

<p>1 Monday, 28 November 2011</p> <p>2 (10.30 am)</p> <p>3 (Proceedings delayed)</p> <p>4 (10.36 am)</p> <p>5 THE CHAIRMAN: Good morning, Mr Kark.</p> <p>6 MR KARK: Good morning, sir. Sir we've got problems,</p> <p>7 I gather, with LiveNote, but just to reassure everybody,</p> <p>8 a transcript is being made and will subsequently be</p> <p>9 posted but unfortunately won't show on anybody's screens</p> <p>10 contemporaneously.</p> <p>11 THE CHAIRMAN: That being so, can I please check that those</p> <p>12 in the public area can actually hear what's happening.</p> <p>13 They're all nodding, so that's a good start.</p> <p>14 MR KARK: I will make sure I will speak up and I'll make</p> <p>15 sure the witnesses speak up.</p> <p>16 Sir, the inquiry was contacted approximately a week</p> <p>17 ago by two separate witnesses who wished to provide</p> <p>18 evidence to the inquiry. That's Mrs Pollard,</p> <p>19 a compliance inspector with the CQC, and Mrs Sheldon,</p> <p>20 who is a commissioner and board member. Statements were</p> <p>21 taken last week, as you know, and were circulated on</p> <p>22 Wednesday, together with additional documents which were</p> <p>23 revealed to the inquiry.</p> <p>24 You have agreed to reopen the evidence in order to</p> <p>25 hear this material, subject, of course, to any</p> <p style="text-align: center;">Page 1</p>	<p>1 examination as to how in the future the NHS and the</p> <p>2 bodies which regulate it can ensure that failing and</p> <p>3 potentially failing hospitals or their services are</p> <p>4 identified as soon as is practicable.</p> <p>5 "In identifying the relevant lessons, to have regard</p> <p>6 to the fact that the commissioning, supervisory and</p> <p>7 regulatory systems differ significantly from those in</p> <p>8 place previously, and the need to consider the situation</p> <p>9 both then and now."</p> <p>10 Then you have these words:</p> <p>11 "The chair will decide the precise scope of the</p> <p>12 inquiry and details of how and where the inquiry will be</p> <p>13 conducted."</p> <p>14 You issued on 9 June 2010 a procedural statement for</p> <p>15 this inquiry, and you made some comments which are</p> <p>16 perhaps also pertinent. You said at paragraph 2(b) that</p> <p>17 you're required to investigate the role of the</p> <p>18 commissioning and supervisory organisations, to identify</p> <p>19 the lessons to be learned as to how the deficiencies of</p> <p>20 the sort identified in your first report can be</p> <p>21 identified and acted upon earlier than they were.</p> <p>22 And you said this:</p> <p>23 "In doing this, I must bear in mind the changes that</p> <p>24 have been made to the regulatory arrangements since then</p> <p>25 and make the consequent recommendations. My provisional</p> <p style="text-align: center;">Page 3</p>
<p>1 application being made by a core participant. What</p> <p>2 I would like to do very briefly is to explain the limits</p> <p>3 of the material which we wish to put before you.</p> <p>4 We are now, as we always have been, very conscious</p> <p>5 of your terms of reference, and I hope you'll forgive me</p> <p>6 for going back to them, but it's some while since we in</p> <p>7 fact looked at the terms of reference.</p> <p>8 THE CHAIRMAN: It's a healthy discipline, Mr Kark.</p> <p>9 MR KARK: It is a healthy discipline, and I am just going to</p> <p>10 read parts of the terms of reference, which are as</p> <p>11 follows:</p> <p>12 "The terms of reference for this further inquiry</p> <p>13 are:</p> <p>14 "To examine the operation of the commissioning,</p> <p>15 supervisory and regulatory organisations and other</p> <p>16 agencies, including the culture and systems of those</p> <p>17 organisations, in relation to their monitoring role at</p> <p>18 Mid Staffordshire Foundation Trust between January 2005</p> <p>19 and March 2009, and to examine why problems at the trust</p> <p>20 were not identified sooner and appropriate action taken.</p> <p>21 This includes but is not limited to ..."</p> <p>22 Then there's a long list of bodies, which includes</p> <p>23 the CQC.</p> <p>24 Then third bullet point:</p> <p>25 "To identify the lessons to be drawn from that</p> <p style="text-align: center;">Page 2</p>	<p>1 view is that I need to find out amongst other</p> <p>2 things ..."</p> <p>3 And then (b):</p> <p>4 "What did these organisations understand their</p> <p>5 responsibilities to be for monitoring the performance at</p> <p>6 the trust?</p> <p>7 "(c) to what extent those responsibilities and the</p> <p>8 understanding of them have now changed."</p> <p>9 And then (h):</p> <p>10 "The extent to which the relevant organisations as</p> <p>11 constituted and operating today would have identified</p> <p>12 and acted on the deficiencies at the trust earlier than</p> <p>13 in fact was the case."</p> <p>14 You then list again the organisations which will be</p> <p>15 a focus of the inquiry, including, of course, the CQC.</p> <p>16 Sir, the great majority of the evidence of both</p> <p>17 witnesses, in our submission, goes to the following:</p> <p>18 clear and identifiable issues which are relevant to the</p> <p>19 systems and culture within the CQC as it was at its</p> <p>20 inception, with the shadow board in late 2008 and at its</p> <p>21 inception in 2009, and as it is now. Those are whether</p> <p>22 or not there is a clear strategy for effective</p> <p>23 regulation in place at the CQC, the effectiveness of the</p> <p>24 board of the CQC and the culture of management within</p> <p>25 the CQC.</p> <p style="text-align: center;">Page 4</p>

<p>1 You are asked by the terms of reference to identify 2 the lessons learnt from Staffordshire and to have regard 3 to the situation then and now in terms of regulation. 4 In order to fulfil those terms of reference, you need, 5 in our submission, to understand what the system adopted 6 by the CQC is now and whether or not it is capable of 7 being effective. It is not for you to decide, with 8 respect, whether it is in fact effective or not, but you 9 do need to understand, as thoroughly as possible, how 10 the organisation works in practice. That is indeed why 11 you heard from Messrs Bryce and Goodman and Banga 12 earlier this year.</p> <p>13 As the CQC rightly points out in its closing written 14 submissions, the CQC has given extensive evidence of its 15 processes for regulating health and social care to the 16 inquiry in the form of evidence from: Dame Jo Williams 17 and Miss Cynthia Bower, regarding the CQC's philosophy 18 and overall approach to regulation; 19 Miss Amanda Sherlock, regarding operational processes; 20 Mr Richard Hamblin regarding the CQC's intelligence 21 function; Dr Andrea Gordon, regarding regional 22 operations functions and particularly with regard to the 23 regulation of this trust; and Mr Sampana Banga, 24 Ms Rona Bryce, Ms Lauren Goodman, regarding the input of 25 the CQC's processes provided by the operations</p> <p style="text-align: center;">Page 5</p>	<p>1 I do not think it is right or fair that those 2 allegations should be published when the individuals 3 concerned have no right of response. Those passages are 4 brief, but my application is that those passages should 5 be redacted, and to that purpose I apply for 6 a restriction order under section 19 of the Inquiries 7 Act on the grounds that there is harm or damage to 8 reputation which will be reduced by the order and that 9 the evidence is not in any event within the terms of 10 reference, insofar as it is not in these circumstances 11 necessary to identify the two individuals.</p> <p>12 THE CHAIRMAN: Mr Kark, you say in relation to one of the 13 statements, is there not such an allegation in both of 14 them?</p> <p>15 MR KARK: In the second statement I don't think it needs 16 redacted because it's of a wider --</p> <p>17 THE CHAIRMAN: Can I ask you to consider that.</p> <p>18 MR KARK: I will certainly reconsider that, yes.</p> <p>19 THE CHAIRMAN: My proposal is that in any event the 20 statements not be published until I have come to 21 a decision about redactions.</p> <p>22 MR KARK: Yes, certainly.</p> <p>23 THE CHAIRMAN: Obviously normally our processes have allowed 24 this to happen before the witnesses have actually 25 arrived, but because of the circumstances that has not</p> <p style="text-align: center;">Page 7</p>
<p>1 intelligence staff, both in central teams and 2 regionally.</p> <p>3 Well, at least some of the evidence that we propose 4 now to call before you from Mrs Pollard and Mrs Sheldon 5 puts some of that evidence into perspective, and again 6 we submit that it's right for you to hear this new 7 material in case it may alter your view of the evidence 8 which you've heard to date. We do not, therefore, 9 accept, as the CQC puts it in their very recent 10 response, the majority of the matters set out in the 11 evidence of Mrs Sheldon and Mrs Pollard are outside the 12 inquiry's terms of reference. Indeed, our view is that 13 the majority of it is well within the terms of 14 reference, but having said that, I will be careful to 15 ensure that the questions that I ask are appropriate, 16 and I know that you will be swift enough, as it were, to 17 pull me up if you feel we are going at any stage beyond 18 the terms of reference, and in any event Mr Hart Queen's 19 Counsel is sitting behind me representing the CQC, 20 together with Mr Partridge, who will have an opportunity 21 of addressing you on the evidence I am about to call.</p> <p>22 Can I say, finally, something about the posting of 23 this material to the website. One of the witnesses 24 makes specific allegations against two individuals, 25 which appears certainly to be based purely on hearsay.</p> <p style="text-align: center;">Page 6</p>	<p>1 happened here.</p> <p>2 MR KARK: Well, quite. It has all been done pretty quickly, 3 and it may well be also that the CQC will wish to revise 4 their response, which otherwise --</p> <p>5 THE CHAIRMAN: I was going to say quite reasonably the 6 response deals with some of those matters, which if 7 they're not going to be put into the public domain, they 8 might also wish not to be in the public domain.</p> <p>9 MR KARK: But for those who are interested, that is why the 10 statements are not being immediately posted to the 11 Internet, although we hope we're going to be able to 12 post them either this evening or tomorrow morning.</p> <p>13 THE CHAIRMAN: Thank you. Mr Hart, I have read your closing 14 submission, but if you want to supplement them orally, 15 you're welcome to do so.</p> <p>16 MR HART: If I may, just briefly.</p> <p style="text-align: center;">Submissions by MR HART</p> <p>18 MR HART: Sir, I trust you will forgive me making just a few 19 preliminary observations in addition to the instalments 20 of our submissions, which made their way into the 21 inquiry late Friday night and over the weekend in some 22 cases.</p> <p>23 THE CHAIRMAN: I am very grateful for your very swift 24 response.</p> <p>25 MR HART: Thank you. I have three points and I will make</p> <p style="text-align: center;">Page 8</p>

<p>1 them in just a few sentences. I can summarise them as 2 follows: (1) terms of reference; (2) timescale; (3) 3 concurrent review.</p> <p>4 The first terms of reference which Mr Kark has 5 addressed you on, I, like him, ask you to bear in mind 6 the extent to which the evidence does indeed fall within 7 the terms of reference, and I think to this extent there 8 may be some common ground between us as to the current 9 effectiveness of the CQC. We do question, for instance, 10 whether it is indeed within the terms of reference that 11 one should investigate the ins and outs of the 12 sufficient sharing of information between existing 13 executive members and the board, and the efficacy or 14 otherwise of the leadership in fact provided by the 15 chair and/or chief executive.</p> <p>16 The second point, timescale. The difficulty 17 inevitably imposed by the short timescale, indeed 18 affecting all of us, not simply the CQC, and the 19 understandable desire that the inquiry should finish 20 hearing submissions this week does mean inevitably that 21 the inquiry will only receive some of the story, such 22 parts of the story that we have been able to put 23 together in the few days since we received the 24 statements. Just giving one example, perhaps 25 indicative, take the point I've already made about the</p> <p style="text-align: center;">Page 9</p>	<p>1 We simply say, in terms of many of the issues with 2 which we will be touching on, that there will be 3 concurrent reviews, so that even if in other 4 circumstances it were proper for you, sir, to opine on 5 some of these matters, you may think that in the light 6 of that and in the light of the second point I made 7 about timescale, that so to speak if in doubt leave it 8 to others to consider it.</p> <p>9 Sir, those are my submissions and can I simply make 10 it absolutely plain from this, I am not for a moment 11 seeking to exclude this evidence from the inquiry. That 12 is not my application.</p> <p>13 THE CHAIRMAN: Mr Hart, thank you very much. That's very 14 helpful.</p> <p style="text-align: center;">Decision by THE CHAIRMAN</p> <p>16 THE CHAIRMAN: Both today's witnesses, I should make it 17 clear, have come forward to this inquiry of their own 18 volition, and I suspect it has required great courage on 19 their part to do so. So far I have seen nothing to 20 suggest that they have acted other than in good faith, 21 and without intending to refer in any way to the 22 technicalities of current whistle-blowing legislation, 23 it seems to me that both these witnesses are properly 24 called whistle-blowers, whether at the end of the day 25 I accept what they say or not, and obviously I have to</p> <p style="text-align: center;">Page 11</p>
<p>1 inadequacy or the adequacy of the sharing of information 2 between the executive and the board. To do a full 3 inquiry into that issue one would need, in a sense, two 4 categories of information. The first is, what did the 5 board get? And one fails to say it but it's in its 6 entirety, given the nature and width of the allegations 7 that are made, and secondly, what did the executive 8 have? It would only be if there were a culpable 9 mismatch between the two that the allegations would be 10 made out. So I think simply to state that as an 11 exercise perhaps indicates the difficulty of the inquiry 12 reaching any settled conclusions on those sorts of 13 issues on the current information.</p> <p>14 The third point, concurrent review. Sir, as you 15 will know, the CQC is subject to ongoing reviews by the 16 Department of Health capability review -- you'll have 17 seen the reference to the timescales there, November to 18 January 2012, concerned with the model, staffing and 19 leadership -- the National Audit Office report due end 20 November, i.e. any day, with a Public Accounts Committee 21 appearance on 12 December, and that leaves aside, 22 leaving aside the recent Health Service Committee 23 September report, and the documentation to which we have 24 made reference, sent in by the CQC to that committee, 25 which is with that committee.</p> <p style="text-align: center;">Page 10</p>	<p>1 make up my mind about that. However, it is for me and 2 me alone to assume the responsibility of deciding 3 whether their evidence should be admitted, and in that 4 context I heard helpful advice from Mr Kark and also 5 submissions to which I must pay tribute, given the short 6 time for their preparation, from those representing the 7 CQC.</p> <p>8 I have considered the matter with care, and it seems 9 to me that much of what it appears these two witnesses 10 can say is within the terms of reference. I am charged 11 with applying the lessons to be drawn from Stafford, 12 including those arising out of the culture of the 13 organisations responsible for oversight and regulation, 14 to the system as it now is. It seems to me that to do 15 that I must understand the system as it now operates and 16 necessarily the challenges it is facing. That is not to 17 say that I should investigate the actual performance of 18 such organisations today, not only is that not, it seems 19 to me, within my terms of reference but, as Mr Hart 20 says, other bodies are currently undertaking that task 21 and, therefore, it would hardly be proportionate for me 22 to do so.</p> <p>23 However, I do think that it's perfectly proper for 24 me to look at the tensions that may arise in relation to 25 the new regime and also to be aware of the issues</p> <p style="text-align: center;">Page 12</p>

<p>1 arising with regard to different approaches to 2 regulation. However, I do not wish to hear about or to 3 look into specific allegations about the conduct of 4 individuals in those organisations, even if I was being 5 offered direct evidence of such matters, which by and 6 large it doesn't seem to me exists in these statements. 7 No doubt counsel will be astute to ask questions 8 only which he considers relevant to the terms of 9 reference, and I will make it clear where I feel I am 10 not being helped by a line of questioning. Of course, 11 Mr Hart can feed in questions to Mr Kark in relation to 12 matters his client wished to challenge. I am not 13 encouraging him to do so but obviously he has the 14 opportunity to apply to ask questions directly. 15 I do have to bear in mind both in relation to the 16 procedure adopted and also the way in which I regard 17 this evidence to the timescale, as Mr Hart has invited 18 me to do. This is at short notice, and inevitably the 19 ability to investigate underlying issues will be 20 constrained by time to some great extent. However, 21 I would hope to be able to see that mitigated, firstly 22 by any questions that might be put to the witnesses 23 today, but again without encouraging a ping-pong and 24 a further shower of documents to an already over-heavy 25 documentary burden on the inquiry. Should, arising out</p> <p style="text-align: center;">Page 13</p>	<p>1 for some. If at any stage you feel you need a break, 2 other than when I call one myself, please feel free to 3 ask for it and I will be sympathetic to that. 4 A. Thank you. 5 THE CHAIRMAN: Thank you. 6 MRS AMANDA POLLARD (affirmed) 7 Examination-in-chief by MR KARK 8 MR KARK: Is it -- 9 THE CHAIRMAN: Sorry, the first thing perhaps we ought to 10 say to you by way of advice is this, it's very 11 difficult, I know, but could you try and speak as slowly 12 as you can because we have to keep up with what it is 13 you say, and I'm afraid you will be reminded about that 14 if you go too fast. 15 A. That's fine. 16 THE CHAIRMAN: Quite a good thing to remember is to try to 17 take a breath between each sentence. 18 A. Between -- take a breath in the next hour would be good. 19 MR KARK: Is it Mrs Amanda Pollard? 20 A. That's fine. 21 Q. Mrs Pollard, you made a statement which is signed and 22 dated on 21 November, so just last week in fact, and do 23 you stand by the contents of that statement, first of 24 all? 25 A. I do.</p> <p style="text-align: center;">Page 15</p>
<p>1 of the evidence that's heard today, there be a wish to 2 add a response and a comment, then I will afford that 3 opportunity, albeit within a short timescale. I will 4 consider what that timescale is and make an announcement 5 of that on Thursday. 6 I think that's all I need to say at the moment, and 7 perhaps we could call the first witness. 8 MR KARK: The first witness will be Mrs Amanda Pollard, 9 please. 10 THE CHAIRMAN: Thank you. (Pause). 11 Mrs Pollard, good morning. 12 A. Hello. 13 THE CHAIRMAN: Thank you very much for agreeing to come to 14 see us and for offering us your insight into the Care 15 Quality Commission. I have obviously read your 16 statement, as has the relevant lawyers in this room. 17 You'll understand that we're probably interested in not 18 absolutely everything that you've said in relation to it 19 being within our terms of reference, and so to that 20 extent the questions may be more restricted than you 21 might have anticipated, which could possibly come -- 22 A. It suits me. 23 THE CHAIRMAN: -- as sense of relief to you. 24 Giving evidence to this inquiry is difficult for 25 most people but I suspect more difficult for you than</p> <p style="text-align: center;">Page 14</p>	<p>1 Q. I think you wanted to start by making a short statement. 2 Before you do that, can I just ask what your current 3 position is at the CQC? 4 A. I am currently a compliance inspector with the West Kent 5 team. 6 Q. Right. Thank you very much. Would you like to make the 7 statement that I think you've written out? 8 A. Thank you, sir. Can I just make clear that I do believe 9 that the CQC is making a difference to people's care. 10 Unannounced on-site inspections are the way ahead. The 11 CQC has inspectors well motivated to making that 12 difference but we are doing that despite the lack of 13 clear direction and support mechanisms not because of 14 them. 15 Judgments are being made that are robust but this 16 reliance on inspectors' experience rather than a robust 17 nationwide decision log or common structures. The last 18 thing the CQC and, in my small opinion, the country 19 needs now is a rehaul of healthcare regulation; it just 20 needs better management of what it's got. 21 The CQC should be one of the first ports of call for 22 people feeling they need to tell someone about poor care 23 or management. I've personally found this past week 24 stressful and I feel I've only been able to get through 25 it due to Peter Jones, the solicitor to the inquiry, and</p> <p style="text-align: center;">Page 16</p>

<p>1 Alan Robson, the secretary to the inquiry, who seem able 2 to say just the right thing at just the right time, and 3 I am able to have this opportunity to present my 4 evidence due to the work and support of Cathy James, the 5 chief executive of Public Concern at Work. 6 Last Friday, the chair, Jo Williams, posted a letter 7 to all staff on the CQC intranet, making it plain that 8 she saw my and the board members' appearances today as 9 highly damaging and would weaken the work carried out by 10 inspectors on a day-to-day basis. She was of the view 11 that airing personal opinions in the media will 12 negatively impact on the care received by people as our 13 effectiveness would be reduced. 14 I have not aired my views to the media. I took my 15 concerns to Public Concern at Work, who felt the issues 16 I raised were pertinent to this inquiry. I was told 17 I had to attend today. 18 Whilst I was not expecting to be thanked for my 19 actions, if the CQC was serious about hearing the 20 staff's views, even when they're negative, they would 21 have heard mine and I would not be sitting here. The 22 CQC must support the whistle-blowers who come to us and 23 maybe that should start at home. 24 Q. All right. 25 A. Thanks.</p> <p style="text-align: center;">Page 17</p>	<p>1 came out of work done that -- raised from the Maidstone 2 and Tunbridge Wells issues. 3 Q. I think at the time there was a specific budget devoted 4 by the Department of Health for those specific purposes. 5 A. There may well have been. 6 Q. All right. I want you, if you can in nutshell, to 7 describe your training at the Healthcare Commission, and 8 compare that with what you received at the CQC. If this 9 helps you, you can always refer to your statement but 10 don't feel bound by your statement, please, but you deal 11 with this in paragraph 3, where you talk about the 12 training at the HCC as being in-depth. Presumably, you 13 had some knowledge of healthcare-associated infection 14 before you came to the HCC? 15 A. I had some knowledge, but not in depth, and the 16 Healthcare Commission and the small team that we were 17 made sure that we were fully equipped to go out before 18 we did the inspections. I was part of the second 19 tranche of inspectors. The first tranche had -- had 20 seminars and work days and these were videoed, and I was 21 given a video of those, as the second tranche, but that 22 was -- that was adequate, and any queries I had were 23 more than covered by the specialist inspectors and 24 assessors that were there at the time. And I also went 25 out on inspections with specialists, so any queries were</p> <p style="text-align: center;">Page 19</p>
<p>1 Q. I'd like to say thank you very much and you can go now, 2 but -- 3 A. Bolt for the door. 4 Q. -- I have a few more questions, and I want to start, 5 please, by just asking you a little bit about your own 6 background and the experience that you brought to your 7 job. I think you graduated in 1991, and since then, is 8 it right, you've always worked in the management side of 9 healthcare? 10 A. Yes, on and off. I've had maternity, that sort of 11 thing, but yes. 12 Q. You were at one stage, I think, a manager within an NHS 13 trust? 14 A. Oh, yes. 15 Q. Then in 2008, you joined the Healthcare Commission. 16 A. Yes. 17 Q. Was that as part of a healthcare-acquired infection 18 team? 19 A. Healthcare-associated inspection -- 20 Q. Healthcare-associated? 21 A. Yes. 22 Q. Was that part of the government's drive then to try to 23 tackle -- 24 A. I believe it was, yes. I believe the team came out 25 of -- and it's just my personal recollections, the team</p> <p style="text-align: center;">Page 18</p>	<p>1 covered. 2 Q. We're interested in that because we want to compare the 3 system as it was then with now. 4 You say: 5 "The inspections were conducted by me ..." 6 This is in paragraph 4. 7 A. Thank you. 8 Q. "... and another lead assessor supported by a specialist 9 assessor. The four specialists in the team that 10 supported inspections had previously been infection 11 control nurses -- 12 A. Yes. 13 Q. -- in acute trusts." 14 How important was that input from specialists? 15 A. I think at the time of that team and given that the lead 16 assessors were different people coming from different 17 walks of life, some of them had more sort of auditing 18 experience than healthcare experience, it was important 19 and they were always there as that point of reference. 20 That the second year we went more in twos, but there was 21 always a specialist assessor on call and we'd organised 22 that and arranged it, or a second in call (sic) if we 23 couldn't get through to the first one for any reason. 24 Q. I'm going to come back to your work at the CQC and the 25 access that you have to specialists, so I am not going</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 to leave that topic --</p> <p>2 A. Okay.</p> <p>3 Q. -- completely, but I am for the moment, because you</p> <p>4 speak in your paragraph 6 about the build-up then, when</p> <p>5 you were at the HCC, to an inspection and how you would</p> <p>6 go about deciding what it was that you needed to look</p> <p>7 at.</p> <p>8 You say:</p> <p>9 "Prior to an inspection, data would have to be</p> <p>10 reviewed and analysed by data analysts, so we would have</p> <p>11 identified potential risks and possibly which areas we</p> <p>12 wanted to visit beforehand."</p> <p>13 You say the data might have come from Peter or from</p> <p>14 other sources.</p> <p>15 Now, the CQC point out that what you describe in</p> <p>16 that paragraph as the HCC methodology is exactly the</p> <p>17 CQC's compliance methodology in terms of pre-inspection</p> <p>18 work. Is that how you found it?</p> <p>19 A. I don't have a trust in my portfolio, so I can't comment</p> <p>20 on what it's like to be an inspector carrying out an</p> <p>21 inspection of a trust at the moment.</p> <p>22 Q. That's an important point, isn't it, because your role</p> <p>23 at the CQC now is not looking at acute trusts?</p> <p>24 A. No.</p> <p>25 Q. And it's not looking at healthcare-acquired infections?</p> <p style="text-align: center;">Page 21</p>	<p>1 in that trust.</p> <p>2 The methodology did change, it changed with the</p> <p>3 Health and Social Care Act and there was obviously more</p> <p>4 of an onus on outcomes. There's a general view that</p> <p>5 HCAs don't -- and the hygiene code doesn't necessarily</p> <p>6 lend itself well to outcomes but we tried to do that as</p> <p>7 best we could and we did that effectively. And then the</p> <p>8 inspections were one day.</p> <p>9 Q. How resource intensive were these? Because you say in</p> <p>10 paragraph 7 that when you came to writing the reports,</p> <p>11 the inspections might have taken two days and then they</p> <p>12 were reduced to one day, and you say:</p> <p>13 "The reports were lengthy documents that could take</p> <p>14 roughly five days to produce."</p> <p>15 A. Oh they were very -- very person-intensive. The</p> <p>16 inspection was and writing the report certainly was.</p> <p>17 And I can perfectly understand that in a new world with</p> <p>18 so many various providers that's not going to be</p> <p>19 achievable, and I think the team embraced that and</p> <p>20 that -- that formed part of the reason why we slimmed</p> <p>21 down the methodology for the second year. I think we</p> <p>22 were also a bit more sure about what we were seeing in</p> <p>23 trusts.</p> <p>24 Q. You also talk about quality assurance and quality</p> <p>25 assurance is something that this inquiry has heard</p> <p style="text-align: center;">Page 23</p>
<p>1 A. That's right.</p> <p>2 Q. All right. We'll come on to --</p> <p>3 A. Okay.</p> <p>4 Q. -- your work at the CQC.</p> <p>5 When you were still at the HCC, how in-depth would</p> <p>6 you say those inspections were and how good were they at</p> <p>7 rooting out problems?</p> <p>8 A. I think for the first year, they were incredibly</p> <p>9 in-depth. They were --</p> <p>10 Q. Can you speak up a little bit?</p> <p>11 A. Sorry, for the first year they were very in-depth. They</p> <p>12 lasted for two days, we would spend the first part of</p> <p>13 the first day on the wards -- and we would choose at</p> <p>14 least three -- and if a trigger came up during the</p> <p>15 course of what we saw, we would go on to look at others</p> <p>16 if needed. Then in the afternoon, we would -- I mean,</p> <p>17 I know some people did sort of focus groups and talked</p> <p>18 to staff -- and then our findings from that would inform</p> <p>19 what we would be asking the board on the following day.</p> <p>20 And that gave us a good sort of ward-to-board overview</p> <p>21 of what was going on.</p> <p>22 And I would say -- I mean, the first year we used to</p> <p>23 take home, you know, suitcases full of policies.</p> <p>24 Certainly at the end of the second day there really</p> <p>25 wasn't much that we didn't know about infection control</p> <p style="text-align: center;">Page 22</p>	<p>1 a little bit about, and you say:</p> <p>2 "The quality assurance of our reports was also very</p> <p>3 effective. Before we made any decision on an inspection</p> <p>4 we were referred to a decision log."</p> <p>5 And you say:</p> <p>6 "The decision log was used as a comparator during</p> <p>7 inspections and gave Christine Braithwaite an oversight</p> <p>8 of the decisions that were being made across the</p> <p>9 country."</p> <p>10 Can you just tell us a little bit about why that was</p> <p>11 an effective system?</p> <p>12 A. We had the decision log, it was -- from memory, it was</p> <p>13 on our intranet and we were able to go back to the</p> <p>14 various decisions that had been made before by the</p> <p>15 national panel on -- that came from the inspections</p> <p>16 before. So there was some continuity of</p> <p>17 decision-making. It was helpful for us to be able to</p> <p>18 see what decisions had been made before, and these</p> <p>19 weren't set in stone. You know, if we found that there</p> <p>20 was a different slant on something, you know, it would</p> <p>21 inform the decision log and it would be progressed. It</p> <p>22 wasn't, you know, just because a decision is made that's</p> <p>23 it forever more on future decisions. But it was an</p> <p>24 alive document and you would not have submitted your</p> <p>25 report to the national -- national panel without looking</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 at that decision log.</p> <p>2 Q. Because it gave you a comparator?</p> <p>3 A. Absolutely.</p> <p>4 Q. You moved over to the CQC, presumably in April 2009?</p> <p>5 A. Yes. It must be. Yes, it seems a long time ago.</p> <p>6 Q. When it started business when it opened its doors.</p> <p>7 A. Yes; I think.</p> <p>8 Q. Thereabouts. All right.</p> <p>9 A. Thereabouts.</p> <p>10 Q. And you say the work of the HCAI team was inherited by</p> <p>11 the CQC, so when you moved over to the CQC, does that</p> <p>12 mean that essentially your role at least at first stayed</p> <p>13 the same?</p> <p>14 A. Yes, it did. Yes.</p> <p>15 Q. Then you say:</p> <p>16 "In around April 2010 changes were made to HCAI</p> <p>17 inspections and the inspection programme was extend but</p> <p>18 there was also a change and a shortening to the</p> <p>19 methodology."</p> <p>20 But you accept, I think, that not too much was lost</p> <p>21 by those changes?</p> <p>22 A. I don't think so, and I think by then we had all had had</p> <p>23 enough -- sufficient experience going out there on</p> <p>24 inspections with specialists, also the experts that were</p> <p>25 sometimes called in, arguing our points at the national</p> <p style="text-align: center;">Page 25</p>	<p>1 could they. I -- I was just given the impression that</p> <p>2 it was really for the managers to debate, and I left it</p> <p>3 to them. I thought they were far better placed than</p> <p>4 I was to give an opinion. But because I make reference</p> <p>5 to it, it must have happened but I can't say it was</p> <p>6 significant enough to have stayed in my mind.</p> <p>7 Q. You say that the last infection control inspection that</p> <p>8 you undertook was in July 2010 at the PCT in the West</p> <p>9 Country, and it was during that inspection, I think,</p> <p>10 that you became aware that the teams were being in fact</p> <p>11 disbanded?</p> <p>12 A. It was before then that we were told that they would be</p> <p>13 disbanded, but we were told that there was a programme</p> <p>14 of PCT inspections to the -- October, I think,</p> <p>15 I believe, and that in effect the work that we were</p> <p>16 doing had been safeguarded, or whatever, and that we</p> <p>17 would be allowed to carry on, but during that inspection</p> <p>18 we got an email or -- it was an email sent through to us</p> <p>19 to say that actually the decision has been made that we</p> <p>20 need to be pulled off inspections and do registration</p> <p>21 instead. It was really disappointing to the team.</p> <p>22 Q. What was your new role? What were you expected to be</p> <p>23 doing?</p> <p>24 A. To begin with -- well, my new role was as a compliance</p> <p>25 inspector but we weren't to start off as compliance</p> <p style="text-align: center;">Page 27</p>
<p>1 panel, referring to the decision log. We knew what we</p> <p>2 were talking about by then, and I think -- I think that</p> <p>3 probably did facilitate a shortening of the inspections</p> <p>4 without much lost.</p> <p>5 Q. How long did it take you to build up that sort of sense</p> <p>6 of expertise?</p> <p>7 A. Probably for others shorter than myself, but I think it</p> <p>8 was a good sort of six months into it before you felt,</p> <p>9 "Yes, I'm okay here", but I think that's the same for</p> <p>10 lots of different jobs.</p> <p>11 Q. You say in your statement, although the timing isn't</p> <p>12 quite clear, that you heard rumours that the CQC was</p> <p>13 proposing to dissolve the central HCAI teams and split</p> <p>14 the staff into regions, and you say you couldn't believe</p> <p>15 that something so effective was going to be thrown away.</p> <p>16 The team was in fact split up, and whether that was</p> <p>17 a good thing or a bad thing I think you have quite firm</p> <p>18 views on that, but I just want to ask you about what</p> <p>19 sort of notice you got, what sort of consultation was</p> <p>20 there at your level about that decision?</p> <p>21 A. I -- I -- I really can't recall much and I have spoken</p> <p>22 with another colleague from the team, because I just --</p> <p>23 there must have been a consultation because I referred</p> <p>24 to it in my letter to Cynthia Bower, but I truly can't</p> <p>25 recall formally being told to input into it, and neither</p> <p style="text-align: center;">Page 26</p>	<p>1 inspectors. Initially, we were told that we would be</p> <p>2 going from assessors in the HCAI team to October, finish</p> <p>3 that and then take-up our compliance work as</p> <p>4 a compliance inspector of the CQC from October, but then</p> <p>5 the issue of registration came up and -- and we were</p> <p>6 told it was -- you know, it really was number 1 risk and</p> <p>7 it was absolutely, completely clear and overwhelming</p> <p>8 that registration was the risk to the CQC and so our</p> <p>9 HCAI inspection programme was -- I mean, they say it was</p> <p>10 finished by a couple of the people still left in the</p> <p>11 team. It may well have been, I don't know to the</p> <p>12 extent --</p> <p>13 Q. Sorry to interrupt you?</p> <p>14 A. Sorry.</p> <p>15 Q. When you talk it was made clear that it was the number 1</p> <p>16 risk to the CQC, what does that really mean? What sort</p> <p>17 of risk?</p> <p>18 A. If we didn't get everyone, all these new providers</p> <p>19 registered in time, then I don't know what would happen,</p> <p>20 but not very good things would happen.</p> <p>21 Q. All right. Can we just have a look at couple of emails</p> <p>22 then. You've made reference to them. If we could go to</p> <p>23 your third exhibit, please. 0000078161.</p> <p>24 This will come up on a screen. Can we go right to</p> <p>25 the bottom of the page, because we're going to over the</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 page in a moment, just to show this is 23 July 2010, 2 when you wrote to Cynthia Bower and copied it into 3 somebody called Andrew Cook. Now, it may be thought to 4 say good things about an organisation that you felt you 5 could write directly to the chief executive. Tell us 6 why you wrote this note to the chief executive. 7 A. Because I felt that we weren't being listened to. 8 I felt that there was a risk and it was a risk to 9 patients, potentially, and being taken off -- I mean, 10 I did believe in what we were doing with the HCAI team. 11 I believe we did have an impact and made a difference, 12 and we hadn't finished that programme, and sitting at 13 a desk doing registration on a computer wasn't to me the 14 same risk as the risk to patients. So that's what 15 really made me -- and because no one was listening. It 16 just all seemed to be -- it was a fait accompli. 17 Q. How had you tried to get your views over before writing 18 this letter? What efforts had you made? 19 A. I had spoken within the team. I had -- obviously within 20 the managers. The managers of the HCAI team, you know, 21 expressed their disappointment too, but said, you know, 22 basically there's -- you know, this is the way to go, 23 this is the new way of working. And that it was it 24 really, and I -- it seemed that there wasn't really any 25 level to go to between me and Cynthia that could have</p> <p style="text-align: center;">Page 29</p>	<p>1 registration is the number 1 concern/risk for the CQC. 2 But no one's going to die by not being registered." 3 And then you talk about the difficulty of training 4 1,000 or so compliance inspectors to the level that you 5 have been trained. 6 It seems obvious, I don't want to put words in your 7 mouth but it seems obvious that you felt that a resource 8 was being lost? 9 A. Oh completely. It was such a shame. I mean, we've had 10 not only the training but it was the experience of going 11 out there and for looking. I mean, it's this, the 12 essential standards, there's 16 of them, and the 13 guidance for any one of them that we look at is roughly 14 no more than about eight pages. Outcome 8 isn't listed 15 in here because this is outcome 8. 16 Q. Outcome 8 is infection control. 17 A. Is infection control, and this is outcome 8. So it's so 18 big it stands away from the rest of it, and that's why 19 I feel that something was lost, because especially with 20 hospitals, it's just not realistic for the rest of the 21 inspectors to have been trained to the level that we 22 were trained, but the new field force model was that it 23 was generic, everyone was to be generic, and I just 24 thought that was just a waste. 25 Q. Now, when you talk about every must be generic, could</p> <p style="text-align: center;">Page 31</p>
<p>1 changed that decision. 2 Q. Was this the first time you'd written to Cynthia Bower? 3 A. Yes. 4 Q. Can we just have a quick look at the letter, please. So 5 if we go to the second page, and if we could highlight 6 the second paragraph "I am writing to you": 7 "I am writing to you [you write] to voice my 8 concerns about the future provision of HCAI inspection 9 within the CQC." 10 You say: 11 "I kept an open mind through field force 12 presentations regarding the HCAI inspection provision, 13 feeling that at some stage the benefits of what is being 14 plant will come clear, and in my ignorance I'm missing 15 the bigger picture. I am still waiting for this eureka 16 moment." 17 You talk about the importance then, I am not going 18 to go through the rest of this -- you talk about the 19 importance, in your view, of infection control. 20 Could we just go, please, to the fourth paragraph -- 21 sorry, probably the fifth paragraph down "We have just 22 been told that": 23 "We have just been told that the PCT inspections are 24 now stopping, and we are all to work on registrations. 25 The message is coming through loud and clear that</p> <p style="text-align: center;">Page 30</p>	<p>1 you just expand on that for a moment. 2 A. There were different people coming into the CQC to do 3 this compliance role who had come from a variety of 4 backgrounds, obviously the HCC, there was mental health, 5 there was CSCI. People came with different experiences, 6 different skills, different specialisms, but it was made 7 absolutely plain to us that we were all in the same boat 8 now and that we were all going to be inspecting the huge 9 range of providers that there are in the same way, using 10 the same set of tools. And I understand that to some 11 extent, I do appreciate that as an inspector or an 12 assessor you should be able to pick up those -- the 13 guidance or to pick up the regulations and be able to 14 assess in a variety of different scenarios, but given 15 that we had so many skills and specialisms, it was 16 throwing the baby out with the bathwater. It was 17 unnecessary. It was an unnecessary risk, and it wasn't 18 utilising the staff that we had. Sorry. 19 Q. One of the expressions that I can recall being used by 20 CQC witnesses was that you would all become professional 21 regulators. Do you know what is meant by the term 22 "professional regulator" -- 23 A. I do understand what they're -- 24 Q. Are you a professional -- 25 A. I don't feel very professional sitting here. I -- I do</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

<p>1 know what they're saying. That -- this is what they're  2 saying, that everyone should be able to use the  3 regulations and be able to go out and assess in -- in  4 the same way. But there's -- that works to an extent.  5 I think in order to be able to do that, you have to  6 properly train people in what you're going to assess.  7 And I think there's also issues of, you know, staff  8 morale that people have built-up backgrounds of  9 experience and their CVs in particular specialisms, and  10 it is demoralising people to not have that recognised  11 and to be told that they're just generic.  12 Q. Does it, in your view, affect the quality of the  13 inspections?  14 A. I do, in my view, yes.  15 Q. Can we just have a look at the response either written  16 by Cynthia Bower or on her behalf, if we go to the page  17 before, please, 8162.  18 Could we highlight just the first paragraph, please:  19 "Dear Amanda.  20 "Thank you very much for sharing your views.  21 I understand that you are anxious as CQC is winding down  22 the dedicated HCAI programme in preparation for  23 October 1st. This planning has been done in full  24 cooperation with the head of national statutory  25 inspection ... The proposal through field force</p> <p style="text-align: center;">Page 33</p>	<p>1 assessing providers for registration, were you?  2 A. Yes.  3 Q. Tell us about the training you received.  4 A. For registration?  5 Q. Yes.  6 A. I had about an hour or so with a lady who has now left  7 CQC, and it was just a rough overview of the legalities  8 of registration but it was mainly about the paperwork  9 and how to actually process it on the computer.  10 Q. How did that prepare you for --  11 THE CHAIRMAN: Could I just ask an extremely basic question,  12 we talk about social care providers and I think I have  13 some limited understanding of what that means but others  14 might not, are we talking about residential care homes,  15 that sort of thing?  16 A. Yes, care homes, nursing homes.  17 THE CHAIRMAN: Community care providers or not?  18 A. Domiciliary care providers, yes.  19 THE CHAIRMAN: So agencies?  20 A. Yes.  21 THE CHAIRMAN: And homes?  22 A. Yes.  23 THE CHAIRMAN: All adult ones or --  24 A. Yes.  25 THE CHAIRMAN: Thank you.</p> <p style="text-align: center;">Page 35</p>
<p>1 consultation was for a phased transition of the national  2 team out to regions with the programme finally  3 concluding by September 30th, so the programme is  4 concluding two months early, but I understand that all  5 but a handful of the scheduled trusts will have been  6 concluded and this has been risk assessed."  7 Then this:  8 "Recently we have sought to prioritise registration,  9 not least because this is a legislative requirement for  10 the organisation to carry out but more importantly  11 because it gives us an opportunity to closely assess all  12 of the evidence we have on providers."  13 In terms of registration, meeting that aspiration,  14 in your experience did it?  15 A. I wasn't included in the registration for trusts that  16 happened previously but in -- but for the registration  17 that I was pulled off from the inspection team to do was  18 in effect adult social care. And no, it didn't give  19 me -- I didn't have an opportunity to closely assess.  20 I had -- it was more of a rubber-stamping process.  21 Q. You were pulled off to deal with providers of adult  22 social care, what experience had you had of that  23 previously?  24 A. None.  25 Q. What training were you given? You were one of those</p> <p style="text-align: center;">Page 34</p>	<p>1 MR KARK: And obviously not just for the elderly but  2 including homes for the elderly?  3 A. Yes. Yes.  4 Q. You say at paragraph 24 -- 23 first:  5 "I was given no training for undertaking the  6 registration process. I was told I didn't need to  7 attend the training as I would be carrying out  8 inspections during this period."  9 You say:  10 "In the main I registered care homes, nursing homes  11 and ancillary services. We were told that there was no  12 clinical or specialist skill required to complete the  13 registration, and the process seemed nothing more than  14 a tick-box exercise, certainly for me the process was  15 just a rubber-stamping exercise."  16 You go on to say:  17 "The process was confusing and complex, with  18 a complicated computer system."  19 What sort of assessment was being carried out?  20 Because I think a little later you actually say:  21 "These assessments took a long time to complete."  22 A. Yes. I have -- they were but it was -- it was mainly  23 due to the computer system and generating these notices  24 and getting them out, and generating sort of decision  25 statements, based on the statements that the -- that the</p> <p style="text-align: center;">Page 36</p>

<p>1 providers gave to us.</p> <p>2 Q. So were you checking them in some way? Were you</p> <p>3 checking what had been said to you?</p> <p>4 A. Gosh, from -- I personally didn't have access to the --</p> <p>5 to the computer system of the former CSCI. So maybe the</p> <p>6 ones that got through to me were not the complex ones,</p> <p>7 but they -- if anyone didn't -- if anyone stated that</p> <p>8 they weren't compliant in one area, then I would phone</p> <p>9 the manager and discuss that with -- I mean, my manager</p> <p>10 or the registration one and discuss that with them, and</p> <p>11 perhaps ask a fellow colleague to see if there was</p> <p>12 anything on the other computer system that would help</p> <p>13 inform that, but roughly we just -- we went by</p> <p>14 self-declaration.</p> <p>15 Q. You say in your statement:</p> <p>16 "People would be in tears during regional meetings</p> <p>17 as the process was difficult and we were then told at</p> <p>18 the meetings that management would name and shame those</p> <p>19 who are not meeting their quota of registrations,</p> <p>20 although ultimately this didn't happen."</p> <p>21 I don't want to know who used those words, but what</p> <p>22 did you as a team take from that?</p> <p>23 A. There were some very depressing meetings that we went</p> <p>24 to. We took it at face value that we would somehow be</p> <p>25 named and shamed. I don't know how they were planning</p> <p style="text-align: center;">Page 37</p>	<p>1 ex-Healthcare Commission assessors who had knowledge of</p> <p>2 those organisations in advance."</p> <p>3 This is part of your exhibit 4, if you're looking</p> <p>4 for it. And I asked her:</p> <p>5 "But do you not accept that in reality there was no</p> <p>6 way that the CQC had the wherewithal to check each of</p> <p>7 those action plans properly and even less the ability to</p> <p>8 ensure that trusts were actually compliant by 1 April,</p> <p>9 three months after those action plans were produced? It</p> <p>10 wasn't a possibility, was it?"</p> <p>11 She said:</p> <p>12 "I don't agree it wasn't possible."</p> <p>13 And later on she said:</p> <p>14 "I agree that the process of registration was</p> <p>15 a truncated one. We had to act very quickly, but</p> <p>16 I believe it was a robust process."</p> <p>17 Again, I want to underline, you are not talking</p> <p>18 about trusts?</p> <p>19 A. No. No, I wasn't involved in that.</p> <p>20 Q. But for the providers that you registered, would</p> <p>21 you describe that as a robust process?</p> <p>22 A. No.</p> <p>23 Q. I want to ask you, please, a little bit about --</p> <p>24 THE CHAIRMAN: Was it a process that, in your view, could be</p> <p>25 conducted by looking at information remotely at a desk,</p> <p style="text-align: center;">Page 39</p>
<p>1 to do that, send our names round of an email or</p> <p>2 something of people who hadn't -- hadn't fulfilled their</p> <p>3 quota of registrations. I don't know what was planned</p> <p>4 for us. But it -- given that that was a fairly crucial</p> <p>5 time, that there were new people all coming together</p> <p>6 from different backgrounds, and then throwing in this --</p> <p>7 you know, this challenge of registration to then start</p> <p>8 threatening us with that, was completely self-defeating.</p> <p>9 Q. Can you remember, can you just give us some sort of idea</p> <p>10 of how many providers you would have assessed and</p> <p>11 registered?</p> <p>12 A. Oh, crikey, I wasn't the most prolific.</p> <p>13 Q. Sorry, can you keep your voice up.</p> <p>14 A. Sorry. Sorry. I can't say I wasn't -- I was most</p> <p>15 prolific. I am not that wonderful on the computer</p> <p>16 system. I don't know. I might have registered about</p> <p>17 ten, something like that. I can't really remember to be</p> <p>18 honest, sir.</p> <p>19 Q. We heard, as you know, from Cynthia Bower, and this</p> <p>20 issue was put to her, and we have to be cautious because</p> <p>21 by and large she was being asked about trusts, which</p> <p>22 you, of course, were not dealing with.</p> <p>23 A. No.</p> <p>24 Q. But she said this:</p> <p>25 "The registration was by and large carried out by</p> <p style="text-align: center;">Page 38</p>	<p>1 which, I imagine, included policies, procedures, other</p> <p>2 information?</p> <p>3 A. You see, that's hard to say. I think if -- if anything,</p> <p>4 it would probably have been best done by the inspectors</p> <p>5 who knew the services that we were talking about and had</p> <p>6 some knowledge and had been in the homes, and knew the</p> <p>7 personnel there and knew the issues. But even so, even</p> <p>8 if they did have concerns, I don't know if there would</p> <p>9 have been time to really do all the site visits or -- or</p> <p>10 to bottom out. I mean, it -- the time was of the</p> <p>11 essence and that was the main criteria.</p> <p>12 THE CHAIRMAN: So the starting point of the process would be</p> <p>13 that you would be looking at, what, an application form?</p> <p>14 A. Yes.</p> <p>15 THE CHAIRMAN: Which would contain information in relation</p> <p>16 to the standards?</p> <p>17 A. That's right.</p> <p>18 THE CHAIRMAN: And would that be someone writing information</p> <p>19 on the form or would there be underlying documents in</p> <p>20 support?</p> <p>21 A. No, it would be mainly someone writing on the form just</p> <p>22 saying that, you know, this is in place and that's in</p> <p>23 place. It's a self-declaration, really.</p> <p>24 THE CHAIRMAN: What if any tools did you have to confirm or</p> <p>25 otherwise the accuracy of the statements being made?</p> <p style="text-align: center;">Page 40</p>

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<p>1 A. I personally didn't really have any other recourse to 2 anywhere.</p> <p>3 THE CHAIRMAN: So if the form said that they had a certain 4 system in place --</p> <p>5 A. Yeah.</p> <p>6 THE CHAIRMAN: -- you had to accept that?</p> <p>7 A. Yes.</p> <p>8 THE CHAIRMAN: So one of your points would be that if you'd 9 been someone with particular knowledge about that place, 10 you might have had material --</p> <p>11 A. Be able challenge that.</p> <p>12 THE CHAIRMAN: But did you have any point of reference you 13 could go to to ask those sort of questions?</p> <p>14 A. Not that I recall, no.</p> <p>15 THE CHAIRMAN: Thank you.</p> <p>16 MR KARK: You say in your statement, and we've got the 17 uncorrected transcript of the health committee evidence 18 that Dame Jo Williams told the health committee 19 regarding the registration process:</p> <p>20 "We have gathered information from every possible 21 source that we can."</p> <p>22 Does that reflect your experience? Did you have the 23 time to gather information?</p> <p>24 A. No, not for -- not for the providers I was dealing with, 25 but I wasn't dealing with trusts.</p> <p style="text-align: center;">Page 41</p>	<p>1 identified during inspections and how these should be 2 assessed."</p> <p>3 You must have received some sort of lecture or 4 discussion prior to going off to inspect a care home. 5 Tell us what happened.</p> <p>6 A. It was -- it was a very, very slow start. The 7 discussions were mainly about the methodology, and any 8 kind of training meetings were largely about methodology 9 and how we were going to do our inspections and get that 10 down on the reports where the -- where we could get 11 these -- the draft formats for for the reports and how 12 to put it through on CRM on the computer system.</p> <p>13 During that time, some of my fellow compliance 14 inspectors who were skilled in and had lots of 15 experience in care homes and adult social care kindly 16 took pity on me and rota'd me in on a few places so that 17 I could go and shadow, and that is basically where 18 I have learned about adult social care, by asking them 19 and quizzing them and seeing what they do, but it was 20 for less than a handful. And I am -- I am still doing 21 it, I am surprised I'm not on call barring by some of 22 them, because I am constantly on the phone to them 23 asking their opinions, their views.</p> <p>24 Q. That sounds very much as if it is something you 25 instigated rather than anything that was instigated by</p> <p style="text-align: center;">Page 43</p>
<p>1 Q. No, I think we've got that point.</p> <p>2 A. But not for mine, no.</p> <p>3 Q. Whose decision about registration was it? Did you pass 4 information on to somebody more senior to you?</p> <p>5 A. Yes, we would have passed it on to in effect a manager 6 who was acting as a registration manager.</p> <p>7 Q. Right. Do you know if there was any other information 8 which would feed in at that point?</p> <p>9 A. I don't know. I don't know.</p> <p>10 Q. Now, in October of 2010 you took on the position, 11 I think, of regional compliance inspector for care homes 12 and nursing homes, and you've told us that really you 13 didn't have any experience, professional or I suppose 14 otherwise, of that sort of medium. You describe the 15 training at paragraph 31, I think, as being appalling. 16 Tell us what training you received which equipped you 17 effectively to act in that role?</p> <p>18 A. None.</p> <p>19 Q. You say in your paragraph 31, after the words, "the 20 training was appalling", people were literally laughing 21 at how bad it was.</p> <p>22 You say:</p> <p>23 "I was expecting to receive training which 24 demonstrated the meaning behind each of the 16 key 25 outcomes, examples of how to deal with concerns</p> <p style="text-align: center;">Page 42</p>	<p>1 your manager.</p> <p>2 A. That's right, yes. Although it -- you know, it had his 3 agreement, and I was okay to go out, but it was made 4 plain to me that I still had to hit -- I still was 5 expected to hit the ground running, and I had to get on 6 and start doing my own sooner or later and stand on my 7 own two feet.</p> <p>8 Q. When you conduct an inspection, if you walk into a care 9 home, how many of you would normally go?</p> <p>10 A. Just one, normally.</p> <p>11 Q. So when you started, you would have been expected, would 12 you, to walk into a care home, conduct an inspection, 13 write the report on your own?</p> <p>14 A. I would have been expected to do that, but for the fact 15 that I managed to get these few days to shadow my 16 colleagues.</p> <p>17 Q. Sure. Sure. But when you go into a care home, 18 presumably there are occasions when you are talking to 19 people who are vulnerable, either because they're 20 elderly or they may have mental issues, all sorts of 21 things going on?</p> <p>22 A. Yes.</p> <p>23 Q. Did you not receive any training on how to conduct 24 a conversation or how to get the best out of them?</p> <p>25 A. No, sir, no.</p> <p style="text-align: center;">Page 44</p>

<p>1 Q. Or what you could ask?</p> <p>2 A. No, nothing apart from what I received just from my</p> <p>3 fellow colleagues. We have recently had and I recently</p> <p>4 attended what's called SOFI, a standard operating</p> <p>5 framework, off the top of my head, and that has been</p> <p>6 very well received. That was actually put on by</p> <p>7 inspectors for inspectors, and it's basically two days</p> <p>8 of training on observations and how to pick up issues</p> <p>9 going on in the room and interactions between staff and</p> <p>10 people living in the homes, and that has been very well</p> <p>11 received, but that wasn't available at the time.</p> <p>12 Q. You say in your statement at paragraph 70:</p> <p>13 "It is a real concern to me that as inspectors we've</p> <p>14 had no real training about how we could potentially spot</p> <p>15 when this is happening within a provider setting."</p> <p>16 This is talking about sort of Staffordshire or</p> <p>17 Winterbourne.</p> <p>18 A. Sorry, which paragraph?</p> <p>19 Q. Paragraph 70.</p> <p>20 A. 70?</p> <p>21 Q. Seven-zero. Page 21. It should start, I hope yours is</p> <p>22 the same as mine -- does it start:</p> <p>23 "The Health Select Committee's report."</p> <p>24 A. Thank you.</p> <p>25 Q. Then if you look about halfway down, you're talking</p> <p style="text-align: center;">Page 45</p>	<p>1 "We have inspectors from a variety of backgrounds.</p> <p>2 They are trained to a set of standards and each look</p> <p>3 after a mixed portfolio across health and adult social</p> <p>4 care."</p> <p>5 So this seems to be your area?</p> <p>6 A. Yes.</p> <p>7 Q. "In addition to the inspectors themselves, we also have</p> <p>8 a number of professional advisers from the field of</p> <p>9 medicine, dentistry and social care, who give us advice</p> <p>10 where needed but who could also get involved in reviews.</p> <p>11 If we do not have the relevant expertise among our</p> <p>12 advisers, we might approach a Royal college."</p> <p>13 Then she gives various examples.</p> <p>14 Can you just help us, please, have you had</p> <p>15 assistance from professional advisers, other than the</p> <p>16 time you were able to shadow an inspector?</p> <p>17 A. No, not in my current role. I did with the HCAI team.</p> <p>18 Q. Just going back to that, when you were with the HCAI</p> <p>19 team, was that expert assistance you received when you</p> <p>20 were at the CQC?</p> <p>21 A. Yes -- at the Healthcare Commission.</p> <p>22 Q. Ah.</p> <p>23 A. Yes.</p> <p>24 Q. So just focusing on your role at the CQC, and in</p> <p>25 relation to assessing providers of adult social care,</p> <p style="text-align: center;">Page 47</p>
<p>1 about Dame Jo Williams' evidence about Mid Staffordshire</p> <p>2 and Winterbourne to the Health Select Committee, and you</p> <p>3 say:</p> <p>4 "It is a real concern to me that as inspectors we've</p> <p>5 had no real training about how we could potentially spot</p> <p>6 when this is happening within a provider setting. Our</p> <p>7 former line manager held a team meeting to discuss how</p> <p>8 we would have dealt with such a situation. However,</p> <p>9 I believe this was a widespread exercise. In the</p> <p>10 absence of such training or reflective learning, I do</p> <p>11 not think that the CQC are able to assure themselves</p> <p>12 that I as an inspector would spot another</p> <p>13 Mid Staffordshire or Winterbourne View and this is</p> <p>14 a real risk."</p> <p>15 What about now?</p> <p>16 A. We've had training on safeguarding for the computer and</p> <p>17 how we -- how we get the safeguarding issues through or</p> <p>18 if we see one or hear of one, how to log it on the</p> <p>19 computer. We've had lots of CRM training. It's not the</p> <p>20 most organic computer system. But I am no further down</p> <p>21 the line than I was back then.</p> <p>22 Q. Dame Jo Williams told us this at paragraph 27 of her</p> <p>23 statement, and it's your exhibit 7. Perhaps we should</p> <p>24 put this up on the screen. We could go to page 9 at the</p> <p>25 bottom, and right at the bottom, paragraph 27:</p> <p style="text-align: center;">Page 46</p>	<p>1 have you had access as far as -- have you ever used</p> <p>2 experts of any sort --</p> <p>3 A. No, and as I put in my statement, to be fair, I haven't</p> <p>4 asked for any.</p> <p>5 Q. Were you aware that they were available?</p> <p>6 A. They -- they -- I -- I am aware that people talk about</p> <p>7 or at least the senior management talk about their</p> <p>8 availability.</p> <p>9 Q. I mean, you speak to other inspectors, presumably?</p> <p>10 A. I don't know anyone who has called one out, but then</p> <p>11 I have to say I don't that many inspectors because we</p> <p>12 all work from home and we're all quite disparate and we</p> <p>13 don't have that many meetings. I -- it's not the same</p> <p>14 as working in an office. You just don't get to hear,</p> <p>15 you know, what other people are up to so much.</p> <p>16 THE CHAIRMAN: Have you undertaken inspections where you</p> <p>17 would have felt you needed professional advice?</p> <p>18 A. From my -- my role with the CQC starting with adult</p> <p>19 social care, I feel that there wasn't anything specific</p> <p>20 that I could have called in an expert for. I mean, not</p> <p>21 in the same way that perhaps with an HCAI inspection and</p> <p>22 there were queries about an endoscopy unit and I would</p> <p>23 call in a specialist for that.</p> <p>24 With care homes I -- there wasn't necessarily the</p> <p>25 need to call in an expert. I mean, my colleagues who</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 were used to inspecting care homes from CSCI would have 2 been able to give me sufficient, you know, information 3 on it. 4 THE CHAIRMAN: Then what is it in terms of resource that you 5 feel you've been lacking? I don't quite understand if 6 you feel you didn't need professional advice in your 7 particular circumstances -- 8 A. Yeah. 9 THE CHAIRMAN: -- if you're able to get advice from 10 colleagues who are more experienced than you, what is it 11 you're lacking? 12 A. It's not necessarily that specialist -- specialism, it's 13 the basic fundamentals of how we inspect each of these 14 outcomes that I feel that I was missing in training. 15 And I've tried to do the best I can, speaking with 16 colleagues and reading what guidance is available. 17 I don't think for the care homes that I've had to 18 inspect I needed a specialist, inverted commas, but 19 there was definitely a skills gap in the basic 20 provision. 21 THE CHAIRMAN: So without trying to put words in your mouth, 22 is it more a question of you feeling you might not know 23 what questions to ask or things to look for -- 24 A. Absolutely. 25 THE CHAIRMAN: -- than not even know what advice to get?</p> <p style="text-align: center;">Page 49</p>	<p>1 all generic, I presumed that hospitals would be 2 inspected by the new inspectors. They may have had 3 healthcare experience, they may not. They will have 4 gone in in teams to the hospitals -- I am sure that's 5 certainly what happened locally -- and there would have 6 been someone from a healthcare background going in, but 7 I shouldn't think that -- but I don't know for a fact, 8 that not all hospitals contained -- hospitals -- not all 9 inspection teams going into hospitals would have had one 10 of us from the former HCAI team. 11 Q. Your concern, as I think you revealed to us earlier, was 12 the loss of that knowledge? 13 A. Expertise, yes. That experience. 14 Q. Now, you were telling us about the lack of training, so 15 far as you were concerned, and you speak in your 16 statement about asking for some form of reflective 17 learning practice, and you say that you felt that there 18 were times when you were fumbling around in the mist. 19 I just want you to expand on that if you would. What 20 would you have expected, in terms of reflective learning 21 practice? 22 A. Well, I think the team meetings to have had tranches of 23 the day put aside for, you know, how was the last 24 inspection for you? What has been raised? You know, 25 what has people encountered recently, which was</p> <p style="text-align: center;">Page 51</p>
<p>1 A. Than what sorry? 2 THE CHAIRMAN: Therefore, not even know what advice you 3 might need. 4 A. Exactly. Yeah, what you don't know you don't know. 5 THE CHAIRMAN: Mr Kark, can I call a short break now? 6 MR KARK: Yes, of course. 7 THE CHAIRMAN: For personal reasons I need to have the 8 midday adjournment at about ten to 1. So if we stop now 9 for ten minutes then we can go on until then. 10 A. Thank you. 11 (11.50 am) 12 (A short break) 13 (12.00 pm) 14 (Proceedings delayed) 15 (12.02 pm) 16 MR KARK: You had begun by telling us about your work with 17 healthcare-associated infections and we moved on into 18 registration and then compliance inspections, and I just 19 want to go back to the issue of healthcare-associated 20 inspections very briefly. Once you moved on in your 21 role, do you know what the CQC replaced you with, as it 22 were? What was done? 23 A. No. 24 Q. You moved out of that role completely? 25 A. Yes, and that role didn't exist. So given that it was</p> <p style="text-align: center;">Page 50</p>	<p>1 interesting, which people found difficult, which people 2 wanted a second opinion on, which could help or feed 3 into other people's experiences at inspection? Is 4 anyone planning to inspect anywhere that they feel 5 uncertain about? Do we want to talk about that? Is 6 there any expertise here that could feed into that? 7 Or -- you know, the kind of things really that we ask 8 trusts about, in terms of maintaining staff, reflective 9 learning -- 10 Q. Governance? 11 A. Governance, that's right. 12 Q. Is there, in your field at least, at the CQC any of that 13 going on? 14 A. I have -- no, there isn't. I know that one team locally 15 does it. I don't know about any other. I've asked for 16 it and my manager thought it was a good idea but he's 17 subsequently left. We were about to do it but it hasn't 18 happened. 19 Q. I mean, we heard, it seems an age ago now, probably is 20 an age ago now since we heard about the double-loop 21 feedback, whereby inspectors' decisions were supposed to 22 be reconsidered by managers and there was a review 23 process to ensure consistency across the country, so 24 that what one inspector would be doing in the West 25 Midlands another might be doing in Sussex. Have you</p> <p style="text-align: center;">Page 52</p>

13 (Pages 49 to 52)

<p>1 seen any sign of that sort of effort at ensuring 2 a homogeneous approach? 3 A. No. 4 Q. Just give me a moment. (Pause). 5 QRPs, would it be fair to say that the use of 6 quality risk profiles are less relevant to your 7 particular field than they might be for an acute trust, 8 for instance? 9 A. Yes, I would say that. 10 Q. Have you used the QRP system at all or asked the analyst 11 to use the QRP system -- 12 A. No -- 13 Q. -- for you? 14 A. -- I haven't. I haven't. I've seen them for some of my 15 providers but they don't hold more information than 16 I would have known anyway or could have looked at going 17 into the details of some of the notifications or 18 enquiries that are connected to the providers. 19 Q. If there's a lack of information coming from the QRPs, 20 what is it that triggers an inspection of a care home? 21 A. At the moment, it's working through your list and one's 22 portfolio. If something comes up, perhaps from 23 safeguarding or a whistle-blower that doesn't look good, 24 then that would hopefully prompt a review to go out. 25 Q. You produced as your exhibit 11 the ninth report of the</p> <p style="text-align: center;">Page 53</p>	<p>1 Q. Have you ever filled in an engagement form? 2 A. No, sir. 3 Q. Never? 4 A. No. 5 Q. Why is that? 6 A. I would write my notes if -- if there was anything that 7 had come up pertinent to, say, a safeguarding enquiry or 8 a notification, there's space on the computer to write 9 notes associated directly with that. So I would write 10 it in there -- 11 Q. What happens to that information? 12 A. It's stored on the computer. So if people want to go 13 in, they can have a look at it and -- because it would 14 one of my providers when I come next to do an inspection 15 with them, I would go through them all and try and -- 16 and I would remember but it would be an aide-memoire to 17 the various issues that had happened over the past, you 18 know, year or something that had come up. 19 Q. But then it comes down very much to your individual 20 analysis of that material? 21 A. Yes, I suppose it does. 22 Q. What about the new Share Your Knowledge form? Have you 23 seen one of those yet? 24 A. I can't say I have. 25 Q. Sorry?</p> <p style="text-align: center;">Page 55</p>
<p>1 House of Commons health committee, which reported very 2 recently, actually, in September of 2011. They look at 3 this issue of QRPs, and if we could go to page 8443, 4 please. We acknowledge -- 5 THE CHAIRMAN: What's the internal page, please? 6 MR KARK: The internal page -- 7 THE CHAIRMAN: 15? Yes. 8 MR KARK: 15. Yes. Thank you. It's paragraph 46 at the 9 top: 10 "We acknowledge that the CQC operates within 11 a regulatory framework that focuses on outcomes rather 12 than inputs. However, low staffing ratios can have such 13 an exceptional impact on the quality of care that we 14 believe monitoring of staff levels is an essential part 15 of ensuring quality outcomes. The CQC should work to 16 develop a mechanism whereby it can keep a closer track 17 of staffing ratios in private care homes, in a way that 18 can feed through into the QRP. Although it would be 19 difficult for the CQC to mandate minimum staffing 20 levels ..." 21 Now, that's just one topic that's being discussed 22 that might feed into the QRPs. If you don't use the 23 QRPs and analysis through that system to inform you, do 24 you feedback into the QRPs in terms of engagement forms? 25 A. I haven't, no, and don't know many people that do.</p> <p style="text-align: center;">Page 54</p>	<p>1 A. I can't say I have. But we haven't had many team 2 meetings recently where perhaps this might have been 3 discussed. 4 Q. If we look further down this page at paragraph 48: 5 "Nevertheless there is a risk that, especially given 6 the increase in inspectors' caseload detailed 7 earlier ..." 8 I am going to come to that: 9 "... inspectors may be less able to cultivate and 10 monitor other sources of information to complement the 11 QRP. The threshold at which a risk pattern on the QRP 12 is considered significant enough to trigger a visit 13 could also rise. It is important that the CQC is able 14 to rely on its inspectors' judgment in these cases but 15 there needs to be consistency of approach. The trade 16 unions represented at the CQC told us: 17 "'We have detected differing interpretations among 18 members in different parts of the country about the 19 extent to which provider self-assessment declarations 20 routinely need to be independently identified, as 21 opposed to verified and checked out only where a risk or 22 a contra indication has been identified." 23 I suppose it comes back to the same issue, how do 24 you know that your judgment is (a) either correct, or 25 (b) consistent with that of other inspectors?</p> <p style="text-align: center;">Page 56</p>

<p>1 A. I don't know.</p> <p>2 Q. We're going to look at another of your exhibits --</p> <p>3 THE CHAIRMAN: Could we possibly, before we leave that, go</p> <p>4 to paragraph 50, and what's said there that:</p> <p>5 "The judgment of inspectors can only be consistently</p> <p>6 exercised if the CQC provides a clear framework and</p> <p>7 guidance. It will be easy for active inspection</p> <p>8 activity to regress at this time of increased pressure</p> <p>9 on inspectors. The CQC must therefore ensure there is</p> <p>10 a consistency of approach by reiterating risk</p> <p>11 thresholds."</p> <p>12 Do you recognise any clear framework and guidance</p> <p>13 which would allow for consistency between your judgments</p> <p>14 as an inspector and those of your colleagues?</p> <p>15 A. None that's workable at the moment. Not in the same way</p> <p>16 that there was a decision log, and if I had a query</p> <p>17 I would go to my colleagues again or my line manager.</p> <p>18 There's nothing else I could go -- necessarily go to at</p> <p>19 the moment.</p> <p>20 THE CHAIRMAN: Thank you.</p> <p>21 MR KARK: Is that right, because your second exhibit is the</p> <p>22 guidance for compliance inspectors? You do have</p> <p>23 guidance, don't you?</p> <p>24 A. Yes, but --</p> <p>25 Q. Why is that not helpful to you?</p> <p style="text-align: center;">Page 57</p>	<p>1 there somewhere, that you can't go out every week to</p> <p>2 these providers which are riskier because you just --</p> <p>3 well, you'd be -- definitely work over your hours. It</p> <p>4 just stacks up. The decisions -- given that you have to</p> <p>5 go to four new providers every month in order for us to</p> <p>6 achieve our performance figures, you have to put in</p> <p>7 a few which are going to be less demanding in order to</p> <p>8 manage your workload.</p> <p>9 Q. Can we just look at that issue, which you deal with at</p> <p>10 paragraph 54 when you say:</p> <p>11 "The CQC's past obligation was to inspect all</p> <p>12 providers every two years, commencing from October 2010.</p> <p>13 As the first year of the CQC's regulatory model involved</p> <p>14 a very slow start, our obligation to meet this by</p> <p>15 October 2012 has resulted in a new frenzy of activity.</p> <p>16 We are now being told we must inspect 75 per cent of all</p> <p>17 of our providers by the end of March 2012, rather than</p> <p>18 working to the agreed 30 inspections."</p> <p>19 Then I think it's relevant to read the next</p> <p>20 paragraph, and then I'll ask you about it:</p> <p>21 "Amanda Sherlock has confirmed to the Health Select</p> <p>22 Committee that we will in future inspect every one of</p> <p>23 our providers annually. To meet this we have been told</p> <p>24 that the regional meetings to choose as many or as few</p> <p>25 outcomes as we want, although the managers have recently</p> <p style="text-align: center;">Page 59</p>
<p>1 A. It's there, but given this latest push on -- sorry,</p> <p>2 given this latest push on getting new providers</p> <p>3 assessed, it's -- the emphasis now is on new providers</p> <p>4 not necessarily about follow-ups and that is one of my</p> <p>5 concerns and that's why I brought it to Public Concern</p> <p>6 at Work, that I know the guidance is there and I know,</p> <p>7 you know, in various supporting documents that director</p> <p>8 of operations has said obviously risk has got to be the</p> <p>9 number one criteria, but if you give managers a set of</p> <p>10 boundaries to work by, i.e. you have to do four new</p> <p>11 inspections every month, you can't -- you can't do it</p> <p>12 all. You can't balance that and then -- I mean, you</p> <p>13 could assess the risk in terms of -- I mean, I've got</p> <p>14 a few providers at the moment that I feel are a little</p> <p>15 riskier than others but the risky ones you're probably</p> <p>16 justified in believing that they're riskier and they are</p> <p>17 going to naturally take longer to inspect and they're</p> <p>18 also going to take longer to write up and make sure that</p> <p>19 your decisions and your judgments are appropriate. And</p> <p>20 that -- that takes just more days to write up the</p> <p>21 report. Therefore, they're going to take longer than</p> <p>22 those providers where you don't have any particular</p> <p>23 risks and it's, you know, everything's okay when you get</p> <p>24 there.</p> <p>25 And I am -- I find that there has to be a balance</p> <p style="text-align: center;">Page 58</p>	<p>1 stated we still must follow the pilot guidance."</p> <p>2 Your quota for inspections seems to have increased</p> <p>3 fairly dramatically.</p> <p>4 A. Yes. Yes, but it's not even necessarily the inspections</p> <p>5 that I -- I was concerned about. It's the fact that</p> <p>6 they don't give much provision to allow you to go back</p> <p>7 to the ones you feel need follow-ups or checking. Some</p> <p>8 times it is okay to -- to have a follow-up just as, you</p> <p>9 know, paperwork coming in to you like, I don't know,</p> <p>10 staffing matrix or something like that for training.</p> <p>11 But sometimes you actually need to go back into the home</p> <p>12 to actually see for yourself and hear for yourself the</p> <p>13 improvements. It's just too easy to accept it on face</p> <p>14 value, but given that we've got to do four new providers</p> <p>15 every month, it really doesn't leave us very much time</p> <p>16 to shove in these -- these follow-up inspections.</p> <p>17 Q. Can we look at that issue, then. You've produced</p> <p>18 a document for us as your exhibit 14, and can we just go</p> <p>19 to that, because I think it's relevant to the issues</p> <p>20 you've just raised.</p> <p>21 This is slightly out of turn, I think,</p> <p>22 chronologically but it is pertinent. This headed "South</p> <p>23 East region report against delivery targets for 2012".</p> <p>24 When did you receive this, can you remember?</p> <p>25 A. It was about six weeks ago, something like that.</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 Q. So in October, mid-October some time?</p> <p>2 A. Yes.</p> <p>3 Q. How was this delivered to you?</p> <p>4 A. Another compliance inspector was showing it to us.</p> <p>5 I don't want to mention any names.</p> <p>6 Q. No, all right. As far as you are concerned, does this</p> <p>7 represent some form of policy which you are expected to</p> <p>8 comply with or not?</p> <p>9 A. No. No. I do understand it's a management document,</p> <p>10 but I think in terms of my trying to find evidence to</p> <p>11 back up my views on what I am saying, I think there is</p> <p>12 something in there that would -- would demonstrate this</p> <p>13 great urgency now to achieve this target.</p> <p>14 Q. All right. Let's just have a look at the document, if</p> <p>15 we could. The first paragraph reads:</p> <p>16 "The purpose of this report.</p> <p>17 "To advise the operations director of the south-east</p> <p>18 region's ability to deliver compliance reviews to</p> <p>19 75 per cent of all adult social care and independent</p> <p>20 healthcare locations, 50 per cent of registered dentists</p> <p>21 and 100 per cent of all NHS organisations by</p> <p>22 31 March 2012."</p> <p>23 A. Can I -- sorry.</p> <p>24 Q. Let me just finish. Yes. Go on.</p> <p>25 A. Can I just make one point, that since the CQC received</p> <p style="text-align: center;">Page 61</p>	<p>1 outcomes should be quick and simple.</p> <p>2 "CIs will be encouraged to review only small numbers</p> <p>3 of outcomes on these inspections unless they find areas</p> <p>4 of concern and need to expand the review."</p> <p>5 I am going to pause there for a moment, what in</p> <p>6 principle is wrong with any of that?</p> <p>7 A. Nothing.</p> <p>8 Q. Underneath that, we see:</p> <p>9 "Team meetings and regional learning days will be</p> <p>10 kept to a minimum and 121s will be completed by phone."</p> <p>11 Well, you've told us a little bit about that.</p> <p>12 There's a lack of those, so far as you're concerned?</p> <p>13 A. And I think as home workers you do need to keep in</p> <p>14 contact with your colleagues. It -- it is something</p> <p>15 that's missed.</p> <p>16 Q. All right:</p> <p>17 "To achieve success ..."</p> <p>18 This is at 5.1:</p> <p>19 "... it is critical that all managers ensure that</p> <p>20 each inspector delivers to the required outputs."</p> <p>21 Then over the page we have the heading "Risks to</p> <p>22 this delivery date":</p> <p>23 "The key risks to achieving the proposed targets are</p> <p>24 as follows:</p> <p>25 "Inspectors have been returning to locations for</p> <p style="text-align: center;">Page 63</p>
<p>1 the statements -- my statements on Tuesday night, on</p> <p>2 Wednesday morning they issued on the intranet a revision</p> <p>3 of these targets, and I think now for adult social care</p> <p>4 it's 62.5 per cent, 15 per cent, from memory, of</p> <p>5 registered dentists and still 100 per cent of all NHS.</p> <p>6 So I don't know whether they thought -- I don't know the</p> <p>7 reasoning behind that or why they felt the need to do</p> <p>8 that.</p> <p>9 Q. Okay. Well, in a sense the exact figures don't matter</p> <p>10 too much --</p> <p>11 A. Okay.</p> <p>12 Q. -- for reasons that we might come to. If we look at the</p> <p>13 bottom of the page, paragraph 2.4 talks about "Hitting</p> <p>14 the target", and the number of inspections that are</p> <p>15 required to be delivered.</p> <p>16 Then if we could go to the third page, or</p> <p>17 paragraph 4.4 and this under the heading "Improving</p> <p>18 productivity":</p> <p>19 "Follow-up activity following any initial compliance</p> <p>20 review will be strictly risk based and will not involve</p> <p>21 an additional site visit if it can be avoided.</p> <p>22 "CIs ..."</p> <p>23 That's compliance inspectors, I presume:</p> <p>24 "... will be reminded that focus on recording</p> <p>25 non-compliance and that report writing for compliant</p> <p style="text-align: center;">Page 62</p>	<p>1 follow-up activity which has not contributed to the</p> <p>2 overall count of inspections."</p> <p>3 And there's a guide that's given:</p> <p>4 "Should this level continue this would result in</p> <p>5 a reduction against 'new inspection' targets of around</p> <p>6 15 per cent ..."</p> <p>7 How do you read that?</p> <p>8 A. I read that as it -- don't go on a -- don't do follow-up</p> <p>9 activity, or at least don't go out. Don't go out on an</p> <p>10 inspection to do a follow-up activity. It's -- it's not</p> <p>11 going to contribute towards your performance figures and</p> <p>12 if you do do that it will have to be during the same</p> <p>13 week as -- as a new provider as well, so you'll be doing</p> <p>14 two inspections for that week.</p> <p>15 Q. But don't you have to tie that up with the paragraph we</p> <p>16 looked at earlier, which is the requirement for strictly</p> <p>17 risk-based --</p> <p>18 A. Yes.</p> <p>19 Q. -- reviews?</p> <p>20 A. I know, and people have been going out on follow-ups, on</p> <p>21 reviews, but they are having to argue the benefit of</p> <p>22 doing that, and the ones that I've done, I've done in</p> <p>23 the same week as a new -- as a new provider as well. It</p> <p>24 just doesn't -- they -- they give you a set of criteria</p> <p>25 to work by, but then they give a set of performance</p> <p style="text-align: center;">Page 64</p>

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<p>1 figures that makes the initial set of criteria difficult 2 to keep to. 3 Q. Because -- 4 THE CHAIRMAN: Forgive me, the paragraph we're looking at, 5 6.2, could that not be read the other way round, which 6 is that this report is saying to more senior management, 7 "To do our job properly will result in a 15 per cent 8 shortfall on the target"? 9 A. It could well be. It could well be. 10 THE CHAIRMAN: But what your concern is that there is, 11 whether intentionally or not, pressure -- 12 A. Yes. 13 THE CHAIRMAN: -- induced on managers and yourself by the 14 system not to go on a follow-up visit -- 15 A. That's right. 16 THE CHAIRMAN: -- unless you've got some really compelling 17 cases as opposed to a niggling doubt? 18 A. Absolutely. 19 THE CHAIRMAN: And that's how it feels? 20 A. More than a niggling doubt. I think more than 21 a niggling doubt. I think, you know, to go out again on 22 a follow-up, you really do have to put your case forward 23 for that, or accept that you do it during the same week 24 as a new provider. And I don't think that's really in 25 the spirit of risk-based. It just makes it hard to do</p> <p style="text-align: center;">Page 65</p>	<p>1 A. Not for the whistle-blowers, and not -- not put -- 2 couched in those terms, but inferred because it -- they 3 have said, "You've got to keep to your one a week", and 4 they're gaining -- they're getting -- they want us to -- 5 to submit our activity figures every week, and if we 6 don't do that one, I am sure that -- you know, that one 7 new provider each week, then it will probably result in 8 a telephone call. 9 Q. Before that announcement was made by Ms Sherlock, in 10 relation to increasing the number of inspections, what 11 sort of notification, if any, had you as an inspector 12 received that that was happening or that that was in the 13 wind? 14 A. Oh, crikey. I think it had been mentioned -- no, it 15 had -- it was being talked about that we were going to 16 be doing three inspections, new providers, a month, and 17 then one for a follow-up to allow for those follow-ups. 18 And we thought, "Oh, fair enough". And then it moved 19 fairly swiftly on. And I can't remember where it 20 came -- it was -- it would have been my line manager 21 discussing it at some meeting. Then it moved quite 22 swiftly on to four per month. 23 Q. All right. Can I ask what effect all of this has had on 24 enforcement, because you speak in paragraph 77 about the 25 whole emphasis now being on meeting targets for new</p> <p style="text-align: center;">Page 67</p>
<p>1 your job to do it all in that week. 2 MR KARK: Could we look at 6.3, which might be of more 3 concern, I don't know: 4 "Inspectors are responding to concerns raised and 5 whistle-blowing. This is currently requiring 6 a significant number of additional inspections, and 7 would, again, result in a reduction against 'new 8 inspection' targets of around 15 per cent or 420 9 inspections in the six months." 10 Now, bearing in mind that the chairman's comment 11 about this is a risk assessment, how did you read that? 12 A. I -- I do appreciate that it's, you know, a risk 13 document in there raising that up as a risk to 14 delivering the activity. I think potentially there is 15 a risk in whistle-blowers contacting an inspector about 16 a service that has already been inspected in that year, 17 and because you've already inspected it you don't need 18 to go out there again. But, I mean, I appreciate that 19 it is a document that highlights risks to the senior 20 managers. 21 Q. Has anybody said to you, anybody more senior than you, 22 "Look, you really mustn't be reacting to 23 whistle-blowers", or, "You really mustn't do repeat 24 reviews because then you're going to fall down on your 25 personal performance figures"?</p> <p style="text-align: center;">Page 66</p>	<p>1 inspections, and you say this: 2 "There is every incentive to stop short of issuing 3 a warning notice and give a compliance action instead, 4 as it would be in our interests from a quota perspective 5 to do so." 6 Can you just explain that to us. 7 A. Well, because enforcement takes longer than just putting 8 down that someone needs to be compliant and giving 9 a compliance action. And I do appreciate that the 10 enforcement guidance and the various paperwork that's 11 associated with it has improved over the past six months 12 but it's still lengthy and it still takes up time. 13 I mean, for example, I did four inspections in June this 14 year and in July I assisted a colleague on an inspection 15 that has ended up going down an enforcement route, and 16 I was only able to do that one because of the work that 17 I was doing with her to support the enforcement process. 18 I do appreciate that now it's got slicker, but that's 19 just sort of to demonstrate that it does take longer. 20 Q. Could we just look at what -- 21 THE CHAIRMAN: Just pausing there, if that's the position, 22 then it sounds to me as though you and your colleagues 23 are not being inhibited in pursuing concerns, and you 24 are, as it were, doing less of the new inspections as 25 a result. What is your concern, if any, about what the</p> <p style="text-align: center;">Page 68</p>

<p>1 consequence of that might be?</p> <p>2 A. About not doing our quota?</p> <p>3 THE CHAIRMAN: Yes.</p> <p>4 A. Well, we've signed up at the beginning of the year to do</p> <p>5 these 30 inspections and that's been signed on our</p> <p>6 performance PDPs. I -- if we don't end up doing that</p> <p>7 30, I mean, that 30 were 30 inspections, not 30 new</p> <p>8 providers, and I think, you know, that will be achieved,</p> <p>9 the thing that we've originally signed up to, but now</p> <p>10 that we've got this one a week and we're expected to do</p> <p>11 four new ones every month, I wouldn't -- there would be</p> <p>12 a management discussion, definitely, about why it was</p> <p>13 that you haven't come up to your quota. I don't know if</p> <p>14 they would use it to do any disciplinaries. That hasn't</p> <p>15 been mooted at all, but --</p> <p>16 THE CHAIRMAN: But no one has said it wouldn't?</p> <p>17 A. No one has said it wouldn't.</p> <p>18 THE CHAIRMAN: No.</p> <p>19 MR KARK: You deal fairly forcibly in your statement with</p> <p>20 the effect of this increase of inspections, and I want</p> <p>21 to remind you of some of the phrases that you've used,</p> <p>22 and ask you if you stand by them now.</p> <p>23 If we can go to paragraph 58, first of all, and the</p> <p>24 third line down you say:</p> <p>25 "As already mentioned, it's already difficult enough</p> <p style="text-align: center;">Page 69</p>	<p>1 targets now, and now to have this undertaking that</p> <p>2 they're going to be once a year, I mean, it's a laudable</p> <p>3 one and, you know, one that we could -- would love to</p> <p>4 support but as it stands at the moment, I find it</p> <p>5 would -- might have been better to promise less and</p> <p>6 deliver more.</p> <p>7 Q. You also say:</p> <p>8 "If we feel that a follow-up visit of a provider is</p> <p>9 needed in the interests of public safety, we are now</p> <p>10 encouraged ..."</p> <p>11 Sorry, this is paragraph 59:</p> <p>12 "... to conduct these via a desktop review of</p> <p>13 evidence in order to save time. In my view, I think</p> <p>14 that not conducting follow-up visits poses a potential</p> <p>15 and significant risk to life."</p> <p>16 Have there been any occasions when you have either</p> <p>17 been dissuaded or of your own volition not conducted</p> <p>18 a follow-up visit when you felt that there was a risk to</p> <p>19 public safety?</p> <p>20 A. Risk to life, and I can't obviously talk about</p> <p>21 providers. I have one provider in mind that I have</p> <p>22 visited and I was due to do a follow-up, and that</p> <p>23 follow-up hasn't taken place because of all of this.</p> <p>24 There wasn't a risk to life, but I felt I needed to go</p> <p>25 back and check the issues that were there, and I was</p> <p style="text-align: center;">Page 71</p>
<p>1 to try and meet 75 per cent of our inspections which are</p> <p>2 happening every two years by March 2010. Ultimately,</p> <p>3 the quality of inspections will go out of the window to</p> <p>4 meet this commitment."</p> <p>5 So that's the commitment to a greater number of</p> <p>6 inspections. Is that still your view?</p> <p>7 A. Generally speaking, yes, I think I know that more</p> <p>8 inspectors are being recruited and that will obviously</p> <p>9 have an impact, but -- but it's still going to be --</p> <p>10 I mean, a lot are being recruited at such a rate that</p> <p>11 it's actually impacting on my portfolio or my</p> <p>12 colleagues'. They're increasing if anything. And to</p> <p>13 undertake this every year, I feel it will be</p> <p>14 a by-product that quality will go out the window.</p> <p>15 I still standby that. Obviously, it's hard for me to be</p> <p>16 able to prove it. It's been widely discussed between</p> <p>17 the inspectors, and people are just shrugging their</p> <p>18 shoulders and just saying, you know, just do the job</p> <p>19 and, you know -- just do the job, really. It has been</p> <p>20 a very depressing time.</p> <p>21 I think inspectors really want to do their absolute</p> <p>22 best. I mean that's why we're all in the job. And to</p> <p>23 be given these kind of targets on so little training to</p> <p>24 begin with, and then the background of the registration</p> <p>25 fiasco and all the rest of it and then to have these</p> <p style="text-align: center;">Page 70</p>	<p>1 told, "At the moment ask them for the paperwork, ask</p> <p>2 them to see about their action plans, assess that", and</p> <p>3 then I heard -- because they were only a given</p> <p>4 compliance action, nothing more than that, then</p> <p>5 I subsequently heard that the compliance actions we</p> <p>6 don't have to follow up on them because it's now an</p> <p>7 annual undertaking, you can leave it for a year and wait</p> <p>8 till the next year. My feeling with this particular</p> <p>9 provider is because the council have been involved with</p> <p>10 the situation and they've been in, that they -- that has</p> <p>11 assuaged my fears to some extent, yes. It would have</p> <p>12 been nice to have had the opportunity to go in and see</p> <p>13 it for myself.</p> <p>14 Q. But the Care Quality Commission haven't done that, it's</p> <p>15 the local council who have done that?</p> <p>16 A. That's right, yes.</p> <p>17 Q. You say at paragraph 61:</p> <p>18 "The consequence of this commitment and the change</p> <p>19 to the way inspections are now being carried out cannot</p> <p>20 be underestimated. One consequence is that inspectors</p> <p>21 were told to conduct desktop reviews rather than visit</p> <p>22 their providers."</p> <p>23 It's the same issue --</p> <p>24 A. Yes.</p> <p>25 Q. -- but you go on to say:</p> <p style="text-align: center;">Page 72</p>

<p>1 "My view is that a desktop review is generally 2 ineffective." 3 A. I can see it can effective if there is a particular 4 issue that can be resolved by seeing a piece of paper, 5 like, for example, the staffing matrix, as I mentioned 6 earlier, or perhaps some evidence that new staff have 7 been recruited, but sometimes you do actually need to go 8 in and talk with staff and see the place and talk with 9 people who live there. 10 Q. Can I just put this to you, the CQC deny that there's 11 any restriction on carrying out follow-up inspections, 12 and they say: 13 "The general instruction is get out there but some 14 follow-up can be by a desktop review." 15 Now, is that your understanding of instructions to 16 you, get out there? 17 A. That doesn't -- that doesn't sit happily alongside the 18 four providers -- four new providers every month, one 19 new provider a week. And if we didn't -- if it wasn't 20 that -- if it wasn't the new providers, then it wouldn't 21 be an issue. I think, you know, four inspections a week 22 is reasonable and, you know, we will aim to do more than 23 that, but it's -- it's the inherent risk of not doing 24 the follow-ups because the focus is all on the new 25 providers.</p> <p style="text-align: center;">Page 73</p>	<p>1 but I thought I'd add it in. 2 But it's -- the tipping point was the four, really. 3 I felt not only were the CQC putting us at potentially 4 at risk in not -- not giving us the training that we 5 needed to do our jobs properly but on top of that 6 they're putting these new incentives -- these new 7 performance targets to achieve, and that was really the 8 last straw for me. 9 Q. I am not -- I am going to ask that this document is not 10 displayed because there's one aspect of it that might 11 require redaction, but I do want to ask you about the 12 culture within the CQC -- 13 A. Yeah. 14 Q. -- and among your managers, and I want you to avoid, 15 please, if you could, naming any individuals? 16 A. Please, that's good for me. 17 Q. But is there anything that you feel you need to say 18 about the culture? In the middle of the first page of 19 this letter, you talk about a culture of bullying being 20 amongst managers, and you say this: 21 "We were told during one regional meeting that any 22 staff not fulfilling their quota of completing 23 registrations during the summer would be named and 24 shamed, and the regional director added 'If you can't 25 stand the heat get out of the kitchen'."</p> <p style="text-align: center;">Page 75</p>
<p>1 Q. Can I move to a slightly different topic, which is the 2 side effect of the new inspection regime, and weekly 3 team meetings. You've touched upon this earlier and 4 this may be, I don't know, a purely local issue to your 5 particular area. 6 A. Yes. 7 Q. Has there been any corporate decision as far as you've 8 been aware not to hold team meetings? 9 A. Not as far as I'm aware. 10 Q. But it's not happening in your area -- 11 A. No. 12 Q. -- and it's not happening why? 13 A. Sorry, it's not happening why? 14 Q. Yes. 15 A. Because it takes the focus away -- well, it's a day 16 spent attending a meeting, which we could have been 17 spending doing an inspection. So I don't have any 18 meetings at the moment in my diary. 19 Q. Now, last month on 1 October, you wrote to the National 20 Audit Office, and we have your letter at your 21 exhibit 13. What brought you to the point of writing to 22 the National Audit Office? 23 A. I think it was the four providers a month, really. That 24 was the tipping point. I mean, I -- to some extent I've 25 given up on the HCAIs, no one was listening about that,</p> <p style="text-align: center;">Page 74</p>	<p>1 You recall seeing some of your fellow inspectors in 2 tears. What is the culture, so far as you're concerned, 3 of the managers? 4 A. I have had no issue with any of the compliance managers 5 that I've worked with. What they have -- the demands 6 that they make of us I have no doubt that they come from 7 higher up, and I'm sure that they feel just as 8 frustrated with some of the issues as we do. I feel the 9 culture is one where you just have to get on with what 10 you're being told to do, even if you don't see much 11 sense in being told -- in what you're being told to do. 12 It's all about performance, and I feel it's one also 13 of -- I might be sort of moving sideways here but of 14 publicity and of -- media-driven too. 15 I feel that what appears in the media sometimes 16 affects what we do on the ground and certainly what is 17 spoken about and discussed. I don't feel it's an 18 organisation which genuinely wants to hear people's 19 views. We had our last staff survey in May 2010, and it 20 wasn't a good one. And we were -- we're overdue to have 21 one, and people have been asking about it. We've 22 recently been told via a message on the Internet -- 23 intranet that it's scheduled for the end of March, and 24 it's not being carried out at the moment because 25 management want us to see the benefits of some of the</p> <p style="text-align: center;">Page 76</p>

19 (Pages 73 to 76)

<p>1 things that have been put in place before they question 2 us on them.</p> <p>3 The -- UNISON has given out a questionnaire to the 4 union staff, the results haven't been published yet, but 5 I think some of the issues that are raised in this 6 survey -- and I don't know if I am able to discuss that, 7 but I think it does show some of the -- the issues that 8 are pertinent to inspectors at the moment and what is 9 being discussed across the country by inspectors about 10 having a good work/life balance is one of the questions. 11 And we're asked to rate, you know, does the CQC 12 leadership and management: 13 "... are they transparent in sharing information 14 with staff and public? 15 "Do you feel the CQC gives clear and inspirational 16 leadership? 17 "Is the CQC consistent in what it does, expects, 18 based on clear and carefully thought out plans and 19 strategies? 20 "Is the CQC consistent geographically in what it 21 does and expects across and within different regions and 22 areas?" 23 Q. What are the responses to that? 24 A. We don't -- it would be -- 25 Q. This is --</p> <p style="text-align: center;">Page 77</p>	<p>1 much because they have the background of CSCI and being 2 able to -- and having that background experience of 3 working in and inspecting care homes, but I haven't and 4 I have been asking for that. But, I mean, I absolutely 5 accept what the managers are saying, that there isn't 6 any training.</p> <p>7 Q. Are some of those former colleagues of yours at CSCI now 8 inspecting hospitals? 9 A. One of them is.</p> <p>10 Q. We were told by various people within the CQC that they 11 believed that the organisation's ability to spot another 12 Mid Staffs disaster was enhanced and greater than it was 13 under the old HCC system. Do you feel equipped to 14 comment upon that? 15 A. I don't, really. I think that's --</p> <p>16 Q. Finally this, it must have taken a considerable effort 17 for you to contact the inquiry and make the statement 18 that you did and indeed come here this morning to give 19 evidence. Why have you done it? 20 A. I do feel like I've been on a little bit of 21 a roller-coaster ride, which I can't actually get off. 22 So that's part of it. I feel like I've made commitments 23 and then have just been taken on to one stage and then 24 another stage. I didn't think I was going to end up 25 sitting here to be perfectly honest. But I am and I am</p> <p style="text-align: center;">Page 79</p>
<p>1 A. They've done it in -- they've done it in how we would -- 2 we would do an inspection with compliant, minor, 3 moderate or major. And, as I said, I don't believe that 4 the results are known until the middle of December.</p> <p>5 Q. All right.</p> <p>6 A. But I think the questions that the union have decided to 7 raise and quiz and turn to the inspectors to give their 8 views are the very views of the very issues that we're 9 talking about that we find very difficult to work with.</p> <p>10 Q. All right. Can I just ask you three very short further 11 questions before we break. 12 On the second page of this letter to the NAO you 13 say: 14 "When I have asked for training I have been told 15 this is not going to happen and that as an inspector 16 I should feel confident to inspect anything as long as 17 I have the regulations to refer to. I feel this creates 18 unnecessary risks to the public." 19 Now, you hadn't told us about this specific request 20 you made for training, and the denial. Did that 21 actually take place? 22 A. Oh, I've -- every time I see a manager on a one-to-one 23 basis I do raise it. I mean, I -- I haven't got the 24 dates listed down, but I am -- I am continually asking 25 about it, and I know that my fellow colleagues aren't as</p> <p style="text-align: center;">Page 78</p>	<p>1 happy to -- obviously, to go through it but I think that 2 there's -- I know I am one voice out of 700-odd 3 inspectors, but I don't feel -- I mean, if I got any 4 hint at all that I was out of step in my views or 5 opinions with any of my colleagues, there is absolutely 6 no way on earth I would have put myself through this 7 process. But I feel so frustrated with the management, 8 firstly not listening to various past issues that have 9 been raised and just leaving them as dead in the water, 10 but they're still putting more pressures on us and still 11 making us work in ways which we feel incredibly 12 uncomfortable about, and that's the reason why I am 13 here.</p> <p>14 Q. Finally, I ought to ask this, as you know, we're going 15 to be hearing from Mrs Sheldon this afternoon, and there 16 might be some sort of suggestion that you two have 17 decided together to come to the inquiry. When did you 18 first meet Mrs Sheldon? 19 A. I met Mrs Sheldon this morning in the hotel foyer and 20 I can absolutely completely categorically say that I've 21 never communicated with her, knew what she was going to 22 present today. I have to say to my shame, I didn't know 23 that she was in the role that she was until halfway 24 through last week.</p> <p>25 MR KARK: All right. That's all that I ask. I am going to</p> <p style="text-align: center;">Page 80</p>

20 (Pages 77 to 80)

<p>1 look around to see if there are any CPs --</p> <p>2 THE CHAIRMAN: There is one coming up behind you but let me</p> <p>3 ask a question in the meantime. When you say you feel</p> <p>4 that management is not listening, I've seen obviously</p> <p>5 the correspondence you had with Cynthia Bower and the</p> <p>6 reply that she gave, which some might say looks like</p> <p>7 a considered reply. Is it more not that they don't</p> <p>8 listen to what you say, but they are not agreeing with</p> <p>9 what you say, or is it a bit of both?</p> <p>10 A. I think for the first lesson -- for the first letter, it</p> <p>11 was probably not really listening either, and certainly</p> <p>12 not agreeing. On -- the second letter was certainly</p> <p>13 a nicer and more pleasant exchange, but I don't think</p> <p>14 they're listening in terms of really listening. It's</p> <p>15 not just that I feel that I've got some, you know,</p> <p>16 wonderful plan about how to do it, but it's -- I think</p> <p>17 there are risks that are being -- that have been played</p> <p>18 out that they're taking, there's messages that people</p> <p>19 are shouting, really, and then they're just not</p> <p>20 certainly listening. And I suppose that was a little</p> <p>21 bit behind what I was sort of trying to say in my first</p> <p>22 letter with the aviation, and if you're confident about</p> <p>23 your skills and you're happy about your skills, then</p> <p>24 you're able to question them. But there's been no sort</p> <p>25 of stoppage in it. It just comes up with more</p> <p style="text-align: center;">Page 81</p>	<p>1 no, no, I don't think so", and then she obviously wasn't</p> <p>2 listening and I said to her half jokingly, "Captain, you</p> <p>3 must listen", and I had spoken to her previously about</p> <p>4 what that whole phrase meant, and the whole stopping and</p> <p>5 listening and actually hearing what's being said and</p> <p>6 being open-minded enough -- even if you're a captain or</p> <p>7 a consultant, being open-minded enough to stop and think</p> <p>8 about, you know, am I heading towards this mountain or</p> <p>9 does this person, does this middle manager have</p> <p>10 something to say that I need to listen to? And she</p> <p>11 said, you know, with some exasperation, "Just leave it</p> <p>12 with me tonight", and in the morning, said, "Okay, we'll</p> <p>13 do it your way". And it wasn't the satisfaction that</p> <p>14 I had got my way, it was the satisfaction of knowing</p> <p>15 that I was working for someone who was big enough to be</p> <p>16 able to question their own decision-making and listen to</p> <p>17 a lowly person. You know, middle manager.</p> <p>18 THE CHAIRMAN: Thank you.</p> <p>19 A. And that's missing, I think.</p> <p>20 MR KARK: Can I just put one further matter and it's this,</p> <p>21 you may or may not be aware that your region apparently</p> <p>22 has the highest vacancy rate in the country. Did you</p> <p>23 know that, within the CQC?</p> <p>24 A. I didn't know the highest, no.</p> <p>25 Q. You are aware that the vacancy rate is high?</p> <p style="text-align: center;">Page 83</p>
<p>1 shooting-from-the-hip decisions, based on perhaps what's</p> <p>2 been up in the media, change -- rapid changes of</p> <p>3 methodology, which we find confusing. I am sure the</p> <p>4 providers find confusing. There's no clear</p> <p>5 inspirational leadership, and I think clear</p> <p>6 inspirational leadership would probably be the type of</p> <p>7 leadership who would listen and genuinely, and you can</p> <p>8 tell when someone's listening because organisations take</p> <p>9 on the personalities of the people at the top, and I've</p> <p>10 worked in organisations before where the chief</p> <p>11 executive -- I can think of one most definitely where he</p> <p>12 was open, communicable, accessible, he was an</p> <p>13 inspirational leader, very quiet, who got on with his</p> <p>14 job and he recruited people who were like him, and the</p> <p>15 trust I worked in was just a delight. There were lots</p> <p>16 of OBEs and CBEs here there and everywhere, but it was</p> <p>17 the kind of place where even with that highfaluting</p> <p>18 establishment of consultants, people listened. I can</p> <p>19 recall a situation where I spoke with my line manager at</p> <p>20 this trust, and she was a consultant, and she had an</p> <p>21 OBE, a well-deserved one, and there was something that</p> <p>22 I was going to -- something that she wanted me to</p> <p>23 implement, and I thought, given the staff involved,</p> <p>24 probably we need to do it another way. And she said,</p> <p>25 "No, no, no, go on, just go and do it". I said, "No,</p> <p style="text-align: center;">Page 82</p>	<p>1 A. It's high, yes. Yes.</p> <p>2 MR KARK: Thank you very much.</p> <p>3 THE CHAIRMAN: Mrs Pollard. That, you'll be relieved to</p> <p>4 know, is all the questions I think we've got. Mr Hart,</p> <p>5 I was going to give you an opportunity but you haven't</p> <p>6 been waving your hand frantically, so I imagine you have</p> <p>7 none.</p> <p>8 Thank you very much.</p> <p>9 So that is all the questions we have to ask of you.</p> <p>10 Is there anything you want to add before we conclude</p> <p>11 your evidence?</p> <p>12 A. I don't think there is on the face of it, but thank you</p> <p>13 very much. Thank you for making it easy --</p> <p>14 THE CHAIRMAN: Well, I'll say to you as I've said to every</p> <p>15 other witness in the previous 130-plus days, if on</p> <p>16 reflection there's something you wish to change or add</p> <p>17 please do so --</p> <p>18 A. Thank you.</p> <p>19 THE CHAIRMAN: -- although, bearing in mind the time we are</p> <p>20 in the inquiry, you would need to do so quite quickly.</p> <p>21 Thank you very much.</p> <p>22 A. Thank you.</p> <p>23 THE CHAIRMAN: We'll pause there and we'll start again at</p> <p>24 ten past 2.</p> <p>25 (12.57 pm)</p> <p style="text-align: center;">Page 84</p>

21 (Pages 81 to 84)

<p>1 (The short adjournment)</p> <p>2 (2.10 pm)</p> <p>3 THE CHAIRMAN: Mrs Sheldon, good afternoon.</p> <p>4 A. Good afternoon.</p> <p>5 THE CHAIRMAN: Thank you very much for coming to see us.</p> <p>6 You'll appreciate that we have seen and read your</p> <p>7 statement, for which I thank you. You will also, I am</p> <p>8 sure, understand that we have our terms of reference and</p> <p>9 there may be some parts of it we will not be asking you</p> <p>10 about --</p> <p>11 A. I understand.</p> <p>12 THE CHAIRMAN: -- for that reason. Although most of it</p> <p>13 I think probably does come within our terms of reference</p> <p>14 and so you might well be asked about it.</p> <p>15 A. Okay.</p> <p>16 THE CHAIRMAN: If at any stage you feel you need a break</p> <p>17 other than when I ask for one, please don't hesitate to</p> <p>18 say so.</p> <p>19 A. Thank you.</p> <p>20 THE CHAIRMAN: But equally I will give you an opportunity at</p> <p>21 the end to add anything if you wish to do so.</p> <p>22 A. Thank you.</p> <p>23 MRS KAY SHELDON (affirmed)</p> <p>24 Examination-in-chief by MR KARK</p> <p>25 MR KARK: Mrs Kay Sheldon?</p> <p style="text-align: center;">Page 85</p>	<p>1 A. That's right.</p> <p>2 Q. -- from the HCC and MHAC and CSCSI?</p> <p>3 A. Yes.</p> <p>4 Q. I think there are four other non-exec directors, is that</p> <p>5 right, Martin Marshall, John Harwood,</p> <p>6 Professor Deirdre Kelly and the chair, Dame Jo Williams?</p> <p>7 A. At the moment, yes.</p> <p>8 Q. And, as you know, we heard from, Dame Jo Williams back</p> <p>9 on 16 May of this year. Did you read some of the</p> <p>10 evidence that was given to this inquiry?</p> <p>11 A. I've read some of the evidence some time ago, yes.</p> <p>12 Q. You contacted the inquiry I think just over a week ago</p> <p>13 or so, and you made a statement which you signed on</p> <p>14 22 November, so just last week. Can we take it that you</p> <p>15 adopt that statement as your evidence, insofar as it is</p> <p>16 relevant to our terms of reference?</p> <p>17 A. Yes, that's fine.</p> <p>18 Q. Can I ask you this, why did you only come forward last</p> <p>19 week as opposed to when you knew we were hearing</p> <p>20 evidence from the CQC?</p> <p>21 A. Yes. I think my concerns have built-up over time, and</p> <p>22 it felt the fact that there were other CQC people giving</p> <p>23 evidence and that the chair was giving evidence, that</p> <p>24 that was the way that the CQC should give evidence, and</p> <p>25 then I think my concerns had built-up so much,</p> <p style="text-align: center;">Page 87</p>
<p>1 A. That's right, yes.</p> <p>2 Q. Mrs Sheldon, you are currently a non-executive board</p> <p>3 member of the CQC.</p> <p>4 A. That's right.</p> <p>5 Q. And you are a commissioner.</p> <p>6 A. That's right, yes.</p> <p>7 Q. I think you received the Order of the British Empire in</p> <p>8 2011 New Year's honours list?</p> <p>9 A. Yes.</p> <p>10 Q. In respect of what part of your work was that?</p> <p>11 A. That's in respect of services to mental health,</p> <p>12 particularly my work with the Mental Health Act</p> <p>13 Commission.</p> <p>14 Q. I was going to go on to ask you, you were a Mental</p> <p>15 Health Act commissioner and a board member of the Mental</p> <p>16 Health Act Commission.</p> <p>17 A. That's right, yes.</p> <p>18 Q. You were also a trustee of Mind, and I think you were</p> <p>19 invited to apply for the post of non-exec board member</p> <p>20 by Barbara Young, who was then chair of the CQC?</p> <p>21 A. That's right, yes.</p> <p>22 Q. And you were appointed to the shadow board in December</p> <p>23 of 2008, and then you became a member of the active</p> <p>24 board in April of 2009, when the CQC took over the</p> <p>25 mantle as joint regulator --</p> <p style="text-align: center;">Page 86</p>	<p>1 particularly as I'd been challenging quite a lot</p> <p>2 recently and not getting the answers that I felt</p> <p>3 I should be getting as a board member, I really felt</p> <p>4 compelled to do something. And in fact like</p> <p>5 Amanda Pollard this morning, I also contacted the</p> <p>6 National Audit Office. So I really -- it was a case</p> <p>7 that I had sort of -- I felt I wasn't being listened to</p> <p>8 internally, and I just didn't know where else to go. So</p> <p>9 I contacted the inquiry and said, you know, "Is it</p> <p>10 relevant?" And they said "Yes". So then -- yes.</p> <p>11 Q. You make a number of points in your statement and I want</p> <p>12 to deal with them, if I can, under subject headings but</p> <p>13 no doubt we'll stray within the subjects. But the</p> <p>14 headings are these, the strategy of the CQC, board</p> <p>15 effectiveness and the culture of the organisation.</p> <p>16 You say in your paragraph 11 and 12 that shortly</p> <p>17 after its creation the CQC developed and set out</p> <p>18 a five-year strategy, and you provided us with a copy of</p> <p>19 that, and you say:</p> <p>20 "There was much debate about the strategy in these</p> <p>21 early days. However, very little consideration was</p> <p>22 given to the capacity of the organisation to deliver the</p> <p>23 strategy."</p> <p>24 A. That's right.</p> <p>25 Q. But you go on to say that:</p> <p style="text-align: center;">Page 88</p>

22 (Pages 85 to 88)

<p>1 "It was generally fine --</p> <p>2 A. Yes.</p> <p>3 Q. -- and it had some good things in it --</p> <p>4 A. Yes. Yes.</p> <p>5 Q. -- but that the governance and process and systems</p> <p>6 weren't embedded and there was a lack of money to</p> <p>7 deliver such an extensive plan."</p> <p>8 A. Yes.</p> <p>9 Q. So far as embedding governance and process, given that</p> <p>10 the organisation was only born in April 2009 perhaps</p> <p>11 that's not surprising?</p> <p>12 A. No, absolutely. I mean, I think that's why I said it</p> <p>13 was generally fine. There was a lot of consultation</p> <p>14 about the strategy, and I think in retrospect it's</p> <p>15 agreed that it was sort of over-promising. But, yes,</p> <p>16 the -- you know, the governance processes were not in</p> <p>17 place. They were very immature. So at that point, you</p> <p>18 know, I think that's a fair comment but it soon became</p> <p>19 clear that we had over-promised.</p> <p>20 Q. Are you able to crystallise for us where you think that</p> <p>21 five-year strategy over-promised?</p> <p>22 A. I think that when you look at the strategy, we had</p> <p>23 five -- at that time we decided there were five</p> <p>24 strategic priorities.</p> <p>25 Q. Shall we just have a quick look at it. I don't want to</p> <p style="text-align: center;">Page 89</p>	<p>1 I think the organisation struggled with and so, as</p> <p>2 I say, 18 months down the line decided that wasn't going</p> <p>3 to be a priority.</p> <p>4 THE CHAIRMAN: Thank you.</p> <p>5 MR KARK: And in fact 18 months down the line the five</p> <p>6 priorities were reduced to two.</p> <p>7 A. That's right, yeah.</p> <p>8 Q. And those two, I think, were the one we see at the</p> <p>9 bottom --</p> <p>10 A. That's right.</p> <p>11 Q. -- which is acting swiftly to help eliminate poor</p> <p>12 quality care?</p> <p>13 A. Yes.</p> <p>14 Q. And the first, which was making sure that care is</p> <p>15 centred on people's needs and protects their rights.</p> <p>16 A. That's right, yeah.</p> <p>17 Q. Talking about strategy, you say that there was</p> <p>18 a strategy day to discuss the change but you say there</p> <p>19 was no evidence of the decision that was reached.</p> <p>20 A. Yeah.</p> <p>21 Q. You say in your statement:</p> <p>22 "There was a consistent failure clearly to minute</p> <p>23 decisions made after meetings."</p> <p>24 A. Yes.</p> <p>25 Q. Just before we go into the detail of that, your board</p> <p style="text-align: center;">Page 91</p>
<p>1 spend a lot of time on it but if we go to your first</p> <p>2 exhibit and then we turn to page 10, I think you'll find</p> <p>3 that the five priorities are set out there. 10 and 11.</p> <p>4 A. That's right, yeah. These were the priorities that were</p> <p>5 agreed, through lots of consultation, and there was</p> <p>6 a business plan that was developed to sort of implement</p> <p>7 the strategy, but it soon became clear -- and I think</p> <p>8 that was partly because of the demands of</p> <p>9 registration -- that we wouldn't be able to deliver on</p> <p>10 either the strategy as it was or our business plan at</p> <p>11 the time.</p> <p>12 Q. And in fact --</p> <p>13 THE CHAIRMAN: Can I ask whether the five priorities -- let</p> <p>14 me start again. Is there any significance in the order</p> <p>15 in which they're placed, 1 to 5?</p> <p>16 A. I don't think there's any -- I don't know if there's any</p> <p>17 significance, to be honest.</p> <p>18 THE CHAIRMAN: There wasn't to you?</p> <p>19 A. I mean, I think that certainly in the early days,</p> <p>20 because we would be -- the regulator was the first</p> <p>21 regulator to regulate across health and social care, the</p> <p>22 championing of joined-up care was seen as really</p> <p>23 important, certainly by the chair at that time. So</p> <p>24 that's probably what -- you know, that could be why that</p> <p>25 was number 2. But that's one of the aspects that</p> <p style="text-align: center;">Page 90</p>	<p>1 meets approximately monthly?</p> <p>2 A. Yeah, some of them are formal board meetings and then</p> <p>3 there are some sort of -- what are called sort of</p> <p>4 strategy days, yes.</p> <p>5 Q. Right. I just want to stick with the board meetings for</p> <p>6 the moment. Do you attend the vast majority of those</p> <p>7 board meetings?</p> <p>8 A. I have attended them all except one.</p> <p>9 Q. And your fellow non-exec directors also attend?</p> <p>10 A. Yes.</p> <p>11 Q. Presumably the chief executive attends on occasion?</p> <p>12 A. That's right. The chief exec is always there --</p> <p>13 Q. Is always there?</p> <p>14 A. -- and most of the directors are there as well.</p> <p>15 Q. And what about the chair?</p> <p>16 A. The chair there, yes.</p> <p>17 Q. Is always there?</p> <p>18 A. Yes.</p> <p>19 Q. Right. How many executive directors are there?</p> <p>20 I should know this and I know we've had evidence about</p> <p>21 it.</p> <p>22 A. I have to count. (Pause).</p> <p>23 Six or seven, I think. Yes, six or seven is --</p> <p>24 Q. All right.</p> <p>25 A. Yeah.</p> <p style="text-align: center;">Page 92</p>

23 (Pages 89 to 92)

<p>1 Q. Can you just give us a picture of how these board 2 meetings work, because we can look at the minutes -- 3 A. Exactly. 4 Q. -- without necessarily really getting an idea of what 5 happens in the room? 6 A. Absolutely. I mean, I think that actually from looking 7 at the minutes you should get an idea of what happens in 8 the room, and I think that's one of the issues that you 9 can't get an idea of how the organisation is run and, 10 you know, what our strategy is and how we're sort of 11 managing the organisation. 12 The board meetings, the agendas can be very hefty. 13 Papers come to us. They're usually -- they're usually 14 written by an executive director, and the vast majority 15 we're either asked to comment on or endorse. We often 16 have a discussion, you know, the -- a discussion is 17 facilitated but, from my perspective, it's not clear 18 what we're actually deciding. You know, it's we make 19 some quite specific comments and the nature of the 20 discussions are not such that we are looking at 21 high-level strategy and governance, and it feels that 22 when the papers come to the board, we're -- although 23 we'll have a discussion, effectively what happens is we 24 end up simply endorsing what's there and we're simply 25 reacting to what comes along.</p> <p style="text-align: center;">Page 93</p>	<p>1 anything that's fundamental in the papers, and the way 2 that the discussions are facilitated. You know, it 3 doesn't lend itself to a robust debate and then 4 decisions being made from that. They tend to be just 5 comments that are listed and then you'll get that the 6 board's endorsed with the above comments, and the 7 comments are usually fairly minor. 8 It's very rare for us to actually be able to say, 9 "We don't agree with this, you know, it's fundamentally 10 not what we should be doing", or, "You need to go away 11 and rethink this", and part of the reason for that is 12 given that because of the pressure of time, you know, 13 that if you knock the paper back it can impact on the -- 14 you know, more widely on the organisation, it could 15 impede progress. So there's been kind of a pressure on 16 us to agree, really, because otherwise we'll be holding 17 things up, but by doing that we are in effect creating 18 a strategy as we go along, without having a clear idea 19 of where we're going. 20 Q. Where does the pressure come from? 21 A. I think that it's via the chair and the chief exec. You 22 know, it's -- there's -- from the beginning there has 23 been this real pressure that, you know, the whole 24 organisation is under pressure to deliver and show that 25 it's making a difference, and I'd say that's even more</p> <p style="text-align: center;">Page 95</p>
<p>1 I don't know if you want me to talk about the 2 strategy day when the priorities were reduced? 3 Q. I will, and I will come on to that. I am not going to 4 ignore that, but perhaps there are more fundamental 5 issues about how the board actually works. 6 A. Yeah. 7 Q. Because there are a number of models no doubt for board 8 governance and there are certain principles of what 9 a well-run board should look like, one of which, of 10 course, is governing the organisation. 11 A. Yeah. 12 Q. And giving the steer for the organisation. 13 A. Yeah. 14 Q. Now, that can happen I suppose by the chief executive 15 coming to you and saying, "This is what we want to do, 16 will you approve it?" Or it could be the board giving 17 the chief executive the steer. 18 A. Yeah. 19 Q. How does it work in the CQC's case? 20 A. It should be that the board gives the chief exec the 21 steer but, as I said, what tends to happen is that the 22 papers come to the board, it's not clear how they fit 23 strategically, and the discussion we have are more -- 24 it's more of a sort of -- you know, you're more giving 25 advice. You're not really able to challenge any --</p> <p style="text-align: center;">Page 94</p>	<p>1 now than it was at the start, because at the start at 2 least we had the excuse, if you like, or a reason, the 3 fact that it was so immature, but we're now two and 4 a half years down the line and there's still this 5 pressure. 6 So -- but I don't believe that we ever actually -- 7 the board has actually at any point during the time that 8 I've been on the board had an appropriate and robust 9 discussion about our strategy and about where we're 10 going and where -- you know, what resources we've got 11 and what we can afford to do. We're just simply 12 reacting to what the exec bring us to. And other board 13 members have said that. Although they're not willing to 14 say that, I can categorically say that they have 15 expressed those concerns but they haven't expressed them 16 so strongly as I have. 17 Q. How are decisions made at board level? Do you have 18 board resolutions which are voted upon? 19 A. No. No. Never. We should do. If you look in the 20 standing orders that is what should happen but it never 21 does. 22 Q. I mean, do you mean literally it has never happened? 23 A. No, it has never happened. We've never voted. 24 Q. So you have a discussion and when you -- I'm sorry to 25 deal with it in such a high-level way but we've got to</p> <p style="text-align: center;">Page 96</p>

<p>1 get a picture of how it works?</p> <p>2 A. That's okay.</p> <p>3 Q. When you walk away from your board discussions, how do</p> <p>4 you know what has been decide?</p> <p>5 A. I don't. Not really. I don't know what's been decided.</p> <p>6 And it's certainly -- I don't know what's definitely</p> <p>7 been decided. I mean, I think I could be -- I could be</p> <p>8 safe in assuming that whatever was in the papers, that</p> <p>9 is what is going to be taken forward.</p> <p>10 Q. Let's just --</p> <p>11 THE CHAIRMAN: Can I ask this, has there ever been an</p> <p>12 occasion when at a board meeting you and your fellow</p> <p>13 non-executives have said, "We don't agree with this,</p> <p>14 take it away", and that's been ignored, or doesn't it</p> <p>15 work like that?</p> <p>16 A. It has not happened until the last board meeting, when</p> <p>17 the -- what was termed a strategy refresh, which I was</p> <p>18 very vocal in saying there is no way this can be</p> <p>19 a strategy to underpin the organisation, that the rest</p> <p>20 of the board eventually agreed that it was not</p> <p>21 appropriate to have this document as underpinning the</p> <p>22 work, the role, the direction of the organisation,</p> <p>23 because it was just inappropriate and inefficient. So</p> <p>24 that's the first time that that has ever happened.</p> <p>25 THE CHAIRMAN: And till that point, was the position at</p> <p style="text-align: center;">Page 97</p>	<p>1 appropriately. So actually challenge is discouraged,</p> <p>2 because it's seen as disloyal. And as I -- I've been</p> <p>3 challenging quite a lot recently because I felt I had</p> <p>4 to, and that's been very difficult.</p> <p>5 MR KARK: You say that there was a strategy day -- so let's</p> <p>6 get on to that -- to discuss the change of priorities.</p> <p>7 So this was reducing your five priorities that were</p> <p>8 decided in February of 2010 down to two. So that was</p> <p>9 presumably in the middle of this year, was it?</p> <p>10 A. I can't remember the exact dates. I think it was the</p> <p>11 end of last year, possibly.</p> <p>12 Q. I am sorry, that may be my fault. Okay.</p> <p>13 A. Well, what happened -- do you want me to describe it or</p> <p>14 do you --</p> <p>15 Q. Yes.</p> <p>16 A. We weren't aware that there was going to be this change</p> <p>17 until the papers came, although we did know that there</p> <p>18 were some real difficulties delivering our strategy and</p> <p>19 on our business plan, and I noticed actually in the</p> <p>20 response by CQC that the exec had had some strategy days</p> <p>21 before then, which I wasn't aware of, and I think that's</p> <p>22 quite telling in that actually it should be the board</p> <p>23 that sets the direction. And the fact that we weren't</p> <p>24 involved prior to that, I think, is quite -- you know,</p> <p>25 quite telling.</p> <p style="text-align: center;">Page 99</p>
<p>1 a meeting that you would be the only person voicing the</p> <p>2 sort of concerns you've mentioned here?</p> <p>3 A. Generally speaking, people were wanting to be</p> <p>4 supportive, but at times some challenges were made. For</p> <p>5 example, I remember another board member expressing --</p> <p>6 no, I expressed the concern that we weren't doing enough</p> <p>7 inspections when the registration was happening, and</p> <p>8 another board member said, "Well, maybe we need to see</p> <p>9 if we can extend the deadline". Okay? Now, that was</p> <p>10 just left. Now, you know, I think -- you know -- and</p> <p>11 the response from Cynthia Bower was that we have to do</p> <p>12 this, and that's the view that was taken.</p> <p>13 So, you know, I mean, it's easy to say in hindsight,</p> <p>14 maybe we should have been more vocal. So there have</p> <p>15 been times when people have challenged, but the response</p> <p>16 is such that the challenge is seen as inappropriate or</p> <p>17 it's not really listened to. More often than not it</p> <p>18 would be the views of the chief exec and the exec that</p> <p>19 would go forward. And I remember there was one board</p> <p>20 meeting when there was actually other board members that</p> <p>21 were quite challenging and the chair said -- I could see</p> <p>22 the chair was upset and I said, "Are you okay?" And she</p> <p>23 said she wasn't very happy with how the board members</p> <p>24 were behaving and this was due to their egos. And</p> <p>25 I think they were actually challenging quite</p> <p style="text-align: center;">Page 98</p>	<p>1 So we had this strategy day and we had</p> <p>2 a presentation, and the suggestion was that we -- or the</p> <p>3 recommendation was that we reduce to two priorities. We</p> <p>4 then broke up into small groups and took notes. Those</p> <p>5 notes never appeared. I don't know what happened to</p> <p>6 them. So at no point did we ever endorse or decide that</p> <p>7 we would agree to these two priorities. There is no</p> <p>8 record of that in any board meeting.</p> <p>9 It was implicit that we would agree. And, you know,</p> <p>10 I am not saying that we wouldn't have agreed. What I am</p> <p>11 saying is that it wasn't formally recorded in a board</p> <p>12 meeting and it wasn't consulted on.</p> <p>13 But I think more tellingly is I don't know, I still</p> <p>14 don't know, what the implications of that were, of that</p> <p>15 decision, that was sort of implied on our strategy and</p> <p>16 on our business plan, because the strategy was -- our</p> <p>17 five-year strategy was and still is as is. When</p> <p>18 I challenged, you know, what actually changed, it was --</p> <p>19 the response was "Oh, we -- internally we communicated</p> <p>20 it but not externally". So I cannot tell you what</p> <p>21 change -- apart from reducing to two strategic</p> <p>22 priorities, I cannot tell you really what the changes</p> <p>23 meant. (Pause).</p> <p>24 Q. In your paragraph 15 you criticise in general terms</p> <p>25 I think the lack of strategy.</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

<p>1 A. Yes.</p> <p>2 Q. So it's not just this occasion, as it were, a one-off</p> <p>3 occasion --</p> <p>4 A. No.</p> <p>5 Q. -- which troubled you. What specifically is it which</p> <p>6 concerns you and what would you expect to have seen, in</p> <p>7 terms of strategy?</p> <p>8 A. Yeah. You know, a strategy to me articulates a clear</p> <p>9 vision, if you like, of what we're trying to achieve.</p> <p>10 It's rooted in the legislation, so that we're quite</p> <p>11 clearly meeting the requirements of the legislation. It</p> <p>12 has aims and objectives that relate to the legal</p> <p>13 framework, the remit of the organisation. And then from</p> <p>14 aims and objectives I would have seen some clear --</p> <p>15 I would have expected to see clear priorities, in</p> <p>16 high-level terms, and that they would relate to</p> <p>17 a business plan. And then the business plan would</p> <p>18 relate to different kind of work plans in the</p> <p>19 organisation.</p> <p>20 So it would be quite clear, you know, where we were</p> <p>21 going, what we were doing, and what our measures of</p> <p>22 success were. And also I would also expect to have</p> <p>23 a clear -- you know, clear processes and systems that</p> <p>24 could give the board assurance that we were actually</p> <p>25 delivering on our strategy and our aims and objectives,</p> <p style="text-align: center;">Page 101</p>	<p>1 Q. Was this the sort of culmination of your concerns?</p> <p>2 A. Yeah.</p> <p>3 Q. What brought you to sit down at presumably your home</p> <p>4 computer, or typewriter, I don't know --</p> <p>5 A. Laptop, yeah.</p> <p>6 Q. -- and write this document out?</p> <p>7 A. Obviously it was the beginning of the year, and I was</p> <p>8 very unclear about where we were going. There were so</p> <p>9 many questions to my mind, as I say, about the direction</p> <p>10 of the organisation, the performance of the</p> <p>11 organisation. I was hearing all sorts of things from</p> <p>12 various people inside and outside the organisation. And</p> <p>13 I partly did this for my own benefit, because I needed</p> <p>14 to try and think through what we were actually doing and</p> <p>15 where we were going. And when I -- when I'd finished it</p> <p>16 I felt that actually this would be something that should</p> <p>17 be shared with the rest of the board, but there were</p> <p>18 issues that I'd raised and I think others as well had</p> <p>19 raised previously. But this is, if you like, a summary</p> <p>20 at that point of what I thought were the kind of issues</p> <p>21 as a board member.</p> <p>22 Q. What I'd like to do with your agreement is really canter</p> <p>23 through this document --</p> <p>24 A. Okay.</p> <p>25 Q. -- rather than take it very slowly, and just highlight</p> <p style="text-align: center;">Page 103</p>
<p>1 our business plan. That to me would be a strategy.</p> <p>2 When -- you know, early on, as we've said, the</p> <p>3 process -- governance processes were immature and that's</p> <p>4 not surprising, you know. Because I think, you know,</p> <p>5 I accept that. But I would say that I still feel that's</p> <p>6 the case, that I am not -- as a board member I am not</p> <p>7 able to say to what extent we're -- you know, what our</p> <p>8 strategy is and to what extent we're implementing</p> <p>9 a strategy, being successful, where we're going. So</p> <p>10 there's clear -- you know, clear strategy, clear</p> <p>11 deliverables and clear framework for knowing if we're</p> <p>12 delivering on it or not, and that should be fed back to</p> <p>13 the board at a high level.</p> <p>14 Q. You make the serious accusation in your statement that</p> <p>15 the strategy is reactive.</p> <p>16 A. Yes.</p> <p>17 Q. And it is led by reputation management, and personal</p> <p>18 survival.</p> <p>19 A. Yeah.</p> <p>20 Q. And in particular you level that accusation against</p> <p>21 I think Cynthia Bower and Dame Jo Williams.</p> <p>22 A. Yeah.</p> <p>23 Q. In January of this year you prepared a document which we</p> <p>24 better have a look at. It's your exhibit 2.</p> <p>25 A. Yeah.</p> <p style="text-align: center;">Page 102</p>	<p>1 some of the issues that you were raising really as</p> <p>2 headlines, and then I am going to come back to deal with</p> <p>3 some of them, not all of them but some of them in a bit</p> <p>4 more detail. It is fair to say you start off in your</p> <p>5 first paragraph saying you're in awe of what has been</p> <p>6 achieved to date.</p> <p>7 A. Yes.</p> <p>8 Q. Mostly unrecognised within and without the organisation?</p> <p>9 A. Yeah.</p> <p>10 Q. And you believe there's an experienced, talented and</p> <p>11 dedicated executive team and board.</p> <p>12 A. Yeah.</p> <p>13 Q. But you wanted to offer your take on the situation.</p> <p>14 A. Yeah.</p> <p>15 Q. And then you say "Where are we?" And under the heading</p> <p>16 "Successes and challenges", second sentence you say:</p> <p>17 "There's a constant sense of waiting until we have</p> <p>18 finished registration before we can really get to grips</p> <p>19 with our real business of regulating. We spent a lot of</p> <p>20 time 'firefighting' without much opportunity to take</p> <p>21 stock and reevaluate."</p> <p>22 Now, this is written in January of 2011.</p> <p>23 A. Yes.</p> <p>24 Q. So this year. Firefighting, we all understand the term.</p> <p>25 Any examples you can give us of that?</p> <p style="text-align: center;">Page 104</p>

26 (Pages 101 to 104)

<p>1 A. It just seemed there was issue after issue. There was 2 obviously registration, and there was a whole lot of 3 resource and effort that went into that. There was 4 a lot of flack from the -- particularly the social care 5 sector about registration. I am trying to think -- it's 6 difficult to think what happened when. 7 Q. What happened when? 8 A. Yeah. 9 Q. All right. 10 A. I mean, there just seemed to be so many things that were 11 coming at us. I don't know, maybe the recruitment 12 freeze. I mean, there were just, you know, lots of 13 things that were coming along and we were really having 14 to sort of -- or the exec were having to react. 15 Q. I suppose lots of organisations are inflicted with this 16 particular problem -- 17 A. Yes. 18 Q. -- of events happening. 19 A. That's right, yeah. 20 Q. But your real concern, perhaps, was the lack of 21 strategic overview? 22 A. Absolutely. I mean, I think it goes back to the point 23 I was making earlier, that, you know, we were very clear 24 that it was very, very difficult and there was 25 a pressure on us to be supportive, you know, and the</p> <p style="text-align: center;">Page 105</p>	<p>1 context that we now face. What had changed? 2 A. I think there had been a change of government and 3 a change of expectation. It was clear that we had 4 over-promised, that we couldn't -- you know, the 5 strategy was developed in a robust way, in the sense 6 that there was lots of consultation, but at that point 7 we didn't know what our capacity was. So we over -- we 8 had clearly over-promised. There was the economic 9 situation. There was, as I say, a change of government, 10 a change of expectation, and it was clear that all those 11 factors were really important, so that's why I was 12 suggesting that we needed to kind of revisit our 13 strategy. 14 Q. Over the page, please, "Regulatory model". Well, before 15 we go there, I am going to come back to this but you 16 mention: 17 "From a financial perspective I am not wholly clear 18 on how our resources are deployed and the processes for 19 determining this ..." 20 Now, the second part is more important for the board 21 than the first in one sense. Are you saying there that 22 the board certainly was not determining how the 23 resources are deployed -- 24 A. Yeah. 25 Q. -- in a strategic way?</p> <p style="text-align: center;">Page 107</p>
<p>1 board certainly did discuss, you know, to what extent we 2 should challenge and to what extent we should be 3 supportive. But we did not have the opportunity to have 4 a real strategic discussion as to what was happening and 5 where we were going. We were just kind of told, really, 6 that we just had to get on and do the work. That's what 7 the organisation had to do. 8 Q. Your next point under "external policy and influence" 9 I am not going to spend a lot of time on this. 10 You say: 11 "I am not clear how the role of the quality 12 regulator interfaces with the various other (relevant) 13 aspects of quality." 14 And then we come back to "Strategy": 15 "We have an organisational strategy and associated 16 plan in place which were developed in a robust way. It 17 is possible that they are not 'fit for purpose' in the 18 contexts we now face. I don't think it is enough to 19 either tweak what we currently have or to adapt our 20 approach as each new challenge rears up. I'm not sure 21 if we have a whole system approach as yet ..." 22 Referring there to the original organisational 23 strategy -- 24 A. Yeah. 25 Q. -- but saying that it is not now fit for purpose in the</p> <p style="text-align: center;">Page 106</p>	<p>1 A. Absolutely, yeah. Yeah. I still don't. I kept saying 2 I don't know how much our regulatory model costs to 3 implement, and I still don't know that, even though 4 I know there's been some work looking at different 5 activities recently, but I didn't know then, you know, 6 how our resources and deployed, and to be honest I am 7 still -- I'm still not that clear. 8 Q. You talk about the regulatory model and not having 9 a clear consensus on what the regulatory model will look 10 like on the ground. I am going to come back to that, if 11 I may, because that's quite a big issue. 12 "Field force": 13 "We had a significant debate around the model for 14 our field force model. I would welcome a discussion and 15 review of how well it is working." 16 And then you say: 17 "I know that some staff, especially assessors, 18 inspectors and [Mental Health] Act commissioners are 19 frustrated that they can't do the job as well as they'd 20 like and are losing confidence in the organisation." 21 How do you come to that view? 22 A. Well, I had spoken to lots of assessors, inspectors and 23 Mental Health Act commissioners, and I'd been out on 24 some inspections as well, and they were sort of voicing 25 to me their concerns that they weren't -- they didn't</p> <p style="text-align: center;">Page 108</p>

<p>1 have the training and support. They didn't -- yeah, 2 they didn't have the knowledge. 3 Q. I mean, some of what we heard this morning perhaps? 4 A. Absolutely, that's exactly what I was hearing. Yeah. 5 Q. "Human resources": 6 "Many staff ... are working long hours and under 7 significant pressure. Morale is low as is confidence in 8 'management'. Staff feel that senior managers and the 9 broad don't understand what their working environment is 10 like ..." 11 Again, is this something that you had gleaned simply 12 from speaking to staff? 13 A. Yeah, and from the staff survey when that came out. 14 Q. Yes. 15 A. But, yes, talking to lots of staff. 16 Q. And then "Involvement and stakeholders". Again, I am 17 going to come to this: 18 "We have undertaken a lot of good work around 19 involvement and engagement. However, we have yet to 20 consider (at board level) how this -- much of which has 21 been consultation and laying the foundations for future 22 work -- fits with the changing environment including 23 HealthWatch." 24 That, of course, is of some significance, I suppose, 25 at the moment.</p> <p style="text-align: center;">Page 109</p>	<p>1 really reflective of what's happening on the ground?" 2 And I don't -- I don't think that's the case. 3 Q. I promised that I was going to have a look at some of 4 these in detail and I will, but can I just ask this, 5 what did you do with this document? 6 A. I sent it to the board. I am not sure if I sent it to 7 the executive team as well, I can't remember, but 8 I certainly sent it to the chair and the board. 9 Q. What reaction did you get to it? 10 A. I remember the chair acknowledging it and agreeing that 11 she agreed with most of the issues, but that's -- you 12 know, that's as far as it went. I mean, I think, you 13 know, that possibly some of the issues were taken into 14 account as we went forward. I mean, I wasn't 15 necessarily expecting a detailed response to every 16 single issue, I just wanted to kind of put my views on 17 the table, but I cannot say this was done as a result of 18 me raising these issues, even though there seemed to be 19 agreement with me. 20 Q. I want to come back, then, to strategy, which is really 21 the first big issue that you raise in this note. 22 A. Yeah. 23 Q. You say that you're unsure what the regulatory model 24 will look like on the ground. 25 A. Yeah.</p> <p style="text-align: center;">Page 111</p>
<p>1 A. Yeah. 2 Q. And then over the page "Performance monitoring": 3 "... I'm ... not convinced that we necessarily get 4 an accurate picture at board meetings of how well we are 5 performing as an organisation." 6 Can I just deal with that. One of the roles of 7 a board is sometimes thought to be assessing itself -- 8 A. Yeah. 9 Q. -- and assessing the organisation and how well its 10 performing. How much of that is done at board level at 11 the CQC? 12 A. We have a performance framework that has kind of changed 13 or evolved over time. I don't think it particularly 14 gives a clear idea, to me as a board member, of actually 15 what we're doing and how we're performing and in 16 particular, you know, the impact we're having on the 17 quality of care, on the safety and quality of care. 18 A lot of the things that are measured are sort of 19 numbers, if you like, which are then translated into 20 targets. And, you know, there may be some value in 21 that, but as a board member, I see these targets, which 22 sometimes are met and sometimes are not met, and then 23 when I speak to people on the ground, I hear similar 24 stories to Amanda as this morning, and I'm thinking, 25 "Well, you know, is what I am getting at board level</p> <p style="text-align: center;">Page 110</p>	<p>1 Q. Is the fact that you're here giving evidence about it an 2 indication that your mind is still not clear? 3 A. I am still unclear. Over time, it seems that how it's 4 working on the ground has changed quite a lot and 5 there's also plans to change it even further. I mean, 6 it's quite clear -- I often hear, you know, it can't be 7 one size fits all. That comes across -- you know, 8 I hear that comment frequently. So the current -- we've 9 got a current consultation out, which is suggesting that 10 we change our model, so we look -- we're focusing more 11 on compliance and enforcement. So instead of looking 12 for areas of compliance, we're going to look for areas 13 of non-compliance, so there's a shift, and then they'll 14 be more enforcement action as a result of that. 15 So -- but I -- my point really is that although 16 I agree that there should be, you know, quicker 17 enforcement when it's needed, I think we've repeated the 18 mistakes in the sense that we have not thought through 19 what this actually means on the ground and in reality. 20 Q. But did the reduction from five to two strategic 21 priorities assist with that? 22 A. I can't say. I really can't say. I mean, I think that 23 the fact -- I guess what would be said is the fact that 24 we were focusing on the needs and experiences of people 25 and eliminating poor care, I think that there would be</p> <p style="text-align: center;">Page 112</p>

<p>1 the argument that that's what we've been focusing on, 2 but I cannot say clearly when -- from when that decision 3 was made what the processes systems were from going from 4 that decision to where we are now, it's kind of evolved 5 over time, and that's not necessarily bad, but it's in 6 the context of not really understanding where we're 7 going and what the implications and impacts are further 8 down the line. And we're -- you know, throughout we 9 have had to amend and change what we do in response to 10 feedback or criticism. For example, you know, 11 inspectors have been told that they can -- they don't 12 need to inspect on all 16 outcomes, you know, and I am 13 not going to say whether that is right or wrong, but 14 I think the thing is I don't know if it's right or 15 wrong. You know, it was a reactive decision. 16 Q. It was reactive because you had to increase -- or the 17 decision was made to increase the number of inspections, 18 do you mean? 19 A. Well, I don't know actually. I don't know. I mean, 20 I assume that's -- that was the thinking, but I don't -- 21 I actually don't know, which is probably quite telling. 22 THE CHAIRMAN: What would you expect to see? You say you 23 don't know if it was right or wrong to make the change, 24 but what would you have expected to see that you hadn't 25 been offered in order for you to make that decision?</p> <p style="text-align: center;">Page 113</p>	<p>1 necessarily say the board should have approved that, but 2 it should -- we should have been able to relate it back 3 to a clear strategy, business plan. 4 THE CHAIRMAN: Thank you. 5 A. Okay. 6 MR KARK: I mean, is your complaint that the specific method 7 by which the CQC regulates providers and thereby meets 8 its objectives isn't set out in a strategy plan or 9 before the board, or that there's no blueprint or plan 10 of approach, or a bit of all of it? 11 A. We have a strategy. That five-year strategy is still 12 extant. It's still on our website. And we have 13 a business plan. We've had business plans. So in a way 14 they are the strategy and the blueprint. But what I've 15 seen that the five-year strategy we haven't delivered on 16 significant amounts of that. 17 We've had a business plan every year, and each 18 business plan, when I look back, we haven't delivered on 19 those business plans. You know, you could say, well, 20 we've over-promised, you know. We didn't know what we 21 could do. And to some extent, you know, I would be 22 sympathetic to that, given that we are a new 23 organisation. But what I don't see is a sense of kind 24 of learning and reflexion and actually thinking about 25 what we need to do differently in a coherent way.</p> <p style="text-align: center;">Page 115</p>
<p>1 A. A clear strategy. An analysis of different options. 2 Impact assessments. You know, there's a whole range of 3 ways of looking at key decisions and how they, you know, 4 fit with our legal obligations, our strategy, and what 5 the impacts and implications would be further down the 6 line, and not to do that is not good management or 7 governance. 8 THE CHAIRMAN: And a decision to instruct the inspectors to 9 look at a limited number of outcomes rather than all of 10 them, is that something you would expect to have to be 11 approved by the board before it happened or something 12 that you should be informed about and say you could 13 comment on it? 14 A. Yeah. I mean, I have to say we weren't informed, I just 15 happened to read about it. 16 THE CHAIRMAN: That's why I'm asking you. 17 A. Yeah. I am trying to think. I think it should have 18 been part of -- because we didn't really have a clear 19 strategic context, you know, I think something like 20 that, I think maybe the board would not necessarily make 21 a decision on that specific issue, but we should have 22 had a general, if you like, context of what we were 23 doing, where we were going and why, you know, because 24 you have to trust the exec directors to implement 25 strategy and the business plan. So I wouldn't</p> <p style="text-align: center;">Page 114</p>	<p>1 So it's -- you know, I don't -- at the moment we do 2 not have a clear strategic context. The five-year 3 strategy is still on our website, even though we've said 4 we've reduced to two strategic priorities. I don't know 5 what that really means. We certainly didn't consult on 6 it. You know, we didn't consult the public or -- or -- 7 we certainly didn't formally consult staff. So I don't 8 know what -- you know, as a board member, I've got this 9 five-year strategy, I got a business plan, and then 10 a month or two ago I'm presented with a strategy 11 refresh, which distils the strategy in the business plan 12 down to some very specific things, really, which to me 13 is just -- it's not a strategy, it's not a business 14 plan, and that's not something that a major 15 organisation -- public body should be working to. 16 Q. Can I just sort of test you, as it were, with this -- 17 A. Of course. 18 Q. -- because the CQC say, just using this as an example, 19 that the reduction of five strategic properties to two 20 was in fact approved by the board, and there was a 21 strategy board meeting of 17 November 2010. I can see 22 you nodding in -- 23 A. Yeah. 24 Q. -- in agreement and I can show you the document. I am 25 sorry, I can't put this up on screen.</p> <p style="text-align: center;">Page 116</p>

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<p>1 A. Yeah.</p> <p>2 Q. And if I may I'll just read this:</p> <p>3 "Prior to the session, ET members ..."</p> <p>4 Is that executive team members?</p> <p>5 A. Yes.</p> <p>6 Q. "... were asked to complete an exercise which asked them</p> <p>7 to identify just one strategic priority for each of the</p> <p>8 CQC's key functions. The aggregate results of the</p> <p>9 exercise were shared with attendees and used to inform</p> <p>10 the discussion. Following discussion, there was</p> <p>11 agreement that the CQC should focus on two strategic</p> <p>12 priorities."</p> <p>13 And it's the two that we've named. Do you remember</p> <p>14 that being discussed at board level?</p> <p>15 A. Well, it's -- it's the point I made earlier. That</p> <p>16 strategy day, before the -- we received the papers we</p> <p>17 didn't know that there was going to be this -- this is</p> <p>18 what I was talking about. So when we had the strategy</p> <p>19 day it was presented to us -- the paper was presented to</p> <p>20 us and we broke into small groups and discussed it, but</p> <p>21 there was no feedback and no write-up of that, and it</p> <p>22 wasn't a formal meeting, and we didn't say that we</p> <p>23 endorsed it. There's no -- no record of us endorsing it</p> <p>24 or agreeing it. I am saying that that -- you know, if</p> <p>25 you look in the board minutes, the next board minutes,</p> <p style="text-align: center;">Page 117</p>	<p>1 day, since we're on the theme of strategies, and I think</p> <p>2 you wrote an email in advance of that day, and it's your</p> <p>3 exhibit 13. (Pause).</p> <p>4 This is written in September of this year, so</p> <p>5 a couple of months ago. It is dated 26 September.</p> <p>6 If I can just read the first paragraph:</p> <p>7 "Dear Joe, all.</p> <p>8 "We seem to have a shared view of the issues which</p> <p>9 is encouraging. How we address them will be crucial</p> <p>10 and, in particular, how we do this with the executive</p> <p>11 team. I think the exec feel we are too involved which</p> <p>12 contrasts with the fact we feel we are not involved</p> <p>13 enough. I think it is clear we are not fulfilling our</p> <p>14 strategic and governance functions effectively. The</p> <p>15 board papers we receive are indicative of the problem in</p> <p>16 that the strategic context is muddled (sometimes absent)</p> <p>17 and, whilst there is a lot of information, it is often</p> <p>18 difficult to understand the key issues from them."</p> <p>19 And then you point out in your next paragraph:</p> <p>20 "It is worth noting that our five-year strategy is</p> <p>21 still extant."</p> <p>22 And that's despite the change that was meant to have</p> <p>23 taken place.</p> <p>24 A. Yeah.</p> <p>25 Q. Then in the next paragraph:</p> <p style="text-align: center;">Page 119</p>
<p>1 there's no reference to it, and I am saying that it was</p> <p>2 implicit that we agreed.</p> <p>3 Q. All right.</p> <p>4 A. But, you know, the comments that I made, for example,</p> <p>5 I don't know where they've gone, they've disappeared.</p> <p>6 But I am saying we wouldn't necessarily have disagreed,</p> <p>7 but the point that I have been making is, what does that</p> <p>8 mean? We reduce to two strategic priorities. That did</p> <p>9 not equate to a specific part of the strategy. It was</p> <p>10 unclear as to what that actually meant, in terms of our</p> <p>11 strategy business plan.</p> <p>12 Q. Just so that I don't myself get confused --</p> <p>13 A. Yeah.</p> <p>14 Q. -- this is a strategy board meeting back in November of</p> <p>15 2010.</p> <p>16 A. That's right, yeah.</p> <p>17 Q. And you talk in your statement about a strategy and</p> <p>18 board development day, which I think took place on</p> <p>19 29 September 2011.</p> <p>20 A. Yeah.</p> <p>21 Q. So that's obviously a completely separate --</p> <p>22 A. That's different. That's reviewing it again.</p> <p>23 Q. Fine. Okay.</p> <p>24 A. Yeah. Yeah.</p> <p>25 Q. I want to turn to that strategy and board development</p> <p style="text-align: center;">Page 118</p>	<p>1 "It is still unclear (to me anyway) what we can</p> <p>2 actually afford to do as an organisation. I have not</p> <p>3 seen any analyses of what our key activities cost, now</p> <p>4 and in the future and how/if we allocate and use our</p> <p>5 resources effectively."</p> <p>6 So we're nine months on from the change of strategy,</p> <p>7 almost a year on in fact, had nothing changed?</p> <p>8 A. I don't think anything had changed that enabled me to</p> <p>9 fulfil my board role any better. I still don't know</p> <p>10 what we can afford to do as an organisation. You know,</p> <p>11 I know what our budget is and I know in kind of very</p> <p>12 broad terms like staff costs, but I do not know what our</p> <p>13 regulatory model costs to implement. And, as I said,</p> <p>14 I know there's been some work looking at different</p> <p>15 activities in the organisation, how much that costs, and</p> <p>16 that's been used to justify or inform -- you know, get</p> <p>17 a business case to get more inspectors, but I do not</p> <p>18 know if we use our money appropriately or -- I mean, I'm</p> <p>19 assuming that it's not inappropriate, but what I mean is</p> <p>20 I don't know if we do it effectively. You know, are we</p> <p>21 spending the money on the right things? You know, on</p> <p>22 the things that matter, on, you know, particularly</p> <p>23 things in our strategy, if we had a strategy yet.</p> <p>24 Q. But are there no board decisions about where your money</p> <p>25 is going to go in broad terms? Obviously you can't deal</p> <p style="text-align: center;">Page 120</p>

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<p>1 with pounds and pence, but in broad terms, do you not 2 discuss that?</p> <p>3 A. There's -- we approve a business plan and the business 4 plan has sort of high-level things, or the most recent 5 one did. Prior to that we didn't, but the most recent 6 one, if I recall, had things like staffing, regulatory 7 activity. So there were about five or six different 8 categories, but this was in the business plan that we 9 had to approve at the board meeting. So, you know, the 10 option really was, you know, if you didn't -- if, you 11 know -- it was very difficult to sort of question that. 12 I mean, what I could have done as a board member and 13 I've done it with other things is to go and find out 14 more information about that, but I think, you know, 15 we're certainly told that we need to sort of trust the 16 exec to make those decisions.</p> <p>17 Q. Can we have a look at a document that was produced, 18 which I think is the strategy refresh document. Its 19 your exhibit 14. It is headed "Private board meeting of 20 16 November 2011". So this is a couple of weeks ago in 21 fact?</p> <p>22 A. Yes, exactly.</p> <p>23 Q. 12 days ago.</p> <p>24 A. And in fact it was this that particularly prompted me to 25 raise concerns.</p> <p style="text-align: center;">Page 121</p>	<p>1 deliver the outcomes that we want as an organisation. 2 And also the measures that are proposed cannot indicate, 3 you know, how successful we are or what the impact we're 4 making. This document is not a strategy at all. It 5 doesn't -- it doesn't give, you know, the overall 6 vision. It doesn't give -- it's not rooted in the 7 legislation.</p> <p>8 I've been back and looked at the Health and Social 9 Care Act, and there are -- you know, I'm not convinced 10 that that's adequately reflected in this. I'm not clear 11 what the aims and objectives are. It's mostly a list of 12 different activities that we do. It just sort of 13 describes what we do.</p> <p>14 You know, as a strategy document, to sort of 15 underpin the work of a -- you know, a national 16 regulator, you know, it's not something that I could 17 endorse as a board member. And it seems to me it's been 18 distilled into this so that we can very quickly 19 demonstrate that we have met our objectives. Because if 20 you look at the business plan for this year, we haven't 21 met those objectives, and we're now saying -- we're 22 taking that, the strategy and the business plan, and 23 putting this, which has called a strategy refresh, which 24 it isn't. It is simply distilling the strategy, the 25 business plan, into this document, which is inadequate,</p> <p style="text-align: center;">Page 123</p>
<p>1 Q. Well, just take us through it. If we could go to page 3 2 of 3, I think is probably where we need to start.</p> <p>3 A. Yeah. I'll look on here.</p> <p>4 Q. Do you want to look at your own?</p> <p>5 A. Yeah, this page ... Oh, actually it's ... I've got it. 6 Yeah.</p> <p>7 Q. Can you give us a page number or a paragraph number? Is 8 it the same as the one we've got on screen?</p> <p>9 A. It is, yeah. It is.</p> <p>10 Q. Right.</p> <p>11 A. Sorry --</p> <p>12 Q. What was your concern about the way that this was 13 presented?</p> <p>14 A. If you look at the document, we had the five-year 15 strategy that is current, okay? That has kind of gone, 16 I think, it seems. And essentially it's been distilled 17 down to -- I'll just find the page. If you look at 18 page 5 or 6, that's essentially saying what we're going 19 to do. That --</p> <p>20 Q. Yes.</p> <p>21 A. -- is essentially is our strategy and it says what the 22 success and the measure is.</p> <p>23 Q. Yes.</p> <p>24 A. From the -- as a board member, I cannot say that this 25 will deliver a coherent strategy and that it will</p> <p style="text-align: center;">Page 122</p>	<p>1 frankly.</p> <p>2 Q. Why do you think this has been done? You said "very 3 quickly", what's the relevance of speed?</p> <p>4 A. The relevance of speed is that -- and I need to say that 5 this is something that has been discussed and I've 6 heard, that we need to make a quick impact and to show 7 that we're successful, making an impact to pre-empt the 8 report of this inquiry, the National Audit Office, the 9 Department of Health capability review, the Public 10 Accounts Committee.</p> <p>11 Q. Who have you heard using that sort of language?</p> <p>12 A. It was in a board meeting, and in fact, you know, they 13 even said we need to look at getting some high profile 14 cases, because that will stick in people's minds.</p> <p>15 Q. Do you want to take a break for a moment?</p> <p>16 THE CHAIRMAN: It is about time we did.</p> <p>17 A. Thanks.</p> <p>18 THE CHAIRMAN: Just before we do, looking at this document, 19 you criticise it for not being founded in the statutory 20 duties. I suppose it might be put to you what's on 21 page 3 of 6, at least under various headings, seems to 22 refer to statutory duties and some regulation, but 23 that's not what you mean, obviously?</p> <p>24 A. No, I mean, if you look at the legislation, there are 25 three -- I've got to be remember -- there were three</p> <p style="text-align: center;">Page 124</p>

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<p>1 main functions. Something like -- I am trying to 2 remember what it is now. 3 THE CHAIRMAN: Let's have the break and we'll all remind 4 ourselves what they might be. 5 A. Thank you. 6 THE CHAIRMAN: Because I can't tell you immediately, then 7 I am sure Mr Kark will be able to after ten minutes. 8 MR KARK: We're just finding it. 9 THE CHAIRMAN: We'll start again at 25 past. 10 (3.10 pm) 11 (A short break) 12 (3.25 pm) 13 (Proceedings delayed) 14 (3.30 pm) 15 THE CHAIRMAN: How are we doing on the law, Mr Kark? 16 MR KARK: As we all knew, section 3 provides that: 17 "The main objectives of the Commission in performing 18 its functions is to protect and promote the health, 19 safety and welfare of people who use health and social 20 care services, and is to perform its functions for the 21 general purpose of: 22 "(a) encouraging the improvement of health and 23 social care services, the provision of health and social 24 care services in a way that focuses on the needs and 25 experiences of people who use those services, and the Page 125</p>	<p>1 how CQC could be operating in 2014. It has been 2 developed as a mechanism for promoting discussion by the 3 board about CQC's role and purpose and what success 4 might look like, as part of a broader strategic 5 discussion." 6 Do you recall that? 7 A. I have to say I don't recall it. 8 Q. All right. 9 A. Albeit we are often given sort of -- these sort of 10 documents. I actually don't recall this one. 11 Q. All right. 12 A. But I can't say we weren't given it but I just don't 13 recall it. I remember the policy overview but I don't 14 recall this one. 15 Q. And then, again, leading up to that day, 16 29 September 2011, page 26, please, which is headed "CQC 17 board strategic workshop". We can see the headline: 18 "What would make the biggest difference/what would 19 good look like going forward to how successful we are as 20 a board?" 21 Now, isn't that the right sort of document that the 22 board should be considering? 23 A. Yeah. I mean, this was in -- this was actually for the 24 board development session, which I indeed really was 25 sort of pushing for because we weren't operating as Page 127</p>
<p>1 efficient and effective use of resources and the 2 provision of health and social care services." 3 Is that what you were trying to remind us of? 4 A. I think there's something about Mental Health Act as 5 well. There's various parts of the legislation. 6 Q. Just before we go on, we were talking about the strategy 7 day, and I've been invited by the CQC to remind you of 8 certain documents. I've actually shown them to you in 9 the witness room. 10 A. Yes. 11 Q. But it is right that I should do it again now very 12 briefly. Could I ask the Trial Director to take us to 13 page 5, first of all, of the CQC's submission. We're 14 just going to have a quick look at these documents to 15 see if you're reminded that you were provided with them. 16 A. Yes, we were provided with this one, yes. 17 Q. So this is obviously prior to the strategy meeting on 18 29 September 2011. 19 A. That's right. 20 Q. You were given a background briefing and policy 21 overview. 22 A. Yeah. 23 Q. And that is five or so pages long. Then if we could go 24 to page 11, please "Board strategy discussion": 25 "The following narrative provides a draft account of Page 126</p>	<p>1 a board and these were the things that came out of that 2 session on the 29th. I think it should be 2011. 3 Q. Yes, we think I should be as well. 4 A. So these were the things that came out. I think it's 5 obviously indicative that there were significant 6 problems about how the board was functioning, and this 7 was the list of things that the board and the executive 8 came up with. So, you know, it gives quite a good idea 9 that actually what I am saying is the case. 10 Q. Which includes, I note, bullet point 5 "Clarity of the 11 purpose of the board". 12 A. Yes. 13 Q. So pretty fundamental stuff perhaps. 14 A. Exactly. It's just what I have been saying, you know. 15 And it was me that kind of pushed this. I think, you 16 know, it's quite clear what the purpose of a board is. 17 You know, it's clearly defined in our standing orders, 18 our role description, you know. So it's -- to be honest 19 it's inconceivable that board members and executive 20 directors do not understand the role of the board. 21 I think it's more indicative of the culture, to be 22 honest, but I think this list is actually very good, in 23 that it does actually give it an indication of what the 24 problems are with the board. 25 Q. Did you have any sense -- I am going to ask you about Page 128</p>

<p>1 how the day went.</p> <p>2 A. Yeah.</p> <p>3 Q. But did you have any sense after this day that the board</p> <p>4 would be more effective, more likely to be able to</p> <p>5 challenge and steer the organisation?</p> <p>6 A. Well, I had said in an email that I wasn't convinced</p> <p>7 that it would change because I think it's not so much an</p> <p>8 understanding of the role and responsibilities, it's the</p> <p>9 way that the board and the organisation are led. So --</p> <p>10 and I think we had -- you know, we've had one board</p> <p>11 meeting since this day, and I have to say I didn't see</p> <p>12 much of a difference in that we were still being asked</p> <p>13 to comment on and endorse things, but as I said the</p> <p>14 board did actually say that the refresh strategy was not</p> <p>15 acceptable.</p> <p>16 Q. Quite.</p> <p>17 A. So that to my mind was a change. I felt there was a</p> <p>18 change in that respect, but the papers coming to the</p> <p>19 board were -- we were asked to comment and endorse. So</p> <p>20 I was actually very pleased when the rest of the board</p> <p>21 did seem to agree that this was not acceptable for an</p> <p>22 organisation -- this strategy was not acceptable for the</p> <p>23 organisation.</p> <p>24 Q. One final document, it is page 30 of this little folder,</p> <p>25 headed "The work of the board and executive team of CQC:</p> <p style="text-align: center;">Page 129</p>	<p>1 the board should and has to decide, it's quite clear.</p> <p>2 So -- but the idea of this was to try and get clarity,</p> <p>3 so that in a way we're clear. But as yet, I have yet to</p> <p>4 see really the benefits and it's probably too early.</p> <p>5 Q. Do you accept, though, that these documents do reveal</p> <p>6 that there was an attempt to inform the discussion, as</p> <p>7 it were, that was going to take place on 29 September?</p> <p>8 A. Yes. Yeah. Well, this came out after -- sorry.</p> <p>9 Q. I am not including the last document, I meant the first</p> <p>10 three that we looked at.</p> <p>11 A. Yeah, yeah.</p> <p>12 Q. You make the allegation in your statement that really</p> <p>13 the strategy is fixed by what is needed for reputational</p> <p>14 management, and I just want to ask you to expand on</p> <p>15 that, if you can, for a moment. Do you mean the</p> <p>16 reputational management of the CQC generally or the</p> <p>17 individuals within it?</p> <p>18 A. Well, I think its both, actually, because -- but there's</p> <p>19 definitely a big emphasis on reputation. In fact</p> <p>20 there's a workshop base coming up called "Managing our</p> <p>21 reputation". But I think obviously the organisation has</p> <p>22 had lots of criticism and flack, and in particular the</p> <p>23 chief exec has had flack and, of course, the leaders are</p> <p>24 ultimately responsible.</p> <p>25 Now, in this strategy refresh it's not that I would</p> <p style="text-align: center;">Page 131</p>
<p>1 12 October".</p> <p>2 A. Yeah.</p> <p>3 Q. And the objectives are:</p> <p>4 "To build on the work done on 29 September."</p> <p>5 So that's the board strategy day.</p> <p>6 A. Yeah.</p> <p>7 Q. And:</p> <p>8 "To demonstrate immediate improvement in ways of</p> <p>9 working."</p> <p>10 What was the purpose of this document, can you</p> <p>11 remember?</p> <p>12 A. The idea was to have clarity on whether decision --</p> <p>13 whether papers are either for information or for</p> <p>14 decision by the board or the exec or both together.</p> <p>15 I mean, in fact I've said since then that actually we</p> <p>16 need to make sure -- because we had a sort of -- a kind</p> <p>17 of brainstorm where we had different issues and we had</p> <p>18 to say which -- which of those boundaries it was. But</p> <p>19 I felt that some -- I wasn't sure if some of them were</p> <p>20 actually correct. So I've asked, and I don't know if</p> <p>21 this has been implemented, that we go back to the</p> <p>22 legislation, to the operating framework with the</p> <p>23 Department of Health, just to make sure that what we</p> <p>24 actually brainstormed does actually fit with our legal</p> <p>25 responsibilities, because there are actually things that</p> <p style="text-align: center;">Page 130</p>	<p>1 necessarily disagree with parts of it, but if we look at</p> <p>2 the success and the measures, they're things that are</p> <p>3 likely to be achieved to -- and then, in my view, that</p> <p>4 it -- for that reason, we can then, you know, say we</p> <p>5 have been successful. But if you go back to the</p> <p>6 business plan that was developed for this year, we're</p> <p>7 not delivering on that, as we haven't delivered on the</p> <p>8 previous business plans. So this refresh is the</p> <p>9 strategy and the business plan condensed, and the things</p> <p>10 that are being measured are things that we will be able</p> <p>11 to show, effectively, to demonstrate that we're</p> <p>12 successful but in actual fact if you look at the</p> <p>13 measures they don't really show the quality of what</p> <p>14 we're doing, the impact. For example, it says a measure</p> <p>15 I is -- one of the successes, it says:</p> <p>16 "Reports are produced and published promptly and to</p> <p>17 a high standard."</p> <p>18 And the measures is:</p> <p>19 "Reports written within target times."</p> <p>20 Now, to me, the most important thing is the quality</p> <p>21 of the report. You know, is it accurate? Is it</p> <p>22 consistent? Is it useful? So you've got a target to</p> <p>23 get the report done, therefore we're successful, but the</p> <p>24 real measure would be, you know --</p> <p>25 Q. So you think the measures that have been chosen are</p> <p style="text-align: center;">Page 132</p>

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<p>1 wrong. Can I ask you about what the reaction to 2 challenge is, and I think the strategy planning day was 3 quite challenging to everybody, including to you. 4 A. Yeah. 5 Q. Just tell us how it went and -- 6 A. Okay. 7 Q. -- what challenges you had on that day. 8 A. Yeah. It has generally been quite difficult to 9 challenge because, as I've said, with the sort of 10 pressure to support and agree, and if you challenge, you 11 know, you're made to feel that you're kind of being 12 disloyal. Whereas actually, you know, I think that is 13 part of the board as well as being supportive. 14 On that day, on 29 September, we're talking about 15 how the board functions and, as I said, it was the 16 impetus from me really that led, certainly in part, for 17 the day, and essentially, you know, what we would be 18 talking about is whether we were doing our job properly 19 and what -- what the culture was, and that was very 20 difficult. And so I had to leave the meeting because 21 I was distressed by it, because -- 22 Q. How many were there? Was it the whole board was there? 23 A. It was the board and the executive team and 24 a facilitator. 25 Q. Were you the only one taking your particular stance,</p> <p style="text-align: center;">Page 133</p>	<p>1 challenge or be a board member in a way that, you know, 2 you can hold the exec to account, or that you can assume 3 accountability. If you try and do that, you're -- 4 I mean, you just can't do it. It's hard to explain 5 because -- 6 THE CHAIRMAN: Sorry interrupt, but if, for instance, there 7 was a more graded system of papers coming to the board 8 and a better recorded system of decision-making, which 9 is all mentioned there -- 10 A. Yeah. 11 THE CHAIRMAN: -- wouldn't that help change the culture? 12 A. I mean, it remains to be seen. I mean, we have had 13 board development before, and they didn't have any 14 effect to be honest. And it's still early days, you 15 know, in the sense that it was only September/October, 16 but I do not feel confident that the culture will 17 change. 18 THE CHAIRMAN: Thank you. 19 A. But ... 20 MR KARK: You were quite challenging on this day, and in 21 effect were you criticising the board for not doing its 22 job? 23 A. I wasn't -- not directly. I wouldn't -- when I say 24 I was challenging, I wasn't being overly critical, but, 25 you know, there was an -- implicit in what I was saying</p> <p style="text-align: center;">Page 135</p>
<p>1 vocally? 2 A. I think there was -- I think there was -- there was 3 agreement that we needed to do things differently, 4 I think so. The issue that I was particularly upset was 5 that -- there was the comment that if, you know, you 6 don't like what's going on -- not to me personally, it 7 was a general thing -- then you should resign. And, to 8 me I was thinking well, that's -- you know, because this 9 is what I'd been thinking, I either resign or I try and 10 work to improve things, and I'd decided on the latter. 11 And I don't want to resign, I want it to be improved. 12 So -- 13 Q. You left -- 14 THE CHAIRMAN: I am sorry to interrupt, but, I mean, 15 I understand the difficulty of raising these sorts of 16 issues and even more so perhaps of talking about them 17 now, but to what extent should I see in the documents 18 that have just been put to you a willingness to take on 19 board the points that you have made? 20 A. I think that -- I guess what I would say is that if we 21 looked at the -- those -- the list that I was shown from 22 the day, that it does describe some of the problems, but 23 to me that it's -- the real issue is around the culture 24 and the style of leadership, you know, that we know what 25 the problems are. You know, it's very difficult to</p> <p style="text-align: center;">Page 134</p>	<p>1 is that we weren't really doing our job properly, and 2 that's quite -- obviously quite difficult to do because 3 we've been a board for over two years and, I think, you 4 know, that the leaders, the chief exec and chair, are 5 under a lot of pressure, you know. They -- you know, it 6 is a challenging job, and then for the board then to 7 sort of challenge them as well, you know, they found 8 that quite hard, and that's again another sort of 9 symptom, that you raise an issue and you know that it's 10 causing some distress, and then you feel you need to 11 back off and so the issue gets left. But that's to do 12 with the culture of the board, you know. 13 Q. Tell us about your first meeting with Jo Williams after 14 this meeting. What was her reaction? 15 A. Well, she phoned me up before I met her a few times, and 16 she said she was very concerned about my health, my 17 mental health, and she really was very concerned about 18 me attending any more board meetings. And I said that 19 I would like to attend the board -- the next board 20 meeting in October, and so she said that she wanted me 21 to see somebody from occupational health before 22 I attended a board meeting. So in October, on the day 23 of the meeting, I had to meet, actually in the chair's 24 office, with occupational health nurse. 25 Q. Can we just put that into context for a moment. I know</p> <p style="text-align: center;">Page 136</p>

<p>1 that you're content, as it were, talk about it. Have 2 you suffered from depression in the past? 3 A. Yeah, I have, yeah. And they knew that. And, you know, 4 in a way that's one of the reasons I was appointed to 5 the board because I was there to particularly champion 6 the interests of people who use services. And it just 7 so happens it's mental health and social care from my 8 perspective. So they're well aware of that. 9 Q. And you've lived through that period of illness, and 10 I don't know if you still suffer from that but in 11 October of this year, last month, was that something, as 12 far as you were concerned, that was affecting your 13 ability to function? 14 A. No. I'd not received -- in my appraisals feedback, I'd 15 said, had been very positive. It was only after that 16 particular day that -- and I was upset. You know, I -- 17 Q. All right. 18 A. -- I accept that totally, but I recovered quickly, and 19 I agreed to see the occupational health nurse, who said 20 I was fine. But Jo Williams -- and when -- when she 21 phoned me, and also when I met with her, expressed 22 concern about my health, and she said that she had 23 a duty of care to me, and she was worried about the 24 impact I was having on the organisation. 25 Q. You did in fact, I think, go to the board meeting.</p> <p style="text-align: center;">Page 137</p>	<p>1 a different decision. 2 I think the fact that when, for example, they were 3 producing (sic) from five to two strategic priorities, 4 that essentially even though we had that day to discuss 5 that, we didn't formally endorse it and we were not 6 clear about what that actually meant for the 7 organisation. 8 Another example is when there was this announcement 9 we were going to visit all providers once a year, and 10 we -- the board members found out about that when they 11 got a copy of the HSJ. 12 Q. I wanted to ask you about that. We've heard a little 13 bit about this morning in fact, that Amanda Sherlock had 14 announced that this was going to happen, and you as 15 a board member discovered that by reading the health 16 services -- 17 A. We all did. 18 Q. All of you did? 19 A. All did, yeah. We all did. We haven't discussed it, or 20 the implications of it. 21 Q. Did you regard that as a matter of strategy which the 22 board should have been consulted on or is that something 23 that the executive team could decide without the board's 24 involvement? 25 A. I think it was a matter of strategy, actually. I mean,</p> <p style="text-align: center;">Page 139</p>
<p>1 A. Yeah. 2 Q. And it was the board meeting the month later which 3 rejected the strategy refresh document, presumably? 4 A. I am just trying to -- or was it November? Yes, in 5 November. In November I think it was, yeah. I haven't 6 had the minutes of that meeting to -- that was my 7 understanding, that people were saying it wasn't 8 acceptable. 9 Q. You talk about the board dealing with challenges in 10 a different way in paragraph 24, when you say that the 11 board is handled in that it is effectively sidestepped 12 or I think you say sidelined -- 13 A. Yeah. 14 Q. -- and you say an example being that the board 15 challenged the executive in terms of the registration 16 process, meaning that inspections were not taking place. 17 Tell us what that allegation is about, about the board 18 being sidestepped. 19 A. Well, that particular example I mentioned earlier, when 20 there was this big focus on registration, I was 21 concerned that inspections were dropping, and another 22 board member said, "Well, can't we see if we can get the 23 deadline changed?" Now, as I said earlier, I think we 24 should have had a more robust discussion about that, you 25 know, but I don't know if we would have come to</p> <p style="text-align: center;">Page 138</p>	<p>1 certainly we should have been at the very least 2 informed, but it's quite a big commitment. You know, 3 it's going to impact on resources. You know, as a board 4 member I don't know if we can afford to do it. I don't 5 know -- I wasn't quite sure on the rationale behind it, 6 and it's not that I don't think we should be doing 7 inspections or more inspections, that's not the issue. 8 It was the fact this was announced at -- reactively to 9 be honest, and it was an example of reputation 10 management and that there was no proper consideration or 11 analysis of that -- of that decision. And it seems that 12 it is impacting on the organisation. So ... 13 Q. What did you think it was a reaction to, if you say it 14 was reactive? 15 A. You know, after Winterbourne, Winterbourne View scandal, 16 and there was also the Health Select Committee where 17 inspections had plummeted particularly -- 18 Q. Because of registration? 19 A. That's right, and there was a real push to say we're 20 going to do more inspections, which we were. You know, 21 it plummeted at that time because registration was 22 prioritised, but because the organisation wanted to get 23 a message -- a really strong message that we're actually 24 going to do more inspections and more site visits, as 25 I say I'm not disagreeing, you know, I think that</p> <p style="text-align: center;">Page 140</p>

<p>1 inspections should be a fundamental part of it, but it 2 was simply announced without, certainly from my 3 perspective, any consideration of what that actually 4 meant for the organisation.</p> <p>5 Q. Are you saying that if those had been raised at board 6 level, you or somebody might have either challenged that 7 decision or queried the decision as to how it was going 8 to be put into effect?</p> <p>9 A. Well, I think in reality what would have happened, we 10 may have queried it but it probably would have happened 11 anyway, because that is how the board operates. You 12 know, that often things come to us in papers. You know, 13 we get quite detailed papers, which we're asked to 14 endorse and comment on but it's quite -- and we will 15 make some comments that are as if they're sort of 16 advice. We don't very often, if at all, actually debate 17 what the key strategic issues are and whether we agree 18 with them, whether we, you know, decide that they're the 19 right decisions.</p> <p>20 Q. Despite your experience of the board strategy day, it 21 obviously didn't put you off raising these issues with 22 the chair, and we've got a couple of emails from you 23 which we can look at briefly. There's one on 24 11 October, which is your exhibit 15.</p> <p>25 I'm not going to read right the way through this, Page 141</p>	<p>1 in the legislation has a duty to involve people who use 2 health and social care services in what it does, and 3 I am a champion for that, and we have a strategy 4 called -- it's called Voices into Action, and I don't 5 know -- although I'm aware of specific pieces of work, 6 as a board member, you know, I would -- I would want 7 assurance that we are implementing that strategy 8 effectively, and if we're not, you know, if we have 9 over-promised, if we've said we're going to do too much, 10 actually I wouldn't mind but I do not want some dialogue 11 and some assurance as to what -- you know, where we are 12 with both our stakeholder strategy an our involvement 13 strategy, and as a board member I don't know that, 14 I don't know it.</p> <p>15 And recently there's been a change to our 16 stakeholder engagement, which has done away with quite 17 a lot of the groups that were involved. Now, that might 18 have been the right thing. You know, I am not saying 19 that's the wrong thing. But essentially what's happened 20 is that large swathes of people have been told that they 21 are -- you know, that they're no longer on those groups, 22 and there's been a real backlash against it from 23 particular groups, the mental health, learning 24 disability, older people who feel the way in which it 25 was done, that they were not consulted, they were not Page 143</p>
<p>1 but you start off: 2 "Dear Joe ... 3 "I am extremely concerned that we appear not to have 4 a current organisational strategy." 5 And then ten days later, 25 October, which is your 6 next exhibit, this is to Jill Finney, three-quarters of 7 the way down the page: 8 "Whilst HealthWatch is on the horizon, it will not 9 fit the bill as far as CQC involvement is concerned, 10 although there is clearly some sorting out to do here. 11 At present it is impossible for me to speak to service 12 users and service user groups as I have nothing to say. 13 I cannot describe our position with clarity or 14 confidence, and so it is difficult to 'be proud'. 15 Similarly the sudden deviations from strategy -- and the 16 consequences of this -- make it impossible to hold 17 people to account or indeed assume accountability ..." 18 What sort of deviation from strategy were you 19 talking about?</p> <p>20 A. That -- I mean, the particular thing there is we've had 21 two stakeholders strategies, neither of which have been 22 implemented successfully, and at the moment there's 23 a very -- you know, a stakeholder management is very 24 tightly controlled and we're not sticking to our 25 stakeholder strategy. We also have -- the organisation Page 142</p>	<p>1 respected, and it's gone from a sort of more inclusive 2 culture to one where the CQC puts people on a register 3 and then decides when they want to get stakeholder 4 involvement and --</p> <p>5 Q. At what level was that decision made?</p> <p>6 A. Well, we -- a paper came to the board and I was asked to 7 meet with Jill Finney ahead of that and I raised 8 concerns that as it was it would be -- you know, it 9 wouldn't be well received. We need to be very clear 10 about how involvement or stakeholder engagement is -- 11 you know, how it's decided, that -- when and how we 12 involve or engage people because otherwise it will be 13 seen as a very sort of passive process, but that didn't 14 come into fruition and people on these other groups were 15 left in the dark for months on end and then told -- and 16 then sent a letter saying that "We're setting up 17 a stakeholder committee and that everybody else will be 18 put on a register". And as I said, I have seen 19 significant correspondence that the way in which that 20 was managed was not respectful, it was not inclusive, it 21 was not in line with some of the values of things like 22 HealthWatch and --</p> <p>23 Q. But that was -- I am sorry, you were obviously consulted 24 about it as a board member and with a particular 25 interest -- Page 144</p>

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<p>1 A. Yes.</p> <p>2 Q. -- was that a decision made by the board to excise those</p> <p>3 groups?</p> <p>4 A. What happened, it came -- the paper came to the board</p> <p>5 and comments were made, and I repeated the same</p> <p>6 comments, but they weren't taken on board but the paper</p> <p>7 was approved.</p> <p>8 Q. Right. But then can you really complain about that,</p> <p>9 if -- you may not like it --</p> <p>10 A. Yeah.</p> <p>11 Q. -- but if it is brought to the board and the board makes</p> <p>12 a decision, you are fortunately or otherwise bound by</p> <p>13 the decision, aren't you?</p> <p>14 A. Oh, yeah. Absolutely. I mean, I think at the board it</p> <p>15 seemed to me, both at the board and in the pre-meeting,</p> <p>16 that there was agreement that it was important that we</p> <p>17 were very clear about how we communicate with the</p> <p>18 advisory groups and how we involve people, you know, my</p> <p>19 understanding that that was accepted but then that</p> <p>20 didn't -- didn't happen.</p> <p>21 Q. All right.</p> <p>22 A. But, I mean, of course I understand that if something</p> <p>23 comes to the board and you agree it, that's -- that's</p> <p>24 fine but I did raise the concerns, and my understanding</p> <p>25 was that that was accepted.</p> <p style="text-align: center;">Page 145</p>	<p>1 five-year strategy". And then I'd say, "Well, we</p> <p>2 reduced our priorities". "Oh yes, we've reduced ..."</p> <p>3 So, the response was, "Yes, we do have a strategy and</p> <p>4 a strategic context", but then when I probe and said --</p> <p>5 you know, over a period of three/four months this year,</p> <p>6 I said, "Please can you tell me what the strategy is".</p> <p>7 I kept asking them for it. Because I thought, "They</p> <p>8 need to tell me because I am a board". And they haven't</p> <p>9 done it. And then, you know, because from my</p> <p>10 perspective looking at the strategy, even when you look</p> <p>11 at the reduced priorities, I still could not see what</p> <p>12 our strategy was. I knew various things that were</p> <p>13 happening. You know, lots of bits of work happening,</p> <p>14 and some good things happening, but I don't know --</p> <p>15 I don't know where we're going, and the strategy refresh</p> <p>16 that eventually came didn't really answer those</p> <p>17 questions in the way that they should, and I think it</p> <p>18 did --</p> <p>19 Q. The final question on this topic, you say in your</p> <p>20 paragraph 75, again complaining about the lack of</p> <p>21 strategic direction:</p> <p>22 "I can see parallels in the way the chief executive</p> <p>23 runs the CQC to the way she operated when she was chief</p> <p>24 executive of the SHA. She is not fully aware of what is</p> <p>25 happening on the ground. A disjointed rather than</p> <p style="text-align: center;">Page 147</p>
<p>1 Q. Again, I don't want to put words in your mouth but it</p> <p>2 sounds as if your complaint is that issues are</p> <p>3 discussed, but effectively the board is --</p> <p>4 A. I am the expert on the board and the champion for</p> <p>5 involvement, you know, and I -- particularly over the</p> <p>6 last year, I haven't been able to do that effectively</p> <p>7 because I don't know to what extent we're implementing</p> <p>8 our involvement strategy, because there's an involvement</p> <p>9 strategy and there's also a stakeholder strategy and, as</p> <p>10 I say, we've had two stakeholder strategies which</p> <p>11 haven't been implemented.</p> <p>12 Q. All right.</p> <p>13 A. As I say, we've got an involvement strategy which has</p> <p>14 only been partially implemented, and I can't hold the</p> <p>15 executive to account on that.</p> <p>16 Q. I am not going to through them, if you'll forgive me.</p> <p>17 You've produced a number of other emails where you</p> <p>18 repeatedly raise the issue of lack of strategy, not</p> <p>19 being able to discharge your duties as a member of the</p> <p>20 board. And, as I say, I am not going to go through each</p> <p>21 of those, but what has been the response by the chair</p> <p>22 and the chief exec to your complaints?</p> <p>23 A. Certainly for quite a while it was said that we do have</p> <p>24 a strategy. We're quite clear what the strategy is.</p> <p>25 And then when I probed it was, "Well, we've got the</p> <p style="text-align: center;">Page 146</p>	<p>1 joined-up approach and a reactive rather than proactive</p> <p>2 approach to challenges are not working effectively with</p> <p>3 the board."</p> <p>4 Do you stand by that criticism?</p> <p>5 A. I do, yes. I do, and I think -- yeah, I do.</p> <p>6 Q. Could I ask you about a document that has been provided</p> <p>7 to the inquiry recently.</p> <p>8 A. Yeah.</p> <p>9 Q. And there's a letter, and then a document headed "A view</p> <p>10 from the middle of the organisation", which I think the</p> <p>11 Trial Director has.</p> <p>12 (Pause).</p> <p>13 Yes. This is going back a little while, two years</p> <p>14 now, in fact, to October of 2009. It's a letter that</p> <p>15 was apparently sent to Cynthia Bower by people who refer</p> <p>16 to themselves, I think, as "a view from the middle". So</p> <p>17 the middle management of the CQC:</p> <p>18 "This letter and attached paper draws together the</p> <p>19 views of a number of middle level managers (all former</p> <p>20 CSCI staff) ..."</p> <p>21 Then in the second paragraph:</p> <p>22 "We want the opportunity to comment on the culture</p> <p>23 of the organisation."</p> <p>24 And then if we could go over the page, please, do</p> <p>25 you remember this document?</p> <p style="text-align: center;">Page 148</p>

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<p>1 A. Yeah, we were sent it. Yeah.</p> <p>2 Q. Right. If we could look, please, three-quarters of the</p> <p>3 way down:</p> <p>4 "Not all the people involved in contributing to this</p> <p>5 paper felt they could sign it. While fully supporting</p> <p>6 its content, they did not feel able to identify</p> <p>7 themselves. This is perhaps an unfortunate reflection</p> <p>8 of part of the organisation's current culture."</p> <p>9 It's the culture really that I wanted to start to</p> <p>10 ask you about, about let's just have look at the</p> <p>11 document first.</p> <p>12 Can we go to the third page, which is a view from</p> <p>13 the middle of the organisation. Paragraph 5:</p> <p>14 "CQC's values.</p> <p>15 "It is unclear how CQC methodologies will be</p> <p>16 informed by what people tell us about social care</p> <p>17 services, and we are concerned that people's views and</p> <p>18 experiences will not be fully reflected in CQC's</p> <p>19 judgments."</p> <p>20 Over the page, please. It talks about the concerns</p> <p>21 over the quality of the data being collected, concerns</p> <p>22 about the decreasing number of inspection visits.</p> <p>23 And at paragraph 9:</p> <p>24 "We are concerned that a quantitative approach to</p> <p>25 assessment is not in itself sufficient to promote</p> <p style="text-align: center;">Page 149</p>	<p>1 present a coherent view of the whole organisation</p> <p>2 online, and to communicate this to our key audiences."</p> <p>3 There are a number of comments later on about the</p> <p>4 strategy or lack thereof, and flaws in the</p> <p>5 organisational structure. I don't want to go through</p> <p>6 the whole thing.</p> <p>7 A. No, okay.</p> <p>8 Q. Just tell us a little bit, what was the reaction to this</p> <p>9 document, as far as you can remember it?</p> <p>10 A. Well, the reaction that I was aware of was it was an</p> <p>11 inappropriate way of raising the issues.</p> <p>12 Q. Who saw this document, can you remember?</p> <p>13 A. I can't recall how the board was sent it but we didn't</p> <p>14 discuss it in a meeting. We had it by email, and the</p> <p>15 tenor of the emails was that this was not an appropriate</p> <p>16 way to raise these issues, and that it was -- and</p> <p>17 I recall that Cynthia Bower said "It's my responsibility</p> <p>18 to -- you know, "The staff are my responsibility", and</p> <p>19 that was the end of it, really. I mean, I said that,</p> <p>20 you know, it may or may not be appropriate but I think</p> <p>21 a lot of the issues in it are actually very relevant and</p> <p>22 pertinent and in fact certainly gave the impetus to say</p> <p>23 "Let's do the staff survey".</p> <p>24 Q. So this in part led to that, did it?</p> <p>25 A. Well, I think it did, yeah. You know, I pushed very</p> <p style="text-align: center;">Page 151</p>
<p>1 people's rights and dignity."</p> <p>2 Then over the page, and this, I think, reflects much</p> <p>3 of what you've been saying to us, halfway down:</p> <p>4 "Be visible, open, transparent and accountable.</p> <p>5 "14. Prior to the merger, CQC produced a manifesto</p> <p>6 that appears to have been lost. It would be helpful if</p> <p>7 this or an equivalent document were to be made visible</p> <p>8 again to remind CQC staff of what the organisation</p> <p>9 stands for and where we are going.</p> <p>10 "There is a lack of clarity around CQC's vision and</p> <p>11 values, with too many different sets of bullet points in</p> <p>12 circulation."</p> <p>13 Then one more piece and then I will shut up and let</p> <p>14 you speak about this:</p> <p>15 "The governance of the organisation does not appear</p> <p>16 to reflect fully the vision and values of CQC. There is</p> <p>17 an over-reliance on processes that existed in the</p> <p>18 Healthcare Commission."</p> <p>19 Now, there's much more of that. If we could finally</p> <p>20 go to page 6 and paragraph 29:</p> <p>21 "CQC does not yet have a clear sense of itself that</p> <p>22 is embedded within the organisation."</p> <p>23 And then the last sentence:</p> <p>24 "The lack of clarity about who we are and what our</p> <p>25 overriding objectives are makes it very difficult to</p> <p style="text-align: center;">Page 150</p>	<p>1 hard for the staff survey then, but we haven't had one</p> <p>2 since.</p> <p>3 Q. But there was no discussion of this document at board</p> <p>4 level?</p> <p>5 A. No.</p> <p>6 Q. Can we go to paragraph 43, page 9:</p> <p>7 "A large amount of anecdotal evidence suggests that</p> <p>8 a bullying culture is developing. This could usefully</p> <p>9 be surfaced by a staff survey ..."</p> <p>10 A. Yeah.</p> <p>11 Q. "... otherwise there's a risk of bad practice becoming</p> <p>12 the norm and poor or unacceptable behaviour becoming an</p> <p>13 established pattern of working."</p> <p>14 What is your experience, if any, of that sort of</p> <p>15 culture within the CQC?</p> <p>16 THE CHAIRMAN: Do you want to make sure the question is</p> <p>17 answered in a general way?</p> <p>18 MR KARK: Yes --</p> <p>19 A. I don't want to mention any particular names, and</p> <p>20 I've been quite clear that I don't particularly want to</p> <p>21 do that. But I was actually encouraged -- but I don't</p> <p>22 want to give names.</p> <p>23 MR KARK: No, I am sorry, I should have made it absolutely</p> <p>24 plain, I'm not asking you to name anyone.</p> <p>25 A. Yeah, yeah. I mean, I'm fine with that, I -- yeah,</p> <p style="text-align: center;">Page 152</p>

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<p>1 yeah, I don't -- I don't particularly want to mention 2 names, so I would say there is a culture that could be 3 described as bullying. I've certainly heard people feel 4 that it's bullying. People are -- what I would say is 5 people are scared to raise concerns or to challenge. 6 I should say that I've been inundated with emails from 7 people within the organisation, saying -- supporting me 8 coming today, and it's quite clear that people are 9 afraid to put their head above the parapet. I think 10 Amanda was incredibly brave to do that.</p> <p>11 People are afraid, yeah. I think -- I'm afraid to 12 be honest, but, I think, you know, whether it's bullying 13 or a culture that discourages feedback and fault, I know 14 that a lot of staff are not happy with the culture. 15 They don't feel it's a happy place to work and they 16 don't feel it's particularly safe. It is true they're 17 very committed to work. They really believe in it. 18 Lots of people have left. Very good people have left 19 the organisation. And I think some of the culture is 20 bullying.</p> <p>21 Q. When you say you're afraid, of what? Of the reaction to 22 what you're doing or losing your job, or what?</p> <p>23 A. Well, yes. Yeah. Well, I don't know what's going to 24 happen after I've given this evidence. I mean, you 25 know, I've said I just don't feel there's any option for</p> <p style="text-align: center;">Page 153</p>	<p>1 fulfilling.</p> <p>2 At the moment, what's happening is that the focus is 3 on managing our reputation, you know, so it's not that 4 I don't think we should talk to the NHS Confed or -- 5 I think we should, absolutely, but the impetus is to get 6 them on board, you know, to reduce criticism, and it's 7 been at the expense of kind of wider engagement of 8 people that -- people, organisations that could actually 9 contribute quite a lot. So that's my -- my comment is 10 that the recent approach, which isn't in line with our 11 stakeholder strategy, is to sort of try and -- because 12 I've seen a diagram which shows organisations that are 13 critical and organisations that can be influential, and 14 so at the moment all the kind of focus is on them. And, 15 as I say, I don't disagree that we shouldn't -- you 16 know, we should talk to these groups, absolutely. 17 I mean, I don't have a problem with that at all but all 18 that emphasis is there at the expense of more sort of 19 wider engagement and involvement in line with our 20 strategy.</p> <p>21 Q. You're not objecting to the organisation talking to 22 those people?</p> <p>23 A. Of course not.</p> <p>24 Q. But are you saying that the motive is wrong?</p> <p>25 A. Yeah. Yeah, that's what I am saying. And the</p> <p style="text-align: center;">Page 155</p>
<p>1 me but to give this evidence, because it's -- it's like 2 it's my duty, to be honest. You know, I could have 3 resigned, I could have walked away. I know that. And 4 indeed, you know, I may have to. But I think the 5 reaction, you know, when I did get upset has really, 6 really shocked me to be honest. I mean, there was no 7 support before that and the fact that they really didn't 8 want me to go to board meetings -- and I think -- yeah.</p> <p>9 Q. Can I ask you about some separate discrete issues. 10 You've told us a little bit about stakeholder 11 involvement.</p> <p>12 A. Mmm-hmm.</p> <p>13 Q. And you say that there's an over-influence of providers 14 compared to users, but then you complain that 15 organisations such as the NHS Confederation and Action 16 Against Elderly Abuse have been targeted because the CQC 17 wants to influence them.</p> <p>18 Can I put the other side of that particular coin, 19 isn't that exactly the type of organisation that the CQC 20 should be talking to --</p> <p>21 A. Oh, absolutely, I am not disputing that at all. I think 22 we should, absolutely. I think, you know, we absolutely 23 should talk to people, engage people, critics or not. 24 My point is where the emphasis is. There is -- as I say 25 we've got a stakeholder strategy too, which we're not</p> <p style="text-align: center;">Page 154</p>	<p>1 disproportionate emphasis at the moment on particular 2 groups that we need to influence with regards to our 3 reputation, at this point in time.</p> <p>4 Q. You see, I think the CQC would say that in May of this 5 year, the board was asked to endorse a new stakeholder 6 strategy --</p> <p>7 A. Yeah.</p> <p>8 Q. -- which agreed to the setting up of external advisory 9 groups to seek stakeholders' views on specific pieces of 10 work, and that the board approved a paper which stated 11 the nominations for the committee would be brought to 12 the executive team and the chair of the committee.</p> <p>13 A. Well --</p> <p>14 Q. Do you accept that, first of all?</p> <p>15 A. That came to the board and I -- as I said earlier, 16 I made a very clear comment that we need to be open and 17 transparent, and that wasn't recorded in the minutes, 18 you know. So I think that I would say it was indicative 19 of, you know, a paper coming to the board where we have, 20 you know, discussions and comments, some are minuted, 21 some are not, but ultimately what's recorded is that 22 we've endorsed the paper, even though I said before when 23 I had the one-to-one before the board and at the board 24 meeting, you know, that we need to make sure that we 25 engage widely, that we're open and transparent, and</p> <p style="text-align: center;">Page 156</p>

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<p>1 I thought that that was agreed. But when you get the 2 minutes it says we've endorsed the paper, so ... and of 3 course if -- I understand that if you have a decision, 4 it's a collective decision and you own it, I don't have 5 a problem with that. What I am saying is that I did 6 raise these issues. I thought they were agreed that 7 they were valid issues, but they weren't minuted. And 8 it's simply that we endorse the paper.</p> <p>9 Q. All right. Another discrete issues, which you've 10 largely dealt with, and that is the change of emphasis 11 in inspections, a greater number of inspections and the 12 recruitment of inspectors.</p> <p>13 You give a specific example in your paragraph 56 of 14 an inspector who didn't have sufficient knowledge or 15 training to make an effective inspection.</p> <p>16 A. Yeah.</p> <p>17 Q. This perhaps goes back to support the evidence to some 18 extent of Mrs Pollard that we heard earlier, and perhaps 19 I could just ask you to speak about this. Was this 20 perhaps not simply a one-off event?</p> <p>21 A. I've been out on several inspections, but I've also 22 talked to a lot of inspectors as well, and certainly as 23 Amanda said this morning, the training was not felt to 24 be anywhere near sufficient. And when we originally 25 approved what's called the field force model, which is</p> <p style="text-align: center;">Page 157</p>	<p>1 Q. Earlier this year?</p> <p>2 A. Yeah, yeah.</p> <p>3 Q. And you went out with somebody, an inspector, CQC 4 inspector, inspecting what sort of establishment?</p> <p>5 A. There was -- there's two that I've been on this year. 6 One was an older people's home, and the other one was 7 a home for people with learning disabilities.</p> <p>8 Q. Are you saying in one case or in both cases there were 9 faults in the inspection?</p> <p>10 A. Both, but particularly the learning disability one.</p> <p>11 Q. And that was due to what?</p> <p>12 A. The -- I don't want to be critical of the inspectors --</p> <p>13 Q. We understand that.</p> <p>14 A. -- she just simply did not know what to look for. She 15 wasn't able to talk to the residents that lived there. 16 And she told me before we went in that she didn't expect 17 there to be any problems because she'd spoken to the 18 manager. But when we went in, there were -- there were 19 problems, you know. There was somebody in bed who 20 was -- you know, the bed was full of urine. She wasn't 21 really able to talk to the residents she was obviously 22 very uncomfortable talking to them, simply because she 23 didn't have the experience.</p> <p>24 Q. Why were you there at all?</p> <p>25 A. Well, I was there as a board member to go out and about</p> <p style="text-align: center;">Page 159</p>
<p>1 to have generic inspectors, as a board we were told that 2 we -- you know, we couldn't afford to have specialist 3 teams. So, you know, we had to go down the generic 4 route. And at the time it was a real issue for the 5 board about how -- you know, we have a generic model, 6 how would we ensure that our inspectors had relevant 7 knowledge and support and skills, and the response at 8 that time was that within a team there would be the 9 broad range of skills and knowledge, that's how it would 10 be addressed. But I don't think that that is what's 11 happened.</p> <p>12 But I've been out on inspections and -- because I -- 13 you know, I've got a background to some extent of -- you 14 know, as a Mental Health Act commissioner, and I was 15 also, I should say, a clinical governance reviewer with 16 the Commission for Healthcare Improvement as well. So 17 I've got quite a good knowledge of some -- particularly 18 mental health and learning disability. But when I went 19 out with inspectors they didn't know. They really -- 20 you know, they wouldn't have picked up on things that -- 21 if I hadn't have been there.</p> <p>22 Q. Now, this may be important for our purposes. How long 23 ago are you talking about that you went out on an 24 inspection?</p> <p>25 A. Earlier this year.</p> <p style="text-align: center;">Page 158</p>	<p>1 so I can get an insight into, you know, what's 2 happening, what isn't happening, so that they -- it can 3 inform --</p> <p>4 Q. So you had volunteered for this, as it were?</p> <p>5 A. Yeah, and other board members have been out on 6 inspections as well.</p> <p>7 Q. But you weren't asked to be there because of your 8 expertise?</p> <p>9 A. No. No.</p> <p>10 Q. So if you hadn't been there the inspector on her -- is 11 it her?</p> <p>12 A. Her own.</p> <p>13 Q. Would have been on her own? Did you raise your concerns 14 with either the chief executive or the board?</p> <p>15 A. Yes, I fed back to the board about it at a board 16 meeting.</p> <p>17 Q. The reaction?</p> <p>18 A. I mean, I think -- what was the reaction? Well, they 19 listened. I mean, they didn't disagree. I was cut 20 short actually, because I was going -- describing in 21 lots of detail. I mean, what I -- what's quite 22 interesting is that, as you probably know, recently 23 we've done lots of inspections of older people's 24 services, hospitals, called the Dignity and Nutrition 25 Inspections, and there's also the Learning and</p> <p style="text-align: center;">Page 160</p>

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<p>1 Disability Inspections.</p> <p>2 Q. DANI inspections?</p> <p>3 A. DANI, and also there's learning disability ones, both of</p> <p>4 which were directed about the Secretary of State to do.</p> <p>5 So they weren't particularly our decision to do that.</p> <p>6 And the model is that the inspections are carried out by</p> <p>7 an inspector, an expert by experience, so somebody who</p> <p>8 has either used the service or a similar service or</p> <p>9 a carer and a professional. So there's three people</p> <p>10 going in and doing quite an in-depth look, but that is</p> <p>11 contrary to actually our regulatory model. But everyone</p> <p>12 is saying how effective it was, because there was</p> <p>13 this -- you know, having a professional there.</p> <p>14 Now, there's been some talk that actually this is</p> <p>15 a model that we should build on, but then as a board</p> <p>16 member that raises questions in my mind as to how -- you</p> <p>17 know, how can we possibly afford that? So there seems</p> <p>18 to be an acknowledgement that there really is a need to</p> <p>19 have more professional specialist advice for our</p> <p>20 inspectors, and that's certainly been flagged up and</p> <p>21 agreed, because it's not working very well at the</p> <p>22 moment, but I -- you know, from my perspective as</p> <p>23 a board member, yes, I agree with that and we've said</p> <p>24 that we're going to improve access to professional</p> <p>25 people, but I am thinking can we afford it, because it</p> <p style="text-align: center;">Page 161</p>	<p>1 A. We're not.</p> <p>2 Q. Your not?</p> <p>3 A. No, we're not.</p> <p>4 Q. Do you ask about it? Do you ask about what the</p> <p>5 vacancy --</p> <p>6 A. I have done, yes.</p> <p>7 Q. Yes.</p> <p>8 A. I mean, I think that in terms of our performance</p> <p>9 monitoring, I would like that sort of information.</p> <p>10 Q. You don't get it?</p> <p>11 A. I am trying to think what we get, actually. We don't</p> <p>12 get vacancy rates because, you know, there are certain</p> <p>13 headings. I'd need to look at what --</p> <p>14 Q. All right.</p> <p>15 A. But, yes, I think we should have things like vacancy</p> <p>16 rate, you know, when people leave and sickness and all</p> <p>17 that sort of thing. I think it is really important for</p> <p>18 us to have at board level but we don't get it. There's</p> <p>19 only one or two things we get about staff. I can't</p> <p>20 actually remember what it is at the moment.</p> <p>21 Q. All right.</p> <p>22 A. But I don't -- what I would say is that it doesn't give</p> <p>23 me a good indication of, you know, what the staffing</p> <p>24 issues are or might be.</p> <p>25 Q. Back to inspections and just a short point, I hope,</p> <p style="text-align: center;">Page 163</p>
<p>1 would have to be quite significant?</p> <p>2 Q. Can I just ask you a bit about money then, because you</p> <p>3 tell us in your paragraph 109 that there was -- I think</p> <p>4 this was last year -- a GBP 10 million underspend?</p> <p>5 A. Apparently, yeah.</p> <p>6 Q. Of which some 3 to 4 million was attributable to the</p> <p>7 recruitment freeze --</p> <p>8 A. Yeah.</p> <p>9 Q. -- imposed by -- is that by the Department of Health,</p> <p>10 I am sorry for my ignorance?</p> <p>11 A. Yes, we weren't able to recruit for a while because</p> <p>12 they -- they said that they wouldn't recognise</p> <p>13 inspectors as front-line staff.</p> <p>14 Q. Front line.</p> <p>15 A. But -- I know. So that was a problem for us. And then</p> <p>16 they decided that they were. So we are in the process</p> <p>17 of recruiting more inspectors. But at the last board</p> <p>18 meeting we were told about this 10 million underspend</p> <p>19 and that it was only 3 or 4 million that was caused by</p> <p>20 the recruitment freeze. But I am not sure what the</p> <p>21 other underspend was to do with. I mean, there was some</p> <p>22 restrictions as well on things like consultants and</p> <p>23 marketing, I don't --</p> <p>24 Q. What information are you given as a board about</p> <p>25 vacancies, inspector vacancies --</p> <p style="text-align: center;">Page 162</p>	<p>1 dealing with your paragraph 65 and 66:</p> <p>2 "Inspection was originally to be against 16 core</p> <p>3 outcomes."</p> <p>4 That has changed and inspectors are told to look for</p> <p>5 evidence of non-compliance. I am not sure if that's</p> <p>6 a criticism by you but isn't that a sensible move?</p> <p>7 A. Sure. I think what I would say about that is I'm not</p> <p>8 sure what -- if you like, the implications. From what</p> <p>9 I understand, that it was -- the reason it was made was</p> <p>10 because inspectors were going to really struggle to</p> <p>11 inspect against all the outcomes. So this was -- so it</p> <p>12 was reduced so that people could focus on certain</p> <p>13 outcomes, and this was partly particular outcomes that</p> <p>14 might be relevant for particular services.</p> <p>15 But what I would -- I think from a strategic point</p> <p>16 of view, I don't -- I'm not clear what -- you know,</p> <p>17 whilst I could see that might be sensible in some ways,</p> <p>18 I don't know, you know, what the implications of that</p> <p>19 are. For example, you know, would it mean we would fail</p> <p>20 to pick up certain things which would concern me, you</p> <p>21 know, if we're not picking up issues?</p> <p>22 So I don't know what the -- particularly what the</p> <p>23 thinking behind it was, or what the implications are.</p> <p>24 So I wouldn't say, you know, it's a good thing or a bad</p> <p>25 thing but it was, you know, an example of a tweak, if</p> <p style="text-align: center;">Page 164</p>

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<p>1 you like.</p> <p>2 Q. I should have asked you about one document when we were</p> <p>3 on the last topic, and it's my fault. Can we go,</p> <p>4 please, to exhibit 7. I'm sorry but this goes back to</p> <p>5 the issue of inspectors and their knowledge.</p> <p>6 And then I am going to move on.</p> <p>7 A. Okay.</p> <p>8 Q. But you sent an email on 19 May of this year and you</p> <p>9 raise the issue of two care homes that you had visited.</p> <p>10 Are those the care homes you told us about?</p> <p>11 A. These are the two, yes.</p> <p>12 Q. I am sorry, I should have picked up on this earlier.</p> <p>13 A. That's all right.</p> <p>14 Q. And there are two issues I want to ask you about here.</p> <p>15 First of all, you say the QRPs seem to be of little</p> <p>16 value. I think that's probably accepted by Mr Hamblin,</p> <p>17 that they are of less value than they are in acute care.</p> <p>18 And you're nodding.</p> <p>19 Then if we could go to the penultimate paragraph:</p> <p>20 "Teamwork is very important for home workers and it</p> <p>21 is clear your team has exceptional team spirit ... I'm</p> <p>22 not sure we have the breadth and depth of expert input</p> <p>23 required especially at this still early stage ...</p> <p>24 I think individual inspectors are having to work well</p> <p>25 outside their comfort zones ..."</p> <p style="text-align: center;">Page 165</p>	<p>1 Q. Right.</p> <p>2 A. I think domiciliary care is -- I think she managed</p> <p>3 a domiciliary care service, which is carers going into</p> <p>4 people's homes and helping them with personal care.</p> <p>5 Q. Yes.</p> <p>6 A. That was her background. So she didn't have</p> <p>7 a background in learning disability or in larger general</p> <p>8 hospital.</p> <p>9 Q. All right.</p> <p>10 A. Yeah.</p> <p>11 Q. Another discrete point, and we are moving on, I promise</p> <p>12 you. Mental Health Act functions. This is not an area</p> <p>13 that we've explored in this inquiry, and I don't intend</p> <p>14 to open that particular door now.</p> <p>15 A. Okay.</p> <p>16 Q. But what is relevant, and within our terms of inquiry,</p> <p>17 is the reaction of the chair and chief executive when</p> <p>18 you, as a member of the board and as a member of the</p> <p>19 board with a special interest I think in mental health</p> <p>20 issues, raised issues with Cynthia Bower in your email</p> <p>21 of 13 September, which is your KS11. Could we just look</p> <p>22 at that, again briefly. Again, I am not going into --</p> <p>23 A. No, not the details.</p> <p>24 Q. You understand --</p> <p>25 A. Yeah, I understand.</p> <p style="text-align: center;">Page 167</p>
<p>1 And you talk about the second inspector:</p> <p>2 "... was very aware of her background in relation to</p> <p>3 inspecting a large acute hospital and liaising with CEOs</p> <p>4 and senior managers (but very game to do her best)."</p> <p>5 A. Yeah.</p> <p>6 Q. Now, is that a separate incident to the two inspections</p> <p>7 that you told us about just now? Because I thought you</p> <p>8 were talking about care homes and not --</p> <p>9 A. What it was is -- yeah, the inspector that I went out</p> <p>10 with, you know, they have a portfolio.</p> <p>11 Q. Yes.</p> <p>12 A. And when I was out -- when I'm out with inspectors I ask</p> <p>13 them sort of general questions, and this inspector told</p> <p>14 me that she was responsible for a particular large</p> <p>15 general hospital and that she didn't feel equipped --</p> <p>16 you know, she didn't have the knowledge, experience,</p> <p>17 support because her background was in social care,</p> <p>18 particularly domiciliary care.</p> <p>19 Q. Was this the same inspector who had missed the issues</p> <p>20 that you picked up in the care home?</p> <p>21 A. Yes. Yeah.</p> <p>22 Q. One is tempted to ask, what she thought she was good at</p> <p>23 inspecting.</p> <p>24 A. I think she didn't have expertise in learning</p> <p>25 disability. I think that was the issue.</p> <p style="text-align: center;">Page 166</p>	<p>1 Q. -- I'm not going into the detail of how the CQC performs</p> <p>2 its function but this was an email at which you raised,</p> <p>3 as you put it, serious concerns and deep disappointment</p> <p>4 at the way the organisation has handled the</p> <p>5 modernisation of the Mental Health Act functions at</p> <p>6 senior management level.</p> <p>7 Without going into the details of this, what was the</p> <p>8 reaction to your raising these issues?</p> <p>9 A. Well, I -- the chair phoned me up and was quite angry</p> <p>10 and she said did I know what the impact of this email</p> <p>11 would have on Cynthia? And she said that this sort of</p> <p>12 email was not helpful, because things were very</p> <p>13 delicate, and I should say that this wasn't my first --</p> <p>14 you know, I had repeatedly raised these issues. This</p> <p>15 was, if you like, the end of the line where I felt that</p> <p>16 actually I really did need to be very clear about why</p> <p>17 I was unhappy. So this wasn't a sudden, you know,</p> <p>18 reaction. But Cynthia at that time didn't respond and</p> <p>19 I was -- but at the next board meeting we were supposed</p> <p>20 to get a report on this, and it didn't happen and they</p> <p>21 apologised.</p> <p>22 But I think what we haven't got, from my</p> <p>23 perspective, is that this was actually -- this situation</p> <p>24 was caused by a failure at senior management level.</p> <p>25 That's what I believe -- I believe then and I believe</p> <p style="text-align: center;">Page 168</p>

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<p>1 now and they wouldn't accept that. They believed it was 2 to do with the head of Mental Health Act ops, and he was 3 very much scapegoated. He has now left.</p> <p>4 Q. When you started your answer, I just wanted to make sure 5 something has been transcribed properly. You said you 6 were told this sort of email wasn't helpful.</p> <p>7 A. Yeah.</p> <p>8 Q. And something was very delicate, what did you say was 9 very delicate?</p> <p>10 A. Things were very delicate.</p> <p>11 Q. Things were very delicate?</p> <p>12 A. In the sense of our, you know, reputation. And I think 13 it was a sense that this kind of intervention by a board 14 member was not -- was not appropriate, and that this 15 kind of intervention could destabilise what, you know, 16 the organisation, the exec team -- so essentially that 17 I shouldn't have sent this kind of email, which may have 18 been right, but as I said it, wasn't -- wasn't -- I'd 19 raised these issues repeatedly, and I just felt I had to 20 put them in writing and ...</p> <p>21 Q. We've ranged over a number of issues --</p> <p>22 A. Yeah.</p> <p>23 Q. -- and I just want to go, please, to paragraph 113 of 24 your statement. It comes back to the core issue, 25 I think, which is the strategy. There seem to be two</p> <p style="text-align: center;">Page 169</p>	<p>1 raised it informally with the chair and the reaction 2 was, "Stick with me". I did raise it recently in what's 3 a pre-board meeting, and the reaction was that -- was 4 that the chair said, "Look, I've decided to back her and 5 we don't need -- as an organisation we don't need a high 6 profile sacking at this point". There were -- certainly 7 other board members had some concerns about it, but it 8 seemed to me that there was no real kind of desire to 9 take that forward in any way, and it would have been 10 quite difficult for me, you know, to do that.</p> <p>11 What I know is that when the current chair took 12 over, she was asked to input into an appraisal. So this 13 was about 18 months ago. I don't know what the outcome 14 of that was, and I know that the chair said that she was 15 going to sit down with the chief exec and agree what the 16 deliverables were, but I don't know what they were or if 17 they have been delivered, and since then we've not -- 18 I'm not aware that the chief exec has had an appraisal, 19 and the board certainly hasn't inputted into that, which 20 I think they should do, because it's quite clear that 21 the board is responsible for appointing the chief exec, 22 so they should be involved in the appraisal and we 23 haven't had that. But as I said, I raised it informally 24 with the chair and I raised it at a pre-meeting, but it 25 was quite clear that they didn't want to go down that</p> <p style="text-align: center;">Page 171</p>
<p>1 headings, if I am allowed to paraphrase. The one is the 2 way that the board is dealt with by the executive team 3 and the second is strategy.</p> <p>4 A. Yeah.</p> <p>5 Q. You say in this paragraph: 6 "My main concern is that the organisation is badly 7 led with no clear strategy. The chair and chief 8 executive do not have the leadership or strategic 9 capabilities required. The board is asked to ratify 10 decisions about the direction the organisation is moving 11 in, yet we cannot do this without being provided with, 12 for example, financial and performance information. At 13 this point I still don't know what the organisation can 14 afford. I do not see how the organisation can move 15 forward in a robust, coherent or useful way without 16 better leadership. We need a chief executive that can 17 manage the organisation and currently we do not have 18 that."</p> <p>19 You want to make it clear it's not a personal 20 grudge. First of all, do you stand by those comments?</p> <p>21 A. I do, yeah.</p> <p>22 Q. Why have you not put forward a resolution to the board 23 to this effect?</p> <p>24 A. I haven't put a resolution to the board because that 25 kind of thing doesn't happen. What I have done is</p> <p style="text-align: center;">Page 170</p>	<p>1 line, and that was the end of it, really.</p> <p>2 THE CHAIRMAN: Should I understand the position to be this, 3 that clearly from paragraph 113 and what you've just 4 said you have no confidence in the current chief 5 executive, but that is not a view, for whatever reason, 6 that your fellow non-executive directors are prepared to 7 support?</p> <p>8 A. Yeah. I know that they have concerns, because I've 9 heard them say that but they're not --</p> <p>10 THE CHAIRMAN: If I may say so, there's a difference between 11 having concerns and being prepared to say that as 12 a board there is no confidence in it, and they're not 13 prepared to support you to that extent?</p> <p>14 A. No.</p> <p>15 THE CHAIRMAN: So there would be no point in putting 16 a resolution forward?</p> <p>17 A. Yeah.</p> <p>18 THE CHAIRMAN: Thank you. (Pause).</p> <p>19 Mr Kark, I don't know how much further I can take 20 this issue because I think, as I've already made clear, 21 it is really not for this inquiry to pass judgment on 22 the competence of the chief executive of the Care 23 Quality Commission.</p> <p>24 A. No.</p> <p>25 MR KARK: No, there is --</p> <p style="text-align: center;">Page 172</p>

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<p>1 THE CHAIRMAN: The issues of governance and so on I am 2 interested in, in terms of learning lessons.</p> <p>3 MR KARK: Sir, you're absolutely right to remind me of that. 4 There are two more matters that I seek to put, and 5 I think they're both short, and one I think is certainly 6 within the terms of reference.</p> <p>7 You make a comment in your statement that 8 Cynthia Bower runs the CQC without being fully aware of 9 what is happening on the ground, and there's 10 a disjointed rather than a joined-up approach. Are you 11 able to give us any specific instances where, in your 12 view, the top of the organisation is unaware of what is 13 happening at the bottom of the organisation?</p> <p>14 A. Yeah. What I hear when I speak to inspectors and other 15 staff, lots of concerns and worries about how they can 16 or can't do their job, and yet when I raise these at 17 board level, they're not taken seriously. Now, that 18 could be that they are aware, but choose to sort of not 19 take account of them. But from my perspective of what 20 I hear from people working on the ground and what we're 21 doing -- things that come via the board, it doesn't seem 22 that they're joined -- they're joined-up.</p> <p>23 I was going to say something else then. And I think 24 also the other thing that -- there seem to be lots of 25 different initiatives going on, for example -- you know, Page 173</p>	<p>1 A. Of course.</p> <p>2 Q. -- of responding to it.</p> <p>3 A. Yeah.</p> <p>4 Q. I am just going to read out a couple of comments: 5 "Kay made a number of statements about the 6 leadership provided by Dame Jo Williams. All three of 7 us have been proud to serve under Jo's leadership. She 8 has led the board with determination, sensitivity, 9 foresight and energy and has been a key driver behind 10 the process that the CQC has made in identifying and 11 tackling poor care. We unreservedly support her ongoing 12 chairmanship."</p> <p>13 Do those comments surprise you or not?</p> <p>14 A. No, they don't surprise me.</p> <p>15 Q. Then this: 16 "We are disappointed that Kay believes that the 17 board lacks rigour, in its governance, decision-making 18 and direction. We are fully confident that we are able 19 to effectively fulfil our governance role. All three of 20 us are experienced board members with extensive 21 knowledge of setting up, running and overseeing the 22 operation of major organisations and we do not recognise 23 the criticisms Kay is referring to."</p> <p>24 And then they list a number of the accomplishments 25 of the board. Do you want to make any comment about Page 175</p>
<p>1 lots of little sort of projects and things, and it's not 2 clear to me how they all join up. For example, there's 3 been some criticism of the QRP and a review has been 4 instigated. That's the response.</p> <p>5 Now, it's not necessarily a bad thing, but it's -- 6 you know, when I -- what I hear on the ground and then 7 what I hear in the papers and the -- that come to the 8 board, it's very difficult, as a board member, to 9 understand, you know, to have a coherent sense of what's 10 happening on the ground and what the issues are raising, 11 how they can -- they actually relate to our strategy 12 going forward. It's -- it seems bits -- there's a sort 13 of reactive bits and pieces, that's what I meant by 14 that.</p> <p>15 Q. You made a comment earlier that you felt that other 16 board members didn't feel that they could speak up in 17 the way that you have, and I think I have to put this to 18 you. We have been handed this afternoon a note headed 19 "CQC commissioner's statement on Kay Sheldon's 20 statement", and it is signed by John Harwood, 21 Professor Deidre Kelly and Martin Marshall, who are your 22 non-exec members. I am not going to read the whole 23 thing through, but because I know that this will be part 24 of the CQC's response, I think it's right that you 25 should have the opportunity -- Page 174</p>	<p>1 that?</p> <p>2 A. I know that the other board members are very supportive 3 of the chair, indeed as I have been. What I would say 4 is it has been very difficult to speak out, but what I'd 5 say is for people to be objective, to look at the 6 various papers, the board minutes, to listen to what 7 different people have said, and I think that if you take 8 on board various comments, contributions from people 9 within CQC, and I have to say I have been absolutely 10 inundated with people contacting me from CQC supporting 11 me speaking out in this way, I cannot see how the board 12 can discharge its functions properly.</p> <p>13 I think if you looked objectively at our strategy, 14 our business plan, our performance framework, our audit 15 and risk work, it's quite clear that we are not able to 16 discharge our functions appropriately. And I -- you 17 know, I respect my colleagues' support of 18 Dame Jo Williams and, as I said, I've been until 19 recently very supportive myself, but I felt that we were 20 continuing to make the same mistakes. So I would say 21 look objectively at, you know, the evidence that's 22 available and make your own decision, and that the 23 comments by the board members are underpinned by 24 laudable loyalty but the actual facts and the evidence 25 say otherwise. Page 176</p>

<p>1 Q. It may be that you have just answered this and you have                  2 nothing to add, but I was going to ask you that you went                  3 to Public Concern at Work to ask for assistance. How                  4 does it come about that as a board member and                  5 a commissioner of the CQC you now find yourself in the                  6 position that you do, having to give evidence to this                  7 inquiry?                  8 A. Because I felt I'd raised the issues many times and                  9 tried my best to raise the issues. I was really                  10 concerned, very, very concerned and, as I said, the                  11 option was to leave or to raise the -- raise the issues.                  12 I did go to the -- coincidentally go to the National                  13 Audit Office as well, the same as Amanda, and I emailed                  14 the inquiry and said, "Look, these are the issues I am                  15 concerned about. Is it relevant? Is it appropriate?"                  16 And the response was "Yes". And I met with them and                  17 described the situation, but I just felt so -- really so                  18 concerned about what was happening, and I felt we were                  19 repeating mistakes, to be honest, and it was difficult                  20 to see how, you know, despite the fact that, you know,                  21 we've been taking lots of enforcement action recently                  22 and, you know, I certainly do want a strong regulator                  23 that uses enforcement powers when it's needed, but when                  24 I think ahead and think about where we're going, I don't                  25 really know where we're going, and I don't know if -- if</p> <p style="text-align: center;">Page 177</p>	<p>1 (4.49 pm)                  2 (The inquiry adjourned until 10.00 am                  3 on Tuesday, 29 November 2011)                  4                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 179</p>
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<p>1 it's the right way to go, and I don't think we've had                  2 a robust debate about that. So I am -- you know, my                  3 concerns were such that I just felt I had to contact the                  4 inquiry.                  5 MR KARK: All right, Mrs Sheldon, that's all that I ask you.                  6 Thank you very much indeed. I should look around and                  7 see if there's anything ... (Pause).                  8 THE CHAIRMAN: And, Mr Hart, that includes an opportunity to                  9 bat for yourself, does it?                  10 Mrs Sheldon, can I say that concludes the                  11 questioning we have of you. Can I thank you very much                  12 indeed for your assistance to this inquiry, and may                  13 I say that whatever my findings are in relation to the                  14 evidence, limited as they are by my terms of                  15 reference --                  16 A. I understand.                  17 THE CHAIRMAN: -- I can assure you I think you've                  18 contributed to the transparency involved around the                  19 regulation of healthcare. Thank you.                  20 A. Thanks. Thanks.                  21 THE CHAIRMAN: That's all we have today, and we start again                  22 at 10 o'clock tomorrow morning, I think with some                  23 closing submissions.                  24 MR KARK: Yes.                  25 THE CHAIRMAN: Thank you.</p> <p style="text-align: center;">Page 178</p>	<p>1 INDEX                  2 PAGE                  3 Submissions by MR HART .....8                  4                  5 Decision by THE CHAIRMAN .....11                  6                  7 MRS AMANDA POLLARD (affirmed) .....15                  8                  9 Examination-in-chief by MR KARK .....15                  10                  11 MRS KAY SHELDON (affirmed) .....85                  12                  13 Examination-in-chief by MR KARK .....85                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 180</p>
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