

GENERAL MEDICAL COUNCIL

FITNESS TO PRACTISE PANEL (SERIOUS PROFESSIONAL MISCONDUCT)

Wednesday 17 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 EIGHT)

MR TOM KARK 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.
Tel No: 01992 465900)

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A THE CHAIRMAN: Good morning everybody, and welcome back. Mr Kark, the Panel have taken the opportunity to read the file on Patient I, and to refresh our memories of your opening. In the latter regard one of our Panel members noted what would appear to be a transcription error of some significance. It is Day 2 page 6, just above letter F.

B MR KARK: I am afraid that re-reading my opening was a joy I denied myself.

THE CHAIRMAN: It may be one that would not have spotted. I think this requires a medical mind to pick up, perhaps, or a scientific one at any rate. It is Day 2/6F, the sentence that deals with the increase of Oramorph from – and it is recorded as “10 ml four times a day to 20 ml four times a day”, and of course it should be “10 mg four times a day to 20 mg four times a day”.

C MR KARK: Thank you. Would you just give me a moment, please. (Short pause) I am grateful. I am sure that is right – and the chronology is right, I think.

THE CHAIRMAN: It is just the unit of measurement, as I understand it.

MR KARK: In my opening, yes.

D THE CHAIRMAN: Finally, Mr Kark, I should say that we have received bundle I and we are marking it exhibit C10.

MR KARK: In that case we are ready to read to you the statement of Carl Jewell. Mr Jewell made a police statement dated 17 March 2004, and he describes his occupation as a retired marine consultant. He says that he is Carl Dormer Jewell, and he lives with his wife Shirleyanne at an address on the Isle of Wight. He says:

E STATEMENT OF CARL DORMER JEWELL, read

“I make this statement in relation to Enid Dormer SPURGIN who was born on the Code A and died on the 13th April 1999 ... Enid SPURGIN was my aunt, she was my father’s sister. My father and aunt were from a family of two children. My father died at the age of 76 from a stroke. My grandparents died at a reasonably young age, my grandfather was 52 but had been involved in a serious accident and my grandmother died at the age of 58, I don’t know why.

I am not aware of any family illness or history from that side of my family.

G My aunt taught at a small private school and later got married at about the age of 26 to Ronald SPURGIN. Between them they ran a market garden in Meon, Hampshire. My aunt and uncle had no children and sadly Ronald died in 1958 from cancer and the effects of mustard gas in World War I. My aunt never remarried.

After the death of my uncle, aunt Enid sold the business and moved to 59 Knightsbank Rd, Hill Head, Gosport, Fareham. This was to be the house she lived in for the rest of her life.

H

A I would describe Aunt Enid as a fit, healthy and active person all her life. She was quite tall and of slim build. I do not recall any health problems she suffered from until she was in the late stages of her life. Aunt Enid was still driving a car to the age of 90.

The first time I recall my aunt being ill" ---

B (Proceedings interrupted by fire alarm sounding)

THE CHAIRMAN: The fire alarm test sounded at 9.15, and we have been given no indication that there would be a further test, so we must regard this as real. We should, I am afraid, now rise and leave the building.

C (The Panel adjourned for a short time)

THE CHAIRMAN: Welcome back, everyone. It was not a drill, as I said, as I am sure you will all have gathered, but it was happily a false alarm. Mr Kark, you were rudely interrupted. Please try and resume.

MR KARK: Yes, I will carry on. We were reading the statement of Carl Jewell, talking about his aunt Enid Spurgin, and we will go on from where I left off.

D "The first time I recall my aunt being ill was when she suffered from Rymes disease. She was in her late 80s and was admitted to the Queen Alexandra Hospital in Portsmouth. Aunt Enid was in hospital for about three weeks. I was told by a doctor that she would never be the same again. However in a very short time she was back walking the dogs and driving her car. She did not seem to suffer from the ill effects having left hospital.

E I was one of the people who had most contact with my aunt. She was always able to hold a conversation and was fully aware of her surroundings. Due to the fact that my aunt was such an independent person she did become miserable when she had to give up driving. She would have help around the home but was adamant that she wished to remain there and would not have a live in companion.

F In mid March 1999 my aunt had an accident, where she fell over outside the Post Office in Stubbington. She was admitted to the Haslar Hospital on the 19th March 1999" -

and she would have been 92 years old at that time -

G "where she had an operation on her right hip. I visited her in hospital and although she was in some pain the physio's at the hospital had got her sat up and moving. I was impressed at the level of care that she got at Haslar. Aunt Enid seemed ok in herself, she was still lucid when she spoke.

H On the 26th March 1999 ... aunt Enid was transferred to the Gosport War Memorial Hospital. I do not know why she was moved, I think it was because of a lack of staff at Haslar. I think my aunt was on Dryad Ward, although she had a private room.

A I fully expected my aunt to be discharged from the GWMH and hopefully to return home.

B I visited my aunt four or five times whilst she was at the GWMH. On my earlier visits she had other friends with her and was speaking with them quite happily. I also spoke with my aunt and she seemed fine. She told me that she rarely saw any doctors or physio's. I spoke to the staff and expressed my concerns about this. I was told that my aunt was [too] uncomfortable to be moved and had told the staff to go away on several occasions.

C Just prior to the Easter weekend in 1999, I don't recall the exact date, but it would have been about the 1st April, I visited my aunt with some chocolates. She was again able to hold a conversation and I recall saying to her 'Aunt it's time to get you out of [here]'. Aunt Enid replied 'If the old horse doesn't get out of the stable she never will'.

Aunt Enid did not seem to be getting anywhere and told me again that she was not seeing any doctors or getting any physio.

D I phoned the hospital and spoke to a member of staff, I don't know who but it was a woman."

Can I just pause for a moment – I appreciate you have recently read the notes, and these may be fresh in your mind, but you will find two relevant notes. One is at page 132, and the bottom entry, if I may just remind you, is dated 6 April 1999 and reads:

"Seen by Dr Barton. MST increased" –

E that is morphine slow release tablets increased –

"to 20 mgs. Nephew has visited, if necessary once Enid is discharged home (as she is adamant about not going to a nursing home) he will employ someone to live in. Enid has been incontinent of urine a few times over the weekend. I have spoken to her about a catheter and she is going to think about it or using pad & pants."

F He says:

"I phoned the hospital and spoke to a member of staff, I don't know who but it was a woman. This phone call would have been on the 10th or 11th April 1999 ..., I said 'She is an old lady please make her as comfortable as you can'. The lady said words to the effect that she would."

G Can I take you to the note at page 134, which is just below the middle of the page, 11 April 1999:

"p.m. Nephew telephoned at 19.10, as Enid's condition has deteriorated during this afternoon. She is very drowsy – unrousable at times. Refusing food and drink and asking to be left alone. Site round wound in right hip looks red and inflamed and feels hot. Asked about her pain, Enid denies pain when left alone, but complaining when moved at all. Syringe driver possibility discussed with nephew who is anxious

H

A that Enid be kept as comfortable as possible. He will telephone ward later this evening.

Seen by Dr Barton. To commence syringe driver."

I will read on:

B "On the 12th April 1999 ... I visited my aunt in hospital, she was quite unconscious and I was unable to rouse her. I stayed for 2 or 3 hours and asked to see a doctor. When I saw him he told me there is nothing wrong with your aunt she is on too high a dose of morphine. I believe the name of this doctor to be Dr REED."

If we look at the following page, 136, we see this note on 12 April:

C "Seen by Dr Reid. Diamorphine to be reduced to 40 mgs over 24 hours. If pain reoccurs the dose can be gradually increased as and when necessary. Enid's nephew has been spoken to and is aware of the situation."

Then the statement carries on:

D "The doctor told the nurse to reduce my aunt's diamorphine, he said she would be all right. When I left at about 1800 hours my aunt was still heavily sedated.

I got home at about 2200 hours my wife received a phone call from the GWMH saying my aunt was conscious. Obviously we took this to be good news. We were told my aunt had been given sips of water.

E At around 0130 hours on 13th April 1999 ... I had another phone call to say that my aunt had died. Given the nature of the previous call this came as a shock.

The cause of death was shown as Cerebrovascular accident and signed by Dr BARTON. My aunt was later cremated at Portchester."

F We can see again in the notes on the page where we were, 13 April 1999, 01.15, "Died peacefully", and you have the death certificate at the back of the bundle behind the last tab, which indeed shows "Cause of Death: - I (a) Cerebrovascular accident".

That deals with all of the evidence that we are going to call in relation to Enid Spurgin. There is an orthopaedic consultant, Mr Daniel Redfern, who is on your list. He is not available at the moment, and we are making efforts. I think he is going to be one of those that we will have to call on 30 June as our sort of sweep-up day, before we get to the expert.

G So can we put those notes for Patient I, Enid Spurgin, away for the moment. We are now moving on to Geoffrey Packman, who is our Patient J, and we are just about to hand out the Patient J notes to you. We have three witnesses, none of whom I think will be very long, but you may wish to acquaint yourselves with the notes before you hear from them.

THE CHAIRMAN: Mr Kark, we will receive the Patient J bundle as exhibit C11.

H MR KARK: Thank you very much. (Handed)

A THE CHAIRMAN: Do you have a sense of the amount of material involved, as to whether we will ---

MR KARK: It is not a huge amount of material again, but realistically it is bound to be 45 minutes to an hour, I think, to work through this and cross-reference it with the chronology.

B THE CHAIRMAN: I think what we will do then, is say an hour, and we will try to incorporate a short break for the Panel into that as well.

MR KARK: Very well. So we will aim to come back at 12.10, but obviously if you need more time ---

C THE CHAIRMAN: We will let you know.

(The Panel adjourned for a short time)

D THE CHAIRMAN: Welcome back, everyone. Mr Kark, the Panel have reviewed the Patient J bundle and have also re-acquainted themselves with your opening in respect of Patient J. I have been asked to mention a small typo. I think it is no more than that. It is Day 2, page 9, just above letter H. As rendered, it does not make much sense: "There was never Panel order...". We suspect that that probably can be remedied by deleting the "P" and the "el": "There was never an order..." is most likely to be what it is. Whilst we are on the subject – it is very minor – just above it on G: "... and he has been transferred or recuperation". That clearly should have been "for recuperation".

E We are now ready for our next witness, Betty Packman. May I just mention that I have introduced myself to her outside. She is quite elderly and slightly deaf, so I may shout a little bit. She does have a hearing aid, and she can hear. Betty Packman, please.

BETTY PACKMAN, Sworn

(Following introductions by the Chairman)

Examined by MR KARK

F Q I think it is Betty Packman – is that right?

A Betty, yes.

Q And I am going to ask you about your husband, Michael. His full name was Geoffrey Michael John Packman?

A Yes.

G Q And you knew him as "Michael" and most people called him "Mick" – is that right?

A Yes.

Q Even though you are nodding at me, and I know what you mean ---

A I have to ---

A Q That lady there is going to have to make a note of it, so can you just make sure you do say yes or no, depending on your answer. I think Michael was born in Derbyshire. Is that right?

A Yes.

B Q I am going to lead you on the background. I think he was born on Code A He had three sisters. Are they all still alive?

A Yes.

Q And I think his father died from a stroke and his mum was in her eighties when she died?

A That is correct.

C Q And you describe his side of the family as all well built?

A Yes, they were.

Q Does that mean they like their food?

A They did, yes.

D Q And so far as Michael was concerned, I think he worked in local government in Derbyshire. You married him in 1956. Is that right?

A That is correct, yes.

Q He got a job in London at Zurich Insurance. You adopted two children, Mark and Victoria?

A Yes.

E Q We are going to be hearing, I think, from Victoria a bit later. Did there come a time when Michael was involved in the nautical training school?

A Yes, he was quite keen on it.

Q And where was that?

A That was in Emsworth.

F Q And where were you living at that time?

A In Emsworth.

Q And Emsworth is where?

A It is between Portsmouth and Chichester on the south coast.

G Q And so this was after he had worked for Zurich Insurance, was it? Had you moved down to the south coast?

A That is right, yes.

Q He was quite keen, I think, on the nautical training side of life, but did there come a day when he was away on camp and he twisted his knee?

A Yes, he did

H Q And as a result of that unfortunately he became less mobile?

A That is right, yes.

A

Q In 1983 I think he left the company where he had been working and he became a taxi driver?

A Yes, indeed. He was weary of the insurance world and wanted something a little less arduous.

B

Q One of the consequences of that, I think, was he began to put on weight?

A Yes.

Q I suppose that is a danger for taxi drivers, but he became quite heavy?

A Yes, he was heavy. Yes.

C

Q Then, when he was about 57 did he retire?

A Yes. I think it was around there. I am not actually sure.

Q Just to help you, I am taking this from a statement that you made to the police about three years ago, so that is where I getting my information from. For the moment, I am going to assume it to be correct. Just tell us about the period after he retired. What happened to his weight and, in particular, his legs?

A His weight continually increased and his legs were very swollen and they used to weep, and we had the nurse in to dress the legs two or three times a week.

D

Q When we say he was putting on weight, do you know what sort of weight he reached?

A He reached about 23 stone.

Q So he was a very, very big man indeed?

A He was a big man, yes.

E

Q How tall was he?

A About five nine.

Q And did there come a stage where he could not really walk properly, and even within the house he would have to lean on things to get himself around.

A He could walk if he held onto things, yes.

F

Q I think part of his problem that you mentioned in your statement was that he was not a great drinker of alcohol, as it were?

A No.

Q But he liked fizzy sweet drinks?

A He liked to drink anything but alcohol really.

G

Q Was he a complainer?

A Never, never. No.

Q Did he have pain?

A Not that I knew of, no.

H

Q In 1999 – I am not going to dwell on your own illness but do you mind talking about it or not?

A A No.

Q I think you were diagnosed with breast cancer and you underwent treatment for it, but that meant that in August you had to be admitted to the Queen Alexandra Hospital for lumpectomy. Is that right?

A That is correct, yes.

B Q On 5 August you were doing to be admitted that night, presumably for the operation the following day?

A Yes.

Q Can you just help us with Michael's position? Did he come to the hospital with you or not?

C A Oh no. He never came to the hospital with me. No. I was preparing to go to the hospital and he was in the bathroom. I asked him if he was coming out, and he said he would be out shortly. He never did come out, and I had to get a move on because I had to be there for eight o'clock in the morning, so I went in and had a shower and left him in the bathroom, and went to the hospital.

Q All right. Would he have been on his own in the house when you left?

D A I think he was because I think my daughter was working at that time.

Q I think the following day, did you have your operation?

A I had it the day I went in, and then I came out the following day.

Q I see. I think you were collected from the Queen Alexandra by your daughter, Vickie, and did she then tell you that Michael had been admitted to the same hospital?

E A That is right, yes.

Q And he had come in by ambulance?

A Yes.

Q Without going into the details of it, I think he had got stuck in the bathroom essentially?

F A I think he had, yes. Mind you, I did ask him, and he said he had not but I thought he had really.

Q He was treated in the Queen Alexandra Hospital. Just tell us, please, a little bit about his treatment and how his condition progressed?

G A We thought he had improved quite a lot because I looked at his legs as he was in there, and they had dried. I think they had given him some injections into his stomach - I am not... These obviously helped. We thought he was looking a lot better.

Q And what was his state of mind, as it were? Obviously when he first went in there, presumably he was not very happy to be in hospital?

A No.

Q But tell us, did his condition and his mental state improve at any stage?

H A His mental state never altered. He was just the same.

- A
- Q And what was his mental state?
A He was always making jokes and trying to make people laugh.
- Q Obviously he was not particularly old at this stage. Mentally, was everything there, as it were?
A Mentally?
- B
- Q Yes.
A Oh, yes. Yes.
- Q It was just physically that he found it difficult to move around?
A Yes.
- C
- Q And physically you say he seemed to improve at the Queen Alexandra?
A He did, because his legs improved. I think that would have made a big difference, although I never actually saw him out of bed.
- Q When he was in the Queen Alexandra did he ever complain of being in pain?
A No.
- D
- Q Did his legs cause him pain, so far as you were concerned?
A As far as I am aware, he never complained of pain.
- Q We know that Michael was transferred from that hospital, from the Queen Alexandra Hospital, and he was admitted to the Gosport War Memorial Hospital?
A That is right.
- E
- Q And we know that that happened on 23 August 1999?
A Yes.
- Q What was your understanding of why he was transferred?
A We understood that he was going for a rest and rehabilitation, and would be coming back home.
- F
- Q And at this stage of his life, did you have any cause to think that he would never come home?
A No.
- Q Did you go and see him when he was in the Gosport War Memorial Hospital?
A Yes, I went every day up to the time when I went in hospital.
- G
- Q And can you remember meeting a doctor at any stage?
A I met Dr Barton when she told me that he was going to die.
- Q Can you remember how long after his admission into hospital that was?
A I cannot remember exactly.
- H
- Q All right. I am going to ask you to stop for a moment, just to help the Panel find a note. You are very welcome to turn it up if you wish to. Have you ever looked at his medical notes?

A I have, yes. Some of them, not all of them.

Q I am going to invite the Panel to turn up page 63, please. If you take up the bundle to your left, which is marked "J", and open it about 20 pages in, you will find a page which is marked with two lines either side of it, 63, and next to it on the left, rather confusingly, there is a big 62.

A Yes.

Q At the bottom we can see this note, "1900 hours, on 26 August", so this is three days after his admission:

"Dr Barton here for Oramorph 4-hourly. Wife seen by Dr Barton, explained Mr Packman's condition and medication used."

C Could you tell us a bit more about that meeting with Dr Barton. Where were you when you first saw her? When you first noticed Dr Barton, can you remember where you were in the hospital?

A I can only remember seeing Dr Barton when she told me he was going to die.

Q Where were you?

A I was by my husband's bedside.

Q Did she tell you that in front of your husband?

A No, she asked me to go out.

Q I want to start, when you are in your husband's room the doctor appears – and do you remember what she said to you?

A I think she said, "Which of you is Mrs Packman?" and I said I was, and she said she would like a word with me.

Q Tell us where you went?

A I do not know where we went. We went to a very small office.

Q Into a room?

A Yes, into a room.

Q Can you remember, as close as possible, what she actually said to you?

A I think – let me think – she said that all his organs were not working properly and he was going to die and I could take care of myself, I had got to take care of myself and she liked my coat.

Q Was that the first indication that you had, or had you had any previous indication, that your husband was going to die?

A No, I never thought about it, no.

Q Can you remember any other part of the conversation?

A I think that was it.

Q What was your reaction to that?

A I was a bit – well, I was shattered really, because I did not quite know what to say when I went back to my husband, because I thought perhaps he would – he did – he asked me, “What did she say to you?”, which put me in a difficult position. I just said, “She said what the treatment was going to be for you and she liked my coat”.

Q Obviously you did not relay to him the prognosis?

A Well no, you would not do that, would you?

Q Tell us how things progressed. First, at that time on the 26th when you went to see him, did you know what drugs he was on?

A No, not really.

Q At that time, he is now at the Gosport War Memorial Hospital, did he complain of pain to you?

A No.

Q Was he a man who previously had taken pain killers? Would he take pain-killers?

A No.

Q Did he have any particular attitude to pain-killers or not?

A I never saw him take them.

Q Tell us how things progressed. Did you continue to go and see Michael in hospital?

A Yes, he just seemed to get weaker and he did not converse as easily. We would feed him grapes and drinks with a straw and then eventually he was completely out of it until when I left him, the last time I saw him, he was not moving at all.

Q Did you know that he had been started on a drug called Oramorph?

A No, I did not know that until this year.

Q Until this year – 2009?

A Yes.

Q When did you hear that?

A When we got all the reports.

Q Did you go along to the coroner’s inquiry?

A Yes.

Q But I do not think you gave evidence there?

A No, I did not, no.

Q Did you know at any stage that your husband had been put on a syringe driver?

A I think we did because we were aware that there was something at the back of him.

Q That something?

A Something at the back of him.

Q Did you speak to any of the staff about the syringe driver?

A No.

A
Q Did anybody explain to you about him being put on a syringe driver or why he was being put on a syringe driver?

A No.

Q Did you see Dr Barton again after that meeting in that small room?

A No.

B

Q Did you understand why your husband was getting quieter and quieter?

A Not really, I do not suppose. I think I had a lot on my mind at the time.

Q Because you had your own difficulties to contend with?

A Well, yes. I really did not go into it a lot.

C
Q I think you saw him for the last time, so far as you were concerned, on 1 September, because the following day you had to go back into hospital again?

A Yes.

Q When you went to see him on 1 September, what sort of state was he in?

A He was not able to talk, he did not move, he just lay there.

D

Q As far as you could tell, was he conscious or unconscious?

A Unconscious.

Q You had to go into hospital on 2 September. Did you hear about your husband's death the following day, on the 3rd?

A Yes, I did. We had a curate at the church and she would – I think she visited him but she rang me and told me.

E

Q I have asked you about Oramorph and about a syringe driver. Can you remember any discussion about diamorphine with a nurse or anybody else?

A No, I cannot.

MR KARK: Would you wait there please.

F

Cross-examined by MR JENKINS

Q I think you say in your statement that your recollection of that time is vague because of your own concerns about your health problems?

A Some of it is vague, some of it is quite clear.

G

Q You saw your husband on a daily basis when he was at the War Memorial Hospital?

A Yes, I would.

Q Would you have had a fair bit of contact with the nursing staff?

A No, we did not.

Q Did you speak to the nurses?

A No.

H

A Q If you had wanted to, could you have done so?
 A Yes, I presume we could, but I have just felt that they were knew what they were doing.

Q Is it not right that you had some conversations with nursing staff about your husband's condition?

A I do not think so.

B

Q You do not think so?

A No.

Q The Panel have been asked to look at page 63. There is a note referring to your husband's condition at lunch time on 26 August, just over halfway down the page:

C

"Fairly good morning, no further vomiting."

Someone has written "Not for resuscitation".

"Unwell at lunch time – colour poor, complaining of feeling unwell, seen by Dr Barton this afternoon."

D

You were not there for that. There is then a reference to a further deterioration.

"Complaining of ? indigestion – pain in throat, vomited again this evening, verbal order from Dr Barton Diamorphine 10 mgs – stat."

Meaning same given:

E

"Mrs Packman informed and will visit this evening."

I do not know if you are able to recall that you were informed of your husband's deterioration that he was unwell, something pretty dramatic?

A We had a phone call that he had had a heart attack.

F

Q Were you told that he had got worse after what was suspected to be a heart attack?

A No, I cannot remember that, no.

Q Did you go in, having had the phone call?

A Yes, we did.

G

Q That was when you saw Dr Barton?

A Yes, I think so, I do not know exactly the day.

Q Would it be right that he was in a bad way when you saw him that evening?

A Well, he said he had not had a heart attack, and I am afraid we believed him because he because he said it was indigestion and he had lived on indigestion tablets for years.

H

Q Another possibility was a massive internal bleed?

A Yes, but we did not know about the bleed until this year.

A Q You had a conversation with Dr Barton and you have told us about it. She told you to look after yourself?

A Yes.

Q I think the nursing staff were aware about your own medical problems?

A Yes, probably.

B Q Had you told people there may be days when you could not come in?

A No.

Q Can I suggest it was known that you had your own medical problems and that you were getting treatment for a serious condition and that Dr Barton knew about that as well?

A Probably. I believe they knew about it at QA, but I do not know how because I never told anybody.

C

Q Do you think your daughter might have done?

A I think my daughter might have.

Q It was clear from her conversation with you that Dr Barton was telling you that you did need to worry about your own health?

A Yes.

D

Q And she was telling you as well that your husband was in a very bad way?

A Yes.

MR JENKINS: Thank you very much.

E THE CHAIRMAN: We now move to that stage where members of the Panel, if they have any questions of you, are able to ask them. I am going to turn, first, to Dr Roger Smith who is a medical member of the Panel.

Questioned by THE PANEL

F DR SMITH: When your husband was in the QA, do you remember that there was what we call an order put on him not to resuscitate him?

A No.

Q You did not know that?

A No.

Q No one discussed that with you at all?

A No.

G

Q Just one other very brief question. When you spoke to Dr Barton in that small room, how would you describe her attitude towards you, her tone as she spoke to you?

A I thought it was a bit factual rather than caring in a way.

Q When she said to you that you should look to your own problems, in what way did she convey that? Was that in a caring way to you?

H

A That was, yes. I thought she was thinking about me, yes, but I thought my husband was, perhaps the death – the death was not ... I cannot think of the word, but I felt it was just a factual thing and perhaps ... I have been on odd occasions when people have been told they are going to die and people are usually, perhaps, a bit more caring on that.

DR SMITH: Thank you.

B THE CHAIRMAN: Any questions, Mr Jenkins, arising from that question?

MR JENKINS: I should have put one more matter and I wonder if I might be allowed to do so?

THE CHAIRMAN: Yes.

C Further cross-examined by MR JENKINS

Q The note we have on page 63 right at the bottom, suggests, and I want your comment, that Dr Barton told you about your husband's condition and the medication that had been used. Do you remember that?

A I do not remember about the medication, no.

D THE CHAIRMAN: Mr Kark?

MR KARK: No, thank you.

THE CHAIRMAN: Mrs Packman, thank you very much. That concludes your testimony. We are most grateful for you coming to assist us today and I apologise if you have had to wait until you come before us, but we appreciate greatly evidence from parties such as yourself. You are now free to go.

E

(The witness withdrew)

MR KARK: The next witness is Victoria Packman. It is probably slightly shorter, but I do not know if the Panel is prepared to carry on now or whether you need a break. It has been a rather disjointed morning.

F

THE CHAIRMAN: I think given that the two parties are related, and I imagine the last witness will not be able to go until her daughter is completed, if it is going to be a shorter matter we should press on.

MR KARK: Could I call on Victoria Packman.

G VICTORIA JANE PACKMAN, Affirmed
Examined by MR KARK

(Following introductions by the Chairman)

Q Is it Victoria Jane Packman?

A Yes.

H

A Q I think you are the daughter of Geoffrey Michael John Packman?

A Yes.

Q But everybody used to call him 'Mick'?

A Yes.

B Q But you presumably used to call him 'Dad'?

A Yes.

Q We have heard a bit about his background so I do not need to ask you about that, but into the 1990s I think you can confirm that he had got pretty big?

A Yes.

C Q We have heard from your mother that he did not drink alcohol – or not much alcohol – but he drank a lot of fizzy drinks?

A Yes.

Q We can take it that he did not exercise a huge amount?

A No, not a lot.

D Q As a result he had got very big. Did his legs and feet get extremely swollen?

A Yes.

Q And he had this problem that they would weep a bit?

A Yes, he had an oedema.

Q Right. Then in 1999 unfortunately your mum was also ill.

A Yes.

E Q She was diagnosed with having breast cancer and so she had to go to the Queen Alexandra Hospital.

A Yes.

Q Were you living at home at this time?

A Yes.

F Q I think on 6 August you went off to work, and when you got back your dad was in the bathroom?

A Yes.

Q He was saying that he was all right ---

A Yes.

G Q --- but as it transpired ---

A He was not.

Q --- he was not?

A Yes.

H

- A Q The district nurse I think came, because she was visiting regularly to change his dressings.
A Bandages, yes.
- Q Eventually she managed to get into the bathroom and she asked for an ambulance?
A Yes.
- B Q Did they have to get two ambulances?
A Yes, the first one, because the size of the bathroom was so small, they did not have the full leverage to get him up and out.
- Q So they had to get him ---
A A second one.
- C Q --- out. And they got him off to the Queen Alexandra Hospital?
A Yes.
- Q That was where your mum in fact had been?
A Yes, I was going down to pick her up.
- D Q Right. So presumably instead of doing that you also went to see your dad?
A Went to A&E first, and then went up to get my mum, told her that she did not have far to walk.
- Q We have heard a little bit, obviously, about his progression in the Queen Alexandra Hospital, because he was there for a little while before he was moved to the Gosport War Memorial Hospital. How would you describe the progress of his health?
A When he first got there he was in quite a sorry state for himself, but they put him on a course of antibiotics to relieve the inflammation in his legs – the cellulitis, is it?
- E Q Yes.
A And his legs were drying up. He seemed to perk up a lot and seemed quite chipper.
- Q I was just going to say what was his mood like – but you say chipper?
A When he got there he was very sorry for himself, like where mum had gone in as well, I suppose he did not really want to panic her, so he did feel a bit sorry for himself. He was there for about two and a half weeks, but as he got towards being moved he was quite chipper, quite happy – good progress.
- F Q Did the problem with his legs improve at all?
A That improved dramatically. They dried up. I do not know whether it was because he was off his feet, or what, but they had improved dramatically.
- G Q You say obviously you did not want to worry your mum, because she had her own problems ---
A She certainly had.
- Q --- but did he ever complain to you of being in pain?
A No. He never did, even before all this happened, he never complained of any pain, even with his knee.
- H

A
Q Did he show any sign of being in pain?

A No.

Q You say "even with his knee". What was the problem with his knee?

A He twisted his knee years ago, late '70s, and had a problem with it ever since, and his weight did not help that.

B

Q No; all right. Then he was transferred to the Gosport War Memorial Hospital. We know that he was admitted there on 23 August 1999.

A Yes.

Q Did you go and visit him when he was there?

A Yes.

C

Q Can you remember how often you would go and see him?

A Mum would go probably every day, and if I was not working I would go, you know, as often as possible.

Q Tell us how he progressed in the Gosport War Memorial Hospital.

D

A When he first got there he was really sort of cheerful, happy – he wanted to come home, really. He had a room on his own, and he seemed really chipper. He looked the best I had seen him for a long time.

Q Sorry, say that again.

A He looked the best I had seen him for a long time.

E

Q Had the transfer affected him badly in any way?

A No. If anything he benefited from it.

Q How did his position change?

A He was fine for the first three days, something like that. We received a phone call saying that he had had a heart attack, mum went down that evening, and – my dad always suffered with indigestion, always had done, and he just looked at my mum and went "I've had a bad case of indigestion". Two days after that, he just was away with the fairies.

F

Q First of all, it is important that you tell us not what your mum told you but what you actually saw.

A Yes. Because I did not go down the day that we got the phone call, but when I did go down there it was a big change.

G

Q About how long was that after his admission to the Gosport War Memorial Hospital?

A I would say about four days, five days.

Q Just tell us what the big change was.

A He was just drowsy, he could not feed himself, he could not drink for himself. We had to feed him grapes. He was drinking from a straw, a cup that we were holding for him, but he just could not hold it. He just was not sort of with it.

H

Q How would you describe the change?

- A
A Quite shocking, from what he was a couple of days earlier.
- Q Did things change at all after that?
A Yes, they went downhill. That was probably the last time we could actually speak to him. As to whether he was making any sense of us – but after that he just went into a comatose state and did not know – no facial recognition that we were there.
- B
Q Can you remember if you went to see him on 1 September and the following day?
A Yes. 1 September he was not even conscious, he did not stir.
- Q Can you remember about what time visiting time would have been? Were you still working at this stage?
A At that stage I had stopped working, because the day after I had to take my mum into hospital for an operation.
- C
Q Do you know you visited him on the 1st?
A I would think half twelve, one o'clock.
- Q Sorry, half twelve?
A I would say round about half twelve, one o'clock – early afternoon.
- D
Q You say at that stage he was not moving?
A No, he did not even know we were there.
- Q And the following day?
A The following day I dropped my mum off to Queen Alexandra for her operation, I have gone back home, then went over to Gosport to see my dad. I sat there for about four hours. He did not know I was there, he never stirred, nobody came in, never saw anybody.
- E
Q Did you speak to any nurses ---
A No, never saw any of them.
- Q --- about what was going on? It may sound obvious, but did you try talking to him?
A Yes, yes.
- F
Q Did you try to rouse him?
A Yes, just had, like, you know, a natter to him, most of the time that I was there, but he was not – well, he was not capable of knowing anybody was there or not, I do not know. But for four hours for somebody not to stir, or, you know, be vaguely awake ...
- Q At any stage when he was in the Gosport War Memorial did you see him get out of bed at any time?
A No.
- G
Q How did you hear about his death on 3 September?
A I was at work at the time. When I come home about 10 o'clock there was a note through the door to say that I had to ring my mum's hospital, and, like, a neighbour had already written on the note what had happened, so I phoned my mum, make sure she was all right, and she explained what had gone on.
- H

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

Cross-examined by MR JENKINS

Q What you have said in your statement – and just tell me if this is right – is that your father never really spoke to you about his health problems.

A He never did. It is just the way he always was.

B

Q So he did not talk about it, and you did not ask him?

A No.

Q Was that the same in hospital?

A Quite possibly. You know, he was just somebody that was very stubborn and would not talk about it anyway.

C

Q We know that your father had some pressure sores.

A Yes.

Q Certainly when he was at the Gosport War Memorial Hospital.

A Yes.

D

Q What did you know about those?

A I did not really know much about them, to be honest.

Q He had pressure sores on his bottom the shape of a loo seat.

A Yes. We did not know about those. We knew that he had them on his heels.

E

Q And he was getting treatment for those?

A Yes.

Q What did you know about the treatment he was getting?

A Only what I read in the medical notes.

Q All right. You did not talk to him about it?

A No.

F

Q While you were there? And he did not volunteer any information about it?

A No.

MR JENKINS: Thank you.

G

THE CHAIRMAN: Now it is time for the Panel, if any of them have questions for you. Dr Roger Smith is a medical member of the Panel.

Questioned by THE PANEL

DR SMITH: Just one question. When your dad was in the QA and your mother was having her problems, were you aware that at some point in the QA the doctors had decided that if anything happened to him, he should not be resuscitated?

H

A We were not aware of that until we got the medical notes.

A DR SMITH: That is fine. Thank you very much.

THE CHAIRMAN: Mr Jenkins, any questions arising out of that question?

MR JENKINS: No.

B THE CHAIRMAN: Mr Kark?

MR KARK: No.

THE CHAIRMAN: Very well.

(To the witness) I am pleased to be able to tell you that that completes your testimony.

Thank you very much indeed for coming to assist us today; I am sorry if you have had to wait for some time.

C A No, that is fine.

THE CHAIRMAN: Thank you, and you are free to go.

(The witness withdrew)

D MR KARK: Sir, we have one witness for the afternoon. She certainly will not take up the whole of the afternoon. We deliberately did not overload today because we do not want any spill-over, because we are not sitting tomorrow, but there is one witness left to go.

THE CHAIRMAN: We will break now and return at two o'clock, please.

(The luncheon adjournment)

E THE CHAIRMAN: Welcome back, everyone. Mr Kark?

MR KARK: Sir, might I please call Dr Claire Dowse.

CLAIRE TERESA DOWSE, Affirmed
Examined by MR KARK

F (Following introductions by the Chairman)

Q It is Dr Claire Teresa Dowse, is that right?

A Yes.

G Q You are currently a registrar in anaesthetics working at the Bristol Royal Infirmary?

A Yes.

Q I think you qualified from the University of Wales College of Medicine in 1997, and after that you went on to your rotation, which I think you started at Portsmouth, is that right?

A Yes.

H Q In August 1999 did you take up a job as a senior house officer in elderly medicine working at the Queen Alexandra Hospital?

- A Yes.
- Q Was that part of your rotation?
A Yes, it was.
- Q Was that the end part of it?
A It was the middle. I started ---
- B You have to keep your voice up.
A I started in 1998 at Portsmouth and was there until 2001, so that would have been the middle.
- Q Your rotation would have involved spending how long in each post?
A There were two six-month blocks and then the rest were four-month blocks.
- C So how long would you have been working as the senior house officer in elderly medicine?
A I did six months in 1998 and then four months in 1999.
- Q Right. I think you would have been working, obviously under a registrar immediately, and then you would have had a consultant supervising your work?
A Yes.
- D I want to ask a little about a operation at that hospital called Geoffrey Packman. Is it fair to say that you have little or no recollection of him as a patient?
A No recollection at all.
- Q Could I ask you to take up the bundle to your left, and then turn, please, to page 45. When I give you a page number you will see lots of different page numbers on these pages, I am afraid, but you will see a particular page number with two lines either side of it. If you turn to page 45, it has a big 44 actually to the left of it. Do you have that?
A Yes.
- E Just to acquaint yourself with these notes, if you keep your finger where you are but turn two pages on, do you see your writing at the very bottom of the page?
A Yes.
- F I think this is a record, as we look at it, page 45, of the examination of this patient on the day that he was admitted to the hospital. Is that right?
A Yes, it looks like it.
- Q I am not going to take you through the entirety of page 45, but I wonder if you could help us. This is not your note, first of all, is it?
A No.
- G We know that you went on a ward round on the same day, but later that afternoon, at 17.30. Can we take it that you would not have been on this ward round?
A No. I would have worked on a different ward, so we would have covered our own wards during the day, and then the on-call person in the evening would cover all the wards on that floor.
- H

- A
- Q I see. So that is how you would have come into it later on?
A Yes.
- Q Just glancing first, please, at page 45, we can see that you were dealing with an obese patient with poor mobility. There is a downward arrow next to the word "mobility". Does that tend to indicate ---
B A Decreased mobility, yes.
- Q We can see about a third or a quarter of the way down the page, underneath the word "Obesity":
"Bilateral lower leg oedema" –
C Is it plus, or up? There is an arrow up, I think –
"Swelling legs over past" –
And does that mean "six months"?
A "Increased swelling legs over past six months."
- D Q Then "Dopplers", is it?
A "Dopplers one week ago – results not known".
Q A Doppler is a method of checking the flow of blood in the veins?
A Yes.
- E Q And is it "Results not known"?
A Yes. I think that is what it says.
Q "Ulcers on legs for" – is it a month?
A I would have said a month. Left calf, right calf, a small ulcer.
- F Q Then is it "↑ area" and is it erythema?
A Yes.
Q What is that?
A It is an area of redness on the skin.
Q "... in groin for" and it looks like three weeks?
A Umm.
- G Q Is that right?
A I would have thought so.
Q "Now discomfort and in groin" or "discomfort + in groin"?
A Umm.
- H Q Then: "[One week ago]" or "[One week] ↑" – I am afraid I cannot read the next word. I do not know if you can interpret it for us?

- A A No. I cannot.
- Q "Now unable to mobilise".
- A Yes.
- Q I am going to ask you to go on, please, to the sheet where you made a note and that is page 47. At 17:30, can you tell us what was happening at 17:30. Who would have been making a note, and why?
- B A It says "[Review] Reg", so that would have been the registrar on call for elderly care that night, and it was usual, from what I remember, for the SHO on call, which would have been me that night, to go round with the registrar to review the new admissions that had not been seen on the ward that day.
- Q The first note we see is, I think, "No results". Is it "CAR"?
- C A I think it is probably chest X-ray - CXr.
- Q Thank you. And "Old notes ...", I think it is ---
- A "... available yet."
- Q Presumably meaning "Old notes not available yet."
- A So, no results, no chest X-ray, no old notes.
- D Q Then underneath that at 17:30: "Problems: Cellulitis [left] leg". We have all heard of cellulitis but what in fact is it, if you can help us?
- A It is an area of infection of the skin.
- Q Then "Chronic leg oedema", is it?
- E A Yes.
- Q Does that mean very swollen legs?
- A "Chronic" would be long-standing, and oedema is fluid retention in the legs.
- Q "Poor mobility. Morbid obesity." What does morbid add to obesity?
- A I cannot remember the exact definitions of obesity, but morbid obesity would be at the top end of the large range.
- F Q "Blood pressure [up]". Then there is a "? [Query] AF". Can you help us with that?
- A "? [Query] AF" would be "Query, atrial fibrillation," which is an irregular heart rate.
- Q I am sorry to ask you to read somebody else's note. Can you help us with what is written below?
- G A The "P" with the circle round it stands for "plan", and I think what he has written there is "As above", and he would mean by that, the plan that was written on the previous page, underneath the clerking.
- Q Can you go to the previous page? If we look in the bottom quarter we see again that "P" with a circle around it?
- A Which means "plan".

H

- A Q And again, I am afraid I am going to ask you to interpret as much as you can. If you cannot read, it is no fault of yours.
A The first bit is "Urinalysis/MSU", which would mean looking at the urine. Then it is "FBC", which stands for "full blood count"; "U&E" is another blood test. "Glucose" and then there is "ESR & CRP" which are blood tests for inflammatory markers, and then "Blood Cultures". So they are all blood tests.
- B Q All the blood tests?
A Yes. Then "[Chest] X-ray." Then "ECG".
- Q For the heart?
A Yes.
- C Q Then "Swabs from groin ---"?
A "... and ulcers".
- Q And ulcers.
A "Tilt bed - so can sit him up." Then "IV" is intravenous antibiotics and that is "↑ diuretics". So to increase his diuretics. Then it looks like "Change to frusemide", so that would be changing to a different diuretic. Then up in the right it says "ECG - AF 85/something".
- D Q Oh, yes.
A So that was a comment on the tracing of the heart, to say it was a rate of 85 beats per minute and irregular, or what they thought was irregular.
- Q And the purpose of the diuretic would be to reduce his fluid retention?
A Yes.
- E Q So that was the plan. We come back now to page 47; "[Plan] as above".
A So he is saying to continue with all that has been set out there.
- Q Then can you take us through the rest of this note?
A I think that says, "IV fluclox/pen G", which are types of antibiotics.
- F Q So is that "intravenous ---"?
A Yes. "[Flucloxacillin]".
- Q "Fluclox [Flucloxacillin]".
A I think, but I am not sure, if that is "pen G" or shorthand for something else.
- G Q Okay?
A "Elevate legs."
- Q Sorry. Would pen G be a penicillin?
A Yes, I think so.
- Q Below that?
A "Elevate legs."

- A
- Q Is it "Clexane"?
- A "Clexane as DVT prophylaxis".
- Q Just pause for a moment, because this could be significant. Who was making the decision to use Clexane?
- A This is the registrar.
- B
- Q And the reason, whether he was right or wrong, that he was suing Clexane was because he was worried that if the patient remained in bed, you might have a vein thrombosis?
- A Yes.
- Q And prophylaxis means, obviously, to prevent that happening?
- A Yes.
- C
- Q Is it "Needs repeat..."?
- A "Needs repeat ECG/rhythm strip". A rhythm strip is another tracing of the heart. It is just a long tracing, which would confirm atrial fibrillation. Then he has put "If AF →" – I think that says "anticoag", which would be short for anticoagulate.
- D
- Q Just pause for a moment. I appreciate, and I do not mean to be rude, but you are not a physician, but you trained as a doctor. To put "→ anticoagulate", Clexane – is that an anticoagulant?
- A It is, but it depends on the dose, whether you would use it to prevent clots in the legs or whether you would use it as an actual treatment dose of anticoagulant.
- Q "Needs..."?
- A "Needs [chest X-ray] ± echo". An echo is an echocardiogram. It is an ultrasound examination of the heart. And he has put "? [query] LV dysfunction", so he is querying if the patient had a left ventricle that was not working as it should be.
- E
- Q Then: "Consider stop ..."?
- A "Felodipine", which is a blood pressure drug.
- Q Right?
- F
- A "/doxazosin" which is another blood pressure drug, "since [this] could be exacerbating oedema." And he has put "? [query] change to ACE I". ACE I stands for ACE inhibitor, which is another blood pressure medication.
- Q "If AF", so if ---?
- A Atrial fibrillation.
- G
- Q "[Atrial fibrillation] and LV [left ventricular] good consider" – is it "Stabilise"?
- A I think it is probably sotalol.
- Q Sorry.
- A It is a drug.
- Q Sotalol?
- H

A Yes. It is a beta-blocker type drug. So he is saying, if there is atrial fibrillation and the left ventricle is good, that would be a treatment option to consider.

Q And then: "Watch diuretics don't ..."?

A "... → [cause or lead to] dehydration."

Q And what is the significance of that?

B A If a patient has lots and lots of diuretics because they have fluid in the wrong place, although it will help with the fluid in the legs, it would also cause the patient to become very dry and that could ultimately disturb their renal function.

Q So you have to ensure that although they are on diuretics, they do not at the same time get dehydrated?

A Yes.

C Q Then "Consider" – is it "empirical"?

A "... empirical warfarin", I think that says, "since high risk of DVT" – so deep vein thrombosis – "/PE", which is pulmonary emboli.

Q Warfarin, again forgive my ignorance, but is that a blood thinner?

A Yes.

D Q And "empirical" means what in these circumstances?

A I am not sure what he would have meant there.

Q Then he signed that?

A Yes.

E Q And his name was?

A I cannot remember. It says "Curtis" here. I thought it was something double-barrelled.

Q I think you thought at the time you made a statement that it was Dr Jones-Curtis?

A Yes.

F Q Does that ring a bell?

A Yes.

Q Then can you help us, please, with the note that you have made on the left, and why you made it?

A I cannot recall this at all, but ---

G Q Tell us what it says first of all, if you could?

A It says: "In view of premorbid state + [and] multiple medical problems not for CPR", which stands for cardiopulmonary resuscitation, "in event of arrest", and that "CD" is my signature, and I would normally write my bleep number underneath it.

Q Can you remember the circumstances in which that came to be written?

A No.

H

- A Q In what circumstances would you normally write that? Do you recall ever having written that before?
A Yes. I would have written it – normally or often the SHO was the person who was the scribe on the ward round, and as the registrar has done here, you would write the notes down and the plan. And then, if a decision had been made that they were not for cardiopulmonary resuscitation, then you would write it at the bottom of the notes, and highlight it so it would be seen in an emergency.
- B Q What were you intending to signify by writing that note? First of all, was it an indication that you or your senior colleague was expected the patient to die?
A No, not necessarily.
- C Q So why would you write that?
A It would have been written if the patient was felt to have multiple medical problems and if they did have a cardio-respiratory arrest, the chances of resuscitating them would be very, very slim.
- Q Was this in any way an indication that the patient should not receive active treatment --?
A No.
- D Q --- for the medical problems he had?
A Not at all, no.
- Q Apart from the registrar, would you have consulted with anybody else before writing that?
A Not necessarily, no.
- E Q And whose decision would it be? I appreciate you took the pen in your hand and made that note. Would that be your decision to make the note?
A No.
- Q Or would that be somebody else telling you?
A It would have been the registrar's decision as it was his ward round.
- F Q Can I ask you to turn up, please, page 51 first of all. This is seven days on. It is 13 August. I do not think this is your note, is it?
A No.
- Q And your name does not appear on the note?
A No.
- G Q I just want to ask you this. It is 13 August. Do you see right at the bottom "Transfer to Dryad ward on 16/8/99"?
A Yes.
- Q And then, below that "Not for 555". What does "Not for 555" mean at this hospital?
A I think back then "555" was the emergency call.
- H Q The crash call?

A A The crash call.

Q And so if we see "Not for 555" on a patient's note, is that the equivalent of your note?

A "Not for resuscitation in event of arrest" – yes.

Q Could you go, please, finally to page 106. This is going back to 6 August and it is a document called the "Patient Profile". Do you see that?

B A Yes.

Q When would this be filled in?

A From the notes, looking like on the day of the patient's admission.

Q Does your writing appear on this page?

A No.

C Q If we look at the bottom right-hand corner, we can see a note of resuscitation status. The first date is a little difficult to read, but under "resuscitation status", in the box for "Status", it says "No". Again, can you help us, please, with what these signify?

A My understanding is that this was the admission sheet when the patient was admitted to the ward, and so that it could be again found in an emergency, the resuscitation status would be recorded on the sheet, and it has been recorded twice, and the first time was – it looks like 6 August, which would have been when I had signed that order in the notes.

D Q Then it is repeated again on the 11th?

A Yes.

Q Finally I want to ask you this. It may be different now, but at this time, ten or so years ago would you have consulted with the patient before you made a decision that that patient was not for resuscitation in the event of a cardiac arrest?

E A From what I can remember, sometimes we did, but not always, no.

Q Or the patient's relatives?

A Sometimes not, from what I remember.

Q Is that different now?

F A I have not worked on a medical ward for a long time, but my understanding is that yes, things have changed recently.

MR KARK: Thank you. Do wait there, please.

Cross-examined by MR JENKINS

G Q I am sorry if it seems like an exam has been sprung on you, and you have been asked a lot of questions. Can I just stay with that point. If you had discussed it with the patient, would you have made a note of that?

A I would like to say so, but I do not know.

Q What about if you discussed it with the relative? We know the relative from page 106 is his wife?

H A Yes, most likely. Discussions with relatives were usually written in the notes.

A Q If we do not see a note of that discussion, can you tell us whether it was discussed with her or not?

A No, because it might have been discussed and not written down.

B Q Why is it that the registrar or doctors would have been taking a decision that a patient was not for resuscitation? You have told us that it does not mean that the patient was expected to arrest or expected to die, but in what circumstances in your experience was anyone making that decision?

A If patients have multiple medical problems and it was felt that if their heart stopped because of these multiple medical problems it would possibly not start again, then that decision would be made and when I say "start again", despite all treatments.

C Q I understand. By "multiple medical problems" do you mean serious problems? If I went into hospital with a sore finger and earache, people would not have been making a decision at that point "not for resuscitation"?

A No, they would not. Not seeing your history, and presuming that you are relatively young and fit ---

D Q I am not actually talking about me! I am just ---?

A No, but I am just using you as an example. Sorry.

Q People may wish I should not be for resuscitation, but let us take someone whose medical history was simply that – that they had an earache and a sore finger. People would not be making that decision?

A No.

E Q Is it an indicator, then, that there were serious problems?

A Yes.

MR JENKINS: I am grateful. Thank you.

MR KARK: I am tempted to re-examine, but I will not.

F THE CHAIRMAN: You are very wise, Mr Kark. I am now going to ask if any members of the Panel have any questions for you. Dr Roger Smith is a medical member of the Panel.

Questioned by THE PANEL

G DR SMITH: These are supplementary questions. This patient, Mr Packman, was 67. He is morbidly obese, he had fallen, he had ulcers. I cannot tell the Panel what I think, so I need you to say what the doctor would think. If you add in atrial fibrillation to that, is atrial fibrillation a serious problem in itself?

A It depends on whether – on its own not necessarily, but it can be an indicator of something more serious, yes.

Q Is it a rare problem?

A No, it is common.

H Q It is a common problem?

A A Yes.

Q We have heard your explanation as to what a crash call, 555 DNR, means. If you put yourself back in 1999 in QA as an SHO, and this patient had a massive GI bleed, what would you do?

A If I was crash called to the patient?

B Q Yes, for a massive GI bleed?

A We would always start resuscitating until somebody had looked at the notes.

Q Can you explain what you mean by resuscitation?

A You run to where the patient is and for resuscitation there is, we call it, an ABC, so you check their airway, check their breathing, check their circulation.

C Q If he was unconscious, you would start some resuscitation while somebody checked his status, his resuscitation?

A Yes.

Q But he is not unconscious, he is not very well but he has had massive PR bleeding – no, he has had PR bleeding and he is not very well from it?

A So his airway and his breathing are okay?

D Q Yes.

A I would move on to his circulation and you would want to give him fluid resuscitation.

Q You would not say to the nurses, “This man is not for resuscitation, leave him alone”?

A No, because he has not had a cardiac arrest.

E Q To simplify matters, would you treat him in exactly the same way you would treat any other patient with a GI bleed?

A Yes.

DR SMITH: Thank you.

F THE CHAIRMAN: Mr Jenkins, is there anything arising out of those questions?

MR JENKINS: No, thank you.

THE CHAIRMAN: Mr Kark, anything arising out of those questions?

MR KARK: No, thank you.

G THE CHAIRMAN: Thank you, Doctor, that concludes your testimony. Thank you for coming to assist us today. I am sorry if you have been kept waiting, but it is important we have live evidence from as many live witnesses as possible. We are most grateful to you for your assistance. You are free to go.

(The witness withdrew)

H

A MR KARK: That is all the evidence we have for you this afternoon. I am tempted to say, again, we are making good progress. Whether we will slow down with the nurses when we start them, that obviously may happen. On Friday we have two statements that are going to be read to you and we will be discussing that with the defence. After we have dealt with the case of the last patient, Jean Stevens, we are moving on to the first substantial nurse witness who is Mr Philip Beed, whose name you have heard on a number of occasions. He, we expect, will be a lengthy witness. We may finish him on Friday, we may not. In light of that, B we wondered whether you would like – rather than waiting until Friday morning – at least to have the Patient L bundle so we can start as close to 9.30 on Friday as possible.

C THE CHAIRMAN: I would not wish to ask the Panel to be reading it today, given that we are not going to be here tomorrow. I think, however, we could receive it today and, perhaps, given the likely length of Friday, if the Panel would feel able to start a little earlier for the purposes of reading, if we were to start at 9am, would that work for everybody? (Agreement) We will receive now and the Panel will start at 9 o'clock on Friday and we would anticipate seeing you at 10am. That will give us an opportunity to review what you have previously said and look at the notes and then be ready to hear those witnesses.

MR KARK: This bundle, which is about to be handed out to you, will be C13 because we already have K at C12. This is the last patient bundle. I hope you have all the others by now.

D THE CHAIRMAN: We will mark that Patient L bundle as exhibit C13. We do not have a C bundle.

MR KARK: Bundle C is still being perfected, if I can put it that way. We have already given it a number.

E THE CHAIRMAN: We did indeed give it a number, but as we have not heard any evidence on it, it was not necessary ---

MR KARK: There is no live evidence to give on that patient until we come to the expert, otherwise that is all we have for today.

F THE CHAIRMAN: We will rise now. The Panel will come in on Friday at 9 o'clock and we will open formally for business at 10 am.

(The Panel adjourned until 9 am on Friday 17 June 2009
and the parties were released until 10 am)