circumstances of this case I am content that that issue be ventilated in the evidence of the experts.

THE CORONER: Is there anything else? You are?

C MR WILSON: Mr Wilson. Firstly, I would like to say about the 1991 document that you have already spoken about and I would like a copy of that as well if it is being released.

THE CORONER: It is being released and you will have a copy.

D MR WILSON: Then I would like to say about Professor Baker. I would like him to be called, at least the Baker report to be used as a rule 37. I listened to what you said and I took on board everything you said, but at the end of the day what he was there to do was to do a report on the whole hospital at that particular stage and it is only the second time that Sir Liam Donaldson has actually asked for this to be done so I think it actually gives a really good picture of the hospital and what was going on at the hospital at that particular time rather than ---

E THE CORONER: I am looking at ten individual deaths. That is the difficulty that we have. The points I raised at both of the inquest hearings are really germane to that. They are the whole point of it that we are doing ten inquests, your dad being one of them. We will get evidence about the hospital and the way things operated. You will not get a judgmental report coming through my court.

MR WILSON: I would like a copy of it when it is eventually available then.

F Professor Ford – I would like him to be called as a live witness certainly in my father's case, and if not as a live witness then at least a rule 37.

THE CORONER: We will look at Professor Ford again. I am not saying yea or nay, but I will speak to DS Stephenson and have a look at it.

G MR WILSON: Finally, Gillian Hamblin – can I be told why she is not available to be here?

THE CORONER: Yes, you can have a look at the letter from her doctor. She is very ill.
(Document handed)

MR WILSON: I am sympathetic.

H FEMALE SPEAKER: Just with regards to Professor Forrest's report, I understand what you said regarding looking at the cases as the individuals at the same cases. When

Professor Forrest was commissioned by the police his report I feel the families have not seen and it is his ---

THE CORONER: It is Professor Forrest who has not done a report, is it not? There is not one.

B FEMALE SPEAKER: You said it was not reduced to writing but I do not believe those are the words that I have had from Professor Forrest. We could get hold of him as a witness. What he has done and what his work has done is put these ten families into a category of serious concern and as one of the world's leading toxicologists I do not think that we should just dismiss his report lightly. He put my grandmother in a category of "serious concern" along with his team of five and are we saying that he did that just without making any writings or he is unable to come here and look at the files?

C THE CORONER: I actually do not know. I am not being dismissive. I do not know the answer to that question.

FEMALE SPEAKER: I have been in contact with Professor Forrest and originally I know that my mother and I also got in contact with yourself with regards to the point at which he wrote his report.

D THE CORONER: You keep saying that. I am told that there is no report.

FEMALE SPEAKER: Who tells you that? Am I allowed to ask?

THE CORONER: The police who undertook the inquiry.

E FEMALE SPEAKER: So when the police took the ten cases to the CPS because they were in the category of serious concern they took them there with no backing as to why they were in that category?

THE CORONER: Do you mean apart from the 26 lever arch files of documents that I have already got?

F FEMALE SPEAKER: He must have worked through something to get somewhere.

THE CORONER: I should imagine he worked from the medical records that were there and the hospital notes.

FEMALE SPEAKER: Like the expert medical opinions were written up and even if it is just four pages, do you think we can ask him?

G THE CORONER: Ask Professor Black and ask Professor Wilcock the questions and they should be able to field that for you.

FEMALE SPEAKER: So we are not going to consider Professor Forrest's report?

H THE CORONER: I am not going to consider Professor Forrest without a report. I will speak to DS Stephenson and find out just by how much he was the informed opinion.

FEMALE SPEAKER: And his team of five. There were six people that did that.

B MR JENKINS: Can I help with Professor Forrest. He is Professor in toxicology in Sheffield. He also has a clinical role and I have seen him used as an expert in many cases. What he does is work out of his laboratory. Samples are submitted to his laboratory, they are analysed and Professor Forrest gives evidence as to what was happening in the human body or likely to be happening based on the samples that were analysed. He works from the laboratory and he gives evidence based on sampling and testing of samples that have been submitted to him. He would have nothing to say, I suggest, about this case because he was never given any samples.

THE CORONER: Which is presumably why there is nothing. In seven of the cases there is no body.

C FEMALE SPEAKER: Can I just answer that point in the sense that Professor Forrest does work from samples, that is correct, but in this case as you rightly say most of the bodies were cremated and so he could not do that. He worked from the files and the descriptions and the drug charts which show the drugs that were being administered, so the toxicology levels that would have been in the body on that basis which is basically what the medical experts are working on too.

D THE CORONER: Do you know how unreliable that is?

FEMALE SPEAKER: You have to ask yourself why the police used it to categorise 92 cases?

E THE CORONER: You have got to get somewhere somehow but certainly from my point of view it is unbelievably unreliable because of tolerance levels, because of dosages. Mr Stewart-Farthing, welcome back.

MR STEWART-FARTHING: I fully support the application to get Professor Forrest here. If there is no report I would like to see him in person and ask him personal questions if necessary – my counsel to do it formally. I fully support the application and would like it (inaudible), please.

F THE CORONER: I think probably not but I hear what you say. I will consider it. Is there anything else?

MR JENKINS: The large folder that we were given in January, could I ask what is to be done with that? Was that just for the convenience of the interested parties or was it intended that that should be given to the jury?

G THE CORONER: No. It is there for reference if anyone needs to refer to it. It is the hospital records and the prescription charts. If you want to extract anything from that then yes, I am more than happy.

H MR JENKINS: I have indexed my bundle and I have put on my index all the pagination from the original medical records. If people would like a copy they are more than welcome to have one. I have paginated it so that one can see what medical records from the original

records are in and which ones are not in this bundle. Can I hand you all a copy? People will need to paginate their own versions. (Documents handed)

THE CORONER: At this stage the only documents I was proposing to give to the jury: one is a blank form – old form of inquisition which is *that* one so they can see what we are doing. The other thing is the document that is produced by the police originally just giving a kind of timeline. (Document handed)

B MR LEIPER: So far as this document is concerned, I would appreciate the opportunity to take instructions from the family before it is handed to the jury.

THE CORONER: Please do, but it is factual as far as I understand it. If there are any observations on it, I will hear the observations. Certainly if you want to deal with any of it in evidence I am more than happy.

C (In the presence of the waiting jury)

(A jury was duly empanelled and sworn)

D THE CORONER: Ladies and gentlemen, you have a somewhat unusual task. It is not one that you are likely ever to actually repeat and that is that you are here empanelled to inquire into the deaths at Gosport War Memorial Hospital and there are ten of them, the names that I gave you earlier. The proceedings are ten separate inquests. They are inquests of people that have died at Gosport War Memorial Hospital but for the sake of ease and convenience we are running the ten together. If you could think that they are ten individual inquests, ten individuals and those are very important people. They are people who have died and they are entitled to have their deaths examined by Her Majesty's coroner and by you.

E Because all ten cases are running together you will have a mixture. There is generic evidence and you will hear medical evidence relating to the Gosport War Memorial Hospital and to more than one of the deceased. That is evidence that I would ask you to take as and when it comes and to look at it in the light of all the ten cases. For the majority of the medical evidence you will find that the medics and the nurses do not have any direct recollection of the deceased which is perhaps not surprising because over a period of some four or five years there would have been a number of people through their hands. These events are from 1996 to 1999, so they are not new and an awful lot of water will have run under the bridge. I take no point on the memory factor to remember those circumstances.

F You will also hear personal evidence, evidence relating to that individual and the families will give you that evidence. They are very concerned about their loved ones and they will tell you about their mum, dad, aunty, or whatever. You will also have expert evidence. You will hear from Professor Black and Professor Wilcock. They are geriatricians and palliative care people and they will have expert evidence to give and they will tell you whatever their opinion is.

G The strange set of circumstances is that three of the people were buried and they are three people on whom I am entitled to call them in because the bodies lie in (inaudible words). The other seven were cremated and because the bodies have ceased to exist the permission of the Secretary of State is required in order to conduct these inquests. That permission has

been given. The Secretary of State takes the view that all these cases are fit for inquest and will bear examination.

The Gosport War Memorial Hospital is a community hospital. At the time it was part of the Portsmouth Healthcare NHS Trust. It has ceased to exist in that form because it has been taken over under the health reorganisation. Whatever organisation one is talking about, it does not exist any longer. The health trust now has assumed responsibility so there is somebody running the show.

During the relevant period Dr Barton was the clinician primarily involved and she will be giving evidence as we go through. The other clinicians that will give evidence are Dr Reid and the clinicians. (?)* Generally the patients at Gosport were elderly. They had gone to Gosport for rehabilitation or palliative care and it is that hospital where the lady who has just been discharged for saying that her aunt was there. She had been sent there because she had come to the end of her life. That is not always the situation. The position is that they go for rehabilitation and they have the position where they can go home or on to care homes or nursing homes. That really is part of the question that we need to decide when looking at each of these deceased – where was that deceased on the scale of life?

The people that you are dealing with, taking them chronologically, the first is Leslie Pittock. He died when he was 82 years old, having been admitted to Gosport on 5 January suffering from Parkinson's disease. He died at Gosport on 24 January. You may wish to note these dates because it will become relevant.

MR LEIPER: Sir, I would ask that that document does not go before the jury at this stage.

THE CORONER: On the grounds that you want to vet it first?

MR LEIPER: Exactly.

THE CORONER: You may get it later. Let me tell you that Leslie Pittock died when he was 82, having been admitted to Gosport on 5 January suffering from Parkinson's disease and he died at Gosport on 24 January 1996.

Elsie Lavender, who was 83, was admitted to Gosport on 22 February 1996, said to be a head injury and brain stem stroke. She died on 6 March 1996. The cause of death was then given as cerebral vascular accident which is a stroke.

Helena Service was aged 99 and was admitted to Gosport on 3 June 1997. She had numerous medical problems – diabetes, congestive cardiac failure, confusion, sore skin – she died on 5 June 1997. Her cause of death was given as congestive cardiac failure.

Ruby Lake was 84, admitted to Gosport on 18 August 1998, a fractured neck of femur, diarrhoea, atrial fibrillation, ischemic heart disease, dehydration, leg and buttock ulcers and she died on 21 August 1998. Her cause of death was given as bronchial pneumonia.

Arthur Cunningham was aged 79, admitted to Gosport on 21 September 1998, Parkinson's disease and dementia. He died on 26 September 1998, the cause of death given as bronchial pneumonia.

MALE SPEAKER: At an inquest statement is it an appropriate time to mention this now?

THE CORONER: What are you going to say to me?

MALE SPEAKER: He was not admitted for dementia. It was never an issue at all at any stage. On 17 September, five days before he went into hospital, ---

B THE CORONER: Can I stop you and say that that is something that you might like to cover in your evidence when you give that and we will deal with that specifically.

MALE SPEAKER: It was not a factor for him being admitted to hospital.

C THE CORONER: Robert Wilson was aged 74, admitted to Gosport on 14 October 1998, a fractured left humerus and alcoholic hepatitis. He died on 18 October 1998. The cause of death given was congestive cardiac failure and renal liver failure.

Enid Spurgeon was aged 92, admitted to Gosport on 26 March 1999 with a fractured neck of femur. She died on 13 April 1998, the cause of death recorded as cerebral vascular accident – a stroke.

D Geoffrey Packman was aged 66, admitted to Gosport on 23 August 1999 suffering from morbid obesity, cellulitis, arthritis, immobility and pressure sores. He died on 3 September 1999 and the cause of death was said to be myocardial infarction (or a heart attack as we would know it).

E Elsie Devine was 88, admitted to Gosport on 21 October having been diagnosed with multi-infarct dementia and moderate to chronic renal failure. She died on 21 November 1999. The cause of death given was bronchial pneumonia and glomerular nephritis – kidney stone. Again, somebody will tell us about that.

Sheila Gregory was aged 91 and was admitted to Gosport on 3 September 1999 with a fractured neck of femur, hyperthyroidism, asthma and cardiac failure. She died on 22 November 1999, the cause of death being recorded as bronchial pneumonia.

F Each death now has to be re-examined and at the conclusion of the evidence I will ask you to complete an inquisition form. The only matter fixed for each deceased will be their identity. The inquisition that you get will be slightly different from that one but that is the type of document that is required to be completed.

G On the evidence that you hear you will need to decide the injury or disease causing death if it is different from that already given, the time, place and circumstances at which that was sustained and then a conclusion.

When we have heard the evidence I will talk to you about the way to complete that form or whatever form you are going to complete, but that is the type of thinking that you need to apply to the evidence that we hear.

H Probably the most important factor that I need to put to you today is that this is an inquest. Why are these people dead? It is not an issue to be tried. Nobody is on trial. We are not to deal with any question of civil or criminal liability because the Coroner's Act specifically

says that whatever you do you will not give anything that gives an indication of criminal or civil liability on the part of any named person and that if I find that we are getting led in that direction I would stop any questioning of that nature. Does that make sense? We are here to find out why these people are dead and not to say because somebody has done something.

B The people you have in front of you: you have Mr Jenkins who is here for Dr Barton, who was one of the clinicians at Gosport War Memorial Hospital. You have Mr Townsend here who is here for the Royal College of Nursing. He may have some interest as we go through. We have Ms Ballard who is here for the health authorities and we have Mr Leiper who is here for four of the families. The other families are not represented but they will have an opportunity to ask questions, as you will. As we go through the evidence, if there is anything you want to ask I will afford you the opportunity and if I forget stand up and shout. It is really a question of keeping on top of the proceedings.

C The sitting pattern is that I will sit for as long as it takes each day. It is unlikely to be a full day but it can be. We are more likely to finish early. As we go through we will re-jig witnesses, take up slack and interpose people as is necessary.

D So far as you are concerned I do not propose that you are limited to the building throughout the day. Please do not discuss these cases or what we are doing. Limit that to the jury room. If you start discussing matters outside of the jury room then it all becomes contaminated, does it not, and there are problems with that. You may have seen *The Independent* on Sunday. You may have listened to the news reports yesterday and you may have seen last night's news. Those were matters that refer to hospital deaths in circumstances where certainly a view is superimposed upon what we are doing today. The question in *The Independent* was put very much on who is to blame. As I said to you, that is not what we are here to do. We really must not do that. You will also from now on probably see the news and newspaper reports and they may start to affect your mind.

E Because I am a lawyer I have these wonderful blinkers that enable me always to see things clearly down straight lines without having the blur of press interest, of news reports that might affect my way of thinking. Can I invite you to share my blinkers? Can I invite you if you see news reports relating to these proceedings that you take a view of them or, better still, do not take a view of them. Try and avoid it because it may affect your way of thinking, it may taint the way that you interpret evidence and I want the evidence to come to you clean and I want it to come to you fresh and I want you to be able to interpret that evidence as it comes. Do not think there is anything sinister if I stop questioning – it is because I see it heading in a particular direction and a direction that I do not want us to go in.

F
G The conclusion of this inquest will be yours; it will not be mine. I can guide you, I can direct you, but the conclusion that you reach will be yours. I can help you with it as much as you like but the decisions are yours and you need to understand that because when we conclude this inquest I will be saying certain things to you and I will be making certain suggestions and if you do not like them push them to one side and forget them. All I say is do not consider liability, culpability or anything of that kind.

H Is there anything you want to ask at this stage? We are here for the duration and it will be quite a long time. It is important to be comfortable. If you need anything you need to say so. I will rise now for 15 minutes to give everybody a chance to have a break. It also enables me to talk to DS Stephenson. We will resume at a quarter to.

(Adjourned for a short time)

(In the absence of the jury)

THE CORONER: I have managed to confuse the jury already with times and dates.

B MR LEIPER: Certainly in relation to the cases of Elsie Devine and Arthur Cunningham there are going to be a number of amendments which need to be made before it can go to the jury.

THE CORONER: I would rather that they had it now and they could make the amendments in light of the evidence they hear. It at least gives them some idea of the chronology. That is what I am concerned about.

C MR LEIPER: Sir, there is a fundamental objection to that. This is being put before them as accepted neutral facts and the reality is that what is included in her so far as Elsie Devine and Arthur Cunningham is concerned is really very contentious. In those circumstances we need an opportunity to provide ...

D THE CORONER: What I am going to have to do when they come back in is to take them through the timings that I gave them in the opening because they have that on board. They have not got dates and times written down. They have not absorbed that.

MR LEIPER: So far as the family is concerned, the nature of the medical condition at the time of their admission to the hospital is something of immense importance so far as they are concerned.

E THE CORONER: That is the point that causes their concern.

MR LEIPER: Exactly. I do not wish to hinder the way in which things are progressing but so far as the families are concerned getting the medical history absolutely spot on is of utmost importance.

F THE CORONER: The other point that will need to be addressed at some stage is that the timeline is taken from the records as I understand it, it has not been invented, so the terms must be used somewhere? Do you see what I mean, that somebody has decided that that is the problem. If it is a mistake then I could quite openly accept that but the fact that somebody is saying that is the problem, that it is dementia or whatever it is, is significant. If it is not dementia it is significant that it is in the records as appearing as dementia, is it not?

G MR LEIPER: Sir, of course it is a matter of significance so far as the family are concerned – there have been a number of instances – what is recorded is a matter of extreme concern. The ideal option is obviously something which is going to be neutral and perfectly satisfactory as far as all parties are concerned, and if we can work with sir to arrive at that end, all well and good, that is what we will endeavour to do.

H THE CORONER: Let's get the jury back in. I do not know how much further we are going to get with evidence today because if I take any evidence it is going to be something in writing or rule 37. I would quite like to spend some time with you really looking at my

witness schedule again because it is rapidly collapsing, is it not, and I suspect that I need to concertina it. I do not know how long you are going to be in your examination of witnesses. It may be helpful for me to know who is going to be long and who is going to be short. It would be helpful for me to take a view of Hamblin because that is going to be significant because my choice is either to admit her under rule 37 or not to take her at all. The families may prefer to have her in writing rather than not at all, because I am not going to call her in her present condition. That goes for the families that are not represented, I would say the same thing to them.

B

If I get the jury in now, go through the opening again so far as it relates to dates and times, I will try and get it right this time, Mr Stewart-Farthing, and deal with the omission.

MR STEWART-FARTHING: Would you like to know exactly why my stepfather went to the hospital? It is the first statement on the paper, no the reason.

C

THE CORONER: There is a difficulty in that what I was saying to Mr Leiper is that if the hospital notes say that is what the problem was then he would have been admitted to Gosport with that assumption that that was the condition and if it appears in the notes then that is highly significant because it is incorrect, is it not?

MR STEWART-FARTHING: The reason he went in is the first thing on the admission notes – the reason he was admitted – and that is what my statement reads.

D

THE CORONER: You are missing my point, are you not? What I am saying to you is that if his discharge summary or admission notes say that it was dementia, they may be incorrect, but if that is what they say then that would cause Gosport to treat him on that basis, would it not? Do you see what I mean?

E

MR STEWART-FARTHING: It was never an issue. I cannot accept this, I am sorry.

THE CORONER: I cannot understand whether you are being obtuse here or I am, but if I say that I have an in-growing toenail and I go into hospital and they say right, you need to go to the in-growing toenail department, the hospital into which I am admitted will assume that I have an in-growing toenail because that is what the papers say, therefore they are likely to treat me for an in-growing toenail. If Mr Cunningham is said to be suffering from dementia and he is admitted to Gosport, then the chances are that Gosport will start looking at him as a dementia patient because that is what his notes say. He may not be suffering from dementia.

F

MR STEWART-FARTHING: His notes do not say that at all. They do not say he had a bed sore but that is why he was admitted into hospital.

THE CORONER: Where does the mention of dementia come, do we know?

G

MR STEWART-FARTHING: It is mentioned by Dr Moore on 17 September for the first time that he may have an element of dementia. That is all. It does not mention it anywhere else. It is not an issue and never has been. He was fully compos mentis.

THE CORONER: That is something you will need to deal with with the jury and say that is why he was admitted. That is why your evidence is important.

H

MR STEWART-FARTHING: I object to it being listed here as the reason for admission.

THE CORONER: If we can do the amendments to the list – is there any hope of organising that? That will need to be sorted out with the unrepresented families as well. That is something that might be addressed this afternoon.

B MR LEIPER: We will certainly do what we can and would be grateful for the opportunity to do that.

THE CORONER: I will not disclose this to the jury at this stage. Let's have them back and give them the history. I will then probably discharge them for the day and we can then look at any further matters then. Having done this with the jury now we will rise for lunch and come back and look at the timetable again.

C MR JENKINS: Can I suggest that the jury should be told that this is a working document. This is intended to assist. It may be that there are spelling errors, date errors – one hopes there are not – but as the evidence is gone through if there are errors ---

THE CORONER: In the face of the objections from the family I cannot give it to them in this form.

D MR JENKINS: I understand. I was wondering if there was a way of deleting or obliterating those few words to which exception is taken.

E THE CORONER: I am more than happy that we do that and that is why I was suggesting that we amend this document that we have got, identify the offending areas, delete those and we can use it as a working document. One of the points I am trying to get to you is that it is a working document. When you give your evidence then that is the point at which we will we - --

MR STEWART-FARTHING: It is giving the wrong impression from the outset, if I may say.

F THE CORONER: Let's get the right impression from the outset and then we can move it on from there and if it needs amendment now, then let's amend it.

MR JENKINS: I am concerned that the jury should be given every help that they can be. If it is possible to draw up a document as a working document that should be given to the jury at the earliest stage. If we know this document exists in which someone has done a lot of work in putting down dates – dates of admission, dates of death – it is so much better for the jury than to watch them making notes when they know they are going to be given the document in due course.

G THE CORONER: It is not going to happen to them today. They are concerned now to look at times and dates. I will give them the times and dates again with the names and nothing more.

H MR JENKINS: Sir, what you have said is that the families and those who represent any interested parties should be looking at the document now so that we can correct it today and the jury can be given it.

THE CORONER: Hopefully we will have something for them tomorrow, yes. Jury, please.

(In the presence of the jury)

B THE CORONER: A slight confusion over times and dates. It would be helpful if we just look at names and dates. What has been agreed is that we will look again at the time line. We will do the amendments that need to be done to it and that will be available for you tomorrow. It is a very useful document indeed if we can get it right but it needs to be an agreed document. The facts should not be put to you on any kind of confused basis and there is some confusion over (inaudible words).

C The people you are looking at is Leslie Pittock, who died when he was 82. You have actually got the pro forma that was given to you and they should be in the right order for you in the statement bundle. He died when he was 82. Admitted to Gosport on 5 January 1996 and died on 24 January 1996, cause of death given as bronchial pneumonia.

Elsie Lavender, 83 years old, admitted to Gosport on 22 February 1996, died on 6 March 1996, said to have suffered a CVA (cerebral vascular accident – a stroke).

D Helena Service, aged 99, admitted on 3 June 1997, died on 5 June 1997, cause of death given as heart failure.

Ruby Lake, 84 years old, admitted on 18 August 1998, died on 21 August 1998, cause of death given bronchial pneumonia.

E Arthur Cunningham, aged 79, admitted on 21 September 1998, died on 26 September 1998, cause of death given as bronchial pneumonia. He is the only deceased in these ten inquests who actually had a post mortem examination and that will be addressed in due course.

Robert Wilson, aged 74, admitted to Gosport on 14 October 1998, died on 18 October 1998, also death given as congestive cardiac failure (heart failure) renal liver failure.

F Enid Spurgeon, aged 92, admitted on 26 March 1999, died on 13 April 1999, cause of death given as cerebral vascular accident (stroke).

Geoffrey Packman, aged 66, admitted on 23 August 1999, died on 3 September 1999, cause of death given as myocardial infarction (otherwise heart attack).

Elsie Devine, aged 88, admitted on 21 October 1999, died on 21 November 1999, cause of death given as bronchial pneumonia.

G FEMALE SPEAKER: Excuse me, sir. That was not even on the death certificate.

THE CORONER: (*After a pause*): You are absolutely right. Can you amend that – it is chronic renal failure that is given as the cause of death. I am sorry, I do not know where that has come from.

H Sheila Gregory, aged 91, admitted to Gosport on 3 September 1999, died on 22 November 1999, and that cause of death was given as bronchial pneumonia.

What I am going to do now is to release you until tomorrow at quarter to ten and we will sit at ten. We will get that timeline sorted out and that will be available for you tomorrow in an agreed form with the details correct and we can get going with some evidence tomorrow. Thank you for being here.

(The jury were released to the following day)

B What is the best way of using our time now? Looking at the timeline or the schedule, or do you want to do that at 2 o'clock? I will leave you with the timeline now to talk among yourselves and I will come back at two and we can look at the schedule. We want to get the evidence moving as quickly as we can.

C I do not know how long the families anticipate being. How much have you got to say? Is it a substantial amount? Is an hour going to do it or two hours? If you think about it and we can look at it at 2 o'clock. Any other matters you want to raise at that point – I am conscious you are sitting at the back and we might move you forward at some point.

(Luncheon adjournment)

D THE CORONER: How have we done with the timeline?

E MR LEIPER: Sir, I have got some suggested amendments and if I could go through those with you. As you know, I represent Packman, Gregory, Cunningham and Devine. Starting at the bottom with Geoffrey Packman, under the column headed "Analgesics" it currently reads "none" and in fact diamorphine, midazolam and oramorph were all prescribed. For diamorphine, the prescription was 40-200mg SC in 24 hours. The midazolam prescription 20 to 80mg, that is SC in 24 hours. Oramorph was also prescribed but I have not without the bundle of medical records been able to identify the precise amount that was originally prescribed.

So far as Sheila Gregory is concerned, I have no representations to make in relation to the entries there.

F So far as Arthur Cunningham is concerned, the "care plan on transfer" column it reads "sacral sore" and it is suggested it should end there and the remainder should be removed. The reason for that is my understanding of this column it gives a brief overview as to why it is that the patient has been admitted. If one looks at Lord's statement – I can take you to the relevant part of it and I will do that just this once – it makes it quite clear that the admission was for the sacral sore. Just to make clear why it is that we are saying that, it is Lord's statement at divider 35, pages 21-22, and it reads as follows:

G "Mr Cunningham was reviewed in the Dolphin Day Hospital today and has a large necrotic sub (inaudible) ulcer which was extremely offensive. There was some grazing of the skin around the necrotic area and also a reddened area with a black central and a left lateral malleolus. His Parkinson's disease does not seem any worse and mentally he was less depressed but continues to be frail. I have taken the liberty of admitting him to Dryad Ward, Gosport War Memorial Hospital, with a view to more aggressive treatment on the sacral ulcer as I feel that this will need acridine (?) in the first instance. Mr Cunningham has agreed to the admission."

H

It is quite clear that the admission is in relation to the sacral sore so it is our request that the remainder of that box is then taken out or blanked out in some way.

B If one goes over the column headed "syringe driver, date and rationale", where it says remained agitated until approximately 20:30, we suggest that that should come out in its entirety and that simply the syringe driver dated should be left there. One of the key concerns in this case is why it is that the syringe driver was begun when it was. I have been able to find no reference at all to it being because Mr Cunningham remained agitated. The expert Wilcock says that in his view, and indeed the medical notes, it is unclear why the syringe driver was commenced. In those circumstances, if one leaves it at the date that then mirrors the entry for Pittock, which was up at the top of the page which is simply the date and the time.

C THE CORONER: Do we have a time for Arthur Cunningham?

MR LEIPER: I am afraid I have not been able to identify the exact time in the absence of the medical records which are being copied this afternoon.

D So far as Elsie Devine is concerned, so far as the reason for admission is concerned, the care plan on transfer column, at the moment it reads "increased confusion". We request that those two words be taken out and that the remaining words left in - "? UTI chronic renal failure", so the words "increased confusion" come out.

Going to the column headed "Assessed at GWMH", having checked the records the position is that there was no such assessment done at GWMH. There was an earlier assessment which had been done at the Alexandra Hospital.

E THE CORONER: The QA.

MR LEIPER: The QA, exactly so. So far as the assessment at the GWMH is concerned, that was restricted to chronic renal failure and so we would ask those three lines there be taken out.

F THE CORONER: And "chronic renal failure" put in.

G MR LEIPER: Be substituted, exactly so. Under the column headed "Analgesics" at the moment it currently reads "As required temazepam, oramorph" and then it is blank thereafter. If one looks for the sake of comparison at the service entry beneath, it does include diamorphine and midazolam when that has been prescribed and diamorphine and midazolam were certainly prescribed in the case of Elsie Devine. The first entry should be "Fentanyl" and that was at 25mg patch. Immediately beneath that it should read "chlorpromazine at 50mgs" and then there should be a reference to diamorphine at 40mgs and then there should be a reference to midazolam at 40mgs.

H Going over to the adjacent column under the heading "Syringe driver and date", again our review suggests that the reference to "confused aggressive" should be removed. Because it is such a contentious issue in this case why the syringe drivers were administered when they were, in my respectful submission it would be appropriate to remove the word "rationale" at the top of that column.

THE CORONER: It does not say "rationale", does it? It says "rational". Yes, okay. Certainly if you are going to remove the reason for inserting them that would seem to make sense.

MR JENKINS: Should it say "rationale", sir? Should we put in "rationale"?

B THE CORONER: No, because it does not contain it in the majority of cases and I think that will come in evidence. This is a help to the jury and if anyone wants to address any of the points that have been raised then they are at liberty to do so in evidence. That has got to be right, has it not?

MR LEIPER: Can I say on behalf of the families we are very grateful to have the opportunity to get those points of detail clarified.

C THE CHAIRMAN: It is not designed to be difficult. It is designed to be a tool, something that we can work with.

FEMALE SPEAKER: There is just one thing. I have just noticed in my notes that I have made on arrival on transfer analgesic she was actually on paracetamol and codeine.

D THE CORONER: That is Ruby.

FEMALE SPEAKER: Yes.

THE CORONER: Anything else?

E MR TOWNSEND: (?) I think it might be helpful to the court and avoid confusion to the jury to point out that that chlorpromazine, temazepam, midazolam are not analgesics. Since this case is going to focus so much on analgesia, I think that might cause unnecessary confusion to the jury.

THE CORONER: It is included in the other places as well, is it not?

F MR TOWNSEND: Yes. In the same syringe driver one might include of course midazolam in the same syringe driver as diamorphine which is an analgesic, but it is not an analgesic and I think it may cause some confusion.

MALE SPEAKER: All you do is change the common heading – analgesics and other medication.

G THE CORONER: Some of them might have had other medication. They will add it in when they want to. Have you got the set up? If I give you this can we read it?

MS BALLARD: Sir, I note an error – I think it is an error but I will stand corrected – with respect to Elsie Lavender. As far as I can ascertain the medical notes report the syringe driver had been started on 5 March, not the 6th, which would mean that it had been running for 36 hours as opposed to 12.

H

THE CORONER: Does anyone know the answer to that, or do I need to go and look it up or are you right?

MS BALLARD: I think I am right. I am fairly sure I am right.

B MR WILSON: On the care plan for my father, fractured left humerus - alcoholic hepatitis - to be honest, I know he was an alcoholic but that is the first mention I have seen anywhere at all of alcoholic hepatitis.

THE CORONER: It is alcoholic liver disease, is it not?

MR WILSON: Yes, it is a liver disease.

C THE CORONER: Would you like us to change it to liver disease?

MR WILSON: He was admitted because of a fracture on his left humerus.

D THE CORONER: But his other condition was also noted, was it not? His liver condition was noted on transfer. It is not a value judgment; it is what was his problem when he was transferred and it was the fractured humerus principally but he also had the alcoholic liver problem.

Gillian Hamblin's statement.

E I am more than happy to admit the statement from October last year. I do not want the one from 16 February of this year. I would also like you to talk about it if it needs to be edited, can we edit it? I suspect that one or two people may have a view about it. You have seen it, have you?

MR LEIPER: I have not had a chance to go through it with my clients in detail but as a general matter in relation to Hamblin there is an objection to statements being read in relation to the families that I am concerned with.

F THE CORONER: I was going to take that statement in substitution for all her others and admit that under rule 37 with any edits otherwise we do not get her at all.

MR LEIPER: I will take instructions, sir.

THE CORONER: Let me know tomorrow. That was the view I was taking. I am not going to call a lady in her condition. If we can edit that suitably then I will take it in that form, failing which I will exclude it all together.

G SPEAKER: I represent Gillian Hamblin. I should add that Mr Townsend, who has been sitting here this morning, is hoping to take some instructions from her this afternoon and we may have more to say about exactly what statement should go in. We may have more to say.

THE CORONER: Thank you for the warning.

H MS BALLARD: Is it your intention to take the statement dated 23 October 2007 as the entirety of her evidence?

THE CORONER: Yes.

MS BALLARD: I am not in a position to be able to take instructions today but I will be able to revert to you tomorrow about the position that we would take.

B THE CORONER: I do not think there is any urgency in that because the way things are I would like people to be comfortable with what is going in, if anything is going in. That is actually quite important because as time goes on we lose evidence in any event. That is one of the difficulties in a case of this nature.

Is there anything else at this stage?

C I have been looking at the timetable. I think the re-jigging that I was looking at leaves me with the prospect that we are not going to be able to do this sectionally. We are going to have to have overlaps so you cannot cleanly finish one and move onto the next and cleanly finish that because the availability of people means that we cannot just finish. Have a look at this. (Document handed) If a copy could be given to the families at the back? (Document handed) I am sorry about the handwriting but it is the best I could do.

D This has got to be subject to availability. It is balancing up the right number of live witnesses with rule 37s. Shelagh Joines is already warned for tomorrow so I cannot really do much about her. Alan Lavender I think is available tomorrow as well and tomorrow is established as we are. I had thought that if we were calling Lynne Barrett then I would call her on two separate occasions: first to deal with Spurgeon and secondly to deal with Pittock. Similarly, Beverley Turnbull on three occasions to deal with Cunningham, Spurgeon and Packman. In fact, that is not going to work if we have to role the thing out, so we will call them on one occasion to deal with all their evidence because their knowledge of a particular person is just not there. There is no memory of the person and therefore it ceases to be personal and I cannot really see that we should call them for each one and what happened to her or what happened to him because she does not know. She is as good as the records that she has made to look at. From that point of view it would seem sensible to get the records out for her to have a look at them and to deal with in one lump.

E Mr Stewart-Farthing, I was going to take you on 23 March. How would that be?

F MR STEWART-FARTHING: That kind of (inaudible words), I am afraid.

THE CORONER: If you can have a word with your counsel and you will be able to take instructions. Let's have comments on it as we go through and if there is a problem then we can pick it up, but this is the proposal. Mrs Wilson on the 23rd. Would that be good for your brother?

G MR WILSON: My brother is not going to be here. There is no way he can get over from Bahrain.

H THE CORONER: You are Ian, so it is Neil that will not be here. 24th and 25th is Professor Black. 26th I thought I would allocate Dr Barton to do an interim session which may be helpful, similarly the 27th, and we can mop up some rule 37s. March 30th is a day that will be fairly empty. Carl Jewell is there if I remember but we have a wodge of rule 37s that we can

pick up. 31st Victoria Packman, Code A Dr Reid to start. April 1st – Pauline Gregory, Dr Reid again and Dr Barton. 2nd and 3rd I have no doubt we will knock up somewhere and then Professor Wilcock April 6th and 7th. Then let's see where we get up to at that point. That is subject to availability. Think about that. If you agree that that is something we can do I will get the witness warnings organised.

B MS BALLARD: Sir, I have down in the statements that Lynne Barrett has also given a statement with respect to Elsie Devine.

SPEAKER: Referring to Beverley Turnbull and Anita Tubritt, in both cases their existing summons will bring them in at the beginning of April. I do not know what their availability is. I do know that they have to rearrange their duty rotas in order to ensure they were available on the original dates given. It may be very difficult to rearrange at short notice.

C THE CORONER: It has got to be subject to availability and I have got to be reasonable about it. It is also a question of how do we reorganise all this lot. The answer on Professor Forrest, there is no report from him. He was instructed to undertake a matrix analysis of the situation which he and his colleagues did and that matrix analysis was solely on the basis of prosecution evidence on the likelihood of prosecution or the likelihood of success. I am not going to go there. It is about as far from my remit as I could even think about.

D Professor Ford – check that he does exactly the same as Professor Black and Professor Wilcock and they will cover the ground for him whether you like it or not.

SPEAKER: We do not object.

THE CORONER: That is a matter for you.

E SPEAKER: (Inaudible words)

THE CORONER: If you are going to mumble, would you mumble loudly enough for me to hear, please?

SPEAKER: I think it is wrong that that is being withheld from the jury.

F THE CORONER: I do not and I am dictating what actually happens, but they will have Professor Wilcock, they will have Professor Black and you will have an opportunity to question both of them. Do think about it. You are part of this process.

SPEAKER: Allowing some of the evidence into the court that we should have it. So far you are turning it all away.

G THE CORONER: No, I am not. I am choosing what evidence is going before the jury and that is what I am doing.

What else do we need to do this afternoon?

H COUNSEL: (?) There is a brief point I would like to raise and it is with regard to the medical report on Gill Hamblin. Reference was made to that this morning. This report does contain extremely sensitive information about Gill Hamblin's health and that is obviously by its

nature confidential. Obviously it was necessary that you should see this report so that you can make a decision about her evidence. In my submission, it would not be appropriate for it to be distributed further.

B THE CORONER: Can I ask you to bear that in mind when you are looking at the Hamblin information. It is right that as interested persons in this inquest that you should be aware of why she is not available but it is confidential and it is highly sensitive from her point of view.

COUNSEL: It clearly would be a matter of grave concern if its contents in any way became known to anyone outside this court.

THE CORONER: If any of you is aware of the situation, please be sensitive about it. It is a matter of extreme sensitivity for her.

C MR JENKINS: Can I deal with Gill Hamblin as well. Sir, obviously you have a number of statements from her. We provided you with two more during the day and I have heard what you have said about one of those and also about the other. Clearly it is a matter for you whether you read a statement or not. If there are objections to the statement being read it then becomes a matter for you to decide whether the maker is available to come to give evidence and under rule 37(2) you do have the authority to admit the statement into evidence, notwithstanding that there may be objections. I know that everyone will be looking at the statement of Gillian Hamblin overnight and may be reflecting on those parts that they are happy with and those parts that they would like to ask her questions about. It is clearly likely that that is not going to be possible, but I am just flagging up now that it may well be that I am inviting you to exercise your power under rule 37(2) to read statements notwithstanding that there are objections. I flag that up.

D
E If I could deal with one other individual who is at the bottom of your first page, a surgeon Farqharson Roberts. I have seen views expressed in writing by that gentleman that may go slightly beyond the statement that you have. We were proposing to contact him overnight and seek his agreement to hand the letter to you that he has written to those instructing me. In those circumstances we might be inviting you to have him called live. I just raise that now. It is a significant point if he is able to make it that adds to the statement which you have already got. I know he is not far from this court so it is not a great inconvenience.

F THE CORONER: I thought he had retired?

MR JENKINS: I think he has. That is why he would be available to help.

THE CORONER: Thank you. Anything else? 10 o'clock tomorrow morning. Thank you.

G
(The hearing was adjourned to Friday 20 March 2009 at 10 am)