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22 THE CHAIRMAN: Mr Langstaff, perhaps I should first of all
23 apologise to Dr Joffe. We have been away for a little
24 while. Forgive me, we were talking elsewhere.

25 I thought it might be helpful if I said something

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1 about what we were just discussing before we had
2 a break. I recognise what I am going to say is said in
3 the absence of any advice and counsel from
4 Miss O'Rourke, so I recognise that you may be able to
5 help me in due course, and of course I would invite you
6 to do so, not necessarily this afternoon, but in writing
7 or whatever form you should so wish.

8 I make a few points which I hope will help. First
9 of all, I would emphasise that what was engaged in on
10 behalf of the Inquiry was a Clinical Case Note Review
11 and all of those words are important, but perhaps the
12 most important word is the word "Note". It was a review
13 of case notes. It was recognised that there are
14 drawbacks in that source of knowledge, but on the other
15 hand, it was thought that it would throw some light on
16 the picture which the Panel is obliged to draw as to
17 adequacy of care over the period of our terms of
18 reference.

19 That is the first point.

20 The second point is that in that review of case
21 notes -- and it is only a review of case notes and was
22 so declared to be -- it is recognised that if anyone is
23 or feels criticised, he or she would wish to respond to
24 that criticism, as is seen or perceived. That is
25 entirely proper. For the most part, we would expect

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1 that that response be in writing. We would receive it.

2 The third point that I would make is that the
3 responses of anyone who feels criticised will form
4 a part of the material which will be in the public
5 domain. It will sit alongside whatever else is in
6 public, as being material made available to the
7 Inquiry.

8 Then I would say that the overall effect --
9 because the Clinical Case Note Review was concerned with
10 an overall picture which we need to test and have tested
11 as to its scientific validity, the overall effect which
12 any such observations, responses to criticism, perceived
13 or real, the overall effect which these observations may
14 have on the conclusions which the Panel is entitled to
15 draw from the Clinical Case Note Review is a matter for
16 the Panel on which, where necessary, it will seek expert
17 advice.

18 The fourth point I will make is that as has been
19 made clear from the outset, and indeed, as you made
20 clear only I think two days ago, Mr Langstaff, this is
21 not a trial. We are not concerned, it is not within our
22 terms of reference and we have declared it to be the
23 case from the outset, with attributing blame.

24 Those observations, I hope, will help us go
25 forward. If there is anything that needs clarification,

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1 I am sure in due course it will be clarified, I hope to
2 the satisfaction of all.

3 Mr Langstaff?

4 MR LANGSTAFF: Sir, I think what that implies is that if
5 this case is to be subject to a second review, that
6 administrative steps will be taken to ensure that the
7 comments which Dr Joffe has to make, which he is
8 entitled to make and which go into the public domain,
9 are not heard and observed by those engaged in the
10 review, since they were used for a different purpose,
11 but they will of course be heard and considered by the
12 Panel as part of the evidence, and they will be public,
13 as a public response, to anything which is thought to be
14 an individual criticism.

15 THE CHAIRMAN: Precisely so, because the exercises are
16 entirely different. One is concerned with a review of
17 case notes and a testing of the validity of that
18 review. The other is that the personal comments of any
19 particular individual which they must be entitled to
20 submit, and which will be made public, and as I say,
21 will sit alongside whatever else is in the public
22 domain. We, for our part as a Panel -- it is not within
23 our terms of reference to descend to arbitrate as
24 between the two.

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