

GENERAL MEDICAL COUNCIL

FITNESS TO PRACTISE PANEL (SERIOUS PROFESSIONAL MISCONDUCT)

Monday 15 June 2009

Regent's Place, 350 Euston Road, London NW1 3JN

Chairman: Mr Andrew Reid, LLB JP

Panel Members: Ms Joy Julien
Mrs Pamela Mansell
Mr William Payne
Dr Roger Smith

Legal Assessor: Mr Francis Chamberlain

CASE OF:

BARTON, Jane Ann

(DAY SIX)

MR TOM KARK of counsel and MR BEN FITZGERALD of counsel, instructed by Field Fisher Waterhouse, Solicitors, appeared on behalf of the General Medical Council.

MR TIMOTHY LANGDALE QC and MR ALAN JENKINS of counsel, instructed by the Medical Defence Union, appeared on behalf of Dr Barton, who was present.

(Transcript of the shorthand notes of T A Reed & Co Ltd.
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A THE CHAIRMAN: Good morning everybody. First of all there are a couple of quick things. Our Panel Secretary, Christine Challis, is required elsewhere today so, very kindly, we have a replacement in the form of Ms Vasani – thank you very much for coming in to help us today.

B We have, as a Panel, both on Friday and this morning, acquainted ourselves with the notes on Patient G and re-read your opening on that. A small point: could I ask you to turn in the Patient G bundle to page 645? In my copy, at least, page 645 appears to be identical to page 646, although they are marked differently in terms of numbers. In addition you will note that page 645 and page 646 end with what appears to be an entry from Dr Barton dated 24 September and yet page 647 opens with what at first sight appeared to be an entry dated 21 May 1998 but which may very well be, and probably is, 21 September 1998. Thus somehow we seem to have got out of order.

C MR KARK: I am going to ask for the originals to be brought in so we can have a look at this. Pages 645 and 646, I think – I have actually taken my 646 out.

THE CHAIRMAN: So that is clearly just a clerical error but there is also some difficulty with the chronology of the entries.

D MR KARK: We will get the originals, but it looks as if for some reason Dr Barton had to swap onto another page, or did swap onto another page in error, so she starts on 21 September and then goes to another document for 24 September and then we are off and running, as it were, back on 647. We will get the originals and see if we can understand what has happened.

THE LEGAL ASSESSOR: You are intending to call Mr Stewart-Farthing and then read the witnesses – is that right?

E MR KARK: Yes. I have the original. It is, in fact, a single piece of paper, double-sided and I think I had better exhibit it. That is the best thing to do. I will exhibit it, if I may. I am going to suggest Exhibit C8a if that makes any sense, so that we know it relates to Patient G.

THE LEGAL ASSESSOR: Yes, it does. We will mark that, ladies and gentlemen, Exhibit C8a.

F MR KARK: In relation to documents like this which we exhibit, would you prefer us to retain them in a separate folder? I see the Panel Secretary nodding. Or would you like to take control of it as a Panel?

THE LEGAL ASSESSOR: I think neither of those, if I may opt for a third. I think it would be most appropriate if the Panel Secretary maintained a bundle of all such documents.

G MR KARK: Very well. Can I pass the document round?

MR LANGDALE: Sir, may I say something which may assist?

THE CHAIRMAN: Please do, Mr Langdale.

H MR LANGDALE: It is what we have just been dealing with. The date is indeed 21 September. I realise it looks as though it is a “5” but it is clearly the date of admission to

A Dryad and it may be – obviously it is a matter to be resolved in evidence – that if you look back at page 645 where the entry by Dr Barton is on the 24th, the preceding entry is, of course, a record made by Dr Lord which starts on the previous page, page 644 on the 21st – in other words, the same day as the admission date. It may be that Dr Lord would have kept her note at that time in order to write the necessary letter to the GP, or whoever, but this particular bit of paper would not have been in the hands of Dr Barton at the time the patient was admitted. That, I think, may be the answer but we need to resolve that.

B THE CHAIRMAN: Thank you, Mr Langdale.

MR LANGDALE: Sir, it may be that that is not right because it is the same sheet of paper that one can see photographs had to be put on, which may explain the gap, and so on. We can resolve it in evidence.

C MR KARK: What I will do is this. I think we had better exhibit both sheets. We will exhibit also with that the previous record, as the same exhibit number if we may, by Dr Lord of 21 September. That is also a double-sided sheet of paper, going back to 14 September. That is 643. We now have the originals – 643, 644, 645 and 646.

THE LEGAL ASSESSOR: And 647.

D MR KARK: Yes, and 647.

MR KARK: We will mark it C8a, originals of pages 643 to 647. (Documents marked)

MR KARK: If the Panel are ready, I will now call, please, Charles Stewart-Farthing.

CHARLES RODNEY STEWART-FARTHING, Sworn

E (Following introductions by the Chairman)

Examined by MR KARK

F Q Is it Charles Rodney Stewart-Farthing?

A It is, correct.

Q And Stewart-Farthing is hyphenated, so your name is actually Mr Stewart-Farthing?

A Yes.

Q I think you yourself are a retired naval officer?

A I am.

G Q I want to ask you, please, about your stepfather, Arthur Dennis Brian Cunningham, whom I think you knew as Brian?

A Yes.

Q Brian, we know, was born on Code A and I think he married your mother, was it, around 1977?

H A Yes, round then.

- A
- Q Thus he became your stepfather. Your mother, I think, died in 1989?
A Correct.
- Q And there is just one matter of relevance so far as your evidence may be concerned. That is that she unfortunately died of cancer and you were aware that towards the very end of her life she was on a syringe driver?
B A That is correct.
- Q She was being delivered analgesia, particularly diamorphine. Is that right?
A Yes, it is.
- Q So you had come across syringe drivers in those unfortunate circumstances back in 1989?
C A Yes, that is correct.
- Q I want to ask you a little bit about your stepfather whom I think you yourself have described as being a person who could be a difficult man?
A Oh yes, no doubt about that.
- Q Just to deal with his background a little bit, I think he had worked abroad prior to the Second World War, and then during the Second World War did he serve in the Royal Air Force. I think he crash-landed in France?
D A Yes. In fact he worked abroad after the war.
- Q I am sorry – thank you. But during the course of the war – and this may also be relevant – he crash-landed in France and had a spinal injury. Did he have to have spinal fusion?
E A Yes, he did. I think he was only the second such victim in the country, so it was rather experimental, but it worked pretty well for him.
- Q Then, in due course, he came back obviously to live in this country and where did your mother and stepfather live?
A Initially in Scarborough and then later they came to Gosport.
- Q Did you yourself know the Gosport area?
F A Yes. I was already living at Fareham nearby.
- Q Following your mother's death, we know that your stepfather, I think, stayed in various rest home.
A Uh-hum.
- Q I want to move on to the late nineties. In July of 1998 we know that he was admitted to Mulberry Ward which is one of the wards at the Gosport War Memorial Hospital?
G A Yes.
- Q And after that he was discharged to a home called the Thalassa, is it, nursing home?
A Yes, it is. Correct.
- H Q Did you used to go and see him when he was at the Thalassa?

- A Yes, we did. We used to take him out when we could.
- Q And "we" is who?
A My wife and I.
- Q How did you get on with your stepfather?
A Very tolerably well. I think I have to say, to be honest, he was not in favour of the rest of the family – my brothers and sisters – but I managed to cope with him quite well.
- Q Is it fair to say he was a fairly difficult man to deal with?
A He could be. Not always, but he could be.
- Q And he had, perhaps typical of his age, as it were, fairly strong opinions about a number of things?
A Oh, no doubt about that, yes.
- Q I want to move, please, to a time when you went along to the Thalassa Nursing Home on 21 September 1998. I think you were taking him some of his belongings from his previous residence. Is that right?
A Yes, that is correct. He had moved from mostly rest homes rather than nursing homes; he had moved from one to another in the recent past. I was actually still in the process of moving him from one to another at the time. I was actually moving one of these boxes, unprogrammed. I was moving them when I could and when he could cope with emptying them and sorting them. That is what I did on the Monday morning, on 21 September.
- Q What happened when you arrived at the nursing home with the box?
A I saw whoever was in charge – I cannot remember who it was – and said I had a box for Brian in the car, could I deposit it in his room. And they said "He is not here. He is in the hospital" which I knew nothing about. I knew he had an appointment that morning, which is not unusual. He used to go to the day hospital on occasion.
- Q Is that the Dophin?
A At the Dolphin day hospital, yes. That morning he had been admitted and I knew nothing about it till I arrived at this nursing home.
- Q As a result of that information, did you take yourself off to the Gosport War Memorial Hospital where you had been told that he had gone?
A Yes. I left his box in his room and went immediately there, yes.
- Q I think you found that he had been admitted to a ward called Dryad Ward?
A Yes, that is right.
- Q And did you go and see him in Dryad Ward?
A I did.
- Q All right. What sort of state was he in when you found him?
A Perfectly normal as I had previously remembered him. He was normally alert and lying on his side a bit. I asked him what he was doing, and he said, "I've got a sore butt." I knew he had a sore butt because he had mentioned it previously in a telephone

A conversation, I think it was. And they decided to take him in for aggressive treatment.

Q When had you see him prior to this when he had been at the Thalassa? Can you remember how long before you had seen him?

A It might have been a couple of weeks. I was working in London at the time and I could only see him at all at weekends, and usually it was just for a few hours.

B Q Up until this point, up until he got to the Gosport War Memorial Hospital, when you had seen him a few weeks before, what had his mental state been, for instance?

A I did not notice any serious deterioration in his mental state. It was perfectly normal, as I said. Lucid and able to hold a conversation.

Q I do not think he was a very big man, was he?

C A He was for a long time overweight, I would say, especially with a disability, but he coped with that. Gradually he got weaker and he lost weight.

Q When he was at the Thalassa, how would you describe his build?

A I think by then he was quite frail. He had lost a fair bit of weight and he was quite frail, unable to get around in the way that we had been used to him getting around.

Q Was he still mobile?

D A I do not think he was on his own, no. No. I remember pushing him around in the wheelchair when we took him out occasionally, although he could obviously get out of it and transport himself to a restaurant chair, if you see what I mean – but we had to take him around in a wheelchair.

Q Let us go back, then, to the 21st. You went in and you saw him. Was he in a ward or in a private room, in a room on his own?

E A In a private room, yes. Sorry – where?

Q In Gosport.

A In the hospital?

Q Yes.

F A He was in what I think was a four bed sub-ward.

Q Was there anybody else in the ward?

A No. He was the only one in there, yes.

Q He was able to talk to you?

A Oh, yes.

G Q He told you, as he put it, that his butt was a bit sore?

A Yes.

Q You mentioned also that he had been admitted for aggressive treatment. Is that something you have read in the notes since or is that ---?

A I think I read that, yes – those words. But yes, I knew he was in for treatment and it was a bed sore. He told me that.

H

A Q It is fair to say that since these events, you have had access to his nursing notes and you have read through his medical notes. Is that right?

A To a large extent, yes. Those I have seen, that I have been allowed to see – put it that way.

Q On the 21st, how long do you think you spent with him approximately?

B A Probably about an hour in the hospital. I was actually on the way to London and I delayed leaving the area. I took the opportunity of moving one of his boxes before I travelled and so consequently my departure from the area was delayed by finding him in the hospital.

Q When you were with him did you see him eat anything or drink anything? Can you remember?

A No, nothing whatever.

C Q When you left, did he ask for anything in particular?

A Yes, I asked if I could get anything for him from the nursing home because of his rather unexpected admission, or anything else for that matter. And he said no, he had everything he wanted except perhaps I could get some chocolate for him and a box of tissues. One of the symptoms of his Parkinson's was the moisture on his lips, and he was very conscious of that. It was more or less habitual, I suppose, to wipe his lips frequently.

D Q Did you go off and get him some stuff?

A Oh yes, I went to the shops, and then returned to the hospital with a supply to last a couple of days. This was the Monday morning. I was coming back on the Wednesday. I just bought enough to last a couple of days.

E Q You took him his chocolate and then you were going to leave the hospital. Did you speak to anybody before you left?

A Yes I asked to speak to the doctor who had admitted him and I was told that I could not do that; it was Dr Lord, who would not be back until the following Monday, but an appointment could be made for me to see her then. It was also said there was a visiting doctor who would be in later in the day, at which point I explained that I was going to London, and I would not get to see her either. Nurse Hamblin then explained to me the situation.

F Q We cannot hear everything that Nurse Hamblin said to you, but, in short, did you understand that your stepfather had a sacral sore?

A Oh, yes, she said it was one of the worst sores she personally had seen and I ought to take action and complain against the nursing home.

G Q That was the Thalassa?

A The Thalassa.

Q For allowing him to get into that state presumably?

A Yes, that's what the implication was and I wrote a letter to the Nursing Home Inspectorate on the Wednesday, 23 September.

H Q What happened the following day?

A Well, I was in London and I initially telephoned the hospital myself, could not speak to anyone of consequence. They said they would call back, which they did, and I was told that Brian --

Q Let us see if there is any objection to this. I would have thought we could have it.

MR JENKINS: (Nodded in agreement)

B

MR KARK: Yes, you tell us what you were told.

A Brian had become aggressive to the staff, abusive, and they had had to give him something to quieten him down. And I fully understood that Brian could be abusive and aggressive to staff; there was nothing - - I said as a result not to be too concerned I would be there the following day and I would have strong words with him and sort it out.

C

Q Because you had a relationship with him where you could talk to him.

A Yes, person to person I am sure we would have got through and quietened him down myself.

Q Had you been aware that when he was at the Thalassa that there had been some bad behaviour there as well?

A Actually, no, I was not, I was not aware of that.

D

Q Okay. Tell us, please, about the following day. Did you go back to see him at the hospital?

A On the Wednesday?

Q Yes.

E

A Yes, I did. As soon as I could I collected my wife from Fareham on the way to Gosport and we went together round about lunchtime.

Q This would now be the 23rd?

A The 23rd, yes.

Q Did you go up to the same room to see him?

F

A Yes, I went to the same place and he was unconscious.

Q Did you have try and speak to him?

A Well, of course, yes, but it was pointless, you know, the man was unconscious.

Q Was he rouseable?

G

A No, he was not. Indeed, the last time I spoke to him was the Monday morning before I left.

Q It may be obvious, but was there a significant difference between how he had been when you seen him two days before?

A A totally different person. He had gone from being a normal person who could converse to someone who was totally comatose.

H

Q When you had seen him on the Monday before he said that he had had a sore butt. Had he complained otherwise of pain?

A No, he had not. In fact he did not complain about pain when I saw him. He was not in any pain in the way that you describe it. If he had I am sure he would have said something.

Q You said you had an hour with him. During the course of that hour, did he indicate to you at any stage that he was in very significant pain?

A Not the slightest, no.

Q You found on the 23rd that Brian was unconscious and unrouseable, did you discover why?

A Yes, I did, I discovered, for whatever reason I went to other side of the bed and discovered the syringe driver.

Q You knew what a syringe driver was?

A I knew instantly what was going on quite frankly and I went berserk. I got very, very angry. I demanded to see the person responsible in the hospital at that time and we had a row I am afraid.

Q Who did you speak to?

A It was actually Hamblin in the end. The doctor was not available of course and she was the most senior person available.

Q What did you ask to happen?

A I asked for it to be removed immediately so I could speak to Brian. Things were beginning to add up in my mind. One thing you have not asked me, which is relevant, that when I first went to the hospital to find Brian on the Monday morning --

Q I am going to stop you. There is a reason I did not ask you, all right. We can only hear what you directly saw and heard.

A I am going to tell you something I heard, and I think it is relevant I am afraid.

Q Well --

THE LEGAL ASSESSOR: Perhaps I may assist here and really support Mr Kark in this.

A Sorry, I ca not hear what you are saying.

THE LEGAL ASSESSOR: If I may interrupt here as the Legal Assessor and really support Mr Kark in this. One understands of course very much the strong feelings of Mr Stewart-Farthing, but the Panel is, I am afraid, obliged to stick to rules of evidence. It does not really have a discretion about that here at all. It is important I advise that, although one understands the strong feelings very much, that Mr Stewart-Farthing does restrict himself to the questions directly asked by Counsel and, in due course, by the Panel.

THE WITNESS: I am not sure I heard all that, but are you saying I am not to say any more about that subject?

MR KARK: This Tribunal runs by criminal evidence rules. There is a rule about hearing evidence of what somebody else said to you, unless it is in very particular circumstances. I know you are very keen to tell us about a particular comment that was made, but it is not admissible.

- A A Why not?
- Q Well, you have to accept it from me--
A I am afraid it formed my opinion at that time, which is very relevant.
- Q Well, I am going to move on and I am going to ask you how things carried on with Nurse Hamblin.
- B A Well, I trust the Panel will ask me later what I am talking about.
- Q We will see. You had a conversation with Nurse Hamblin and you asked her to stop the syringe driver?
A I did.
- Q Did she comply with that?
C A No, she did not.
- Q How did that progress?
A She told me that only a doctor could authorise its discontinuation.
- Q All right. It follows from that that you wanted to speak to the doctor.
D A Of course.
- Q Right. Did you get an opportunity of speaking to Dr Barton that day?
A No, I accused Dr Barton -- I accused Nurse Hamblin of killing my stepfather and I was told that she would speak to the doctor and would come back to me later, at which point from nowhere came the hospital vicar who invited me into her office, my wife and I, and she told me about death being part of life and rubbish of this nature, which was quite obvious to anybody.
- E Q Did you get an opportunity of speaking to Dr Barton?
A I was told she was supposed to be coming later in the day. After my interview with the vicar, Hamblin reappeared and said Dr Barton would not be appearing that day after all, she would be coming the following day.
- Q Right.
F A Which would be the Thursday.
- Q And that was despite the fact you had made it very clear that you wanted the syringe driver to stop?
A Absolutely.
- Q All right. Tell us what happened.
G A When?
- Q After that.
A Well, I had no choice but to wait as long as we could before we went home ourselves for the night, came back the following morning and waited the rest of the day for Dr Barton to show up which happened about 5 o'clock on the Thursday as far as I remember, late afternoon anyway.
- H

A Q During the whole of that time of course your stepfather remained on the syringe driver. How much of that time did you remain with him?

A All day.

Q At any stage did he become conscious?

A Not at all, no. The last opportunity I had to speak to him was the Monday morning before I left, he was totally unconscious after that.

B Q Tell us about your meeting, please, with Dr Barton on the evening of the 24th?

A Well, I very calmly asked her, I told her I wanted to speak to my stepfather, "would you please suspend the syringe driver to enable him to come round so I could have words with him?" I wanted to ask him if there were any last wishes, realising that he was dying - in fact she told me quite bluntly that he was dying from the poison emanating from his bed sores is what I was told. I also wanted to ask him if he realised what was happening to him and was he happy with that. If I had known that I would have walked away at that time. But I was not allowed to ask those questions.

C Q You wanted an opportunity of confirming with Brian that the treatment that was being given to him was the right treatment?

A Absolutely.

D Q Which was to keep him unconscious?

A Absolutely.

Q Dr Barton said what to you?

A She refused bluntly and said she could not authorise the removal due to the pain he would experience at which point I accused her of murdering him and the interview terminated rather quickly after that.

E Q Was there any discussion about the responsibility of lowering the dose so that he could become conscious?

A Not at all.

Q You accused Dr Barton of murdering your stepfather. Presumably that brought the interview to a fairly abrupt end?

F A Yes, it did.

Q Did you return to Brian's bedside?

A Yes, we stayed there, apart from going home to sleep ourselves, we stayed there until he died, which was the inevitable as well, I was never going to speak to him again. There was no point in pressing it any further.

G Q Were you there at any stage, can you remember, when he was moved by nurses? Did you remain in the room?

A I do not think I remember that happening personally, no.

Q Did you see from him any sign of pain or increased pain?

A None whatsoever, no.

H

A Q We know that Brian's death was recorded as 23:15 hours on 26 September.
A Yes.

Q Did you see him that day?

A Oh, yes, we had stayed with him all day again and we left I think sometimes in the early evening, I imagine. We were certainly back at Fareham, we had eaten and were back at Fareham and we got the telephone call to go to the hospital immediately.

B

Q When you got to the hospital--

A He was already dead.

Q I think following this, and I am not going to spend a lot of time on this, did you see the Death Certificate?

C

A On the Monday morning following I collected the Certificate of Death - I do not know what exactly you call it - but the Certificate of Death from the hospital in a sealed envelope and took it to the Registrar, and the normal Registrar was not actually there, it was a deputy that was standing in. Would you like me to go on?

Q Yes, certainly.

D

A She looked at the certificate and said "do you know what he died of?" I said "no, please tell me" and she said "Bronchial Pneumonia". I said "that is utterly ridiculous. There is nothing wrong with his bronchial system whatever".

Q I think you challenged that?

A Of course.

Q Did you ask for a post mortem?

E

A Yes, I did, which was eventually carried out under duress I think. The coroner was not at all happy for me asking for a post mortem, and I wanted a test done for drug overdose. And the following day when it was done no such tests were done at all. I spoke to the pathologist afterwards and he said he was not asked to do any tests of that nature. He could only act on the coroner's directions and the coroner had no intention of carrying out toxicology tests at all.

Q You wanted a toxicology test?

F

A Of course, that's the reason why I asked for a post mortem.

Q And none was done?

A None was done.

Q Thank you very much. Would you wait there, please?

G

Cross-examined by MR JENKINS

MR JENKINS: Hello, Mr Stewart-Farthing.

H

A Just a point, I would like to express some objection, I am afraid, Mr Chairman. Mr Jenkins was at the coroner's inquest and questioned me there, and he is quite apt to throw in slanderous personal comments which I objected to at the time, and I have no intention of subjecting myself to on this occasion. If you ask him to please restrain himself to direct questions I will try and give direct answers, but nothing more.

A THE CHAIRMAN: Well, I am sure that in these surroundings there will be no slanderous questions put to you. This is a very experienced member of the Bar and I would hope and expect that we will see from him absolutely the standards that one expects.

A Yes, it did not show at the coroner's inquest.

B THE CHAIRMAN: Well, I am afraid I was not there and I have no access at this time to what may or may not have been said. I note what you say, and I am sure that he also notes what you have said, and we will proceed and I hope we will get through the process without any difficult.

A Thank you.

C MR JENKINS: Would you like the Panel to see the transcript of my cross-examination of you in the coroner's inquest?

A I have got no concern at all about that.

Q Because that would either bear out or refute what you have just suggested, would not it, Mr Stewart-Farthing?

A If you want to show it, please do. I have got no preference whatsoever.

D MR KARK: With the greatest respect, he is just challenging the witness to an argument. I cannot see how that sort of invitation is going to help this Panel in any way in relation to the issues it has to decide.

THE CHAIRMAN: I agree. Thank you, Mr Kark. Please confine ourselves to the issues that are in question here.

E MR JENKINS: I think what you have suggested in your statement to the police was that the coroner's office was corrupt in the way in which they approached a post mortem for your stepfather?

A I came to that conclusion as a result of what was not done in light of the evidence that was facing me, yes.

F Q What you asked for was a post mortem and that was done. The pathologist who undertook the post mortem came to exactly the same conclusion as the doctor, Dr Brook, who had certified your stepfather's death, namely that the medical cause was Bronchial Pneumonia?

A Yes, but it was artificially induced Bronchial Pneumonia as I now know.

Q Do you accept that it was Bronchial Pneumonia?

A I have got no choice, but I still think he died from an overdose of drugs.

G Q Yes.

A Indeed the drugs caused the Bronchial Pneumonia.

Q What you have suggested in your statement is that this was a conspiracy involving doctors, nurses, a corrupt coroner's office were the individuals who caused the death, and who were aided and abetted by Dr Brook who had signed the Death Certificate, and had indeed treated your stepfather?

H A I suggested that, yes.

- A
Q Do you think the hospital vicar was in on this?
A I do not know about her. I feel that she has been manipulated possibly as well, yes, quite possibly.
- B
Q Your stepfather deteriorated quite considerably over the year 1998 and the months leading up to his admission to the War Memorial Hospital, did not he?
A Yes, he did.
- Q He was seen fairly regularly on approximately a three-month basis by Dr Lord during that last year?
A Yes, that's correct.
- C
Q Would you agree? I do not know if you were there for any of those assessments--
A No.
- Q --or whether you simply read the documents at a later stage.
A No, I was not there.
- D
Q Sir, I know the Panel have the records, but the first assessment in time by Dr Lord is at page 140. I do not need to take you to it, but I will just give you the reference. The next one in time is three months later, this one in June 1998 and the letter is page 134. I am going to invite people to turn that up. The documents are just in front of you if you want to look at them, Mr Stewart-Farthing. You do not have to look at them at all if you do not wish to.
A I have no need to look at anything. It is embedded in my mind, the whole process.
- E
Q That is fine. The Panel are dealing for the first time today with these medical records. What Dr Lord says in the second paragraph was that on that occasion in June, having last seen him in March, she was most struck at the amount of weight Mr Cunningham seems to have lost since she last saw him. Would you agree that physically there was that deterioration in the first half of 1998?
A I think I have already said that I think he had lost weight, yes.
- F
Q Again, just for the sake of completeness, the next time that Dr Lord saw him we have two references, one is her clinical notes at page 92, and page 98 is the letter. Again, the Panel have read it before you started giving evidence, Mr Stewart-Farthing, but one sees at the bottom of the letter, page 98, that Dr Lord anticipated reviewing Mr Cunningham at the Dolphin Day Hospital on 14 September to monitor his Parkinson's disease and other matters.
A I imagine you are correct.
- G
Q We have heard the suggestion from Mr Kark that there may have been some problems at the Thalassa Nursing Home, but you were not aware of those?
A No, I was never informed, I do not believe, of any problems.
- H
Q How often would you see him at the Thalassa Nursing Home?
A I would say it was probably no more than once a fortnight. Perhaps a bit more on some occasions. I cannot remember what I was doing in 1998, to be honest with you. I may have been aboard at times for a few weeks. I just do not know.

- A Q If the Panel were to turn to page 322 they can follow the chronology. Mr Cunningham was seen at the Dolphin Day Hospital on 14 September 1998 and was asked to attend again on Monday 21 September for review by the doctor. He was told to bring everything all his medications with him.
- A Is that the statement where he told Dr Lord he wished to end his life?
- B Q I was not going to deal with that.
- A Well I am, because that is something I discovered during the inquest. I did not know about that. My step-father actually asked Dr Lord to end his life for him.
- C Q I am not going to ask about that. If people want to turn on over a page they see the clinical notes for 14 September. They are also at page 643. There is actually quite a lot of repetition in this bundle. We go on to page 644, 21 September, when he is seen by Dr Lord at the Dolphin Day Hospital but, as you have told us, Mr Stewart-Farthing, you were not aware that that was due to happen.
- A No. I knew he had an appointment but as far as I was aware it was just another review of his Parkinson's medication.
- D Q Yes.
- A That is something that has always been tinkered with, I have to say. His medication was the reason why he moved from one rest home to another. I think there are a lot of misleading statements around the various literature which imply he was unhappy with the treatment he was being given. It is not at all true. He was actually hallucinating very badly in his last few months. He thought there were ghosts in his room and snakes at the bottom of his bed and things of that nature and could not settle. That is why he was moving from A to B to C to D.
- E Q We have Dr Lord's note who on 21 September, again, page 644, describes him as "very frail". Would you agree or disagree with that?
- A I think he was frail but he was certainly normally mentally lucid and able to manage a conversation.
- F Q I am talking physically, as I anticipate Dr Lord was when she called him "very frail".
- A I would not disagree with that.
- G Q All right. We know that some tablets were found in his mouth on that day, some time after they had been given to him.
- A I do not know what you mean by some time. The fact is tablets dissolve. How long had they been there? You make a big issue of nothing, I think.
- H Q The issue was they had not been swallowed, I think.
- A It is quite likely he had not been given any water to swallow them with, I suggest.
- Q There was a concern, I think, at that point about giving him oral medication and the risk that that might pose. Did anyone say anything ---
- A Dr Lord produced a perfectly normal care plan on the Monday morning of 21 September, which advised Oramorph at 5-10 mg if required. He was given a 5 mg tablet at two-fifteen in the afternoon which apparently had the desired effect, and he was given a 10 mg tablet at eight-fifteen in the evening, and he was noted

A as being comatose by ten o'clock and given the syringe driver at eleven-ten that evening.

Q I was not going to go through all the medical records ---

A Well I am afraid I am because it is very relevant to what happened.

Q There we are. The prognosis was said to be poor by Dr Lord.

B A What does that mean? It is a subjective statement.

Q I hope we will hear from her, but I suggest what it meant was just that.

A What is poor? What is good? What is normal? What is fair? It is a ridiculous statement. It does not mean anything.

Q He was quite a proud man, I think, your step-father?

C A I would say he was proud, yes.

Q What did you know of the detail of the medical problems?

A I knew he had a "sore butt", as he described it.

Q What did that mean, as far as you understood?

D A I knew he had Parkinson's for about fifteen years, which had progressed very gradually over that time. It started off with a very minor finger tremble. It was controlled. Dr Lord, I believe, had it under control. I knew he had constipation at times, as we all do. Nothing unusual about that. He also had a kidney stone removed at some point. I remember that. Again, nothing unusual, I do not believe. I do not think there is anything else of significance I can think of.

Q What did you understand the "sore butt" related to? Did you know it was a bed sore?

E A Yes, I think I did know but I had no idea how serious it was. I understand from Nurse Hamblin it was a very serious bed sore. The most serious she had seen, according to her.

Q It was so bad she was suggesting that would be appropriate for a complaint to be made to the nursing ---

F A Yes, she was, and this is what I did, as I said.

Q Did you know it was photographed because of the concerns?

A I did not know that, no. I know now because the photographs are in the medical records. I have seen those.

Q Did you know that your step-father was given Oramorph before the dressing on that bed sore was changed?

G A On the Monday?

Q It is page 861. You do not have to look at the medical records but I hope the Panel will.

A Are we talking about 21 September?

Q Yes.

H A I guess that is one of the reasons they gave him the Oramorph because of the likely pain due to the dressing they were putting on, I suppose. If it was

A aggressively treated I imagine they were putting something on that would sting rather. You know?

Q On 21 September, the day he was admitted from the Dolphin Day Hospital, part of the War Memorial Hospital, he was noted to have a large necrotic sore on his sacrum by a nurse called Shirley Hallman and seen by Dr Barton.

A On the 21st?

B

Q Yes.

A That is what you are telling me, yes.

Q He was given Oramorph 5 mg before the wound dressing was changed.

A This is some time in the afternoon. I know he had the 5 mg, I think it was at about two o'clock, plus or minus fifteen minutes.

C

Q When did you stay till that day, do you remember?

A I said I had to leave to travel to London. I left around midday, again, plus or minus half an hour. I cannot remember exactly when.

Q You had gone, if his dressing was dealt with, at ten to three in the afternoon?

A Yes, I was away.

D

Q You cannot tell us what his state was after that time?

A Only what the nurse I spoke to told me the following morning.

Q Did they tell you what his state had been for the afternoon and the early evening?

A No, I was just told very generally that he had become aggressive to staff, very abusive and they had to give him something to "quieten him down" were the words they used.

E

Q Was that a description of what had taken place on the 22nd or whether he had been agitated on the 21st?

A As a result of my leaving after I left is what I was told, on the 21st.

Q I think there had been problems with your step-father. Again, he was a man of strong opinions. Put bluntly, he was a man with racist views.

A I think he was an old-fashioned colonialist.

F

Q We can put it in different ways but the result may be the same. Would you agree?

A He worked on the tea plantations in Ceylon after the war and he had a very firm master/slave relationship with the people at that time. I am aware of that.

G

Q Dr Lord was from that part of the world originally.

A Yes, she was.

Q Were you ever present when Dr Lord and your step-father were in the same room?

A No, I never met Dr Lord. She managed to avoid meeting me.

H

Q When you were told over the telephone on the 22nd that your step-father's

A behaviour had been a bit out of order, what did you think was being referred to?
 A I just thought he was being his normal - I say normal, difficult self. That is not what I mean. I would say he is quite reasonable most of the time but he could very quickly turn on someone if they were doing something to him that he did not like, and I suspect that is what had happened. I suspected the dressing they put on his wound was hurting him and I imagine the staff were being rather - I would not say cruel, that is the wrong word, but being very firm with him which he maybe would not appreciate.

B
 Q If he was turning on staff, what did you think that referred to? That he was doing things physically or was saying things that people might object to?
 A I did not know and nothing was said to me at that time.

C
 Q Are you sure nothing was said to you?
 A I have just told you.

Q I am entitled to ask you, Mr Stewart-Farthing, and I am asking, are you sure nothing was said to you about ---
 A About what?

D
 Q I suggest you were told, effectively, what the Panel have at page 861, that Mr Cunningham had tried to wipe sputum onto a nurse, saying he had HIV and was going to give it to her.
 A I cannot remember the words that were used, but certainly his behaviour had been totally unacceptable.

Q It was not just what he was saying though, was it?
 A I really cannot remember in detail. It was a telephone conversation eleven years ago.

E
 Q You were told as well that he tried to remove his catheter and empty the bag. Do you remember that?
 A I cannot remember that either.

F
 Q He took his sacral dressing, removed it and threw it across the room.
 A I think I remember something about that, yes. That suggested to me the dressing was hurting him in some way, but, clearly, his behaviour was unacceptable and I said, "Please do not be too concerned. I'll be back tomorrow morning and I'll have strong words with him, if necessary".

G
 Q I think there were a multiplicity of problems with your step-father. Some of them physical, like his lack of mobility because of his war injury, because of his bed sores, because he was completely immobile. He had been assessed for his mobility. You have heard of the Barthel score, have you not?
 A I have heard about it. I do not know much about it.

H
 Q The Panel have it at page 867. This is an index to show how much someone can do for themselves. At that stage on that day, 22 September, is this not your understanding, that Mr Cunningham, effectively, could do nothing for himself?
 A No, he was perfectly capable of eating and drinking and having a normal conversation. Those three things I know for sure there was no problem with.

A Q I suggest the view from the medical professionals was rather different. Part of his problems was his Parkinsonism and there were difficulties in controlling that in the past. You have told us ---

A I said there were drug alterations which made his hallucinations worse on some occasions and had to be frequently changed to try and overcome that problem.

B Q Was it not explained to you that if Mr Cunningham was removing his catheter or ripping off bed sores that that caused a real problem in trying to maintain his position and improve his bed sores? To treat them properly.

A I am sorry. I was not there.

Q Was that not explained to you?

A At that time I had a telephone conversation and I was told his manner had been unacceptable and that they had given him something to quieten him down.

Q They were concerned for his health and the nursing of his bed sores. That was what you learned, was it not?

A I have learnt a lot since. A lot came out at the inquest which I was not aware of.

D Q He was still uncomfortable when being moved and treated by nurses. You were aware of that too, were you not?

A No, of course not. I said he was unconscious when I next saw him.

Q You say, "of course not".

A He was unconscious when I next saw him and he never regained consciousness after that.

E Q You had conversations with Dr Barton.

A A conversation with Dr Barton.

Q What we have are entries for 23 September ...

A Which is the Wednesday.

F Q ... to say you saw Sister Jill Hamblin and Staff Nurse Freda Shaw. Do you remember that?

A I remember Hamblin definitely but not Shaw.

Q Your previous experience with a syringe driver was in relation to your mother who, I think you told us at the inquest, had had cancer for nine years before she died.

G A I do not think I said that, but she certainly had cancer for some considerable period. She was in and out of Queen Mary's Hospital in Portsmouth perhaps two or three times.

Q What you told the inquest, is this right, was your mother was on a syringe driver for six days in the period just before she died?

A Yes, she was put on a syringe driver on the Monday morning and died on the following Saturday morning. It may be coincidence but Brian was put on a syringe driver on the Monday late evening and died Saturday late evening. Almost to the hour between them.

H

- A
Q What you told us at the inquest was notwithstanding the cancer your mother had had for years, it was your view that it was the syringe driver that had killed her.
A In my mother's case?
- B
Q That is what you told us at the inquest.
A I learnt a lot about my mother's case, I said.
Q I am sorry. I missed that.
A I learnt about syringe drivers from my mother's experience with them.
- C
Q It was your view, was it not, that syringe drivers meant death rather than the treatment of pain or ---
A I came to realise they could be seriously misused, quite frankly.
- D
Q That is why when you were told by the nursing staff that your step-father was on a syringe driver for pain and for treatment to control his symptoms that you became very angry?
A Yes. It was total overkill.
- E
Q So you were accusing Sister Hamblin of murdering your step-father.
A I did not use those words with her.
Q You told the Panel that you did.
A I did not. I told the Panel that I accused her of killing him.
Q I beg your pardon then. I thought it was murder. Was it just murder with Dr Barton?
A Yes, it was.
- F
Q We have an entry dealing with night staff ---
A Uh-hum.
Q --- on 24 September.
A Uh-hum.
- G
Q The night staff were reporting that Brian was in pain when being attended to, and also in pain with the day staff?
A Well, they would. They were pushing up the diamorphine levels without reason, in my view. By then I had already given up hope of ever seeing him. After, I spoke to Dr Barton, it was quite obvious to me Brian was being put away and there was nothing more I could do about it. I resigned myself to that.
- H
Q Did you make any comment on the reports from night staff?
A I have no comment to make.
Q Forgive me. And day staff?
A I discovered ---
Q Excuse me. Can I ask the question?

- A A Yes.
- Q Do you make any comment on the reports from night staff and also day staff that your stepfather was in pain despite the medication that he was on?
- A I think that is a fictitious statement. The man was unconscious so how would they know he was in pain?
- B Q Then you spoke to Dr Barton on that date, 24 September?
- A No. Yes, there was – on the 24th, yes.
- Q And you accused her of murder?
- A Yes.
- C Q Did you think that the conversation would be a long one after you made that accusation?
- A Of course not. I expected her to be a bit more sympathetic to my situation, and to have at least interrupted the process, perhaps using different analgesics, or whatever, to allow me to have a final conversation with him, but that was not on offer and it was made quite clear to me.
- D Q Did you think that if your stepfather was on medication because of pain, and the assessment was that he needed the medication that he was on, it would be cruel to put him in pain?
- A No, because I think the pain was mostly imagined. They were making a big issue about pain. If he had been in serious pain, I would have known on the Monday, I am sure about that. Brian was not slow in coming forward when there is something wrong, I can assure you.
- E MR JENKINS: Thank you very much, Mr Stewart-Farthing.
- Re-examined by MR KARK
- Q The Barthel score that my learned friend was relying on – can I just confirm. Is it the one on page 867? Yes. Mr Stewart-Farthing, you have been asked about the Barthel score showing zero capability on 22 September 1998?
- F A I do not know what that means. Zero capability is, again, subjective. The thing is ---
- Q Wait for the question.
- A When you say what “zero” means, I will accept it, but I cannot accept it as it is.
- G Q What I was going to ask you is this. We know from the records that in fact your stepfather had been on a syringe driver since the night before, because that was started at ten past eleven in the evening, so when a Barthel score is taken from him on the following day, the 22nd ---
- A You would expect it to be zero, would you not?
- Q --- he is not able to do much.
- A Yes.
- H Q But when you saw him on the 21st, did you think he was capable of feeding himself?

A Oh, of course. Yes. He was perfectly normal in that respect, yes.

MR KARK: Sir, there is a matter of law I think that arises because I stopped Mr Stewart-Farthing from dealing with a comment that was made to him when he went to the hospital, 21 September, because it was then, it seemed to me, irrelevant. The way he is being cross-examined is to put to this witness that he has made serious allegations effectively without foundation.

B MR JENKINS: Can I help? I do not object if that comment comes out.

MR KARK: Thank you very much. (To the witness)

MR JENKINS: Mr Stewart-Farthing wants to say it, so I do not object.

C MR KARK: Not only that. It seems to me whether the witness wants to say it or not, it is now admissible so, Mr Stewart-Farthing, I am going to ask you what the comment was that you were keen to us about and how it came about?

A I am just trying to tell the whole story.

Q I understand.

D A I saw what happened from a different perspective to anyone else. I saw it from my own unique view.

Q Tell us ---

E A And I was struck by the most ridiculous statement, I thought, at the time, when I first arrived at the hospital. I asked where Brian was, and they told me he was in Dryad Ward and directed me to it, and someone else in the reception box, probably a cleaner or something like that, said, "Ah, that is the death ward". And I thought, "What a stupid statement anyone could make; Brian is nowhere near death." It just seemed utterly ludicrous.

Q At the time I think did you dismiss it?

A I am sorry?

Q At the time did you dismiss it?

F A I dismissed it at that moment, of course, and I walked in to see Brian. Again, in retrospect things become clearer because before I actually left to drive to London I went to the toilets, which led me along a long passageway, to the far end of this, if you like, ward, where there were maybe half a dozen similar sub-wards to the one Brian was in. Each one of those sub-wards had a single person in them, all a funny colour. It seemed to me they were all comatose, all quite close to death it seemed to me.

Q All right.

G A And I thought that was rather odd. I thought what a cruel place to put Brian in, because he was a gregarious personality.

Q And when you made the allegation that you did against the various people, all of these matters, I expect, did they inform your opinion, from what you heard and saw?

A It did. The thing is later, by the Thursday I saw Dr Barton. All the ticks were in the box. I thought, "Hey, this is very, very serious".

H

A MR KARK: All right, Mr Stewart-Farthing, thank you very much. Would you wait there, please.

THE CHAIRMAN: This is the time now when members of the Panel, if they have any questions of you, may ask them, so I am going to look now to see if there are questions. It appears I am the only Panel member who has a question.

B Questioned by THE PANEL

THE CHAIRMAN: It concerns the conversation you had on the telephone with the nurse on 22 September. It might assist you if you looked at page 861. You will see that that contains the nursing note, and it is signed by what looks like Sister Hallman.

A I have the page. Can you direct me to where I should look.

C Q Yes. Would you look at the dates column on the left hand side, you have three entries. It is the third one, the 22 September 1998, and it appears to be signed, as I say, by Sister Hallman. Do you happen to recollect the name of the nurse you spoke to?

A No. I thought it was Hamblin, but I am not sure about that.

D Q They are very similar and there is a Hamblin and a Hallman in this case. For what it is worth, the Panel will be hearing from both of them in due course. At this stage, of course, we only have yourself in front of us and we have to find out what we can from you. But you told us very clearly that you were shocked when you found the syringe driver under Brian's pillow ---

A Uh-hum.

E Q --- when you subsequently visited and your description of this particular telephone conversation on 22 September, I think you said that the nurse had told you about his poor behaviour and had said that they had given him a little something to calm him down.

A Yes.

Q What she has recorded here is that she explained that a syringe driver had been commenced the day before. To the best of your recollection, was that mentioned?

A To my recollection, absolutely not. This is why I went berserk when I saw it, when I arrived on the Wednesday.

F Q Given your previous experience with syringe drivers, had it been mentioned what would your reaction have been?

A "Please do not do it until I have had a chance to speak to him." Quite honestly, I knew from that experience with my mother what the consequences could be – not would be necessarily, but could be.

G THE CHAIRMAN: That certainly helps me very much, thank you. I am going to ask now first of all Mr Jenkins whether any questions arise out of my questions?

MR JENKINS: No, sir.

THE CHAIRMAN: And Mr Kark, any questions arising out of mine?

H MR KARK: No, thank you.

A THE CHAIRMAN: Thank you very much, Mr Stewart-Farthing. That completes your testimony. This hearing, of course, will roll on for a considerable period as we see other witnesses and build up our own picture, but we are most grateful to you for coming today to assist us in that process. You are now free to go. Thank you very much.

(The witness withdrew)

B THE CHAIRMAN: Mr Kark, I think the Legal Assessor has something he would like to ask.

THE LEGAL ASSESSOR: Thank you, Chairman. It is simply this: I had the impression from something Mr Jenkins said earlier that he was expecting Dr Lord to be giving evidence in the case. If I have misunderstood that ---

C MR KARK: She may be.

THE CHAIRMAN: She may be?

MR KARK: Yes. The GMC are not calling her, but whether the defence are calling her or not, I do not know.

D THE LEGAL ASSESSOR: I simply raise it because the Panel does not normally know who the defence are going to call, but that comment was made.

MR KARK: Yes.

E THE LEGAL ASSESSOR: I think it would be helpful for the Panel, particularly given some of the issues which have arisen, to know whether Dr Lord is definitely going to be called by somebody. Whether they may be... I do not know whether the Panel can be assisted any further about that.

MR KARK: You will remember when I opened it, I explained Dr Lord's role and the fact that she was now in New Zealand, and we had reviewed the patient notes, and the view we had taken. We cannot control who Mr Langdale and Mr Jenkins are going to call, and if there is an indication that she will be called by the defence, then all well and good.

F MR LANGDALE: I think the Panel should anticipate that they will be hearing from Dr Lord.

THE CHAIRMAN: I am most grateful and, of course, that does deal with a third possibility, which is that as we get further into the case, the Panel may itself take the view that evidence from a person referred to who is not planned to be called by the GMC might indeed be a welcome witness. With that understanding, we will say no more.

G MR KARK: In fact on that topic, I think I heard you say that we were going to be hearing from Nurse Hamblin. I think we can indicate that is most unlikely. Among other reasons, Nurse Hamblin is very unwell, but I do not know if the defence have anything to say about that.

H MR LANGDALE: There will be evidence in some form for the Panel from Sister Hamblin.

A THE CHAIRMAN: We will be hearing from her, but not necessarily as a live witness.

MR KARK: It might be a statement read from her or there may be some way of getting her evidence. It is unlikely she is going to be arriving here and giving evidence.

THE CHAIRMAN: That is most helpful. Thank you very much.

B MR KARK: The next two witnesses are going to be read to you. The first is the statement of Pamela Gell. Her first statement simply produced her original police statement. The police statement was dated 25 July 2005.

STATEMENT OF PAMELA GELL, Read

C MR KARK: It says:

“I am Pamela Gell and I live at an address known to Hampshire Police.

Between 1968 and 1972 I was a student nurse at St Mary’s Hospital Portsmouth where I did general training and qualified as a registered general nurse, my nursing and midwifery number is...”

D And she gives the number.

“Between 1972 and 1973 I was a staff nurse at the Renal Unit at St Mary’s Hospital Portsmouth where I worked with patients in chronic and renal failure.

E Between October 1976 and September 1981 I was the Matron of Thalassa Nursing Home Western Way Alverstoke Gosport. My responsibilities included the general management of the home, recruitment of staff and selling bed space. I also developed a working relationship with the Area Health Authority and local Environmental Health Authority in order to promote care practices and procedures in accordance with RGN training and local recognised standards.

F Between September 1981 and June 1985 I was the Matron of Bury Lodge Nursing Home ... for Thalassa Nursing Homes Ltd. ...”

Then she says:

“This post coincided with the purchase of Langdale Rest Home, which at that time was registered for 17 residents and my role at Bury Lodge extended to maintaining occupancy levels at all three homes for the group.

G Between 1985 and April 2001 I was the Nursing Director to Thalassa Nursing Homes Ltd...”

and she talks about capacity. I am then going to move on to the bottom paragraph, if I may, of page 2. She says:

H

A "I have been asked to detail my involvement in the care and treatment of Arthur Brian Cunningham. Mr Cunningham was a patient at Thalassa Nursing Home in 1998;"

She produces a copy of the patient notes, which we have incorporated into our bundle, which you read – I think – this morning.

B "From memory and referral to those notes, I can state the following. In August 1998 Brian Cunningham was a patient at Mulberry C ward, Now Collingwood Ward at Gosport War Memorial Hospital. He became suitable for discharge and a vacancy at a Nursing Home was sought. At the time I was Director of Nursing at Thalassa Lodge Nursing Home and I went to see him to assess his suitability. I became aware that he had both psychiatric and nursing problems. I believe his nursing needs outweighed his psychiatric needs. He was a 78 yr old with Parkinson's and blood sugar problems. He was not on insulin. He appeared uncooperative and displayed difficult behaviour. He was settled on the ward. I remember him as quietly spoken taking a long time to speak. I connected that to his Parkinson's disease.

C We agreed to take him to Thalassa Nursing Home and on admission on 28th August 1998 it was noticed that he had a large red sacral area with Granuflex on it. At the time of the pre-assessment, it was my understanding that he did not have any pressure sores, however I was on Collingwood Ward the day that Brian was admitted to D Thalassa, and I recall having a conversation with a nurse who informed me that Brian had been on the floor all of the previous night. This probably exacerbated the likelihood of Brian developing a pressure sore, something we all try to avoid. He was subsequently nursed on a Quattro mattress at Thalassa. These mattresses are extremely expensive but the best for persons with pressure sores.

E On the whole staff at Thalassa coped well with Brian and he was not perceived to be a management problem. His Parkinson's drugs were administered 6 times a day. John Allen, the Community Psychiatric Nurse saw Brian at Thalassa and decided that he was quite settled and no changes were required with his psychiatric treatment.

F Brian's sacral sore was a worrying factor and continued to be treated and dressed accordingly. He attended the Dolphin Day Hospital on 17th September 1998 where he had a swab taken from the wound. He was also prescribed 200mgs Metronidazole, 1 tablet three times a day. This is used to treat fungal infections.

On 21st September 1998..."

And we have this on our chronology at page 3-

G "Brian attended the Dolphin Day Hospital as previously arranged and was admitted to Dryad Ward as a result. I can recall that on that day he appeared to be unwell. This may have been because of the Metronidazole which can cause nausea and flu like symptoms as a side effect. He had his chin on his chest and was not as bright as he had been; he may have had a possible chest infection, or indeed the start of one.

H On 23rd September 1998 we received a telephone call from Dryad Wad at the GWMH to inform us that Brian's condition was quite poorly.

A On 28th September we received a further call from Dryad Ward to inform us that Brian had died at the weekend.

I know that Thalassa Nursing Home was investigated by the Nursing Home Inspectorate as a result of Brian Cunningham's demise. Everything was deemed however to be in order."

B We now have the statement of Shirley Sellwood, who describes herself as a friend of Arthur Cunningham and acted as his domestic carer until he was placed in a rest home. She made a statement to the General Medical Council exhibiting her statement to the police, which was dated 12 May 2004.

STATEMENT OF SHIRLEY SELLWOOD, Read

C She says:

"I am retired and live at the address stated overleaf.

D Approximately 20 years ago in the early 1980's I was introduced to Rhoda and Brian Cunningham. Rhoda was suffering from cancer and I became her domestic help. Rhoda died at home several years later. I continued as Brian's domestic helper until he was placed in a rest home. Brian was not an ignorant man, he was knowledgeable. Brian was very 'tactile' and I know that this had caused problems with some of those who knew him. It was also I believe a reason for him leaving one of his rest homes.

His last residence was the..."

E And it reads the "Thalena", but I think it must be the "Thalassa" -

"... Thalassa Nursing Home. He only went into the homes in the last years of his life, I have been told that this was 1998.

F I went to visit Brian at the Thalassa but was told he was a Gosport War Memorial Hospital, again I have been told that this was in September 1998. I know that he was only in the hospital for a short while before he dies, perhaps a week.

I visited him twice, once after a few days of his admittance. On this occasion he seemed fine, he had bed sores, obviously he was frail, he had had Parkinson's for some years.

G He was quite normal and I did not imagine he was close to death. I was therefore greatly shocked when a few days later I received a phone call from somebody at the hospital telling me that Brian was close to dying. They had phoned me as I was marked down as the next of kin. I told them that I was not and suggested that they phone Rodney who is Brian's step son.

H I had visited Brian the day before this call, this time he asked me to leave as he was very drowsy and was being given Diamorphine. He was not his normal self at this time.

A
When I took the phone call from the hospital it was about 10.00 pm. I believe it was Rodney who phoned me to tell me that Brian had died. I did not discuss his treatment or the hospital staff with Brian on either of my visits.

Brian did have a social worker dealing with the rest home side of matters and I believe his name was Sean.”

B
Sir, that deals with the evidence at this stage of the proceedings that we call in relation to Mr Brian Cunningham. We are now going to move on to deal with our next patient. We have got two live witnesses that we are going to call in relation to Mr Robert Wilson who is Patient H, and I am not sure if you have had the opportunity of reading Patient H's file?

C
THE CHAIRMAN: No, we have not. Indeed we do not yet have it.

MR KARK: Could I ask for copies to be handed out to you? (Same handed)

THE CHAIRMAN: We receive this, Mr Kark, as Exhibit C9.

D
MR KARK: Yes, exactly, thank you. Obviously this would be a convenient point at which to break. It is a reasonably substantial file. It is a lever arch file about half full, so I would think it is about 250 odd pages in total.

THE CHAIRMAN: Possibly an hour.

MR KARK: One hour to start with?

E
THE CHAIRMAN: I think an hour to start with would be fine. It is 11.30 now and the Panel would in any event be taking a break first. I think if we were to say that we will take an early lunch until half past 1. Then we could have a clear run at the witnesses. Would that be acceptable?

MR KARK: Yes, of course.

F
THE CHAIRMAN: Very well.

MR LANGDALE: (Agreed)

THE CHAIRMAN: Thank you, Mr Langdale. We will break now. The Panel will continue with some pre-reading and we will all resume at 1.30 pm, please.

G
MR KARK: Thank you very much.

(The Panel adjourned for a short time)

H
THE CHAIRMAN: Welcome back everyone. Mr Kark, the Panel have taken the opportunity to refresh their memory of your opening in respect of Patient H, Robert Wilson, and we have also spent time individually working our way through bundle H, so we are ready for you to proceed.

A MR KARK: I am grateful. Could I call, please, Gillian Kimbley?

GILLIAN KIMBLEY, Sworn

THE CHAIRMAN: Thank you very much indeed, Mrs Kimbley. Take a seat and make yourself comfortable.

A Thank you.

B

(Following introductions from the Chairman)

Examined by MR KARK

MR KARK: Is it Gillian Kimbley?

A Yes.

C

Q Mrs Kimbley, I wanted to ask you about your late husband, Robert Wilson, and I just wanted to deal with a little bit of background about him first of all?

A Yes.

Q I think he was born on the 8 March 1923, so at the time of the events we were going to be considering he would have been 75 years old, is that right?

A Yes.

D

Q I think you were his second wife. You met him in the early 1980s after he had left his first wife and you got married 1985?

A Yes.

E

Q Robert had had children, I think by his previous marriage.

A Yes.

Q We are going to hear, in one form or another, from two sons his, Neil and Iain. Did you know those two boys?

A Yes.

F

Q When you got married to Robert I think he was working in double glazing, but prior to that had he been in the Royal Navy?

A Yes.

Q I think he had taken part in the D-Day Landings. Did you know that?

A Yes.

G

Q Did there come a time when he was about 65, so in about 1988, shortly after you got married, when he retired?

A That's right.

Q I think he was a smoker?

A Yes.

H

Q Fairly heavy smoker?

A Yes. In a way, yes.

A
Q It depends what you mean by a heavy smoker. What about drinking; was he a drinker?

A Yes.

Q Would it be fair to say he was a fairly heavy drinker?

A Yes.

B
Q After he had retired, what did he tend to do with his time?

A Not a lot.

Q Did he belong to the local Working Men's Club?

A Yes.

C
Q Where were you living in the nineties?

A Where I am living now, it's Sarisbury Green.

Q Where is that?

A Southampton.

D
Q All right. How would you describe his build? I think he was not particularly tall, he about 5 foot 6?

A Something like that, yes.

Q Again dealing with the back end of the 1990s, what was his build by that stage of his life?

A A normal size.

E
Q What does that mean?

A Well it he was not ---

Q Was a big man, was he thin?

A He was not a big person, sort of in between, you know, average size.

F
Q All right. I think in 1997 he had certainly a suspected heart attack?

A So they say.

Q All right. After that did he stop smoking for a while, or did he stop smoking for good?

A No, he did not stop.

G
Q He did not stop at all?

A Not if I can remember rightly.

Q It may not matter. I want to move, please, to September of 1998 when I think you went away on a week's holiday in Plymouth?

A No.

H
Q All right. You tell us what happened in September of '98?

A Myself and my daughter went to Plymouth for a week, he stayed behind.

A

Q Yes. I understand that. Was it a short holiday for you?

A Yes.

Q All right. Robert stayed at home and he was looking, or trying to look after himself?

A That's right.

B

Q I think you received a call during that period to tell you that Robert had been admitted to Accident & Emergency at the Queen Alexandra Hospital.

A Yes.

Q We know he was admitted on 21 September 1998, and did you get a call on that day or shortly thereafter?

C

A No, not on that day. When we went on the holiday, I was, we went to France overnight in a day, and stayed there and I did not know until the Tuesday evening.

Q Right. You heard that he had been admitted to Accident & Emergency and as a result of that did you telephone the steward of the Working Men's Club who you knew?

A Apparently he kept ringing me to speak to me to tell me what had happened.

D

Q Right. Did you understand effectively that Robert had broken the upper bone in his arm, he had had a fall and he had broken his arm?

A I knew he had a fall, yes.

Q All right. In any event, when you heard about this accident, what was your reaction? Did you head home or what?

E

A I asked the hospital if I needed to come home and they said "no, no, just keep ringing through", which I did do every day, two or three times a day.

Q When you got back from Plymouth did you go and see him at the Queen Alexandra Hospital?

A Yes.

F

Q When you first saw him what sort of state was he in?

A Terrible. He did not even know who I was.

Q Right. We know I think that the arm was not operated on, was it?

A No, not as far as I know.

Q Did you see the arm?

A Yes.

G

Q Did you see what sort of state it was in?

A Yes.

Q Just describe it.

A It was all swollen and he was black and blue.

H

Q Right. Did you continue to visit him at the Queen Alexandra Hospital?

- A A Yes.
- Q Did his position change at all?
A Slightly, slightly, yes.
- Q Tell us what happened.
A Well, he soon remembered who I was, that I was his wife.
- B Q Right.
A He seemed to get quite, to be getting on quite well, actually.
- Q We also know, and I am going to remind you of the date, that he was transferred to another hospital, the Gosport War Memorial Hospital.
A Yes.
- C Q And that transfer took place on 14 October?
A Yes.
- Q All right. I think you actually travelled with him?
A I certainly did.
- D Q Okay. I want to deal with the period just before that transfer. You have told us what a poor state he was in when you first went to see him. By the time he came to be transferred to the Gosport War Memorial Hospital what sort of state was he in then?
A Not too bad, he seemed to be okay.
- Q Right. How mobile was he? Was he able to walk or not?
A I ca not really remember. I know he was in a wheelchair. As I got to the hospital, he was coming out in a wheelchair to go into the ambulance.
- E Q Right. What about his brain? How alert or not was he?
A Sorry?
- Q Were you able to hold a conversation with him?
A Oh, yes, yes.
- F Q Was it a conversation that was structured, did it make sense?
A Oh, yes, yes.
- Q All right. You told us that you travelled with him. What sort of vehicle was it that took him to the Gosport War Memorial Hospital?
A Just sort of like an ambulance come mini bus.
- G Q Right. He was not lying down presumably?
A No, no.
- Q You travelled with him?
A Yes.
- H Q Was it a fairly lengthy journey? I think you went round the houses a bit.

A We did, we did go to a hospital, St Christopher's in Fareham and then we dropped off other patients till we got to the Gosport War Memorial which was about an hour and a half.

Q Right.

A Not four hours as the papers say.

B Q All right. When you got to the hospital can you remember then what Robert's state was?

A Exhausted.

Q He was exhausted?

A Yes.

C Q Do you remember if you had any conversation with a doctor or somebody who seemed to be a doctor that afternoon?

A Yes.

Q Can you remember what time you got to the hospital approximately? What sort of time of day was it?

A It was in the morning.

D Q Do you know who you spoke to, who the doctor was that you spoke to?

A Yes, I think so.

Q All right. Tell us who you think it was.

A Dr Jane Barton.

E Q All right. Can you remember if she had any conversation with your husband, Robert?

A Yes.

Q What was the conversation with Robert? What did she say to him?

A "Get straight into bed and I'll give you something to calm you down". She was not very nice about it.

F Q Did he do as he was asked?

A Yes.

Q He went to bed?

A Yes.

G Q When you left him, was he in bed?

A Yes.

Q When you left him lying in bed what sort of state was he in then? You have told us he was exhausted, but what was his mental state?

A By the time he had this sedation, or whatever it was, he seemed to be okay. He had his lunch. He was fine.

H Q Did you then leave him at the hospital?

- A I left late afternoon, early teatime.
- Q That was the day of his admission on 14 October?
A Yes.
- Q Did you go and see him the next day?
A Yes.
- B
- Q Was he in the same ward where you had left him before?
A No, I do not think so.
- Q Can you remember, was it in a ward with several beds with it or was he in a room on his own? If you cannot remember just say so.
A I can vaguely remember it, yes. It was like a small ward, I think. I think so.
- C
- Q When you went to see Robert the following day, first of all, what sort of time was it? Do you remember that?
A Just after lunch-time.
- Q How was he when you saw him?
A In less than 24 hours there was a big difference. He had food hanging out of his mouth, he was mumbling something and I asked a nurse if I could see somebody.
- D
- Q Just before we get to that bit I just want to concentrate on Robert for a moment. You say there was food hanging out of his mouth and he was mumbling something. Were you able to make any sense of what he was saying?
A No.
- E
- Q Presumably, it follows you were not able to hold a conversation with him?
A No, I was not, no. I was quite surprised.
- Q Was he conscious though?
A Semi.
- Q Semiconscious. You told us that you wanted to speak with somebody. Who did you end up speaking with?
A I think it was a sister.
- F
- Q What did the ward sister say to you?
A She took me into the kitchen to speak to me and she turned round and she said, "Your husband is dying". I said, "Pardon", she said, "Your husband is dying. He'll be dead within a week". I could not believe what she had said. Honestly, she said, "You do not know what is going on", and I said, "No, I have not been told anything". I think they were a bit surprised that I was his wife because I was a lot younger than my husband was.
- G
- Q All right. As a result of that, did you make some telephone calls round the family?
A Yes.
- H
- Q Did you leave the hospital that day for a while?

- A A Yes.
- Q Did you go back the same day?
A I think so, yes.
- Q Whether it was the same day or the following day, what sort of state was Robert in when you next saw him?
B A He was still about the same, I think. He was not very good.
- Q Do you remember seeing him on the 16th, the following day?
A Yes.
- Q Then was his state any different or had it changed?
C A No, it had not changed. I had a phone call from the hospital to say, "Come straight over".
- Q What happened when you arrived there? What did you find?
A You could not even speak to him. He could not speak.
- Q Did the family arrive and come and see Robert?
A Yes.
- D Q In short, after that first time when you had seen him at the Gosport War Memorial Hospital, thereafter, were you able to have a conversation with him at any time?
A From the Thursday right the way round till the Sunday, no.
- Q Was there any explanation given to you of what was wrong with him?
E A Not really.
- Q We know that your husband was put onto a syringe driver.
A Yes.
- Q He was put onto a syringe driver on the 16th.
A That is correct.
- F Q Do you remember any conversation about a syringe driver with any of the staff?
A Yes.
- Q Who did you speak to?
A One of the nurses. I cannot tell you who it was.
- G Q Did you know what a syringe driver was?
A They had more or less explained what it was. It was medicine. You know? Medical (sic) going through the system.
- Q Can you remember if you were spoken to about the syringe driver before Robert was put on it or after?
A No, nothing at all. I did not know anything.
- H Q Let me just ask you again, I want to be careful not to lead you: prior to being

A aware that Robert was on a syringe driver was there any conversation with any of the nursing staff about it before he went onto it?

A Not as far as I know, no.

Q So any conversation that you had with nursing staff would have been after he had gone onto a syringe driver?

A Yes.

B Q You have mentioned meeting a person you thought was Dr Barton on the first day that Robert was admitted when she told him, effectively, to go to bed and she would give him something. Can you remember having any further conversations with that doctor?

A No.

C Q At any stage as your husband deteriorated, can you remember any time when Dr Barton came in to talk to you?

A I never saw Dr Barton after then. Not as far as I can remember.

MR KARK: Thank you. Would you wait there, please?

Cross-examined by MR JENKINS

D Q Mrs Kimbley, I am going to ask you some questions on behalf of Dr Barton. I do not think you were at the inquest?

A I was one day.

Q I think you turned up at lunch-time.

A I did.

E Q Your - do I call him your stepson, Iain?

A Call him what you like.

Q I do not think you and he get on very well?

A No.

F Q He had given evidence that morning and you turned up at lunch-time?

A Well, there was a confusion about it with the coroner.

Q I do not need to pursue it. You did not hear his evidence?

A No.

Q Can I come back to your husband's position?

A Yes.

G Q We know that when you were not with him, because you were taking a break away, he fell, he broke his arm.

A So they say.

Q You saw his arm afterwards, did you not?

A It was just swollen. You know? It was not bandaged or anything. Not as far as I can remember.

H

- A Q What we have been told is the break was never set. Yes?
A (No verbal response)
- Q We know he broke his arm in September, I think the 21st, and what we have seen in the medical records is the suggestion that the swelling stayed there for many, many days.
A Yes, that is right.
- B Q Would that be fair?
A Yes.
- Q From what you saw?
A Yes.
- C Q What is your understanding as to why it was not dealt with by surgeons or medical staff? Why they did not set his fracture.
A I think it was because it looked too swollen, I suppose. I did not realise that he had broken his arm while I was away. It was not until I saw him when I got back.
- D Q No, but you went to see him quite a lot, I think, at the Queen Alexandra Hospital. Yes?
A Yes.
- Q He had this fracture all the time he was there. Yes?
A Yes.
- Q From 21 September through to 14 October.
A Yes.
- E Q Was his arm swollen through all that period?
A Yes.
- Q Why was it not being set? Do you know?
A No.
- F Q Did he tell you he did not want it set?
A I cannot remember.
- Q Did anyone tell you that he was not a suitable candidate to have it set?
A Honestly, I cannot remember.
- G Q All right. It is a long time ago. If there are things you do not remember ---
A There are. It is a long time, but it is like as if it was yesterday sometimes.
- Q Okay, but there are some things that, clearly, have not stayed in your mind.
A Probably not, no.
- H Q Just so the Panel understand, I am looking at a note at page 335 towards the back of the bundle. Mrs Kimbley, you can follow that in the bundle if you wish to. You have the same notes as the rest of us. If you want to follow it you are certainly welcome to do so.

- A A Which page is it?
- Q It is page 335. There are lots of page numbers on some of these documents. Right at the bottom of the page. Do you have it? It is not very easy to read.
- A No.
- B Q It is dated 6 October 1998.
- A Yes.
- C Q It is an entry below that date written by a doctor called "Hand". If we want to see who Dr Hand is we can turn to page 339 which will explain it to us. He is a specialist registrar in trauma and orthopaedic surgeon we see from his letter. If we go back to the note he made on page 335, he talks - and this is, I think, eighteen days or so after your husband had had his fall, there is still gross swelling of the left arm, he has various other entries that I do not need to go through with you, but on the bottom couple of lines the doctor has written:
- "Plan - requires physio input",
- meaning physiotherapist's input -
- "to mobilise",
- and he asks the ward to arrange that and says -
- "not wish surgery & not suitable candidate",
- is what he is suggesting of your husband. So he is not fit enough, I think was the suggestion, for the surgery. Yes?
- E A Yes.
- Q Was that ever mentioned to you by your husband or any of the doctors when he was at the Queen Alexandra?
- A Everybody tried to keep everything quiet. They would not tell me anything. I was told nothing really very much.
- F Q That is at the Queen Alexandra?
- A Yes, as if I was a stranger. They seemed to have kept everything from me.
- Q You were there regularly?
- A Yes. I think it was my husband's request, from what I can gather.
- Q What do you mean?
- G A That they did not want to tell me anything, "Do not let them tell you anything", and I think that is what happened. It seems a bit strange, I know.
- Q We know your husband had been married before and in that marriage he had seven children.
- A Yes.
- H Q Most of them were in this country. Yes?
- A Yes.

A

Q A number of them went to see him in hospital. Yes?

A Yes.

Q I think his ex-wife used to go and see him in hospital as well?

A Yes.

B

Q Then there was you and your daughter. Yes?

A Yes.

Q You used to go and see him in hospital too?

A Yes.

C

Q Were you the next of kin?

A Yes.

Q You were the one that they phoned if there was a deterioration, were you not?

A Not as far as I can remember. I think I had one phone call and that was on the 16th.

D

Q All right.

A I cannot remember if anybody rang me from the QA.

Q Let us go back to the QA. He was there for a number of weeks, clearly, after his fall.

A Yes.

E

Q Until being transferred to the War Memorial Hospital. Yes?

A Yes.

Q Are you telling us that your husband did not really want you to know what was going on?

A Yes.

F

Q You think that the hospital staff had been told not to put you in the picture?

A Yes. I know it seems quite strange.

Q But here he was being transferred away from the Queen Alexandra Hospital with his arm still swollen. It had not been fixed.

A That is right.

G

Q You were with him?

A Yes.

Q You told us that was in a sort of ambulance/minibus?

A Yes.

Q It was a journey that went to a number of different locations?

A That is right.

H

Q Ended up at the War Memorial Hospital?

- A
A Yes.
- Q You were the last ones off the bus, I think.
A Yes.
- Q Was he in a wheelchair for that or was he sitting in an ordinary chair?
A No, in a wheelchair.
- B
Q Was that the first time he had been out of the hospital since he had gone into it, so far as you knew?
A Yes.
- Q Was he being buffeted about with a still broken arm whilst he was in the back of the bus?
A A little bit, yes, but it was not too bad.
- C
Q What state was he in, after however long he was in the minibus, by the time he got to the War Memorial?
A A bit tired.
- Q I think you spoke to family members later on.
A I did.
- D
Q Did you speak to Iain?
A Possibly, yes.
- Q We know you do not get on with him.
A No.
- E
Q Would you have told him that it took about four hours to transfer from the Queen Alexandra Hospital by the bus to the War Memorial Hospital?
A No, it was not four hours.
- Q Would you have told him that it did take four hours?
A No.
- F
Q By the time he got to the War Memorial Hospital, he was not in too good shape?
A No.
- Q He was seen by a doctor there and you have told us it was Dr Barton. Yes?
A Yes.
- G
Q What was he getting for pain relief before the journey? Do you know?
A No.
- Q Why is it that you do not know? Is it because people were not telling you?
A I did not get up to the ward in time. I just got to the lift. He was coming out the lift as I was going up so I got straight into the ambulance with him.
- H
Q Tell us about his arm. Was he wearing anything?
A A dressing gown.

A

Q I do not mean clothes. My fault. Did he have any protection for his fracture?

A I think he did, yes.

Q What did he have?

A I think it was like a sling or something, I think. It is vague. You know?

B

Q I understand. For the Panel, I am looking at page 266.

THE CHAIRMAN: I do not know if there is any significance, Mr Jenkins, but we have a 266A and a 266B. There is a subtle variation.

MR JENKINS: I think the page numbers differ but other than that they are pretty much the same.

C

THE CHAIRMAN: Either one will do.

MR JENKINS: Yes. You can never have enough medical records, I always find. (To the witness) What you have told us is your husband was given something by the doctor.

A Yes.

D

Q He was fine after that?

A Well, he was not too bad.

Q What you told us is, "After the sedation he seemed to be okay. He had had his lunch and he was fine". Is that right?

A Yes, he seemed to pick up a bit. I think it was the journey, sort of. You know?

E

Q It is the first time he had been out of hospital for weeks and weeks.

A Yes.

Q He had been in the back of a bus for whatever the journey was, and I have suggested he would have been buffeted about a bit and he had a broken arm still.

A Yes.

F

Q You saw him the next day?

A Yes.

Q The 15th. You told us you saw the nursing sister there.

A Yes.

G

Q How long was your discussion with the sister? Do you remember - roughly?

A Hour.

Q An hour?

A Roughly. Could be less, could be... I would say an hour.

H

Q And this was the room that she took you to?

- A A Yes.
- Q What did you discuss during the course of that hour?
A What they were going to do.
- Q And what was that?
A She said, "As much as possible".
- B Q The plan, I think, for your husband had been to gently get him mobilised?
A That is right.
- Q We have the medical records, page 180. The Panel will have Dr Barton's note. It is the last line of Dr Barton's note on 14 October. "Plan: gentle mobilisation".
A Yes.
- C Q I do not want to ask you about her note, but the conversation you had with Sister Hamblin. Yes?
A I cannot remember the name. I cannot remember her name.
- Q But it was the sister on the ward?
A Yes.
- D Q Did she discuss your husband's cardiac failure, his heart problems, and fluid that he had on his body?
A Yes, I think she did.
- Q And what did she say about that?
A I cannot remember. I cannot remember what she said now.
- E Q It is a long time ago?
A Yes.
- Q But was she telling you that your benzodiazepine's condition, sadly, was rather poor?
A Yes. He was... I cannot think of the ward at the moment.
- F Q What did it relate to, the word that you are trying to think of? Was it talking about his heart or his medical condition generally?
A Yes.
- Q Was anything said about his liver problems?
A No.
- G Q No?
A Not if... I cannot remember.
- Q Was anything said about use of alcohol in the past and problems that that might have caused?
A She may have done.

H

A Q Did it seem to you as if anything was being held back? What you have told me is that at the Queen Alexandra Hospital it seemed as if people were hiding things from you, including your husband?

A Yes. No ---

B Q Whereas here at the War Memorial ---

A They were different at the War Memorial.

B Q I understand.

A In fact, I stayed the whole weekend.

C Q Yes?

A I slept with my daughter, with my husband. My husband was in for three nights. Two nights, sorry.

C Q What Nurse Shaw's note reads – and I would just ask you to comment on it – for the 15th is that you husband was commenced on Oromorph – and she gives the dose – four hourly for pain in his left arm. Yes?

A Yes.

D Q “Wife” – that is you – “seen by Sister Hamblin who explained Robert's condition is poor.” And you have agreed with that?

A Yes.

Q “Please call day or night if any deterioration”?

A That is right.

E Q Now that, I suggest, is what they told you they would do ---?

A Yes.

Q --- if there was any deterioration?

A Yes.

F Q They would ring you?

A Yes.

Q They would let you know?

A Yes.

Q And was it clear that you were being treated as next of kin – as you were?

A Yes, yes.

G Q You were his wife?

A That is right.

Q You were in seeing him again, I think, on 16th, were you?

A Yes.

H Q And were you there when another doctor, a Dr Knapman, was there in the morning?

A I honestly cannot remember.

- A
- Q But were you told about your husband having deteriorated overnight?
A Yes.
- Q This was the call, I think. The suggestion is that you were informed and that you would visit?
A Yes.
- B
- Q That morning. And you did go in?
A Yes, I did. Yes.
- Q There is an entry for the second half of the day on the 16th relating to your husband's condition. It says that the syringe driver was commenced. There is reference to your husband having a very bubbly chest. That was explained to the family – the reason for the syringe driver?
C
A Yes.
- Q You have agreed, I think
?
A Yes.
- D
- Q You were told about a syringe driver?
A Yes. I think.
- Q The note suggests – and tell us if this is right or not – that you were informed of Robert's continued deterioration?
A Yes, that is right. I think it was the tea-time. I was at work, and I got a phone call, and I got a neighbour to take us over.
- E
- Q Which other family members were there, or relatives of your husband were there? Did you see his children there?
A I think some of them were – I think. I cannot quite think who it was.
- Q Ian, you have made it clearly to us, you have made it clear to us – you would remember him?
F
A Yes. Probably, yes. Ian was okay at the time then.
- Q Oh, was he?
A Yes. He was okay with everything until the inquest came up.
- Q Why? Did you get on with him then?
G
A Sort of, yes, while I was married to Robert, yes.
- Q And he got on with you?
A Okay. Not too bad.
- Q Do you remember if Ian was there during this period? The period that you were seeing your husband at the War Memorial?
H
A Yes, I do. Yes. I can remember seeing him there, yes.

- A Q Just tell us: we have a note on that page, 266, four lines up from the bottom, that on the 17th, it says: "Wife and stepdaughter stayed last night". That is you and your daughter?
A That is right.
- Q Stayed the night of the 16th?
A That is right.
- B Q The entry suggests that at the second half of the 17th there was a slow deterioration in Robert's already poor condition?
A Yes.
- Q Is that right?
A Yes.
- C Q You were there, and you saw it?
A Yes.
- Q If we go over what might be two pages to page 267 there is a reference to the syringe driver being renewed and it says:

"Mrs Wilson visited again this evening and is aware that his condition is poorly".
- D A Yes.
- Q "She will remain on the ward"

I think it is -

"one night."

That is you again, is it not?
A Yes.
- F Q Again, on the 18th the note reads here,

"Further deterioration in already poor condition. Wife has remained overnight."

Again, that confirms ---?
A That is right, yes.
- G Q You agree with that?
A Yes.
- Q Were you there and did you speak to a Dr Peters?
A Possibly. As you say, it is a long time ago. Some of it.... Who the doctors are...
- Q And the note suggests that sadly your husband's condition continue to deteriorate as the 18th went on?
A Yes. His daughter was sent for from Los Angeles.
- H

A
Q Lesley?
A That is right.

MR JENKINS: Thank you very much, Mrs Kimbley.

Re-examined by MR KARK

B
Q Do you still have 266?
A Yes.

Q I just want to ask you a couple of questions about the 16 October. Can you see the second entry down, after the entry by Dr Knapman, which says:

C "Patient very bubbly chest this pm. Syringe driver commenced."

A Which page was that – sorry?

Q Page 266. Would you look at just below half way down the page, do you see a first entry for 16.10.98?

A Yes.

D
Q Then there is another one underneath that "pm"?
A Yes.

Q "Patient very bubbly chest this pm. Syringe driver commenced ... Explained to family reason for driver. Wife informed of patient's continued deterioration."

E Do you remember a discussion about the syringe driver?

A No, I cannot. No.

Q You told us that as you were there, that you stayed the night of the 16th and then there is a note about if on the 17th ?

A That is right.

F
Q Then there is a comment "deterioration or slow deterioration in already poor condition." You agreed with that?

A Yes.

Q That there was a deterioration?
A Yes.

G
Q What sort of deterioration are you talking about? How are you able to tell that your husband was deteriorating?

A He was not talking.

Q Was he conscious at any stage?

A No.

A Q So how are you able to tell that he was deteriorating? What do you mean?

A You could see a difference each time.

Q What was the difference you could see?

A He just would not speak. You know, he could not speak. He could hear, I think, but in the back of his mind, but he never said a word.

B Q I just want to understand: when you agreed with Mr Jenkins that there was a deterioration, I just want to have your understanding of what that deterioration that you could see was? We he saying anything? What was his breathing like? What was his skin colour like?

A He was still black and blue.

Q Right.

C A Probably had a little bit of bubbly in his chest, I should think. Never said a word. Never said anything.

Q Did he indicate that he was in pain at any stage?

A No. He could not. He could not speak.

MR KARK: Thank you very much. Would you wait there.

D THE CHAIRMAN: Mrs Kimbley, you will remember that I said that the time would come when members of the Panel could ask questions of you if they had any. That time has now come and I will look to the members of the Panel to see if any of them do have questions.

Yes. First of all, Mrs Mansell is a lay member of the Panel.

E Questioned by THE PANEL

MRS MANSELL: I wonder if you can just help me. Can you help me to understand why you wanted to stay overnight at the hospital? What was your intent in staying overnight at the hospital?

A To be with my husband.

F Q Yes. What lay behind that?

A Sorry?

Q What was lying behind that? You wanted to be with your husband. What were you doing for your husband?

A I was just there to be with him. That was all. I asked if I could stay and they said yes.

G Q Is that because you were expecting him to die any time?

A No, not really. No.

Q But you were told that he was deteriorating?

A Yes.

Q And is that what was behind your mind in staying overnight?

H A I would think so, yes. Yes.

A

MRS MANSELL: Thank you.

THE CHAIRMAN: Mr William Payne is a lay member of the Panel.

B

MR PAYNE: Just one question. When Mr Kark first asked you questions about the time that you arrived at the Gosport War Memorial Hospital, I have taken a note that you said that when you got there he was exhausted?

A Yes.

C

Q But when Mr Jenkins asked you, you said he was tired. There is a big difference between "completely exhausted" and "tired". Can you help me to paint a picture?

A I think it was because of the journey, you know. It was a bit... He kept saying, "Are we there? Are we there?" I said, "No, not yet." He just seemed to be tired and exhausted sort of thing – you know.

D

Q And you said that you noticed a difference in him, a change from when you left him on that first day and the next day that you went back. How big a change was it? Was it a huge change?

A Yes, it was.

E

Q Remarkable to you? You could see it straight away?

A No, no. When I got over there to see him, I spoke to him and he mumbled something and I called a nurse and I asked him what was wrong with my husband. She said, "Your husband?" I said, "Yes, my husband." I said, "Why, what is wrong?" She said, "Nothing." I thought, "Ah, I know the reason. I am 23 years younger than my husband."

Q Yes, but I am trying to ask you the difference was so significant, then, from one day to the other?

A Oh, yes.

F

Q A huge difference?

A Yes.

Q When that nurse took you into the kitchen and said to you that your husband was going to die?

A Yes.

G

Q That was a complete shock to you?

A Yes.

Q You never for one minute considered that had covered the situation before?

A No, no.

H

MR PAYNE: Thank you.

THE CHAIRMAN: Dr Roger Smith is a medical member of the Panel.

A DR SMITH: Can I take you back to something that was said, and I just wanted to clarify this. At some time you were told he might have had a heart attack. Do you remember when that was?

A Before he went into hospital, before the fall.

Q Yes, some time in the past. I did not quite understand when that was.

B A There was something happened. Let me think. He went into hospital at QA. I think it was two years before that, I think. Something like that.

Q Do you remember that he was in hospital in the QA in February of the year he died?

MR KARK: February two years before.

DR SMITH: It was 1997.

C A Yes, yes. I can remember that, yes.

Q And it was very swollen?

A What - 1997?

Q Yes. His legs were very swollen.

D A Yes, they could have been.

Q You do not remember very well?

A No, no. I know he was taken into hospital a year or two beforehand, yes.

Q If you do not remember that he was swollen, I will not ask any more questions about that. I am sorry to come back to the few days before he died. I just want to be quite clear that I understand what he was like, so on the first day when he arrived he was tired or exhausted?

E A Yes.

Q He perked up after some medicine and after lunch he was not too bad?

A That is right.

Q The next morning you went in and he was mumbling and food was coming out of his mouth?

F A That is right.

Q And you were told that he was dying?

A Yes. She said he could be dead while I am talking to you.

Q Do you remember, as that day went on, what was he like in the evening?

G A No different. No change.

Q Was he still awake?

A No.

Q He was unconscious?

A Unconscious.

H

A Q And did he, as far as you saw, gain consciousness at all after that?
A No.

Q So he was unconscious from the second half of the second day?
A Yes.

DR SMITH: That is very helpful, thank you.

B THE CHAIRMAN: Thank you very much indeed. Are there any questions, Mr Jenkins arising?

Further cross-examined by MR JENKINS

C MR JENKINS: Just one. You told Mr Kark in relation to your husband that he was not conscious at any stage, he was not speaking, but what you said was he could hear, I think. Why did you say that?

A I think the nurses sort of said "he probably can hear you because, in a normal sort of way", that's all I can sort of, you know, say, sort of thing.

Q Did you see him moving or reacting in any way to suggest that he could hear when you spoke to him?

D A I think his hands moved a little bit, not a lot, you know.

Q If you were speaking he would move or if the nurses were moving him?

A No, no.

Q When would his hands move?

A When I was talking to him.

E Q I understand.

A Just slightly.

Q I understand. Yes, thank you.

F THE CHAIRMAN: Mr Kark, anything arising?

MR KARK: Yes. I just want to try and clear something up. I think it may have been my fault. I was asking you about the suspected heart attack back in February of 1997.

A Yes.

Q Do you remember that?

A Yes.

G Q If you keep in the same bundle and go back to page 130 with the two lines either side of it, this deals with that admission back in February 1997. We can see that in fact the history is that he presented - do you see under history?

A Yes.

H Q It says: "The chap presented with a one-and-a-half hour history of epigastric pain." Dr Smith would know rather better than the rest of us in this room, but I think he epigastric

A pain is pain in the upper abdomen, so it can seem like a heart problem. Can you remember if he in fact, as far as you were told, did have a heart attack or was it just what he was, that was what was originally thought to be happening?

A I think so, yes.

Q What?

A Originally happening, I think.

Q Did you ever understand that in fact your husband had had a heart attack or not?

A No.

Q Thank you. Thank you very much indeed.

C THE CHAIRMAN: Thank you. And, thank you very much, Ms Kimbley. It is extremely good of you to come to assist us today. The Panel is always greatly helped by hearing live testimony from witnesses such as yourself. We know it is a strain but we were very grateful that you were able to come today. Thank you very much indeed. You are now free to go.

THE WITNESS: Thank you very much.

(Witness withdrew)

D MR KARK: The next witness is Mr Iain Wilson and I will ask for him to be called, please.

IAIN WILSON, Affirmed

(Following introductions from the Chairman)

Examined by MR KARK

Q Is it Iain Wilson?

A Yes, it is.

Q Mr Wilson, it is right to say I think you were present at the very beginning of this case.

A (The witness nodded)

Q Is that right?

A Yes.

Q To hear the charges read?

A Yes.

Q And you have not attended in the room since then?

A No.

Q All right. As you know, I want to ask you, please, a little bit about your father, but first of all about your family, generally. I think that your parents had seven children in all, is that right?

A A Yeah, there was six of us and my mum and dad adopted one as well to make up the seventh.

Q And there was Logan, Lesley, Karen, there is yourself and your brother, Neil, and Tracy, and then David was adopted?

A Yes.

B Q You, I think, have made a statement in relation to the events that unfolded at the Gosport War Memorial Hospital and so did your brother, Neil?

A Yes.

Q I want to ask you a little bit please about your father. We know that he was born in 1923, he was a Glaswegian?

A That's right, yeah.

C Q And he joined the Royal Navy when he was quite young and he saw active service. We know he was in Royal Navy I think for 22 years?

A (The witness nodded)

Q And your mum was a Wren?

A That's right, yes.

D Q Did they marry in the war?

A No, I think just after the war they married.

Q Just after?

A Yeah.

E Q Many years later I think in 1982, after 32 years of being married, unfortunately they got divorced and they both went their separate ways.

A (The witness nodded)

Q Your mum got remarried and your dad got remarried?

A Yes, that's right.

F Q All right. Your dad married a lady called Gillian from whom we have just heard. I know that there are family tensions. I am going to seek to avoid going into those, if it is inevitable that we have to deal with those then we will, but it is no part of my questioning to delve into those areas, but you understand why?

A Yes.

G Q Your father, I think, you accept was a heavy drinker?

A Yes, yeah.

Q Indeed I think you make the comment in your statement that Glasgow and the Navy together may have pointed him in a certain direction?

A It seems to be that way.

H Q All right. But certainly once he had retired and into the eighties and nineties you would describe him as a heavy drinker?

- A A A regular heavy drinker, yes.
- Q Was he also a smoker?
- A He was up until I think about five years before he died, and when I say he was a heavy smoker, I think he smoked on average between 60 and 80 a day at one stage. But about five years before he died, I think there was a bet - my dad being a Glaswegian was not about to lose the bet and he gave up smoking.
- B
- Q Right. That is one way of doing it.
- A Amazing, hope for everybody.
- Q But unfortunately he did not take a bet about his drinking?
- A No.
- C
- Q And he carried on?
- A Yes, he did.
- Q I want to move on, please, to the time when he was admitted to the Queen Alexandra Hospital, having broken his arm?
- A Yes.
- D
- Q I think you did not hear about it for a little while until after the event itself had happened?
- A No, that's right. It was about a week after he had been admitted into hospital.
- Q All right. That of it, I expect upset you a bit.
- A It did, because we went down the same road the year previously when his wife decided that it was not important enough to tell us that he was in hospital, exactly the same happened this time.
- E
- Q All right. How did you find out that your father was in hospital?
- A I am not a hundred per cent sure whether it was via Harry at the Club or via my brother, Neil. Harry contacted I think Neil.
- Q All right.
- F
- A And as far as I can remember I went into the club.
- Q All right. There is a family network I expect in such a large family and you found out.
- A Yes.
- Q How often were you seeing your father, prior to this accident in September of 1998, how often were you seeing your father?
- G
- A Prior to the accident nowhere near as much as I had seen him prior or previously to that. I had had a fall out with his wife and I was banned from his house, so, realistically I did not take my kids up there, I did not take my wife up there, I used to go and see my dad in the club.
- H
- Q The Club was a local club?

A Yes, it was a local Working Men's Club about 150 yards down the road from where he lived.

Q I was going to ask you that, where were you living at that time?

A I was living in Gosport at the time, he lived in Parkgate, at Sarisbury Green.

B Q The Working Men's Club was where?

A Sarisbury Green.

Q You used to go there?

A Yeah, I used to go there.

Q How often did you see him at that club?

A I do not know. I used to go over there fairly regularly.

C

Q Once a month, once a week?

A I would say probably every three to four weeks.

Q Okay. Can you recall prior to September of 1998 when you had last seen him before you had seen him at the Queen Alexandra, can you remember, before he broke his arm when you had seen him?

D A No, I ca not actually.

Q. Okay. Up until that point when he broke his arm, what was his general health like? We know that he was drinking too much.

A Mm hmm, I would say, I mean, obviously I'm not a doctor, I would say that he was quite happy, quite healthy. When I had been up to the house he did eat well. I would say that as far as I am aware he did not have any medical problems that were outstanding.

E

Q Was he mobile?

A Yes, he was.

Q Was he able to walk without sticks?

A Yes, yes.

F

Q I expect he did not take a huge amount of exercise?

A 150/200 yards to the Club.

Q Right, and then back again.

A And then 200 back again.

G

Q Right. So far as his mental function was concerned, was everything there?

A My dad was very, very alert, always had been, he had quite a sharp mind on him.

Q All right. Now there comes a time, about a week after the accident, which we know was on 21 September, or rather that's when we know he was picked up by ambulance, when you go and see him at the hospital?

A (The witness nodded)

H

- A Q When you first went to see him at the Queen Alexandra Hospital after his accident, what sort of state was he in then?
A This was, he had been in hospital, as far as I am aware about a week, and I was shocked when I saw him. If he had died that afternoon, if he had died the following day, I would not have been in the slightest bit surprised. I looked at him, he looked very, very old and he did not look like my dad that I had seen previously, he looked very, very ill.
- B Q That must have been a considerable shock to you.
A Yes, it was.
- Q Were you there on your own or was somebody else with you?
A No, I was there on my own at that particular time.
- C Q All right. Tell us how things progressed at the Queen Alexandra. We know that he remained there for just over three weeks before he was transferred to Dryad Ward at the Gosport War Memorial. First of all, did you see him reasonably regularly at the Queen Alexandra?
A I saw him virtually every day at the Queen Alexandra.
- Q You told us how he was when you first saw him. How did things progress from there?
D A When I first went in and saw him, as I say, I was shocked and I spoke to a doctor and I asked him what the problem was, and he said, "well theoretically he has just fallen over and has a fracture". He said "that's the medical problem, but unfortunately with older people sometimes they give up the will to live" and he said "I would say that probably with your dad he has given up the will to live". This sort of brought back to me that my mum and dad over many, many years of rowing and whatever, my mum had always thrown at my dad that he would alienate all his kids and he would die a sad and lonely old man. And here was my dad,
E he had been in hospital on his own, he did not know that none of us knew that he was there, he did not know that his wife had not contacted us, he did not know that his wife had let him down, but there he was a sad and lonely old man in hospital on his own.
- Q That was your reaction when you first saw him. How did things progress after that?
A Between myself and my brother, Neil, we contacted all the other members of our family, brothers and sisters, my mum, and between us, I think we were at the hospital every single day, there was at least one or two of us at the hospital every single day, and my dad picked up. I can only explain it that he got the will to live again. He suddenly realised that he was not a sad and lonely old man. He did have a lot of people around him that really did care, all his kids were there and my mum was there as well, and that had a huge effect on him.
F
- Q Dealing with the period just before he transferred, what would you say, first of all, about his state of mind and his physical health?
G A My dad was quite a big person at the end and there is no doubt about it, he was retaining fluids, so he was not as mobile as he had been. When I first saw him in hospital he was very, very quiet. He did not talk, he did not argue back. Prior to him leaving the QA the nurses turned round and commented that they knew he was getting a bit better because he was argumentative, he was jokey with them. My dad was almost back to his old normal self. He might not have been able to move round quite as agile as he was but in mind and spirit he was back to the way
H

A my dad was.

Q What about eating and drinking? Did you see whether he was able to eat and drink at that time?

A Yes, to start off with he certainly was not. To start off they certainly had a lot of problems getting anything into him whatsoever, but towards the end he was eating, probably not full meals as we would but he was certainly eating. He was picking stuff off the menu, he was quite happy to eat things and a lot of fluids were then going through him.

Q What was his pain threshold like? Did he complain to you of pain while you were there?

A Yes, I did. He said his arm hurt. There was no doubt about it, he was in pain from his arm, but my dad, for the whole of his life, was really, really anti drugs, except smoking and drinking, he did not class them as drugs, but my dad was anti drugs and my dad would not take paracetamol or painkillers or anything like that. I suppose he had a fairly high pain threshold.

Q I am not going to be able to find it, I am afraid, but we know there is a drug chart in the records that demonstrate - I will see if I can find it just quickly. Yes. Just for the Panel, page 109, and you are welcome to turn this up if you want to. It is in that file to your left. We know, of course, he was admitted to the Queen Alexandra on 22 September and if we look at page 109 we can see the drugs that were being offered to him and we can see that your father was consistently refusing even paracetamol as a pain killer.

A Yes.

Q The reason for that would be?

A My dad was anti drugs and the pain was not sufficient enough for him. He was not in severe pain, I would say. I would say that most of what his pain was was aches and pains. The only time he was in severe pain is if he moved it or he banged his arm, which was fairly obvious. There was a couple of times I was there when he banged his arm and there was no doubt about it, he was in pain then.

Q I think you went to see him on the evening before he transferred on the Gosport War Memorial Hospital.

A Yes, I did.

Q Tell us a bit about that evening, what sort of state he was in then.

A I got into the ward about teatime-ish, I think. My brother Neil was already there. He had eaten, he had been drinking and he was sat up alongside his bed. I think for the previous week to ten days he had spent most of his time sat alongside his bed rather than in the bed. My brother, Neil, was there and they had the *Daily Sport* and between my brother, my dad and the other gentlemen that were on the ward there was quite a jovial atmosphere going on. It was quite light-hearted. It was not a death ward, that is for sure.

Q We know, of course, that so far as your father's arm is concerned he did not have an operation on it.

A No, he did not.

Q The fracture was never fixed and if it was going to do anything it was going

- A to fuse itself, as it were.
 A Which is what happens in 80 per cent of cases, as I understand it.
- Q Did you know on the night of the 13th that he was transferring the next day to the Dryad Ward at Gosport War Memorial Hospital?
 A No, I was under the impression that he was being transferred to St Christopher's at Fareham.
- B Q We have seen that in the notes. I think there were discussions about him going to St Christopher's.
 A Yes.
- Q But at the end of the day he did not go to St Christopher's, he went to the Gosport War Memorial Hospital.
 C A Yes, for some reason at the very last minute, instead of going to St Christopher's he was transferred over to the War Memorial.
- Q I do not think you saw him the next day when he actually transferred. His wife, Gillian, went with him apparently.
 A No, I did not.
- D Q You went to see him on the 15th?
 A Yes, I did.
- Q When you got in to see your father on the 15th, the day after his transfer, what sort of state was he in then?
 A He was laid in bed, and I suppose the best way to describe it is a comatose state. He did not appear to be able to move himself. He was just laid in the bed.
- E Q Did you have a conversation with him of any sort?
 A Yes, I did. I was shocked to see that he had gone down hill again so quickly and it did not make a great deal of sense. I lent over to give him a cuddle and he actually spoke his very last words to me.
- Q What did he say to you?
 F A "Help me, son. They're killing me".
- Q Did you respond to that?
 A Yes, I did, but probably not in the way that I should have done, looking back now. At the time I thought my dad was scared of dying, I thought he was dying and I tried to put him at ease and told him that ---
- Q Can you remember the words you actually used?
 G A Yes. I said to him, "I do not think they're killing you, dad. They're doing the best they can for you".
- Q Was anybody else in the room with you at this time?
 A Gillian was in the room.
- Q The words that he said to you, can you remember what sort of voice he used? Was it a loud voice, a soft voice?
 H A No, it was very, very low. It was almost a whisper. It was as I lent over.

A I think by that time he was struggling to do anything at all. He was struggling to talk, struggling to move. He was basically in a comatose state.

Q Did you speak to anybody following that discovery, as it were? Finding him in the hospital in that state.

B A I spoke to a nurse. I am not sure whether it was a nurse or whether it was actually Sister Hamblin, but I spoke to a nurse there at the time. I asked what was the matter with my dad and if it was possible to see a doctor. When I did not get the answer that I wanted I then did kick off a little bit.

Q The answer that you wanted was what?

A I wanted to know what was going on, why my dad had gone down hill so bad so quickly.

C Q Did you get angry and upset?

A Yes, I did.

Q The result of that was?

A I was threatened that if I did not leave the hospital I would be arrested.

D Q Forgive me for asking you, and it may be obvious but we want your evidence: what were you angry and upset about? We can understand you being upset. Why were you angry?

A I was upset and angry because of the state of my dad but I was angry because nobody would talk to me. I was told that I was not the designated family member. At that time the designated family member was Gillian, his wife.

E Q All right. I am going to stop you. I suspect you may want to say things about it but it may not help the Panel. Did you go back and see your father the following day, on the 16th?

A Yes.

Q What sort of state was he in then?

F A On the 16th when I went in he was laid in his bed, he was comatose and he had a syringe - I did not know it was a syringe driver at the time. I now know it was a syringe driver. He had wires going into him and he was not moving at all.

Q Were you able to rouse him at all?

A No.

Q That is, I think, Friday the 16th. Did you go in and see him again on the Saturday?

G A I cannot actually remember going in and seeing him on the 17th but I know that when I saw him on the 16th I contacted my brothers and sisters and we started making arrangements for all of us to be there. So whether I was there on the 17th, I cannot honestly remember but I would have thought that I did go in at some stage. Whether I was allowed to go in and see him or not is a different matter.

Q Did you see him again before he died?

A I went in on the ...

H Q Just to help you, we know that he died at twenty minutes to midnight on the

A 18th, which would have been the Sunday.

A Sunday evening.

Q Yes, Sunday night.

A Yes, I did go and see him. I cannot remember which day it was but I know that my sister, Lesley, was there so that must have been on the Saturday.

B Q That actually would have been on the 17th, I think.

A Yes. She had just got in from Los Angeles.

Q Was Neil there as well, can you remember?

A Yes, Neil was there and I think my sister, Karen, was there also. Again, I think Gillian and Debbie, my half sister, was also there as well, I think.

C Q First of all, can you remember how long you spent with your father on whatever day it was? It looks like the Saturday, but how long did you spend with him?

A I honestly do not know, because it was - I think I had gone in there earlier on and then I was there when my sister turned up from Los Angeles and I think once she turned up then we sort of backed off - we had seen my dad quite a lot in between times and I think - certainly, I came away and left my two older sisters with him.

D Q It may be obvious again, but from that very short conversation that you told us you had with your father on the 15th when he made that comment to you, you never spoke to him again?

A No, that was the very last words I ever spoke to my dad.

E Q You did not hear him speak again?

A No.

Q Did you speak to Dr Barton at any stage?

A No, I never spoke to Dr Barton, never saw Dr Barton. In all the time I was there Dr Barton was never seen in the hospital by me at all at any stage whatsoever.

F MR KARK: Thank you. Would you wait there, please?

Cross-examined by MR JENKINS

G Q As you know, I am asking questions on behalf of Dr Barton. Can I just go back to the start of this picture? Your father's fall in September. You did not see him for about a week and you have told us why, but when you did see him, about a week after he had had a fall, you thought he was extremely ill?

A Yes, I did.

Q He was still black and blue, I think?

A He had bruising, yes.

Q He did not want to know?

H A When you say he did not want to know, did not want to know what?

A Q He was not interested in anything people wanted to do with him. The expression you have given us, from a doctor, was that he had given up the will to live.

A Yes. It apparently happens with old people.

Q We have the records but I want to know what you saw. Was it clear that he was not eating?

B A During that first week ---

Q You were not there for the first week, but ---

A When I first went in there and saw him, yes, it fairly obvious that he was not eating and he was struggling to take any fluids.

Q I think he was having problems sleeping in that he was not sleeping at night but was asleep during the day and in the morning certainly. Did you see that?

C A I think he was drowsy during the day, yes. Whether he was sleeping at night - according to his records he was struggling to sleep at night but he was struggling to get comfortable.

Q I think there were problems about where he would go after the Queen Alexandra. There were discussions and a social worker was involved. Yes?

D A Yes.

Q There were lots of you, if I can lump you all together, of your siblings and I think your mother went to see him as well, together with his wife, Gillian Kimbley, and her daughter?

A (No verbal response)

Q There were doubtless many conversations between you and other members of your immediate family, with your mother, your brothers and sisters. I do not know how much information was going between you and Gillian Kimbley or her daughter?

E A Very little.

Q Was that very little, if you were told something you would not tell her?

F A No, I did not have a problem telling Gill. I did not have a problem. If Gill was there I was quite happy to talk to her.

Q Were there discussions about whether he could go to a rest home or a nursing home when he was at the QA?

A When he was in the QA his wife, Gillian, first of all turned round and refused to come home from holiday. Had she come home from holiday then he probably would not have stayed in the QA as long as he did.

Q Forgive me. We have heard a different account from her and I am not interested in hearing you describe her. I just want to know about the plans for your dad. Were there discussions about a nursing home or a rest home?

G A I think it was important as to the reason why those discussions were, and the discussions were because Gillian had refused to take him home. So, yes, the discussions were between my siblings, my mother and the nursing staff and the social services to look at a nursing/rest home that he could go in, and, primarily, one that was ex-Services so that he would feel at home.

H

A

Q What did he want to do?

A Originally, he did not want to go into a nursing home, he wanted to go home, but it was fairly obvious that Gillian was not going to let him go home. She said she could not manage him - or would not be able to look after him, her and her daughter.

B

Q What was the doctor's view about whether he should go to a nursing home or a rest home or back to his own home? Do you know, from conversations you had with doctors at the Queen Alexandra, or is it all going to be second or third-hand?

A No, when I spoke to the nursing staff up there it was looking at rehabilitation. It was primarily into a nursing home because he would need ongoing care.

C

Q You have told us that you did not actually know where he was going. You thought it was St Christopher's.

A No, I did not think it was St Christopher's, I had been told it was St Christopher's.

Q Who told you that? Do you remember?

A The nursing staff.

D

Q That was the day before he was discharged from the Queen Alexandra?

A That was either on the 12th or the 13th.

Q Just so we can follow that up, do you remember which member of the nursing staff told you he was going to St Christopher's?

A No, we are looking at ten years ago.

E

Q Yes. You remember some of the other characters. Do you remember any of the nurses from the QA?

A I cannot remember any of their names and cannot put names to faces. All I was talking to was the nursing staff that were on the ward that were dealing with my dad.

F

Q I understand. You were talking to your dad every day, you told us, at the

QA. Yes?

A Yes.

Q What did he think was the plan for where he was to go?

A He wanted to go home. He did not want to go into a nursing home and the reason why he did not want to go into a nursing home is because Gillian and his step-daughter worked in nursing and care homes and he did not want to be looked after by them, to be honest.

G

Q Forgive me. I put the question badly. You were told by nurses that he was going to St Christopher's. Yes?

A Yes.

H

Q You were there the day before he was discharged from the Queen Alexandra.

A Where did he believe he was going?
 A The last time I spoke to him up at the QA he believed he was going to St Christopher's until the day before, when he knew he was going to QA. When he knew he was going to War Memorial Hospital, when I knew he was going to the War Memorial Hospital, and the only thing – the only good thing – that I could say about that was, it was close by for me.

B Q Sorry. Have I misunderstood? I thought you told us that you believed he was going to St Christopher's?

A Yes.

Q And that you only found out after he had gone to the War Memorial?

A No, no, no. I found out ---

C Q Is that ---

A No, I found out before he went.

Q All right. Why was that switch done, so far as understood?

A No idea whatsoever. Absolutely no idea whatsoever.

Q You did not see him on the day of the transfer, I think, on the 14th?

D A No.

Q But you saw him the day after?

A Yes, I did.

Q What did you understand was that transfer that he underwent?

A How do you mean?

E

Q Did he drive there? Was he driven there?

A As far as I understand it, he was put into hospital transport and transferred down from the QA to the War Memorial Hospital.

Q I think what you said at the inquest was, it took three and a half to four hours?

A I would say... I have heard four hours. I have heard two and a half hours.

F MR KARK: This really is pure hearsay. Mr Jenkins has been very keen to get this out. We have allowed a certain latitude but we ---

THE CHAIRMAN: I am not sure ---

MR KARK: I missed that last point.

G THE CHAIRMAN: I am not sure it is helping us anyway, the length of the journey, Mr Jenkins.

MR JENKINS: We have heard this was reported in the press. I just wanted to follow that up. (To the witness) What did you understand about your father's condition after the journey?

A How do you mean, what did I understand by his condition?

H

A Q Did you understand that he had had a pretty torrid time on the transfer?
 A No, I do not. I have been waiting for the police to come out with the statements from the two people that transferred him down. The police totally refused to hand over those statements. So really it is very, very difficult to find out what that transfer was. What I can tell you is that my dad hated being in transport. My dad had driven for a lot of his life and my dad did not get into cars. He hated being transported around. So much so that he would not come and visit us; he would not get on a bus to visit us; he would not get into a car and visit us; he would not get into a taxi and visit us. If we wanted to see my dad, we had to go and see him. My dad got very, very agitated about being driven around.

B Q I understand.
 A So I would say that when my dad got to the War Memorial, whether it took two hours, whether it took three hours, whether it took four hours, my dad would have been in a very agitated and aggressive and pissed-off state.

C Q I understand. What you told us as well was that if he moved his arm, or banged it, it caused him severe pain?
 A I think when we were talking about that, that was two weeks previous. It was not on the day that he transferred. That was not on the day before he transferred. That was prior to. On the day that he transferred, I do not know. Yes, if he banged it it would probably have still hurt, but when I was saying about noticing that it was hurting, that was certainly a week earlier, ten days earlier.

D Q What treatment had he had for his arm, so far as you understood, from the day he broke it on 21 September to the time when he was transferred to the War Memorial?
 A Not a lot.

E Q What treatment did he have?
 A Not a lot.

Q He had none, did he, really?
 A Umm....

F Q He had not had it operated on?
 A No.

Q He had not had it operated on or set?
 A No, no. But eighty per cent of people who have that fracture do not have it operated on. I believe, in actual fact, that the fracture that he had is very much similar to the one that the Queen has just recently got. We are not suggesting she is going to die of a fractured shoulder, surely?

G Q You asked me questions at the inquest, and I told you then, it is not easy for advocates to answer them. All right?
 A That is true.

Q You made a statement subsequently to the police, I think, in 2004?
 A Could have been. It was eventually.

H

A Q And in that statement you gave an account of the conversation you say you had with your father on 15 October, the day after the transfer?

A Yes.

Q And in that statement, if I can find it, you suggested to your dad that your dad said to you, "Help me."

A No. "Help me, son, they are killing me."

B

Q You did not say that to the police, did you?

A Yes, I did.

Q And this has been well well documented which is why I have refused my police statement. I have had huge rows with the police over it and when the police actually came to take that statement, eventually, there was a huge row with the two coppers that came to my house because I wanted to tape record the conversation. They made me sign an affidavit to say that I was not secretly taping them and that any time that they thought I was taping them they would terminate the conversation. I said that I wanted a complete and utter word for word statement that I had given. I have never received that. From that very first moment, I have always, always denied that the police statement that the police have got is not a true statement that I gave them.

C

D Q I understand that, but my question was, is it right that a statement was prepared for you in which you said that your father said to you, "Help me", and you told us that was wrong?

A Yes. My father said, "Help me, son, they are killing me." I know you are not allowed to answer, you cannot answer, questions but put yourself – like I said to you at the inquest – in my position. The very last words that your dad says to you. They are not words that you are going to forget.

E

Q The suggestion I make to you is that if you had said that to the police, "Help me, son, they are killing me," they would definitely have put it into a statement?

A You would have thought so but by that time we already had the police making a huge, huge big fuss that we did not have another Shipman here.

F

Q If that was the concern, and you had said to them, your father said, "Help me, son, they are killing me," they would have put it in the statement, would they not?

A I am telling you they did not.

Q Thank you.

A And I am more than happy to bring the two police officers into here and have it out with them, because they know what I said to them.

G

Re-examined by MR KARK

Q I think when you came to review that statement in May 2008, you endorsed it with the words, "I do not believe this is a true transcript of my interview with the police. In fact I think this is more likely the policemen's version of what I told them," and you signed that?

A Yes.

H

MR KARK: As I said, May of last year. Thank you.

A THE CHAIRMAN: Thank you. Mr Wilson. You have had the barristers. Now you have the Panel. I will look to see if there are any questions from any of them. Dr Roger Smith is a medical member of the Panel.

Questioned by THE PANEL

B DR SMITH: You said a number of times this afternoon that 80 per cent of these fractures do not need operation. Can you tell us where you got that from?

A When we had the inquest at Portsmouth, Mr Jenkins and the coroner made a huge big then about how serious a fracture this was and my dad was very, very ill. In fact the coroner, if you actually look at the transcript, made a huge, huge thing about it – so much so that I went home and I looked on the internet. I looked ---

C Q I am sorry. Can I interrupt you? That does not interest us. Let me just go backwards a bit though. When your father was in the QA with his broken arm, did anyone talk to you there about how he was to be treated and why?

A They actually turned round and they said that my dad would not have an operation to fix it but in the majority of cases, especially with elderly people, it is not operated on but it is actually left and it actually fuses itself.

D Q Fine, that is helpful. Do you remember that your father was in hospital about almost two years earlier, in February 1997?

A Yes.

Q Do you remember that?

A Yes.

E Q Do you remember how he was then?

A In what way?

Q What recollection do you have, for instance, as to what was wrong with him?

A I think that was when my dad had fallen off his motor bike and the original thing was they thought he had had a stroke down his left side.

F Q Can I just help you this way: he was taken into hospital because he had some pain in his stomach and he was very swollen. Do you remember that?

A No, I do not know.

Q You do not remember?

A I did not know at the time why he was taken in. I thought he had fallen off his bike and that might...

G

Q No, that is fine.

A But that might have actually been slightly earlier. When he went into hospital in 1997, my sister and I – my younger sister and I – spent a lot of time up there with him and we did know that the concern of the hospital then was his drinking and his liver and kidneys. There are no ifs and buts about that.

H

A Q Then I just ask you one other question about that. Do you remember at any time anybody expressing any concerns about his heart?

A I do not recall it at that time, no.

Q Sorry. The very last question then. Do you remember the doctors or the nurses explaining why he had swelling?

A What? When he went into hospital?

B

Q At the time?

A The first time?

Q Nearly two years ago.

A No, I do not. I think at that particular time most of the conversation between the nurses and the doctors was to do with his drinking, and the fact that if he did not change his drinking habits, then he would end up killing himself.

C

DR SMITH: Thank you very much.

THE CHAIRMAN: Thank you, Dr Smith. Ms Julien is a lay member of the Panel.

MS JULIEN: I just wanted to go back to the time when you were having discussions about the rehabilitation of your father. Firstly, did you have discussions about that? Is that something ---? Did you have any information about it?

D

A No. Social Services: I spoke to the nurses on the ward at the QA and I think basically we all managed to speak to the nurses up at the QA, but the follow-on treatment that he should have had or they were planning to put him in a nursing home, that primarily was talk between his wife, Gillian, and my younger brother Neil, and I think my older brother, Logan, had some involvement in that as well. But dealing with the Social Services, I did not have any dealings with them.

E

Q Did you have any view yourself about how long you thought the rehabilitation would take, from having seen your father and knowing what had happened?

A When he came to leave the QA, the rehabilitation from what I understood and what we were under the impression of was really more to get him mobile and moving and being able to do things for himself. Prior to that his left hand side – he would not move it at all. It was going to cause him a lot of problems in the fact that he was not able to do things for himself.

F

Q Did you have any idea how long it might take, or any views about it yourself?

A We were expecting a matter of weeks. I think Social Services said they were looking at three to four weeks before they would be able to get him either a nursing or a rest home.

G

MS JULIEN: Thank you.

THE CHAIRMAN: Mrs Pamela Mansell is a lay member of the Panel.

MRS MANSELL: I just want you to confirm, in a way, for me because do we understand that at no time whilst he was at GW that you had any conversation with any of the medical staff to help you to understand why your father was deteriorating?

H

A The only conversation I had with Gosport War Memorial Hospital with any medical staff was with the sister or the nurse on the very first day when I wanted to know what was wrong with my dad, why he had gone downhill and why I could not see a doctor. The only conversation I had was when I was threatened with being removed and arrested by the police.

Q What made that build up in that sort of way? How did it come to build up in that way?

B A I was angry. I make no bones about it, I have a bit of a temper of me, and I kicked off.

Q And what precipitated that? Seeing your father? Yes – and what was it about your father's condition that precipitated that?

C A It was the fact that the last time I had seen my father, he was sat up alongside his bed. He was laughing and joking. He was as near normal, other than being in hospital. He was as near normal as my dad ever was. Had we not been sat in a hospital, we could have just as easily been sat in the club. The conversation was light-hearted. My brothers were there. They were laughing and joking over, as I say, *The Daily Sport* newspaper. My dad was his normal self.

Q Okay. And so as you saw your father, and you saw that he could not communicate with you, what was it? Was there anything in particular that you really worried about – the way he was being cared for? Or what was happening to him?

D A No. I could not understand why had had gone downhill and what wound me up was the fact that nobody would explain to me. The nurses turned round and said I was not the designated family member. They said that they only spoke to the designated family member which, in this case, was his wife, Gillian. There was certainly a lot of tension between us at that particular time and so probably information was not being passed on the way it should have been.

E Q Okay.

F A But I do not think it is unreasonable, as his son, to be able to ask nurses, or a doctor if there is a doctor available, what the problem is. I found that very, very... That wound me up. I am not allowed to talk to anybody because I am not a designated family member and then, when I kicked off, I am threatened with arrest. I am sorry; that is not the way I see hospitals working.

MRS MANSELL: Thank you, Mr Wilson.

THE CHAIRMAN: Mr Jenkins, any questions arising out of those from the Panel?

MR JENKINS: No, sir.

G THE CHAIRMAN: Mr Kark, any questions arising out of those of the Panel?

MR KARK: No, thank you.

Further re-examined by MR KARK

H Q When your father went into the Gosport War Memorial, you told Ms Julien, one of the Panellists, that you thought he was going to be in for three or four weeks. Is that right?

A Yes.

Q Where had you got that from?

A We had been told QA.... Originally, they had hoped to be able to move him, transfer him, straight from the QA to somewhere, but there was some conversation about waiting to find him somewhere, and it could be a case of three to four weeks before they could find him somewhere where they could put him into.

B Q I see.

A So it was not a case if it was going to take three to four weeks for him to get better. It was going to be a case of a number of weeks before they could find somewhere to fit him into.

C Q So what was your understanding of the purpose of him going into the Gosport War Memorial?

A I thought he was going there for rehabilitation and continuing care.

MR KARK: Very well. Thank you very much indeed.

D THE CHAIRMAN: Mr Wilson, that completes your testimony. Thank you very much indeed for coming to assist today. It really does help the Panel enormously when they have the benefit of live testimony from witnesses such as yourself. We appreciate that it can be a distressing and upsetting experience for you, but I do assure you that everything that is said is taken on board and considered most carefully by the Panel. Thank you very much indeed for coming, and you are free to go.

THE WITNESS: Thank you very much.

E (The witness withdrew)

F MR KARK: Just before we stop for a break, as I expect you will want to, could I just take you back to page 109 because I do not want the Panel either to be misled or feel they are being misled. There is the note of the patient refusing paracetamol, which I pointed out through the witness a bit earlier, but it is right to say that if you go to the page before, you will find in fact the patient does appear to have been on codeine. I am afraid I had missed that, frankly, but he does appear to have been on codeine on the 8th, 9th, 12th and 13th, I think – just so the Panel is aware of that at this stage.

THE CHAIRMAN: Yes, thank you, Mr Kark. That is very helpful.

G MR KARK: Can I also mention that we are digging out the notes, the original notes, of the January 1997 admission because it seems, certainly from Dr Smith's questions, there is an element of interest about that. We will have those copied as far as we feel relevant, and we will discuss this with Mr Langdale and his team and then make those available to you, and add those to the bundle.

THE CHAIRMAN: That is very helpful, thank you.

H

A MR KARK: The last statement this afternoon would be that of Mr Neil Wilson, but I think we perhaps could take an opportunity of just discussing with Mr Langdale and Mr Jenkins how much of that we need, or should read to you.

B That will in fact complete the day's work. We have actually gone very well today as you will probably appreciate. If we could have a little time to perform that exercise and then perhaps reconvene in due course. There is still some evidence to call in relation to this patient, but then we will be moving on to Enid Spurgeon. But we will have to make an application to you in relation to the statement of Mr Carl Jewel. I think it is probably at the top of page 4 of your schedule. That witness is unavailable for reasons that I will reveal in due course, and we will have to make an application to read his statement. That, I think, we had best do tomorrow when we have all the information, and I expect we will then have to make a decision about whether to allow that statement to be read or not. But in the meantime we could hand out the Patient I bundles to you. In the meantime perhaps we could take a short break so we can discuss how best to progress this afternoon.

C THE CHAIRMAN: Yes. We will take a break now and return at twenty to four.

(The Panel adjourned for a short adjournment)

D THE CHAIRMAN: Welcome back everybody. Yes, Mr Kark.

MR KARK: Sir, the next witness is going to be read to you and it is the statement of Mr Neil Wilson. His police statement which is dated 13 April 2004 reads as follows:

"I make this statement in relation to Robert Caldwell Wilson who was born on 8 March 1923 and died on 18 October 1998. Although not my biological father Robert Wilson was my dad and someone I always see in that light."

E He then speaks about his father, but in terms that you have already heard from two of the witnesses. He then goes on:

F "I think out of all of the children I was the one closet to dad. Mum and dad got divorced in the early 1980s and I joined the Army. I served with the Green Jackets, the Signals and Airborne of which dad was very proud. In the mid 1980s dad was remarried to a lady called Gillian. She was considerably younger than dad by about 30 years. Of all of the children I was the only one dad told about the wedding. Although I was unable to go, this amongst other things has caused fall outs within the family. We are not a family that has constant rows, we just don't have a great deal to do with one another.

G In about 1996 dad had his first stay in hospital. He had had a fall which I think was as a result of his drinking. He had hurt his shoulder and was admitted to the Queen Alexandra Hospital in Portsmouth. I saw dad in hospital and he was to remain in there for three to four weeks.

H Whilst he was in hospital, dad had treatment for his shoulder and was also put on a diet. Dad was about 5'7" but weighed 18 stone. Whilst he had been working dad had been a strong man, but since he stopped he had gone soft and spread out a bit.

A
Dad returned home to Sarisbury Green after he left hospital with his wife, Gillian. Dad and Gillian got on well. The house was only three doors from the local club and dad seemed quite content with his lot. He was quite comfortable financially.

I would always see dad at weekends and speak to him during the week on the phone. I was having more contact with dad than the rest of the family.

B
In September 1998 Gillian was away on holiday leaving dad at home alone. I tried to get hold of dad several times at home but hadn't been able to do so. In the end I phoned the social club and was told that dad had been taken to the Queen Alexandra Hospital having had a fall. At this time no one else in the immediate family knew, things were left to me to sort out at the hospital. I think I told my mum who made sure everybody else knew.

C
When I got to the Queen Alexandra dad was on a ward. He had an injury to his right shoulder and hip from the fall. Although fed up he was quite lucid and able to hold a conversation. He was quite tired and fed up. Dad didn't want to be in hospital for as long as he had been last time. He did not like the food and was not eating that much."

D
He does not put a date as to when he went to see his father.

"The doctors and nurses were being quite strict with him about his diet. Dad clearly didn't like being told what to do. He was moved to a quieter room towards the rear of the hospital, that was a mixed room. It was a geriatric room, it was a good deal quieter.

E
Whilst he was at the QA dad on very mild pain relief. I think he was on paracetamol but it almost had to be forced upon him. I could tell from visiting dad that he was in some pain and discomfort but it was not in any way extreme.

F
Over the first few days dad was quite down. He started making plans for his funeral, stating what his wishes would be. Dad thought he had been put in the ward to die. However, one of the nurses in charge started giving him some direction. She arranged physio and social support with regard to rest homes and rehabilitative care. Dad began to realise he would leave the QA and probably go into rehabilitative care somewhere prior to going home. Whilst in the QA there was talk about changing his front room at home so he didn't have to go up the stairs. I and the rest of the family saw some light at the end of the tunnel. I was fully expecting dad to go home at some stage in the future.

G
Whilst at the QA dad had several visits from a social worker and I also spoke with this person about the best options for dad. In the end it was decided that the best place for dad would be the Gosport War Memorial Hospital. It was quite close to his home, other family lived nearby, and the plan was that this would be a stepping stone on to a nursing home.

H
I think it was Sunday 11 October 1998 when I last saw dad at the QA. It was the day before he was being moved to the GWMH."

A He gets some his dates wrong, as will become apparent, because we know that his father was not transferred in fact until 14 October. He says:

B “Dad was his normal old self. He would do the crossword in the paper and crack the odd joke. He was still poorly from the fall and was not as mobile as he had been, but generally he seemed well and happy.

C I spoke with a male doctor whose name I don't know. The doctor said dad had had a shock from the fall and would need to make some life changes. He would need to continue losing the weight and come off the booze. The doctor said that another fall at his age with a weight could cause immense problems that could kill him. However there was an upside that if dad changed his ways the future was positive. Dad was moved by mini bus to the GWMH on Monday 12 October 1998.”

We know that to be wrong. We know it was in fact two days later.

D “I went and saw him on the same evening. I do not know the name of the ward he was on. There were five or six other people in there. It was in the late afternoon when I got there and I was told dad was asleep. I went and saw him for a few seconds. I could see he was asleep, so I left some bits and bobs at the end of the bed.

On Tuesday 13 October 1998...”

Again we know this must be wrong, but it may be the day after his last visit:

E “I went to the GWMH. Dad was laid out on the bed. He was still in the ward but seemed totally out of it. I could hear his breathing was very laboured and he was gurgling. I have had quite extensive first aid training in the Army and this sounded as if his lungs were filling up with fluid.

F I asked a nurse who seemed to be in charge if I could speak with a doctor. The nurse told me that the doctor only came once a day, would not attend as the doctor had already spoken to Gill. I expressed my concerns about dad's position and why he was on a general ward.

G The nurse told me that he was being cared for and was on pain relief. I thought this was odd because dad had been on minimal and manual pain relief whilst at the QA. The nurse explained that dad was on pain relief to make him more comfortable. She did not tell me what he was on, but it was being administered by some sort of a drip.”

Just pausing for a moment, we know, going to the chronology, that the syringe driver was started on 16 October at 16:10 hours.

H “I was not happy with what I was being told. I made my feelings clear to the staff. Iain was also at the hospital and he was clearly upset. I then spoke to another female nurse who seemed to be in overall charge. I think she was either a

A South African or a Kiwi, I asked her what was happening. She replied 'his kidneys and liver are not functioning properly'. I said 'it sounds as if he is drowning from the backfill of fluid'. She said 'that's right', but he is being treated for it. I asked why he was not on a lung drain and if his liver and kidneys aren't working why was he on medication that was sending him into a coma?' The nurse said I would have to take that up with the doctor. I knew that the doctor was a lady and she was local, but I don't know her name, nor did I ever meet, despite several attempts over the following days.

B The nurse told me that dad didn't have long to go. She was kind in the way she did this and said that dad would be put in a private room. At this stage I began to accept that dad did not have long left. I phoned some of the family to tell them. I also phoned my sister, Lesley in America so she could come over and see him.

C I wanted sometime alone so I went home. I went to the hospital on Wednesday 14 October 1998 [the day of admission in fact]. I had hoped to see the doctor but she had already gone. Dad was now in a private room. I spent some time with him but there was not a lot I could do. Dad did not respond to anything I said or did. Iain was spending quite a lot of time with him so I left them do it.

D Over the next few days all the family went and saw dad at the hospital. The nurses were speaking to Gill as his next of kin which left the rest of us in the dark.

E Dad did not change much until Saturday 17 October. I had gone to the airport to collect Lesley from America and on the way back Gill phoned and said that dad wouldn't last much longer. I got to the GWMH as fast as I could, arriving at about lunchtime. The rest of the family were there. We all stayed until the evening at which point Lesley said for us to go. She would call if things changed. Although dad was still in a coma, it appeared to all of us that he knew Lesley had arrived.

F Having gone home in the evening I got a phone call in the early hours of 18 October from Tracey to say that dad had died. I went to the GWMH, I think all of the family were there."

Again, just to correct that date, we know that in fact this patient, Mr Wilson, died on the night of 18 October, the death being recorded as 23:40. That completes that witness's evidence.

G That is all we have for you today. Tomorrow we are having to call a nurse, Margaret Couchman, as you will see, rather out of turn. Tomorrow is I think the only day, although there may be one other day, that she can, for some reason I do not know what, attend. We would have much preferred to call all of the nurses. Certainly primarily she is dealing with patients B and E, Mrs Lavender and Mrs Richards. We are going through the notes at the moment to try to identify who else she might deal with, but we very much hope that you will have read already all of the patient notes of the patients that she is dealing with. If we find that you have not, what we might encourage you to do, rather than go through all the notes, which you will do in due course, is at least read the opening, although it is a matter for the Panel. If they want to read all of the notes in advance then they must do so.

A We are not calling, or able to call, Rosie Luznat tomorrow. She unfortunately is not available. I know it shows that she is being read but I think Mr Langdale wanted her and we are making attempts to bring her here. Ewenda Peters, however, is coming along to give evidence.

B As I have indicated, there is going to be an application in relation to Carl Jewel's statement, and I can also indicate that, so far as Daniel Redfern is concerned, that the defence have asked for him to attend. We have had a number of different days set up for him to come, but none so far have proved possible. He is an orthopaedic consultant surgeon. It is going to take some arranging but we think we will be able to get him here at some stage. So tomorrow I am afraid is going to be somewhat of a bitty day, but at the moment we are at least making very good progress.

C THE CHAIRMAN: Is it right, Mr Kark, that both Drs Luznat and Redfern are to be removed from the list for tomorrow?

MR KARK: Yes, I am going to re-jig this and present you with a new one because I have got so many marks on mine now that I am beginning to lose sight of where witnesses are. I am going to redo the list and I will provide you with an up-to-date version, I hope tomorrow.

D THE CHAIRMAN: Very well.

MR KARK: The I bundle is ready to go out. I suspect you may want to hear from Ewenda Peters who is now coming in the morning - it shows PM but she is now coming in the morning - before you go on to read Patient I, Enid Spurgeon's, bundle.

E THE CHAIRMAN: Yes, I think that must be right.

MR KARK: Then we can take a break so you can read that and then we can make the application.

F THE CHAIRMAN: Yes, if we can get at least that degree of separation it will help keep our minds on the appropriate tracks.

MR KARK: Thank you very much. We can pass the bundle up now.

G THE CHAIRMAN: It is a matter for you. I am not going to ask the Panel to read it as it is late in the day.

MR KARK: We will do it tomorrow.

H THE CHAIRMAN: Yes. Anything from you, Mr Langdale.

MR LANGDALE: Nothing, Sir, save to point out that when we get to the witness, Margaret Couchman, it may be that in her case the Panel will not have to be too concerned about looking at other patient records because I think, without having checked all of them, and my learned friend and I are in discussion about it, that a number of other notes that she may have made are absolutely non-contentious, they are just recording an event. I do not think it will be necessary for the Panel to understand her evidence and to break off and look at a particular patient at a relevant time. Hopefully we will get through without that difficulty.

A
THE CHAIRMAN: At the moment it is likely to be concentrating on Patient B and Patient E?

MR LANGDALE: Yes, that we have already looked at and hopefully the other references can just be noted rather than anybody having to concern themselves with patient history.

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THE CHAIRMAN: Very good. Thank you very much indeed, Ladies and Gentlemen. We will rise now and resume at 9.30 am tomorrow morning. Thank you.

(Adjourned until 9.30 am on Tuesday 16 June 2009)

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