

1 Wednesday, 31st May 2017

2 (10.00 am)

3 Introductory remarks by LADY SMITH

4 LADY SMITH: Good morning. I am Lady Smith, I'm the chair
5 of the Scottish Child Abuse Inquiry and I welcome you to
6 the first day of phase 1 of our public hearings.

7 There is a gentleman with his hand up; can you not
8 hear me?

9 NEW SPEAKER: No.

10 LADY SMITH: Can you hear me now? My apologies. I will
11 start again.

12 Good morning. I am Lady Smith, I'm the chair of the
13 Scottish Child Abuse Inquiry, and I welcome you to the
14 first day of phase 1 of our public hearings.

15 I hope you have been able to find your way around
16 the hearing suite and make yourselves comfortable but if
17 you have any queries please don't hesitate to ask
18 a member of the Inquiry team.

19 It is very important to me that any member of the
20 public who wants to attend, listen to, and watch our
21 public hearings feels able to do so. That can be done
22 here in the hearing room or by watching the screen in
23 the sitting room outside the hearing room when it is
24 available. Also, anyone who wishes to follow the
25 evidence but is not able to be here in person will be

1 able to do so each day by viewing a transcript of the
2 day's proceedings on the Inquiry website.

3 That is where also we will publish any updates of
4 the arrangements for hearings, including witness
5 schedules, so please do check it regularly. Updates
6 will also be tweeted. For Twitter followers, our
7 Twitter account details are also on the website, it is
8 @scottishcai.

9 As for the mechanics of the daily schedule, I plan
10 to sit from 10 am to about 1 pm each morning with
11 a 15-minute break from about 11.30. There will be
12 a lunch break between 1 pm and 2 pm and in the
13 afternoons we will try to finish by about 4 o'clock each
14 day.

15 You will see there are a number of people at the
16 desks in front of me. They are counsel to the Inquiry,
17 legal representatives and other representatives of those
18 who have been granted leave to appear for this part of
19 our hearings. In due course they will each introduce
20 themselves to you so that you can understand who they
21 are and why they are here.

22 But I want to begin what I have to say about the
23 work of the Inquiry by acknowledging, as I did at the
24 preliminary hearing earlier this year, that many
25 children in Scotland have over the years been abused

1 whilst in residential care. They suffered some terrible
2 treatment, inflicted by those to whom their care was
3 entrusted; that is a matter of grave concern.

4 So it is that this Inquiry was established with
5 an extensive remit to identify the nature and extent of
6 that abuse, thus raising public awareness of this
7 important subject, to enable all who wish to do so to
8 provide us with evidence about that abuse, to find out
9 what makes a system safe for all children, and what
10 makes an institution safe for all children, to find out
11 what could have been done to prevent the abuse and what
12 ought to be done to prevent it now and in the future,
13 and to understand the long-term impact of any such abuse
14 and consider the appropriate responses to that impact.

15 It is critically important that our community
16 engages in facing up to the fact that children in care
17 were wronged and failed in the past, and to commit to
18 seeing to it that children of today and of the future
19 are safe.

20 It is not easy to do that. For many it will be
21 a painful process but if we are to achieve real
22 substantial and lasting change for the better, it has to
23 be done. These are the considerations that lie at the
24 heart of our work. Many, many people have come forward
25 to tell us about having been abused in care and they

1 continue to do so. The numbers are very far in excess
2 of the number of 200, which is what I understand to have
3 been mentioned in the media.

4 The Inquiry has gathered and continues to gather
5 a wide range of other evidence as well. For example,
6 evidence about the provision and regulation of
7 residential care for children, about the consequences of
8 such abuse, about its impact, and about the systems, if
9 any, that have been in place in Scotland over the years
10 for the protection of children who are living away from
11 a family home. The evidence is covering how different
12 organisations operated, what happened, where, how and
13 why. Much of it will be presented, analysed and
14 discussed at public hearings, all organised so as to
15 meet our terms of reference.

16 During this phrase, as counsel to the Inquiry will
17 explain, evidence is going to be led to cover three
18 areas: first, the nature, extent and the development of
19 the State's role in and responsibility for children in
20 residential and foster care.

21 Secondly, the history and governance of the various
22 organisations that have over the years provided and
23 arranged for the residential care of children, including
24 faith-based and charitable organisations.

25 Thirdly, the background to and reasons for the

1 formation of survivor groups, such as those which have
2 come to the fore in recent years.

3 As regards the third of these, the background to and
4 reasons for the formation of survivor groups, as many of
5 you here today will be aware, a key witness is sadly no
6 longer with us. Frank Docherty, described in one of the
7 warm appreciative obituaries written about him as being
8 "a huge personality, gallus, funny determined and
9 unwaivering in his commitment", died last month on 30th
10 April. Whilst we have evidence from him in the form of
11 his signed statement that he gave to the Inquiry before
12 his death, we are deeply sorry that we are not going to
13 be able to hear from him in person. It is a tragedy
14 that he didn't survive to see the launch of public
15 hearings in this Inquiry for which he fought so long and
16 hard.

17 A few moments ago I mentioned a term, "counsel to
18 the Inquiry". Those are the counsel who specifically
19 assist me in the preparation for and presentation of
20 this Inquiry. The most senior of those is
21 Mr Colin MacAulay QC and I'm now going to pass to him to
22 introduce his team to you. Mr MacAulay.

23 MR MacAULAY: My Lady.

24 As your Ladyship has said, I appear as counsel to
25 the Inquiry along with my learned friends Mr Peoples,

1 Ms Macleod and Ms Rattray. We are all counsel to the
2 Inquiry.

3 I see a hand is raised; can you not hear me?

4 (Pause)

5 Can you hear me now?

6 I will repeat what I said. Is that better for you?

7 As her Ladyship has said, I appear as counsel to the
8 Inquiry and I appear along with my learned friends
9 Mr Peoples, Ms MacLeod and Ms Rattray. We are all
10 counsel to the Inquiry.

11 Today 16 other interests are being represented by
12 a number of different representatives and, in case I get
13 it wrong, I will invite them to introduce themselves and
14 whom they represent. I think first to bat is Mr Scott.

15 MR SCOTT: I'm John Scott QC. I'm senior counsel acting on
16 behalf of INCAS, the In-Care Abuse Survivors Group,
17 which has been granted core participant status.

18 MR GALE: My Lady, good morning. I am Stuart Gale QC,
19 I represent David Whelan who is himself a representative
20 of FBGA, Former Boys and Girls Abused of Quarriers.
21 I have with me Darren Deery, solicitor of Drummond
22 Miller LLP and on other days Aine McShane of that firm
23 will also be with me.

24 MS DOWDALLS: My Lady, I am Kate Dowdalls QC. I represent
25 Quarriers and I am instructed by Clyde & Co. I have

1 with me Duncan Bachelor of that firm.

2 LADY SMITH: Thank you.

3 MR ROLFE: My Lady, good morning. My name is Gregor Rolfe,
4 I'm from Clyde & Co solicitors, and I represent the
5 Daughters of Charity of St Vincent de Paul.

6 MR DUNCAN: Good morning, my Lady. I am Alastair Duncan QC
7 and I am here on behalf of Sisters of Nazareth along
8 with my instructing solicitor, Isla Craig.

9 MR ANDERSON: Good morning my Lady, my name is David
10 Anderson, advocate. I am the legal representative for
11 the Bishops' Conference of Scotland, the Good Shepherds
12 Sisters, the De La Salle Brothers, and the Conference of
13 Religious Scotland. I appear with two solicitors from
14 the firm of McSparran & McCormick, and Father
15 Thomas Boyle who is going to give the opening statement
16 on behalf of the Bishops' Conference.

17 MR WATSON: Good morning. My, Lady. I'm Graham Watson and
18 I am here on behalf of Christian Brothers, the English
19 Benedictine Congregation, and Barnardo's. I am here
20 from Clyde & Co and also I am also with my colleague
21 Lyndsey Combe, who is behind me this morning.

22 MS DUNLOP: [No audio] Good morning, my Lady. I'm Laura
23 Dunlop QC and I am here with Mary McLeod, who is a
24 solicitor at The Church of Scotland. We represent Crossreach,
25 which is the social care arm of the Church of Scotland.

1 On other days will be Mr David Stihler.

2 MR SCOTT: Good morning, my Lady. I am Euan Scott and I'm
3 from Levy McRae solicitors and I'm here on behalf of
4 Marist Brothers, and my colleague, Professor Leo Martin,
5 will appear also on various days.

6 NEW SPEAKER: My Lady, my name is Ranald McPherson and I am
7 a solicitor with the firm of Clyde & Co, and I represent
8 the Aberlour Child Care Trust. I'm here today with my
9 colleague.

10 MS O'NEILL: Good morning, my lady. My name is Christine
11 O'Neill. I am a solicitor advocate and I represent the
12 Scottish Ministers and I am instructed by the Scottish
13 Government Legal Directorate and I am accompanied today
14 by Ms Rona Carson, a solicitor with SGLD.

15 LADY SMITH: Mr MacAulay.

16 MR MacAULAY: My Lady, can I just confirm, can you all hear
17 me now?

18 LADY SMITH: Can we get that microphone sitting on something
19 just to raise it a little higher and then Mr MacAulay
20 won't have to lean over quite so much.

21 (Pause)

22 Opening statement by MR MACAULAY

23 MR MacAULAY: Is that better? Can you hear me? Good.

24 Thank you.

25 In a moment I propose to set out fairly briefly what

1 areas it is intended to cover over the next number of
2 weeks during what I would call the first part of the
3 first phase of the Inquiry hearings.

4 But before doing so, can I remind parties of the
5 role of counsel to the Inquiry and repeat what I said at
6 the preliminary hearing on 31st January of this year?
7 As counsel to the Inquiry we bear the burden of
8 presenting the evidence to the Inquiry and we must do so
9 without fear or favour. That means we do not take
10 sides. It is our clear duty to represent the evidence
11 in a nonpartisan and neutral way. In short, we must act
12 fairly towards all interests that may be caught up in
13 the Inquiry process.

14 Moving on then to consider this particular part of
15 phase 1. Today and, if required, part of tomorrow has
16 been dedicated to allowing the parties who have appeared
17 today the opportunity of making an oral submission
18 before we embark upon the taking of oral evidence.

19 It is expected that any single submission will not
20 last more than 30 minutes. It has been left to parties
21 themselves to decide on what they may wish to say in the
22 course of their opening submissions.

23 So far as the evidence is concerned the intention
24 for the rest of this week is to lead evidence from the
25 expert witnesses who have produced reports. First up

1 will be Professor Norrie and he will speak to the
2 legislative and regulatory framework for children in
3 care up to 1968. He will complete that analysis by
4 bringing that analysis up to date in the second part of
5 this first phase. Thereafter Professor Radford and
6 Dr Christine Barter will speak to their research review
7 on the abuse of children in care in Scotland.

8 For ease of presentation the intention here is to
9 have a joint presentation with both Professor Radford
10 and Dr Barter using a PowerPoint presentation to explain
11 their findings. That may be a taste of things to come
12 because as an Inquiry we are not constrained by what
13 might be regarded as the traditional ways of leading
14 evidence.

15 Then Dr Susan Elsley will speak to her report
16 examining social attitudes towards children over time
17 and again a PowerPoint presentation approach will be
18 employed to identify the points that she wants to make.

19 In the course of next week, the intention is to lead
20 evidence from the Scottish Government on the nature,
21 extent and development of the State's role in and
22 responsibility for children in residential and foster
23 care in Scotland.

24 That is in response to a request made to them by the
25 Inquiry. The Scottish Government have produced

1 a detailed report addressing these issues and that will
2 form the basis of that evidence.

3 As her ladyship announced at the preliminary
4 hearing, the Scottish Government have also been asked
5 for a chronological report dealing with the State's
6 knowledge of and response to the existence of abuse of
7 children in residential and foster care in Scotland in
8 the period from 1930 up to 2014. That report is not yet
9 available but it is expected to be available for the
10 second part of this first phase.

11 Reports have also been obtained from the Conference
12 of Religious Scotland and the Bishops' Conference
13 following requests by the Inquiry to them in the form of
14 detailed questionnaires and that evidence is likely to
15 be taken next week.

16 I now propose to provide a little background to the
17 evidence that will be taken during this first phase from
18 the Catholic religious orders and also the other care
19 providers who appear today.

20 Along with many other organisations, these
21 organisations were provided with a detailed
22 questionnaire made up of four different sections, A, B,
23 C and D, and asked to respond to the questions asked.
24 The responses to two parts of that questionnaire,
25 sections A and B, will be considered in the course of

1 this part of the first phase of hearings.

2 The general intention behind the questionnaire sent
3 to all these organisations before any specific case
4 studies had taken place was one of informing the Inquiry
5 and the public on aspects of, for example, the history,
6 culture and governance of these organisations.

7 But there was an additional reason for the requests
8 that were made and that was to provide organisations
9 with an opportunity at this stage in the Inquiry process
10 to acknowledge that children in their care were or may
11 have been abused. The responses that have been made on
12 that issue also will therefore be examined in the course
13 of this first phase in the following weeks.

14 The final chapter of this part of the first phase
15 will be devoted to the evidence given on behalf of
16 survivor groups as to their formation and also evidence
17 about the campaign for this Inquiry.

18 As your Ladyship has just said, a key figure in that
19 whole process was the late Mr Frank Docherty and his
20 untimely death has meant that he will not be here in
21 person, but he has already given his testimony to the
22 Inquiry in a private session and signed a statement
23 containing that testimony.

24 That statement, which is a detailed one, covers his
25 time in care, life after care, but it also provides

1 information relevant to the formation of the survivor
2 group INCAS, short for In-Care Abuse Survivors Group.
3 In concluding what I have to say, I propose to read out
4 that part of Mr Docherty's statement relevant to the
5 formation of INCAS.

6 This part of his statement begins at paragraph 124
7 of the full statement:

8 "When I started the In-Care Abuse Survivors, the
9 INCAS support group, I had handwritten three pages of
10 a letter. It was to go to people like all the bishops,
11 MSPs, the spokesman for the Catholic Church. When
12 I write, I start slow, but then go fast and I can't read
13 my writing. It is hard to trust people but there was
14 a woman I did work for at her house and for her parents.
15 I didn't know anything about computers, but I knew she
16 had one. I asked for her help and she typed up the
17 letter for me on one page of her computer.

18 "I was chapping on doors, approaching local
19 councils, and trying to get funding. I photocopied the
20 letter and sent them out. I got lots of replies. For
21 example, from Lord Nolan, bishops and priests. I have
22 them at home but they were all condescending and
23 niceties and didn't get to the point.

24 "I wrote posters and it cost me a lot of money to
25 get them photocopied. [REDACTED] helped me. We went round

1 churches, chapels and civic centres to get people to
2 listen.

3 [REDACTED] worked for Hamilton District
4 Council. I made an appointment with her. I met her and
5 another person. They could not help us direct but told
6 me to go and see [REDACTED] of Victim Support
7 Hamilton. [REDACTED] got Victim Support money
8 to train a group of four to six of us.

9 "The first public hearing we held was in West Wood
10 Hall in East Kilbride. We advertised the meeting in the
11 papers. The group was called 'Abuse Victims Anonymous',
12 AVA, at that point. We met on 8th April 2000. About 20
13 people turned up. Four or five of us had been in care
14 but the rest were victims of rape or familial abuse. We
15 couldn't understand each other. I referred them to
16 a Bellshill organisation called EVA, which is a place of
17 victims of incest or rape.

18 "We also held a meeting on 3 March 2003.
19 I advertised in the papers and hired Woodside Hall in
20 Maryhill in Glasgow. It was the first mass gathering of
21 survivors held. It was one of the most emotional days
22 of our lives. About 100 people came. They came from
23 England, Ireland and the far north of Scotland. The
24 press were there. We invited the Catholic Church and
25 the MSPs, but they never came. We put on a buffet and

1 tea. I had cooked it myself.

2 [REDACTED] saw a wee man pacing nearby with a suitcase.
3 She asked him to come over but he was frightened. She
4 brought him in. His name was [REDACTED] and he had flown up
5 from London. The committee all sat on the stage. We
6 had two speakers: Helen Holland was there; [REDACTED]
7 and her sister were there, who had been in the Magdalene
8 laundries.

9 "They shared their experiences to the hall. We let
10 others share their experiences. The youngest there was
11 in their 40s and the oldest was in their 80s. [REDACTED] was
12 in his 80s. He said he had no family or friends and
13 said that we were his family. Every story was
14 heartbreaking. The reporters and hall keepers walked
15 out because it was so emotional.

16 "I had tried to video it all but the acoustics in
17 the hall were not good and you couldn't hear the
18 accounts on the tape; there was too much echo in the
19 hall. It was the most emotional and powerful day INCAS
20 ever had. I had just met some of those people that day
21 or only had a phone call with them. I felt for them and
22 I related to them: he is me, I am him.

23 "I contacted the office of the charity regulator and
24 told them that we could not continue as we had not
25 committee."

1 And that against the background of INCAS's folding
2 in 2006:

3 "I contacted the office of the charity regulator and
4 told them that we could not continue as we had no
5 committee. The lady I spoke to told me to try to carry
6 on as we were doing good work for victims and that she
7 did not want us to close down. As time went on I phoned
8 her over and over again and she sent me out the
9 paperwork to fill in to give up our charity's status.

10 "That was a black day for me. My mental health took
11 a beating. I was full of guilt for letting all our
12 members down. INCAS was closed down for about three
13 years, but Helen Holland, [REDACTED] and I kept in touch
14 with the members during this period. We even held our
15 yearly service but members did not know INCAS had folded
16 otherwise they would have drifted away with no hope.

17 "At the beginning of January 2010 I received a call
18 from Helen asking if I was up to starting up INCAS
19 again. I told her I was up for it, no problem, we
20 called around and about seven others joins us. We met
21 at the Millennium Hotel in Glasgow. INCAS was up and
22 running again.

23 "We worked hard and had lots of committee meetings.
24 We applied for charity status and it was granted no
25 problem. We were re-born to campaign for our loyal

1 members. I ran the helpline for several years in INCAS.
2 There seemed to have always been a bad one in these
3 homes. It was as if they put a punisher or sentry into
4 each home.

5 "When I set up INCAS I had three goals. First, was
6 to give the victims a voice -- they have had no voice --
7 in Parliament. We have been heard. Second, I wanted
8 safeguards put in place to keep children in care safe
9 and that is taking place. Third, was to have a public
10 Inquiry. We fought for 16 years and got it. I say that
11 was job done.

12 "INCAS has about 215 members. There used to be up
13 to 480 members but things happen. Every time we sent
14 out a newsletter we got contacted to say that another
15 member has passed away."

16 This is the final main paragraph in Mr Docherty's
17 statement on this point:

18 "What I want out of the Inquiry is justice for what
19 happened to children who suffered abuse. We feel that
20 we have been treated with contempt. The way we were
21 treated took away our self-esteem and was emotionally
22 damaging. Throughout my life I have had to put up
23 a front to people, so people have not seen the real me.
24 Regularly something happens, whether on television or in
25 some other way, that brings back to me the abuse that

1 I suffered. The emotional damage to me has meant that
2 it has been difficult for me to show emotional care to
3 my family. I have done my best to provide material
4 support but things like emotional care, like giving
5 cuddles, have been difficult for me.

6 "What you have to realise is that the abuse of
7 a child is like throwing a pebble into a pool: the
8 effect ripples through the whole family. I know that
9 every victim searches for peace of mind. I would never
10 want any child to suffer as I did. My childhood was
11 taken away from me.

12 "I have no objection to my witness statement being
13 published as part of the evidence to the Inquiry.
14 I believe the facts stated in this witness statement are
15 true."

16 That, my Lady, concludes what I have to say at this
17 point in time.

18 LADY SMITH: Thank you. Mr Scott.

19 Opening statement by MR SCOTT

20 MR SCOTT: My Lady, can I start by thanking your Ladyship
21 for the warm words, and I do so on behalf of INCAS and
22 also [REDACTED] -- and the same to you, Mr MacAulay. It
23 seems entirely fitting that the first public hearing has
24 heard from Frank Docherty.

25 It is impossible to capture in a single statement

1 the views of all surviving members of INCAS; I will not
2 try to do so. Survivors may have grouped together and
3 achieved more by doing so, but INCAS is an organisation
4 consisting of hundreds of individuals, each with their
5 own unique experience and their own different hopes and
6 expectations of this Inquiry.

7 In this first phase of public hearings the Inquiry
8 will hear from Helen Holland, survivor and chair of
9 INCAS.

10 She will explain the purposes and origins of the
11 organisation. In later hearings the Inquiry will hear
12 evidence in public session from other members of INCAS.
13 Many more will contribute their evidence through the
14 statements they have given. This Inquiry is not truly
15 about the opinions of experts or the eloquence of
16 lawyers; it is about that evidence obtained by hearing
17 the lived experience of survivors. That evidence will
18 be powerful and persuasive, as I think Mr MacAulay has
19 already demonstrated. I am sure that the contribution
20 of INCAS, primarily through the evidence of its members,
21 will be of crucial assistance to the work of the
22 Inquiry.

23 INCAS represents and consists of those who were
24 among our most vulnerable children, those most in need
25 of nurture and support and entrusted to the care of the

1 State or a body acting on behalf of the State, and those
2 therefore most cruelly betrayed when their vulnerability
3 and needs attracted not essential nurture and support,
4 but victimisation and abuse, very often making their
5 supposed care infinitely worse than the circumstances
6 which led to them going into care.

7 This Inquiry is being held because the State has
8 belatedly that it is necessary. At some point the State
9 should also acknowledge more fully its own
10 responsibility for the abuse which was allowed to
11 happen.

12 While certain laws and procedures have changed over
13 the years, this makes no difference in very many cases.
14 That there was abuse must have been obvious even at the
15 time with no need for the benefit of hindsight. What we
16 know now may assist with an understanding of the abiding
17 consequences of abuse, but much of what happened in the
18 past was wrong, even by the standards and rules of the
19 time.

20 The extent and complications of abuse are almost as
21 extensive as the unknown number of victims. In part
22 this is because of the loss or deliberate destruction of
23 records or, in some cases, the failure to keep proper
24 records in the first place.

25 In relation to the unknown number of victims and

1 survivors, as Lady Smith said at the preliminary
2 hearing, this Inquiry is not merely about numbers. The
3 enforced separation of brothers and sisters,
4 estrangement from family, some children even sent to
5 other countries, and the consequent absence of what most
6 of us would regard as key aspects of identity are losses
7 impossible to calculate.

8 Although the range of experiences within INCAS is as
9 extensive and diverse as its membership, all of its
10 members have something in common, they have all been
11 told or made to feel three things: that no one will
12 listen to them, that no one is interested, and that they
13 are of no value.

14 Often that was stated explicitly to them by those
15 who abused them or those who connived in their abuse or
16 its cover up. Thereafter that is also how they have
17 been made to feel by many acting with the authority of
18 the State. The hope is that this Inquiry and government
19 reaction to the Inquiry's report will prove each of
20 those statements wrong.

21 This Inquiry offers them an opportunity to speak and
22 be listened to. Indeed some INCAS members say that it
23 is not they who need to be listened to but the children
24 they once were. It is the voice of those vulnerable
25 children, abandoned and forgotten by society, which will

1 finally be heard.

2 It is clear that there is considerable interest in
3 the Inquiry in what survivors have to say and what they
4 have already said in the many statements provided to the
5 Inquiry team.

6 Finally, the immense value of the contribution of
7 each will hopefully be felt in official acknowledgement
8 of what they have suffered as well as the changes yet to
9 come in their treatment of those in need of the care of
10 the State.

11 Today comes too late, too late for those who
12 survived their abuse but are no longer with us,
13 especially those who could not share their evidence with
14 the Inquiry. Too late for those like Frank Docherty who
15 helped to make this Inquiry happen and gave statements
16 but did not live to see the acknowledgement and
17 accountability which will follow. Too late for
18 meaningful accountability of any sort for some of those
19 responsible for the abuse. But today is also not too
20 late, not too late for at least some acknowledgement and
21 accountability; not too late for some compensation; not
22 too late for other survivors to come forward.

23 Those who have suffered in silence for years but
24 have finally felt able to share their evidence with the
25 Inquiry team speak of being heard by Inquiry team

1 members with compassion and respect and feeling
2 believed. Those who have done so join in encouraging
3 all survivors who have not yet done so to come forward
4 and offer their testimony to the Inquiry.

5 Compassion, respect and belief have previously been
6 denied to most survivors. To compound that, some
7 individuals and bodies responsible for abuse have sought
8 to deny abuse, and even blame their victims, citing
9 sometimes delinquency and the like. This represents
10 a form of additional abuse and it is to be hoped that
11 the Inquiry will be able to take that into account as
12 well.

13 For the avoidance of doubt, that some of those
14 abused have behaved in any sort of anti-social manner
15 will often be directly because of the abuse they
16 suffered rather than any sort of justification for it or
17 excuse for not believing it.

18 As Mr MacAulay said, organisations involved in the
19 abuse of children have been given an opportunity at this
20 stage of the Inquiry to answer certain questions and
21 outline their general position on the abuse in their
22 establishments. At this stage we say no more than
23 noting with disappointment the relatively limited extent
24 of admission and acknowledgement on the part of some.
25 Their attitude will no doubt be re-visited by the

1 Inquiry when it has more evidence. It may be that
2 matters develop as evidence is heard but an unforced
3 apology is always more powerful than a belated,
4 unavoidable and grudging acceptance. I urge those
5 responsible for shaping the official response of
6 establishments and organisations to consider all
7 evidence as soon as they can and react appropriately by
8 way of acknowledgement and apology and, at the very
9 least, have a care not to add any further to the
10 suffering of survivors in unjustified denial or even
11 just unnecessary non-acceptance.

12 Turning again briefly to compensation. We note that
13 the Inquiry has been given no power to award
14 compensation. Although recognising this significant
15 limitation, Lady Smith has said that some work may be
16 possible concerning redress schemes elsewhere and even
17 the possible role for such a scheme in Scotland.
18 Nonetheless this remains a pressing and unresolved area
19 of concern for many survivors. While certain promises
20 have been made, not a single penny has yet been received
21 in compensation.

22 There is no sum capable for compensating for the
23 abuse suffered, but many survivors have practical
24 problems and needs which might be assisted by some
25 financial recognition. Interim payments should be

1 considered urgently by the government as each week sees
2 the loss of yet more survivors. INCAS includes
3 survivors from 1964 and before and they should not be
4 forgotten. The legal complications of their situation
5 cannot be beyond the wit of government and its lawyers.

6 On this occasion, on the start of the public phase
7 of evidence gathering, I urge the Scottish Government
8 not to leave resolution of the question of compensation
9 until the conclusion of this Inquiry. It should be
10 addressed, as far as possible, while the Inquiry carries
11 out its work.

12 Before leaving the question of compensation, I wish
13 to point out that survivors know that some see them only
14 as financial commodities. That is how they were seen by
15 many of the care establishments. It is how they have
16 been made to feel in some dealings with government when
17 the costs of compensation, counselling and support --
18 and even this Inquiry -- seem to feature so heavily in
19 attempts to deny them their rights. Some in INCAS say
20 also that they have been made to feel that way by some
21 lawyers and by some other charities. Their entirely
22 appropriate demand for compensation should not be
23 mistaken for a justification for any longer treating
24 them as merely financial commodities.

25 The legacy of individuals should be felt primarily

1 in their families and with their friends. It is only
2 a small comfort for some of those survivors on whose
3 behalf I speak today that their legacy will include the
4 very fact of this seemingly impossible Inquiry.

5 Those who have campaigned for too long to get this
6 merely intermediate, albeit significant, stage have
7 their demands: justice, acknowledgement and
8 accountability; to be believed, not to be blamed; to
9 contribute to each and every one, to the maximum extent
10 each can, in seeking assurances that the widespread
11 abuse of our distant and recent past will never happen
12 again.

13 The best testament to the survivors, dead and
14 living, may well be the children who are saved from
15 becoming victims. That is why the main concern today
16 and for the next number of years is to do what is
17 necessary to encourage and support this Inquiry. Four
18 years, the total lifespan of the Inquiry, is a short
19 time in many ways but not for the survivors who have had
20 to wait so long to get to this point.

21 I know that Lady Smith and the Inquiry team are
22 seized of the urgency required in doing their most
23 challenging job in a timescale which will allow as many
24 survivors as possible to read the Inquiry report within
25 the next three years and hopefully even see

1 implementation of any necessary changes it recommends.

2 On behalf of INCAS, I say thank you to the Scottish
3 Government for this Inquiry, albeit the Inquiry should
4 be seen as an entitlement rather than a favour. It is
5 acknowledged that it has not been easy to get to this
6 stage. We say thank you to Lady Smith and the whole
7 Inquiry team for the mostly unseen work done so far and
8 the channels of communication which have been
9 established. We hope to assist in developing these to
10 ensure maximum contribution from INCAS as well as making
11 sure that INCAS and its members receive as much advance
12 intimation as possible as to the specifics of future
13 phases of these Inquiries and when its members will be
14 required as witnesses in public sessions.

15 It is difficult to match the eloquence of Frank
16 Docherty, but I close now with the words of the then
17 Secretary General of the United Nations, Kofi Annan, in
18 the foreward to the UNICEF report on the state of the
19 world's children in 2000:

20 "There is no trust more sacred than the one the
21 world holds with children. There is no duty more
22 important than ensuring that their rights are respected,
23 that their welfare is protected, that their lives are
24 free from fear and want, and that they grow up in
25 peace."

1 That sacred trust with our children has been
2 breached. Your work in this Inquiry is vitally
3 important, especially for the survivors of that breach,
4 to ensure recognition and respect for the rights of
5 those abandoned and forgotten children, protection of
6 the welfare of all those in the care of the State, and
7 the aim of lives free from fear as our children grow up
8 in peace.

9 We will continue to work with you in a positive and
10 constructive manner towards these ends. Thank you.

11 LADY SMITH: Thank you very much, Mr Scott.

12 Mr Gale, when you are ready.

13 Opening submission by MR GALE

14 MR GALE: Thank you, my Lady.

15 As Mr Scott has done, can I also thank my Lady and
16 indeed Mr MacAulay for your respective opening remarks.
17 Can I also say that David Whelan and FBGA is deeply
18 saddened that Frank Docherty, and indeed the other
19 survivors of abuse, did not live to see this day.

20 My Lady, on the 1 December 2004, the then First
21 Minister, Jack McConnell, made a statement to the
22 Scottish Parliament in which he acknowledged that it was
23 clear that some children had been abused in Scottish
24 residential homes, where they suffered physical,
25 emotional and sexual abuse in the very place in which

1 they hoped to find love, care and protection.

2 He went on to say that adults of today deserve
3 recognition of what happened to them, that they should
4 not have been so abused, that they were badly wronged,
5 and that such abuse, wherever and whenever it took
6 place, was "deplorable, unacceptable and inexcusable".

7 The First Minister concluded by saying this:

8 "I offer a sincere and full apology on behalf of the
9 people of Scotland to those who were subject to such
10 abuse and neglect and who did not receive the level of
11 love, care and support that they deserved and who have
12 coped with that burden all their lives."

13 As is apparent from the debate that followed on from
14 that statement, the public petition which was presented
15 by Chris Daly on 20th August 2002 was moved and it
16 called on Parliament to urge the executive, as it then
17 was, to conduct an enquiry into past institutional child
18 abuse, in particular for those children who were in the
19 care of the State under the supervision of religious
20 orders.

21 A number of MSPs of differing political persuasions
22 supported, to varying degrees, the establishment of such
23 a public Inquiry: Fiona Hislop, Lord James Douglas
24 Hamilton, Patrick Harvey, Rosie Kane, the late
25 Phil Gallie and Kenny McCaskill.

1 The public apology by the First Minister was
2 universally welcomed. David Whelan was mentioned by
3 name in the course of the debate both Ms Kane and
4 Mr Gallie. Indeed, he provided much of the information
5 on which Ms Kane based her observations. I will come to
6 discuss his background in a little more detail in a few
7 moments, but briefly he is a man who had been abused as
8 a child while in care at Quarrier's Village over
9 a period of five years.

10 On the 7th November 2002, his abuser, who was
11 a house parent at Quarriers, was convicted of two
12 charges of lewd and libidinous practices and two charges
13 of shameless indecency and was sentenced by Lord Hardie
14 to eight years' imprisonment, a period which was later
15 reduced by the appeal court to five years.

16 In sentencing his abuser, Lord Hardie said this:

17 "There could be no doubt that you presented a face
18 of respectability. It is clear from the discerning
19 verdict of the jury that between 1969 and 1977 you had
20 a more sinister side to your character. You abused two
21 boys entrusted to your care over a period of eight years
22 on numerous occasions. Those boys were entrusted to
23 your care because they had personal difficulties and the
24 last thing that was expected or needed was for you to
25 add to their difficulties by sexually abusing them.

1 These were children who came to regard you as a father
2 figure and it is impossible to determine what
3 psychological damage you have caused them in later
4 life".

5 Lord Hardie's reference to eight years was in respect
6 of both complainers. In the aftermath of the criminal
7 process, which resulted in a conviction, Mr Whelan,
8 together with others, established FBGA. The reasons for
9 the establishment of that organisation are more fully
10 referred to in his witness statement. Since then
11 Mr Whelan has been the principal spokesman for FBGA and
12 has become a respected advocate for that organisation
13 and indeed for the victims of childhood abuse generally.

14 The First Minister's apology represented a welcome
15 starting point as far as my clients were concerned. It
16 should be appreciated, however, that it only went so
17 far. It was a public recognition and acceptance that
18 abuse of children in residential care in Scotland had
19 occurred over a lengthy period of time, that it should
20 not have occurred, that it was a shameful episode in the
21 recent history of this country, and that those who had
22 been the victims of such abuse had been left to cope
23 with the burden and consequences of that abuse from
24 childhood into adulthood.

25 What the apology did not, and indeed could not,

1 address was the question of why in a civilised and
2 regulated society this abuse happened and was allowed to
3 continue to happen in institutions that were regulated
4 by the State, by local authorities and by the
5 institutions themselves.

6 While I obviously speak directly for those abused in
7 Quarrier's homes over the decades, I think it is safe to
8 say that for those abused in whatever residential
9 institution, an essential element in coping with the
10 consequences of being an abused child is
11 an acknowledgement, through either an admission by the
12 institution or the individual concerned, that the abuse
13 took place or through a conclusion by a high-level
14 respected fact-finder that the abuse did occur.

15 For some such as Mr Whelan that has been in part
16 achieved through his participation in the criminal
17 process and the eventual conviction of his abuser. For
18 very few it has been achieved through proceedings in the
19 civil courts, the predominant reason for the absence of
20 such findings being the existence of the law on time bar
21 and the reliance on that by the institutions.

22 Indeed, it is somewhat ironic that it has been
23 easier for those bringing actions against individuals to
24 overcome the plea of time bar than it has for those
25 litigating against institutions.

1 Can I say, my Lady, now something about this Inquiry
2 in the context of what I have just said. The origins of
3 FBGA are explained in Mr Whelan's witness statement and
4 will be further considered in week 6 of the first phase
5 of this Inquiry. Very briefly this organisation was
6 established following a number of convictions of members
7 of staff at Quarrier's homes in respect of various acts
8 of abuse carried out on children in care.

9 Over the years no other organisation in the UK
10 providing residential care for children has had so many
11 individuals convicted of abuse. But notwithstanding
12 that alarming fact, there has until now been no proper
13 independent Inquiry into how that was allowed to occur.

14 The organisation FBGA. Its origins lie in a concern
15 that those who had been the victims of abuse, having
16 been through the criminal process, were left alone and
17 unsupported in the aftermath of the trials. Those who
18 are the complainers in the trials had the benefit of
19 anonymity in the trial process, but following the
20 trials, some of the witnesses and victims who provided
21 supporting evidence were actively intimidated and, in
22 a national television programme, their accounts of abuse
23 were directly questioned, the suggestion being that they
24 were liars motivated in part by the desire to obtain
25 compensation. All that, notwithstanding the fact of the

1 convictions.

2 Accordingly a number of individuals, including David
3 Whelan, waived their right to anonymity and established
4 FBGA with a view to supporting victims, contradicting
5 the suggestion that they were liars and importantly
6 embarking on a campaign for the setting up of a public
7 judicial Inquiry into the events at Quarriers.

8 The precise wording of the relevant aim of FBGA
9 is -- and I quote:

10 "Our goal and main aim is for a public judicial
11 Inquiry into the past failings of former management of
12 Quarrier's homes to protect children from abuse
13 committed on them by employees at the time and which in
14 some instances had been reported to them only for them
15 to take no action against those who perpetrated it."

16 In relation to that specific goal, FBGA has
17 campaigned tirelessly and consistently to achieve
18 a public Inquiry. While that campaign was initially
19 centred on events at Quarriers, it has expanded as time
20 has gone on and the eventual decision by the government
21 to establish this Inquiry into abuse in residential care
22 was and is something which FBGA welcomed and welcomes
23 and, while viewing matters critically, has consistently
24 supported.

25 The contribution that FBGA has already made and

1 plans to continue to make to this Inquiry is, we say,
2 both positive and extensive. While it has been
3 repeatedly emphasised that this is an inquisitorial
4 Inquiry in the course of which the role of counsel to
5 parties is, as Sir Louis Blom-Cooper put it in his book
6 "Public Inquiries: Wrong route on Bloody Sunday", just
7 recently published, that being "on tap and not on top".

8 The terms of reference of this Inquiry confers on
9 your Ladyship the remit to investigate the nature and
10 extent of abuse of children in residential care in
11 Scotland and to consider the extent to which
12 institutions failed in their legal responsibility to
13 protect children in care and to examine the effect the
14 abuse had had and continues to have on victims and their
15 families. The time frame for that investigation is
16 within living memory of those who suffered abuse with
17 an end date in December 2014.

18 While mindful of the observations of your Ladyship
19 in her opening statement on 31st January of this year,
20 to the effect that the Inquiry does not provide a forum
21 at the conclusion of which there will be findings which
22 will hold individuals or institutions criminally or
23 civilly liable for abuse. But as my Lady said, it is
24 important that the Inquiry hears and learns of the types
25 of abuse that occurred, however distressing or

1 distasteful that evidence may be. As my Lady put it,
2 "The how, when and where", and, "Where necessary and
3 appropriate, criticisms will be voiced where
4 circumstances justify that".

5 As I have already alluded to, it is important, in
6 our submission, that where individuals perpetrated abuse
7 and where institutions ignored, tolerated or turned
8 a blind eye to that abuse then that should be said.

9 In the Historical Institutional Abuse Inquiry in
10 Northern Ireland, chaired by Sir Anthony Hart, the
11 report of which was published in January of this year,
12 it was said at paragraph 40 of its introductory section,
13 after referring to the express exclusion of ruling upon
14 or determining any person's civil or criminal liability
15 that:

16 "This does not mean that the Inquiry cannot identify
17 acts or omissions which, if the same evidence was given
18 in civil or criminal proceedings, might result in the
19 award of damages or some other remedy or a conviction.
20 If the Inquiry could not make such findings, it would be
21 severely hampered in performing the task imposed upon it
22 by its terms of reference within the statutory framework
23 enacted by the legislature."

24 Accepting, of course, that this Inquiry operates
25 under its own specific terms of reference, and under

1 a different legislative regime, it is our submission
2 that the foregoing observations by Sir Anthony Hart are
3 pertinent and relevant here.

4 As I mentioned, it is, in our submission, important
5 that those who have been so long denied a voice, but who
6 have suffered abuse in childhood, are able to obtain
7 from this Inquiry findings that abuse occurred,
8 identifying where appropriate the perpetrators of that
9 abuse and voicing criticisms of the institutions in
10 which that abuse took place.

11 This Inquiry will in due course conduct
12 a case-specific study into Quarriers and, on the basis
13 of the evidence that I have seen, as provided to me by
14 my clients, there will be a considerable body of
15 evidence, both direct and anecdotal, of abuse --
16 physical, emotional and sexual -- spanning many decades.
17 For those of us looking at that evidence in 2017, it is
18 disturbing.

19 At this opening stage at the Inquiry, there are
20 a number of observations I would like to make in that
21 context. Firstly, it is not disputed that Quarriers was
22 established by William Quarrier in the late 19th century
23 with the intention of providing a place of rescue for
24 impoverished and neglected children, principally from
25 the Glasgow area. It was established and imbued with

1 a strong Christian ethic. As an institution, Quarriers
2 has had in its care throughout its existence over 30,000
3 children and interestingly some 7,000 children from
4 Quarriers were sent abroad as child migrants. For my
5 clients, it is reassuring that this Inquiry will
6 consider the issue of child migration.

7 While it is accepted that many children went through
8 care in Quarriers viewing it at the time and with
9 hindsight as a positive experience, however, for
10 a significant number of those in Quarriers' care the
11 experience was of cruelty and abuse from which, due to
12 the nature and governance of the institution, they were
13 unable to escape or gain respite. Mr Whelan has made it
14 clear that neither he nor the FBGA has deliberately
15 tried to harm the reputation of Quarriers but, as he
16 puts it:

17 "The system which allowed abuse to occur unchecked
18 corrupted the worthy care system in Quarriers."

19 This Inquiry focuses on events which occurred over
20 an extended period of time. In that time frame, which
21 is under review, changes in both the relevant legal
22 framework for the care of children and the societal
23 background have occurred, and to which the reports of
24 Professor Norrie and Dr Elsley refer.

25 In the HIA Inquiry, the following observations on

1 the standards upon which historic practices should be
2 compared was made. Again I quote:

3 "Our Inquiry was obliged to consider matters
4 stretching over many decades. Over that period of time
5 there have been changes in what is regarded as
6 acceptable or unacceptable behaviour towards children
7 and what are regarded as proper standards of
8 accommodation and childcare for children in residential
9 care.

10 "If we were to judge what happened many years ago by
11 the standards of today, that would mean imposing today's
12 standards on the past with the advantage of hindsight.
13 We do not consider that was the correct approach to
14 take. Throughout we approached the abuse we heard on
15 the basis of what was believed to be the appropriate
16 standard of care that should have been applied to the
17 residential institutions at the time we were
18 considering.

19 "That required us to take into account the economic
20 and social circumstances at the time, the level of
21 professional training, and the competence to be expected
22 at the time and other relevant factors that related to
23 the period under consideration."

24 That's from paragraph 44. As a general approach
25 that probably cannot be criticised. However, the abuse

1 about which this Inquiry will hear and which was
2 perpetrated in Quarrier's homes within living memory
3 cannot be excused or nuanced or regarded as less
4 reprehensible having regard to the societal or legal
5 norms of the time. Within the time frame of this
6 Inquiry physical and emotional cruelty to children and
7 the sexual abuse of children has always been wrong.

8 It is our submission that it will be apparent to the
9 Inquiry that Mr Whelan and FBGA have progressed from the
10 point of being individuals forced to address the
11 situation, with the inevitable shortcomings of the
12 inexperienced, to being individuals and an organisation
13 who and which have acquired a depth of knowledge that
14 will inform and assist this Inquiry.

15 In the period since its inception FBGA has
16 positively contributed to a number of formal reviews of
17 child abuse, including the Historic Abuse Systematic
18 review headed by Tom Shaw, the Time To Be Heard
19 project, again chaired by Tom Shaw, the National
20 Confidential Forum, the Scottish Human Rights
21 Commission, the Interaction Plan Review Group and the
22 National Reference Group, all these projects being
23 referred to in Mr Whelan's witness statement.

24 In addition, FBGA responded to the Scottish Law
25 Commission's consultation on time bar and more recently

1 has given evidence to the Justice Committee of the
2 Scottish Parliament in its consideration of the
3 Limitation Childhood Abuse (Scotland) bill.

4 I would like now briefly to mention Mr Whelan's own
5 circumstances because it will be appreciated that his
6 experience has led to his involvement with FBGA and its
7 campaign.

8 The detail of his experience in Quarriers will
9 become apparent when the case study of Quarriers takes
10 place and it is accordingly unnecessary to mention his
11 life story in any detail at this stage. He has recorded
12 his life in his book "No More Silence". Your Ladyship
13 will hear from Mr Whelan and she will form her own
14 impression of him.

15 At this stage however I consider it appropriate to
16 say that, having got to know Mr Whelan over a period of
17 months now, I can with some confidence say that he is
18 an articulate, intelligent and knowledgeable advocate
19 for those abused in Quarriers.

20 His own life story raises questions and issues which
21 this Inquiry will require to examine in general and
22 specific terms. He was removed from his family as
23 an infant, separated from his siblings. An opportunity
24 for placing him with prospective adoptive parents was
25 missed, he was briefly reunited with his siblings, he

1 was then placed in Quarriers where, as has already been
2 noted, he was abused over a period of five years. He
3 then left Quarriers eventually establishing himself as
4 a successful businessman.

5 In what he describes as "early middle age", he
6 received an unsolicited telephone call from his abuser's
7 wife who informed him that allegations had been made by
8 others against his abuser and seeking his assistance.

9 After years of suppressing the memories of his abuse
10 he was forced to confront them and, after considering
11 matters, he contacted Strathclyde Police leading to him
12 becoming a complainer in the trial of his abuser.

13 Thereafter he experienced the challenge which deters
14 many victims of abuse from coming forward of negotiating
15 his way, largely unaided, through a hostile criminal
16 trial. After conviction he found his account of the
17 abuse queried in the most public of ways. As I have
18 already noted, he thereafter embarked upon a learning
19 process leading him to his current position now as
20 a highly capable and informed advocate for those abused
21 in childhood.

22 At almost every stage of his life he has experiences
23 and material which will assist this Inquiry in many ways
24 in carrying out its remit.

25 Thank you, my Lady.

1 LADY SMITH: Thank you Mr Gale.

2 Ms Dowdalls.

3 Opening statement by MS DOWDALLS

4 MS DOWDALLS: My Lady, since it was formed in 1871, the
5 organisation now known as Quarriers, whom I represent,
6 has provided residential care, as Mr Gale has already
7 mentioned, for over 30,000 children.

8 Between 1930 and 1989 most of that care was provided
9 in cottages in Bridge of Weir, known as Quarrier's
10 Village. Since 1989 the organisation has continued to
11 provide residential care services to both children and
12 adults.

13 Many thousands of children who were looked after in
14 Quarrier's Village benefited from the care and education
15 they received there. Some were not so fortunate and
16 they suffered abuse and that abuse was sexual abuse,
17 physical abuse and emotional abuse while they were in
18 the care of Quarriers.

19 To those who suffered abuse while in its care,
20 Quarriers offers an unreserved apology. Quarriers
21 welcomes the opportunity afforded by this Inquiry to
22 investigate what flaws or shortcomings in its historical
23 policies procedures and practices which allowed abusers
24 to behave as they did towards the children in its care.

25 Since the prosecution of former members of its

1 staff, Quarriers has sought to understand the reasons
2 why abuse took place at Quarrier's Village and what
3 safeguards can be put in place to ensure that that abuse
4 does not happen again.

5 In 2001 Quarriers commissioned a report from the
6 Scottish Institute for Residential Childcare into its
7 then current systems and practices. In 2011 Quarriers
8 volunteered to participate in the Scottish Government's
9 pilot forum "Time To Be Heard", during which survivors
10 of abuse and others who had formerly been residents of
11 Quarrier's Village were given an opportunity to recount
12 their experiences in care.

13 Quarriers has fully participated in the Inquiry
14 process to date and will continue to do so.

15 I will say a little, if I may, my Lady, about the
16 history of Quarriers and also about its current role in
17 the provision of care services.

18 William Quarrier founded the Orphan Homes of
19 Scotland in 1871. His objective was to provide a better
20 life for children who were destitute or alone, quite
21 literally to get children off the streets. The
22 organisation provided homes and education for children
23 and facilitated the migration of children initially to
24 Canada and later also to Australia.

25 Quarrier's Village was established over time and

1 officially opened in 1878. Between 1930 and 1989
2 Quarrier's Homes, as it became known in 1958, provided
3 care, including education and medical care, for children
4 in 43 cottages and other buildings at Quarrier's
5 Village.

6 William Quarrier's Village was of childcare provided
7 in an environment intended to replicate, as far as
8 possible, normal family life. His thinking was in many
9 ways ahead of its time, as can be seen from the
10 emergence more recently in social work practice of the
11 placement of looked-after children with foster carers,
12 that from around the 1960s and 1970s.

13 The number of children requiring care of the sort
14 provided at Quarrier's Village reduced over time until
15 the last child left in 1989. Since 1990 Quarriers, as
16 the organisation has been known since 1998, has provided
17 care and support services to both adults and children.
18 A more person-centred approach to the provision of care
19 centres, developments in law and practice, and a greater
20 understanding of the benefits of care in a community
21 setting have influenced changes in the way that
22 Quarriers deliver services.

23 The policies, practices and services provided by
24 Quarriers now bear little resemblance to those it
25 provided in 1989. The properties that formed the

1 establishment known as Quarrier's Village have largely
2 been sold. Two are now used to provide residential
3 services for children with complex physical and learning
4 disabilities. Other services provided by Quarriers
5 include housing support for young people, fostering
6 services for people with complex disabilities, adult
7 supported living, children in family centres, and
8 support for people with epilepsy, and for children and
9 adults with complex needs.

10 Standards in childcare practice have altered
11 significantly over the years since the 1930s.
12 Practices, such as the use of corporal punishment in
13 schools, once the norm, are now completely unacceptable
14 and indeed unlawful. However, excessive or
15 disproportionate physical chastisement of children has
16 always been wrong and formed no part of Quarriers'
17 policy. The sexual abuse of children has always been
18 wrong.

19 Seven former employees of Quarriers have been
20 convicted of offences relating to the sexual, physical
21 and emotional abuse of 23 children while those children
22 were in the care of Quarriers between 1955 and 1981.

23 Others have reported that abuse took place.
24 Quarriers acknowledges the need for survivors of abuse
25 to be heard and welcomes the opportunity afforded by

1 this Inquiry to consider what might have been done
2 differently, to consider what flaws in practice and
3 procedure or what structural defects might have
4 contributed to the creation of an environment where
5 vulnerable children in the care of the organisation were
6 subjected to abuse.

7 Quarriers wishes to take this opportunity to
8 reassure the Inquiry that insofar as the defects in
9 policy, procedure or practice have already been
10 identified, those have been addressed in its current
11 practice.

12 Thank you my Lady.

13 LADY SMITH: Thank you Ms Dowdalls.

14 Mr Rolfe?

15 Opening statement by MR ROLFE

16 MR ROLFE: Thank you my Lady.

17 If I may, my Lady, begin by setting out a brief
18 background to the Order.

19 The Daughters of Charity was founded in France by
20 St Vincent de Paul and Saint Louise de Marillac. The
21 Order has been in existence since 1633 and was set up
22 for the direct service of the poor through corporal and
23 spiritual works of mercy.

24 From the Order's inception, members known as sisters
25 cared for abandoned babies, the sick in their homes and

1 in hospitals, care of prisoners, and any other form of
2 poverty that came their way.

3 The Order grew throughout the 19th and 20th
4 centuries, responding to poverty throughout Europe,
5 Asia, Africa, Australia and the Americas.

6 Today it provides services in 91 countries. If
7 I may now turn to the Order in Scotland, my Lady. The
8 provision of residential care in Scotland reflected the
9 Order's charism, the service of those who are poor. The
10 Order's activity in Scotland reflected the operations
11 and activities which were being undertaken in its other
12 establishments throughout the world.

13 In 1864 the Order opened its first residential home
14 for children in Scotland, that being Smyllum Park
15 School.

16 The Order operated six establishments in Scotland
17 that provided residential care for children. In Lanark,
18 Smyllum Park School was operated by the Order between
19 1864 and 1981. There were three establishments in
20 Glasgow my Lady: the children's refuge at 21 White Hill
21 Street operated by the Order between 1887 and 1912;
22 Bellevue House in Rutherglen was operated by the Order
23 between 1912 and 1961; St Vincent's School at 4 Easter
24 Hill, Tollcross, operated by the Order between 1911 and
25 1986; in Midlothian, St Joseph's Hospital in Rosewell

1 operated by the Order between 1924 and 1999; and then,
2 in Dundee, St Vincents in Roseangle was operated by the
3 Order between 1905 and 1974.

4 The Order no longer operates any establishment
5 providing care to children in Scotland, residential or
6 otherwise. A small residential care home is operated by
7 the Order in Scotland, primarily for its own elderly
8 members.

9 My Lady, the Order has made a significant effort to
10 investigate the issues raised by the Section 21 Notices
11 of this Inquiry. As the Inquiry will hear,
12 a safeguarding officer was involved full time,
13 an assistant was recruited, and part-time assistance was
14 provided from the provincial archivist. They were each
15 engaged to search the records of the Order relating to
16 the establishments north of the border, to identify
17 potential relevant witnesses, and to facilitate
18 interviews with surviving sisters of the Order.

19 It is estimated that some 500 hours have been
20 devoted to the completion of the Section 21 Notices
21 since their receipt by the Order.

22 The Order has identified any surviving sisters that
23 worked at the establishments under consideration during
24 the relevant period. Signed statements have been
25 obtained to preserve their evidence where necessary.

1 I should say, my Lady, that there are no surviving
2 sisters from St Vincent, Roseangle, and only one for
3 Bellevue, who has Alzheimers and is 105 years old.

4 If I may now turn to the records of the Order, my
5 Lady. The central records of the Order are held in the
6 provincial house in Mill Hill in London.

7 In relation to the establishment at Bellevue, all
8 records were the property of the Archdiocese of Glasgow
9 and stored in St Kilumkelly's(?) Presbytery in
10 Rutherglen.

11 A fire in that property damaged many of the records
12 and those that survived were water damaged. The records
13 that were saved were transferred to Mill Hill in London
14 as requests for information were being received. The
15 archivist restored what she could of those records and
16 they are now kept in temperature-controlled rooms
17 specially adapted for the storage of such archive
18 materials.

19 In relation to Smyllum, my Lady, the records that
20 have been identified are now held in the provincial
21 archives in Mill Hill in London. Those records include
22 admission registers, some visitor logbooks, some archive
23 material and photographs. Unfortunately, there are no
24 staff records. The Order has no knowledge of if, and if
25 so where, other records might have been retained.

1 Extensive searches have been carried out and no further
2 records have been recovered.

3 In relation to Tollcross, my Lady, again those that
4 have been identified are now held in the provincial
5 archives in London. The only material that has been
6 found relating to Tollcross are photographs; there are
7 no admission registers and no staff records.

8 In relation to Dundee, my Lady, again those records
9 that have been identified are held centrally in the
10 provincial archives in London. The records recovered
11 comprised photographs and a short history in book form.
12 Again, no staff records could be found and again the
13 Order has no knowledge if, and if so where, any other
14 records might be retained.

15 In relation to St Joseph's, again the records which
16 have been retained are held in the provincial archives.
17 The records that have been recovered include
18 photographs, reports and minutes of management meetings.
19 Admission registers are retained in the archives of
20 St Joseph's Services, which is a charity in its own
21 right, providing residential care and supported living
22 to adults with learning disability.

23 If I may now, my Lady, turn to those giving evidence
24 on behalf of the Order. The Inquiry will hear from
25 sister Eileen Glancy, known simply as Sister Eileen, who

1 joined the Order in September 1968. She held a variety
2 of roles within the Order, spending nine years early in
3 her career teaching in a school for the hearing
4 impaired. She spent nine years as a provincial
5 councillor, three of those years as seminary directness
6 and three years as assistant provincial. Her current
7 role is as the named safeguarding representative of the
8 Order.

9 The Inquiry will also hear evidence from Sister
10 Ellen Flynn, who joined the Order in 1972. She too has
11 held a number of roles teaching in St John Paul's School
12 in Liverpool for seven years before moving to management
13 positions within the Order.

14 In 2015 Sister Ellen was appointed as the Provincial
15 of the Order in Great Britain. The Provincial is the
16 person in overall control of the Order within the UK.

17 My Lady, the Daughters of Charity are horrified by
18 the allegations of abuse made by children formerly in
19 their care. None of the allegations which are now, and
20 may yet be, before the Inquiry arose during the
21 Order's control of the establishments.

22 As a result, a full and detailed contemporaneous
23 investigation could not be carried out. Notwithstanding
24 that, the Order wishes to extend its deepest sympathy
25 and heartfelt apology to any former resident who feels

1 let down by those that were entrusted with their care.

2 My Lady, the Order will do everything within its
3 power to ensure the Inquiry is given the assistance that
4 it requires.

5 Unless there's any further assistance I can be at
6 this stage, my Lady, that concludes the opening
7 statement on behalf of the Daughters of Charity.

8 LADY SMITH: That's all for now, thank you Mr Rolfe.

9 MR ROLFE: I am obliged.

10 LADY SMITH: Before we pass onto the next opening statement,
11 since it is almost 11.30 am, we will take the morning
12 break at this stage.

13 If you could please be ready to resume in 15 minutes
14 that would be helpful. Thank you. We will now adjourn.

15 (11.25 am)

16 (A short break)

17 (11.45 am)

18 LADY SMITH: Mr Duncan.

19 Opening statement by MR DUNCAN

20 MR DUNCAN: Thank you, my Lady.

21 As my Lady is aware, I have been instructed to make
22 a statement this morning a behalf of the Sisters of
23 Nazareth. In making what I say brief, I intend no
24 disrespect to the Inquiry or anyone concerned with it.
25 I have in mind very much what my friend Mr Scott said

1 that of greater interest to the Inquiry will be what my
2 clients have to say rather than what they might say
3 through their legal representative.

4 But there are three things that I would like to say
5 and I want to say something about. The first is: who
6 are the Sisters of Nazareth? Well, they are a voluntary
7 religious organisation founded in 1851 and the first
8 Nazareth House was built in Hammersmith in London in
9 1857.

10 There were four Nazareth Houses operated in
11 Scotland: one in Aberdeen, which was opened in 1862; one
12 in Kilmarnock in 1891; one in Glasgow in 1902; and then
13 in Edinburgh in 1931. Only Glasgow and Edinburgh remain
14 open and neither looks after children.

15 The mission of all four houses in Scotland included
16 caring for the poor and vulnerable. From the very start
17 they looked after children on a residential basis and
18 from very soon after their inception they did so within
19 the legislative framework within which the State from
20 time to time provided for the care of children who, for
21 one reason or another, were considered to be unable to
22 live at home.

23 In 1943 there were some 749 children residing in
24 Nazareth House in Scotland across the four
25 Nazareth House buildings. From the 1950s these numbers

1 began to reduce. By the early 1960s the number was less
2 than half the figure I have just given you. By 1981
3 some 68 children were resident in Nazareth House in
4 Scotland and by 1985 all childcare at Nazareth House had
5 ceased. There were fewer referrals by that stage and
6 there were fewer sisters to look after children. Since
7 then, my Lady, Nazareth House has concentrated on care
8 for the elderly, which includes residential care.

9 So that is the first thing. The second thing is
10 really just to say something about the role of my
11 clients at this Inquiry in this first phase as core
12 participants. The sisters have, of course, had served
13 upon them various Section 21 Notices. Like many of the
14 organisations before the Inquiry, their written record
15 is very far from complete. The sisters are anxious to
16 work with the Inquiry within the limitation of the
17 information available to them. They are keen to ensure
18 that their responses to the Inquiry in writing and
19 orally are seen to be as full as possible.

20 They have sought to answer the questions put to them
21 fully but they recognise that the Inquiry is bound to
22 have further questions. It is hoped that the responses
23 thus far provide a useful starting point in
24 understanding the nature and the structure of the
25 organisation and its history of looking after children.

1 The sisters will work with the Inquiry to help it
2 develop its understanding on those particular points and
3 the Inquiry is, of course, due to hear shortly from
4 Sister Anna Maria Doolan, who is the current regional
5 Superior. That is the second thing.

6 There's one further thing I would like to touch on.
7 So far I have made some brief comments about issues to
8 do with the organisation, its history and, to some
9 extent, its governance, but the Notice issued on
10 31st March 2017 indicated that phase 1 would also be
11 concerned with understanding whether among the
12 organisations of interest to the Inquiry there is any
13 retrospective acknowledgement of abuse. My learned
14 friend Mr MacAulay has made that clear again this
15 morning.

16 The sisters have tried to address this issue in
17 their Section 21 response to the Inquiry and I think all
18 that I would wish to add to that, at this point, is that
19 the sisters recognise that there are many people who
20 have bad memories of life at Nazareth House; that is
21 a matter of deep regret.

22 The sisters recognise that it is no answer to this
23 to say that there were also many who have good memories
24 of life at Nazareth House and if I just say this then,
25 my Lady, suffice to say that where abuse has occurred

1 the sisters apologise unreservedly.

2 My Lady, I'm grateful for the opportunity to make
3 this statement on behalf of the sisters at this stage,
4 but I don't think there's anything usefully I could add
5 to that which I have already said. Thank you.

6 LADY SMITH: Thank you very much, Mr Duncan.

7 Now that takes me to -- Mr Anderson are you going to
8 speak first of this group?

9 Opening statement by MR DAVID ANDERSON

10 MR DAVID ANDERSON: Yes, my Lady.

11 My Lady this is the opening statement on behalf of
12 the Good Shepherds Sisters. The Congregation of Our
13 Lady of Charity of the Good Shepherd is an organisation
14 which traces its origins back to the 17th century. It
15 was founded to provide care to women and that soon came
16 to encompass female children.

17 The Congregation was invited to work in a number of
18 approved schools in Scotland and it ceased doing so in
19 1982. The Congregation accepts that allegations of
20 abuse have been made and may be made. Given the passage
21 of time, it is difficult for the Order to properly
22 consider these allegations but the Congregation does
23 acknowledge that it is possible that abuse occurred even
24 where the Congregation has no records of this.

25 The Congregation has had practice rules on how to

1 treat children since at least 1943 and the
2 Congregation's rules have always prohibited corporal
3 punishment. The Congregation deplores that physical or
4 sexual abuse of children could occur in any context.
5 The Congregation welcomes the Inquiry and is grateful
6 for the opportunity to participate in this Inquiry. The
7 Congregation will assist the Inquiry and has sought to
8 do so in any way it can.

9 That's the opening statement, my Lady, for the Good
10 Shepherds Sisters.

11 LADY SMITH: Thank you.

12 Do you go on at this stage to speak for the De La
13 Salle Brothers?

14 MR DAVID ANDERSON: Yes, my Lady. I think the running order
15 provides for me to give the opening statement on behalf
16 of the De La Salle Brothers.

17 The congregation known as the De La Salle Brothers,
18 or the Brothers of the Christian Schools, was founded in
19 1860 in Reims, France, by a French priest called
20 Jean-Baptiste De La Salle. The founder brought teachers
21 together in a community to provide schools where these
22 largely abandoned children could receive what was
23 described as "a human and Christian education". The
24 request to work in approved schools in Scotland was seen
25 to be exactly what the founders saw as the purpose of

1 the congregation.

2 The congregation first became involved in the
3 residential care and education of young offenders at the
4 invitation of the Archbishop of Edinburgh in 1914 when
5 the brothers were invited to take over the running of
6 an existing industrial school and orphanage in Tranent.
7 Eventually the brothers were employed in five
8 residential schools.

9 In doing so, the congregation sought to ensure the
10 life of the students was as near to a natural home life
11 as possible. This includes their innovations of the
12 cottage system and house systems.

13 My Lady, there is nothing which the congregation can
14 say in defence of the mistreatment of children in any of
15 its forms, still less can it justify those who may have
16 perpetrated it in any way. Nor, my Lady, can the
17 congregation pretend to understand the nature of the
18 hurt experienced by children who have been exposed to
19 cruelty and abuse -- especially at the hands of those
20 who were in positions of trust and expected to care for
21 and look after the interests of youngsters.

22 Where a brother at any of these schools was
23 responsible for the mistreatment of a child or young
24 adult entrusted to the congregation's care, my Lady, the
25 congregation offers an unreserved apology. It goes

1 against everything that inspired the congregation's
2 founder to reach out to the young people of Reims in the
3 17th century.

4 Unless I can assist further, my Lady, that is the
5 opening statement for the De La Salle Brothers.

6 LADY SMITH: Thank you very much.

7 I turn now for the representation today for the
8 Christian Brothers, please.

9 Opening statement by MR WATSON

10 MR WATSON: My Lady, the Congregation of Christian Brothers
11 Trustees wishes to renew publicly their continuing deep
12 regret that serious abuse, sexual and physical, of young
13 people entrusted to the care of the Christian Brothers
14 Residential School at St Ninian's, Falkland, took place.

15 Abuse occurred in 1977 and in 1983 by named
16 individuals who have since been prosecuted and rightly
17 punished. What they did was not known at the time to
18 the trustees or to any senior responsible member of the
19 congregation.

20 From its investigations, the trustees are aware of
21 allegations made against one former brother, believed
22 now to be deceased, who, as a result of observations of
23 colleagues at the time, was believed to have behaved
24 inappropriately and was removed from his vows and office
25 in November 1965, ceasing then to be a member of the

1 congregation. Superiors did take action and took
2 a serious view of inappropriate sexual behaviour when
3 they were aware of it in that era.

4 Allegations have also been made against two deceased
5 members of the Christian Brothers. Those allegations
6 have proved impossible to investigate further. For the
7 Christian Brothers, the abuse of a single child is
8 an outrage and wrong. The trustees' assessment of the
9 extent and scale of the abuse is that a very small
10 proportion of children were abused and that the total
11 number of adults who had access to children and who
12 committed abuse was small, but each individually is
13 a serious wrong and failing.

14 Unaccompanied access to children on the part of
15 brothers was always discouraged and expressly the rule
16 was that unless duty and necessity should require it,
17 a brother must never be alone with a pupil.

18 The school at St Ninian's Falkland was also visited
19 and inspected in some detail on an annual basis by
20 senior representatives of the congregation. The
21 trustees want to repeat to the people who were harmed by
22 the Christian Brothers their deep and continuing sadness
23 and regret for the abuse and the physical and emotional
24 hurt that was caused and the consequences.

25 To the extent that the congregation did not react to

1 warnings signs about the behaviour of individuals
2 an unreserved apology is offered.

3 Your Ladyship may be aware that there is more than
4 one residential school in Scotland called St Ninian's.
5 The Christian Brothers operated only one of those, that
6 at Falkland. That school operated from 1950 until 1983.

7 I turn then to the assistance the Christian Brothers
8 have offered to this Inquiry. The trustees have
9 provided the Inquiry with written answers in as much
10 detail as can be compiled from the records which are
11 available to them. The answers are lengthy and will be
12 supplemented in evidence in person from Michael Madigan,
13 who has researched the matter, and also in attendance
14 will be Brother John Burke, who is the head of
15 safeguarding. Both, indeed, are in attendance today.

16 The evidence provided by Mr Madigan arises from his
17 study of the documents and records which have also been
18 researched by the trustees and their staff.

19 The trustees of the Christian Brothers want to
20 provide the fullest possible co-operation to the
21 Inquiry. They have searched their records and archives
22 to set out information as requested and the detail is as
23 set out in their full report.

24 The general context is of course also important in
25 considering the expectations and conduct of the period.

1 Expectations so far as physical treatment and corporal
2 punishment is concerned have changed over the years but
3 it is accept that even in those different times some
4 physical discipline went beyond what was accepted.
5 Sexual abuse was always wrong.

6 It is the unequivocal position of the trustees that
7 no young person should ever suffer abuse. The trustees
8 have co-operated fully with police investigations, they
9 continue to co-operate fully with this Inquiry, and are
10 grateful for the demonstrable diligence and attention to
11 detail. Although never matching the continuing harmful
12 effects for those who suffered abuse, the congregation,
13 its members and the trustees will continue their sadness
14 and regret over the shameful episodes which took place.
15 The young people involved were entitled to protection,
16 support, understanding and trustworthy care.

17 The trustees remain dedicated to educating young
18 people, although not in Scotland since 1983. They have
19 robust safeguarding protocols in place in their schools
20 and centres of education. The trustees treat, and have
21 always treated, allegations of abuse with the utmost
22 seriousness and they are committed to reporting
23 allegations as soon as they are notified in accordance
24 with the relevant statutory protocols to the appropriate
25 authorities and to the police.

1 They are committed to co-operating fully and openly
2 with any subsequent investigations and indeed with this
3 Inquiry.

4 My Lady, that is all I propose to say in respect of
5 the Christian Brothers.

6 In respect then of the English Benedictine
7 Congregation. In the first place the congregation would
8 like to re-state its desire to assist the Inquiry as it
9 progresses. They recognise the importance of this
10 Inquiry fulfilling its terms of reference so that
11 lessons can be learnt, not only from how residential
12 care was provided in the past but also in respect of how
13 present-day organisations respond to reports of abuse,
14 support former residents, and provide for the
15 safeguarding for those who are now in any form of care.

16 My Lady, this brief opening submission will address
17 two areas. Firstly, the role of the congregation and
18 its connection with the schools established by
19 Fort Augustus Abbey and, secondly, the sources of
20 information available to the congregation in responding
21 to the Section 21 Notice.

22 My Lady, the congregation is in an unusual
23 situation, certainly in comparison to other
24 organisations before the Inquiry. It did not establish
25 or operate any schools. It was not responsible for the

1 oversight of any residential care or schools. Instead
2 the congregation is a monastic congregation. That is,
3 it is a legal entity under canon law of the Roman
4 Catholic church and is best described as a union of
5 autonomous monasteries. Both the congregation and each
6 autonomous monastery has a separate legal personality
7 and the individual monasteries had their own advisors
8 and arrangements for holding property and indeed their
9 own legal responsibility.

10 Autonomy meant that the government of the monastery,
11 including any school owned or operated by it, was in the
12 hands of the Superior of that monastery. The
13 congregation as such does not and did not govern the
14 monasteries nor did it have any role in managing any
15 school.

16 This Inquiry focuses in part on Fort Augustus Abbey
17 and the two schools the Abbey operated, being
18 Fort Augustus Abbey School and Carlekemp Priory School.
19 The congregation did not found, operate or oversee
20 either of those establishments. Indeed, they had no
21 control or responsibility for the management of the
22 abbey. The congregation did not govern the monastery,
23 which made its own decisions about its life and work.

24 The congregation did however organise visitations of
25 the abbey. When an Abbot President carried out

1 a visitation, he visited the monasteries, but not the
2 schools; the schools fell outwith his remit. Inspection
3 was as it would be for any other school.

4 I turn then, founding upon that, to the response to
5 the Section 21 Notices received by the congregation.

6 Fort Augustus Abbey maintained its own archive and
7 that included records from both schools. When the abbey
8 closed, the archive was gifted to the English
9 Benedictine Congregation and is now kept as a separate
10 archive by the congregation. Carlekemp Priory School
11 closed in 1977 and Fort Augustus Abbey School in 1992;
12 the abbey itself closed in 1999.

13 The responses have therefore been prepared by review
14 of that archive material identifying what is relevant to
15 the questions and drafting the report accordingly, as
16 well as based on the Abbot President's knowledge, based
17 on his experience on the way a monastery functions.

18 The congregation is keen to assist the Inquiry as
19 fully as possible and the responses have been prepared
20 with as much detail as can be gleaned from the archive
21 material available. The current Abbot President, Dom
22 Richard Yeo, will give evidence next month. In the
23 meantime if there's anything the congregation can do to
24 assist the Inquiry or to build upon the responses made,
25 then Dom Richard Yeo would be very keen to do that.

1 If there are areas to be explored which have not
2 been covered in the response, then, Dom Richard Yeo
3 would be keen to know that and endeavour that he can
4 provide as full and complete answers as possible.

5 Unless I can assist your Ladyship any further.

6 LADY SMITH: Thank you very much, Mr Watson.

7 Mr Scott for the Marist Brothers, I think, is next
8 in the running order.

9 Opening statement by MR EUAN SCOTT

10 MR EUAN SCOTT: My Lady, the Institute of the
11 Marist Brothers was a Roman Catholic order that was
12 founded in France in 1817. The Order came to Scotland
13 in 1858 and in 1875 St Joseph's College in Dumfries was
14 provided to provide a boarding school education to
15 Catholic boys. In 1888, an establishment latterly known
16 as Hepland(?) House was founded to provide secondary
17 education specifically for boys intending to become
18 Marist Brothers. In 1920 a small boarding proprietary
19 school known as St Columba's college was opened in
20 Largs.

21 The function of the Order and these establishments
22 in particular was the provision of a Christian education
23 and the instruction of youth. By the 1980s it became
24 clear that the operation of these establishments was
25 financially unviable and these establishments were

1 subsequently closed or transferred to a local education
2 authority.

3 The Marist Brothers do not have core participant
4 status at this Inquiry, but have nonetheless sought
5 leave to appear on the basis that the Order is subject
6 to investigation and a member of the Order has been
7 invited to give evidence during this phase.

8 Whilst the Order has not been involved in the
9 provision of residential care of children in Scotland
10 since 1982, it does recognise that it has a part to play
11 in this Inquiry's investigations.

12 Brother Brendan Geary, who is the current Provincial
13 of the Province of West-Central Europe has been invited
14 to give evidence to this Inquiry as a representative of
15 the Order within week four of this phase.

16 The Inquiry has already been provided with various
17 papers documenting history and governance of the Order
18 and the establishment and dissolution of its educational
19 institutions in Scotland, although many of the records
20 are far from complete.

21 Any act of child abuse is deplorable. Any member of
22 the Order who chose to act in such a manner to
23 constitute child abuse did so in full knowledge that it
24 was contrary to the policies and aims of the
25 Marist Brothers.

1 The Marist Brothers would like to offer their
2 sincere and unreserved apologies to any individuals who
3 were abused in their care.

4 The Marist Brothers supports the Inquiry and will
5 continue to co-operate fully with its investigations.

6 My Lady, unless there's anything further I can add,
7 that would conclude my opening statement.

8 LADY SMITH: Thank you very much.

9 I think we now return to Mr Anderson, is that right,
10 in our running order for the Conference of the
11 Religious?

12 Opening statement by MR DAVID ANDERSON

13 MR DAVID ANDERSON: Yes, my Lady.

14 The Conference of the Religious in Scotland was
15 founded in 1958. The Conference is an organisation of
16 religious institutes who joined voluntarily. The
17 conference has no jurisdiction over the individual
18 religious institutes and has to respect their patrimony
19 and autonomy. The main purpose of any conference of
20 religious is to give support to the leadership of the
21 individual institutes.

22 The leaders of individual religious institutes for
23 the most part do not reside in Scotland. They are
24 represented at the Conference of Religious in Scotland
25 by delegates.

1 The Conference of Religious acknowledges that there
2 are matters pertinent to the public Inquiry which are
3 the responsibility of some of its member institutes.
4 Although these matters are not properly in the area of
5 responsibility of the Conference of Religious, as such,
6 still the Conference wants to deplore all instances of
7 hurt to looked-after children in Scotland and especially
8 in cases where members of religious institutes were
9 involved.

10 In 2009 a Conference of Religious safeguarding
11 commission was established. This commission continues
12 to function today, working to address the ongoing needs
13 and providing assistance to religious congregations and
14 to the Roman Catholic Church in Scotland.

15 My Lady, the Conference of Religious is glad to make
16 its contribution to this Inquiry. Their hope is that
17 the truth of what happened will appear and will be
18 acknowledged. For those who were hurt, the Conference
19 of Religious hopes that this will be a necessary step
20 towards the healing that is needed.

21 That concludes the opening statement for the
22 Conference of Religious.

23 LADY SMITH: Thank you very much.

24 Canon Boyle, you are here to speak for the Bishops'
25 Conference when you are ready.

1 Opening statement by CANON BOYLE

2 CANON BOYLE: My Lady, thank you for the opportunity for
3 expressing these opening remarks to you, as you begin
4 your work of enquiry.

5 From the Church's first involvement with the
6 Scottish Human Rights Interaction, we have been
7 committed to participating in whatever form of Inquiry
8 the Scottish government chose to convene. The Church
9 therefore welcomes your Inquiry.

10 As I hope you will see from the evidence already
11 submitted in answer to your questions, and from the
12 replies which will be given by those who will appear
13 before you shortly, we are fully co-operative with the
14 work of the Inquiry.

15 We have endeavoured to answer as fully as we can,
16 using what records exist in light of the passage of
17 time. In a preface to our submission we state:

18 "The Inquiry can be assured that we shall furnish
19 any further evidence which emerges."

20 I wish to re-emphasise that commitment both to this
21 Inquiry and to the survivors who have such a stake in
22 it.

23 In answer to one of your questions we state:

24 "The principal systematic failure was a lack of
25 understanding of abuse."

1 And we go on to state:

2 "Such lack of understanding was sadly widespread in
3 many parts of society."

4 This is an observation; it is not an excuse. We did
5 not hear survivors and we underestimated the extent of
6 the problem. We missed red flags and warnings signs.
7 We were deceived by many offenders and believed, often
8 with professional advice, that some offenders could be
9 returned to ministry. It is because of this that
10 members of the Bishops' Conference of Scotland have
11 apologised on several occasions, from as early as 2001
12 and more recently in response to the McLellan report in
13 August 2015.

14 On behalf of the bishops, and with their unanimous
15 support, Archbishop Tartaglia said:

16 "I want to offer a profound apology to all those who
17 have been harmed and who have suffered in any way as the
18 results of actions by anyone within the Catholic
19 Church."

20 That apology stands and is reiterated again today.

21 The role of many agencies in providing care has
22 changed markedly with the passage of time. Those
23 residential schools which continued to exist as Catholic
24 institutions are fully professional in their approach to
25 care, not least in safeguarding. The establishment of

1 the Scottish Catholic Safeguarding Office, led by its
2 various professionally qualified coordinators, testifies
3 to the church's commitment but to all who are
4 vulnerable.

5 The report of Dr Andrew McLellan has provided
6 an impetus to our achieving this throughout the whole of
7 the Catholic church in Scotland. As we moved forward with
8 the implementation of the report's recommendations,
9 determined to learn about and to adopt best practice in
10 this essential work of safeguarding.

11 The scriptures record that the Prophet Daniel
12 prayed, "Integrity, Lord, is yours; ours, the look of
13 shame we wear today". An overwhelming sense of shame
14 that these abhorrent crimes have occurred in the context
15 of the church is felt by all Catholics, by our men and
16 women in parishes, by our religious, by our priests and
17 deacons, and by our bishops.

18 The crimes of the few have obscured the good work of
19 the many. In co-operating fully with you, my Lady, we
20 hope that your final report will be of greatest benefit
21 to survivors and that you will give all those who
22 provide care for children in Scotland a deeper
23 understanding of past failings and an inspiration for
24 all to strive always for the safety and the protection
25 of every child in care.

1 Thank you.

2 LADY SMITH: Thank you very much, Canon Boyle.

3 I turn now to Ms Dunlop for Crossreach.

4 Opening statement by MS DUNLOP

5 MS DUNLOP: Thank you, my Lady. I do indeed speak as

6 a representative of Crossreach, which is the social care
7 arm of the Church of Scotland.

8 The Church of Scotland is one of the largest
9 providers of social care to the people of Scotland. Its
10 involvement in this work is longstanding. Its earliest
11 participation in residential care for children came with
12 the opening of a home for orphan girls in
13 South Queensferry around 1868.

14 In 1904, after a decision of the General Assembly,
15 the Church's Committee on Social Work was brought into
16 being.

17 In the early 1930s, at the beginning of the
18 Inquiry's reference period, there appear to have been
19 three children's homes run by the church: one in
20 Glasgow, and the other two at Haddington and
21 Musselburgh. The number of homes and schools increased
22 steadily in the ensuing decades. The Church has
23 therefore been engaged in the provision of residential
24 care and schooling throughout the period the Inquiry is
25 investigating. During that period the church has cared

1 for thousands of children.

2 At present, three establishments which were -- and
3 in one case still are -- run by the church are being
4 investigated by the Inquiry. These are a children's
5 home, the Lord and Lady Polwarth Home in Edinburgh, and
6 two educational establishments, which were approved
7 schools, later known as List D schools.

8 In 2013 the church became aware that an individual
9 had been convicted of sexual offences against children
10 in the Polwarth Home between 1975 and 1981. He was
11 employed by the church at the time. As soon as the
12 church became aware of the conviction, a verbal apology
13 was offered and this was followed up in writing together
14 with an offer of support.

15 In addition, around five staff employed at the two
16 schools, Geilsland and Ballikinrain have been charged
17 with assault. It appears that on these and probably
18 other occasions, there was punishment which would have
19 been regarded as excessive even by the standards of the
20 time when it was administered.

21 It is therefore inescapable that the church has
22 provided a setting in which children have been abused.
23 That is a matter of profound regret by all associated
24 with the church's social care organisation and indeed
25 for all connected to the Church of Scotland in any way.

1 Internal scrutiny of all reported incidents has
2 already been carried out and the church hopes that the
3 Inquiry will further assist it to understand why and how
4 such events occurred. The church has previously
5 commissioned an independent investigation in relation to
6 the sexual offences at Polwarth home, and the report of
7 that investigation was received and fully considered in
8 2016.

9 If the Inquiry identifies further steps which the
10 church could and should have taken to prevent any abuse
11 which has occurred, the church will take the utmost care
12 to ensure that any necessary changes to its practice are
13 made.

14 To those who endured abuse in the establishments
15 referred to and to others who may be intending to come
16 forward or who may never feel able to do so, the Church
17 expresses its sorrow at what happened. The Church has
18 offered and will continue to offer support through its
19 safeguarding and listening service. Recognising that
20 the events of the past cannot be changed, the church
21 nevertheless offers a heartfelt apology to all who have
22 suffered in its care.

23 LADY SMITH: Thank you Ms Dunlop.

24 For Barnardo's I return to Mr Watson, I think; is
25 that right?

1 Opening statement by MR WATSON

2 MR WATSON: Yes, my Lady.

3 I appear on behalf of Barnardo's. Also present
4 today are Martin Crewe, Director of Barnardo's Scotland,
5 and Sara Clarke, Senior Assistant Director of Children's
6 Services for Barnardo's.

7 Through this opening submission I will address four
8 brief points: the background to Barnardo's and its
9 establishment of children's homes in Scotland; the scope
10 of its present day services; the steps taken to respond
11 to the Section 21 Notice; and Barnardo's response to the
12 abuse of which they are aware.

13 At the outset however, Barnardo's welcomes the
14 opportunity to take part in this Inquiry and to assist
15 in the task of addressing the issues raised in the terms
16 of reference. Barnardo's has co-operated fully and will
17 continue to co-operate with the Inquiry in any way that
18 it can.

19 Barnardo's recognises the importance of the
20 Inquiry's work to victims and survivors. They are
21 committed to learning lessons from the past and to
22 participating in any process which will assist in the
23 safeguarding and protection of children in Scotland and
24 elsewhere.

25 I turn briefly to the background to Barnardo's. The

1 detail is set out in the response to the Section 21
2 Notice and so I will not repeat it. The work was
3 commenced by Thomas Barnardo's in London in 1866. His
4 policy was that no destitute child should ever be
5 refused admission. He developed a network of
6 residential homes, many of which were located in the
7 southeast of England. The first ever receiving home in
8 Scotland, known as "an ever open door", opened in 1892
9 but closed again two years later.

10 The spur for an expanded role in Scotland was the
11 Second World War. In the 1940s Barnardo's opened eight
12 homes in Scotland as evacuation centres for children
13 resident in England. Barnardo's established a Scottish
14 division, although management was largely in effect from
15 head office in London.

16 After the war, the focus in Scotland switched to
17 children who had behavioural difficulties and for whom
18 there was little local authority provision. The model
19 for many of the residential homes was the family unit.
20 They were established as cottages or houses with
21 superintendents, usually a married couple, and then
22 house parents for each group of ten to 12 children.
23 There were then assistant house parents and additional
24 staff depending on the numbers of children.

25 That model of childcare evolved over time. Social

1 changes and the changing benefit system in the 1960s and
2 1970s meant that the demand for residential care
3 decreased. Conversely more children were placed with
4 foster families.

5 One consequence was a programme of closures of
6 residential homes through the 1970s and 1980s and, for
7 the purposes of this Inquiry, Barnardo's has been asked
8 to provide information on seven establishments. Six
9 opened in the 1940s, the seventh in the 1950s and all
10 are now closed, the last in 1994.

11 As for the present day, the scope of Barnardo's care
12 for children and family has developed considerably.
13 Residential care is now a very much smaller part of the
14 provision of care. There are three residential
15 establishments in Scotland, each caring for three to six
16 children with high levels of need.

17 More broadly, however, Barnardo's provides fostering
18 and adoption services, counselling for children and
19 young people, and vocational training. They work with
20 almost a quarter of a million children, young people,
21 parents and carers annually. They provide support for
22 parents and assistance for children leaving home or
23 leaving care. Their work encompasses child poverty,
24 homelessness, mental health, abuse, and substance
25 misuse.

1 As an organisation therefore, Barnardo's recognises
2 that both the context and care of vulnerable children
3 has changed markedly over the decades and the way in
4 which that care is provided considers to evolve as
5 societal needs and pressures change.

6 The locations that this Inquiry focuses on no longer
7 exist and, in truth, that mode of residential care no
8 longer exists. But Barnardo's hopes that the outcomes
9 from this Inquiry will assist them both in learning
10 lessons from the past but also in safeguarding children
11 and promoting their welfare wherever they are using
12 Barnardo's services.

13 Let me turn to the response to the Section 21
14 Notice. The scope of those responses draws largely on
15 the work undertaken by Barnardo's aftercare service, now
16 known as Making Connections. From the very foundation
17 of the charity, an important element of their care was
18 the support of children even after they left residential
19 care. That meant retaining their records, for any who
20 had been cared for, and providing them with information
21 on their care.

22 In consequence Barnardo's has retained the records
23 for every child resident in a Barnardo's establishment
24 or foster home. Barnardo's Making Connections Service
25 maintains the archive of children's records and provides

1 access to those records. All contacts with adults
2 formerly in Barnardo's care or adopted through
3 Barnardo's, seeking help or support or access to their
4 information is also recorded and stored in the archive.

5 Initially that information was in a bound ledger;
6 subsequently individual files are now archived on
7 microfilm or microfiche. The records for the children
8 then are well maintained and in good order. However
9 that degree of completeness does not cover staff records
10 or administrative or governance records.

11 It was Barnardo's practice during the 1960s, 1970s
12 and 1980s to destroy those records as closures of homes
13 came about. The result is that the need to retain
14 records was not recognised at that time. This pre-dated
15 formal document retention policies. The charity did
16 retain a sample of material for archive purposes. It is
17 meant to be illustrative of the administration and
18 governance of the homes but it is by no means complete.

19 Around 10% of material from the 1970s and 1980s was
20 archived. It was randomly selected for archiving and is
21 now held by the Making Connections Service in London.

22 That is the store of material available to those who
23 have assisted in preparing the responses. It follows
24 that where documents are not available, that does not
25 mean that none ever existed, but it does limit the scope

1 of detailed response.

2 Finally, let me turn to Barnardo's response to the
3 reports of abuse that have been received. Almost all of
4 these reports were made by former residents as adults.
5 It follows that the abuse was not investigated at the
6 time and that there are not contemporaneous reports
7 which can now be drawn on and passed to the Inquiry.

8 Again, however, Barnardo's hopes that as this
9 Inquiry explores the reporting and response to abuse, so
10 Barnardo's can take any necessary measures to ensure
11 that its responses to and support of former residents is
12 as inclusive and as comprehensive as they can provide.

13 Thank you my Lady.

14 LADY SMITH: Thank you very much Mr Watson.

15 Now, for Aberlour we have Mr MacPherson I think.

16 Opening statement by MR McPHERSON

17 MR McPHERSON: Thank you, my Lady.

18 Aberlour Child Care Trust is a Scottish children's
19 charity. The charity is engaged in looking after and
20 helping children and families throughout Scotland.
21 Aberlour's activities include residential and fostering
22 care, working with children with disabilities and
23 providing support and guidance to families in a range of
24 matters including parenting and early years, early
25 support to young people and the impact of parental

1 substance abuse on children.

2 Aberlour is not a core participant in this Inquiry,
3 however the Inquiry is investigating three
4 establishments run by Aberlour. Aberlour has
5 accordingly been granted leave to appear and to be
6 represented in these opening hearings for which the
7 organisation is grateful.

8 I propose to say a little bit about Aberlour the
9 organisation, then about the preparation that has been
10 undertaken in response to the Inquiry, and lastly what
11 Aberlour hopes from its perspective may be among the
12 outcomes.

13 In relation to Aberlour itself, the organisation has
14 been working with children in Scotland for more than
15 140 years. In 1875 the original orphanage was founded
16 by Canon Charles Jupp with the financial assistance of a
17 Ms MacPherson-Grant of Aberlour.

18 The further development of the orphanage, including
19 the construction of a larger orphanage building with
20 a church, rectory and school, was formed by local
21 benefactors. The Aberlour orphanage was expanded in the
22 early years of the 20th century and Canon Jupp continued
23 to dedicate himself to its work until his death in 1911.

24 In the late 1950s and early 1960s, developments in
25 relation to residential child care prompted a change in

1 direction for the organisation.

2 Aberlour began to develop group homes, being smaller
3 houses in the main cities in Scotland, which allowed
4 children to live in a less institutional atmosphere and
5 in closer contact with their communities. As a result
6 of this policy the orphanage closed in 1967.

7 Aberlour was constituted as a new Trust and moved
8 its headquarters to Stirling in 1969. In 1978 the
9 Aberlour Child Care Trust came into being under
10 a further new constitution.

11 During the 1980s public policy in relation to child
12 care underwent significant change. There was a move
13 away from accommodating children in group homes and
14 towards fostering and similar services. During this
15 period Aberlour's services diversified and the group
16 homes were either wound down or their purposes changed
17 to meet new needs. By 1987 only one of the original
18 group homes providing standard residential care remained
19 in operation.

20 Although Aberlour's provision of group homes was
21 drawing to a close, the organisation was involved in
22 providing a range of different services to families,
23 children and young people and residential care still
24 formed a part of Aberlour's work. Its purposes,
25 however, became more specialised including care, both on

1 a permanent and respite basis, for children with
2 disabilities and severe behavioural or emotional needs.
3 This involved developing a more tailored approach for
4 these children and increasing staff to child ratios.

5 In 2002 Aberlour opened its first fostering service,
6 approving foster carers to provide regular respite
7 breaks for children and young people up the age of 18.
8 Aberlour's fostering services were originally linked to
9 the work carried out within the Sycamore Residential
10 Services but now extend beyond this to offer short and
11 long-term fostering opportunities to other children and
12 foster carers outwith Sycamore.

13 Today, Aberlour operates to fulfil its belief that
14 all children deserve to flourish. This is the same
15 belief which moved Canon Jupp to found the orphanage in
16 1875. Aberlour works for children, young people and
17 families across Scotland and aims to transform lives for
18 the better. It operates as a Trust. It has a Board of
19 Trustees. It has a Chief Executive, Sally Ann Kelly,
20 who will be giving evidence in the first phase of this
21 Inquiry later next month; reporting to her as Chief
22 Executive, as a Director of Children and Families, who
23 is in turn responsible for assistant directors, and also
24 reporting to the Chief Executive on a variety of
25 organisational support functions and in particular

1 a Director of People and Quality, who oversees the
2 organisation's quality and safeguarding services.

3 Aberlour is not and never has been an organisation
4 tied to or run under the direction of any religious
5 body. It has, however, had close links with the
6 Scottish Episcopalian Church particularly in its earlier
7 years.

8 If I may turn now to the Inquiry itself. Aberlour
9 was informed that the Inquiry would be investigating
10 three of its establishments in January of this year.
11 The three establishments are the orphanage, Quarryhill
12 and the Sycamore project.

13 I have already referred to the orphanage as the
14 founding establishment of the organisation.

15 Quarryhill was one of the group homes that were
16 developed when the orphanage was closed at the end of
17 the 1960s. It was one of about 18 such homes run by
18 Aberlour. It was a home for children without special
19 needs or disabilities, in contrast with some of the
20 other homes where such needs were catered for.

21 Third, the Sycamore project was founded originally
22 as a group home in 1967. Over time it was developed
23 into an establishment particularly with children with
24 behavioural difficulties and who were less easy to find
25 foster placements for. There are now five separate

1 homes that are part of the Sycamore project all in the
2 Kirkcaldy area.

3 Like the other parties represented, Aberlour was
4 served with a notice requiring evidence to be submitted
5 to the Inquiry in relation to its organisation, history
6 and the operation of the establishments. Given the
7 extent of history and the need to look at large volumes
8 of records, Aberlour engaged the services of a full time
9 legally qualified researcher. Over the course of about
10 three months she examined the historical records, minute
11 books and, where relevant, individual children's files
12 in order to be able to present as full a picture as
13 possible of the organisation's make-up and history.

14 She spoke to surviving former employees of Aberlour
15 as well as current employees. Her research has enabled
16 Aberlour to submit what it believes is a thorough and,
17 it hopes, helpful response to the Notice served on it by
18 the Inquiry.

19 The response submitted by Aberlour includes, as
20 required by the Inquiry, information in relation to any
21 cases of abuse as defined by the Inquiry and any
22 allegations or complaints of abuse of which Aberlour is
23 aware.

24 A search of minutes and other historical records has
25 been undertaken in order to ensure that this response is

1 as comprehensive as it can be. Where particular
2 allegations or complaints are identified, it has been
3 possible to look at individual children's records in
4 order to find out more about these matters and how they
5 were dealt with.

6 The instances of abuse, or complaints or allegations
7 of abuse that have been identified by Aberlour include
8 instances of excessive corporal punishments going back
9 to the 1930s and the orphanage years and also include
10 allegations of physical or sexual abuse in more recent
11 years.

12 Like any organisation seeking to promote the welfare
13 of children, Aberlour considers the abuse of children to
14 be abhorrent. During the period under consideration by
15 the Inquiry, many thousands of children have been looked
16 after by Aberlour or have been able to access its
17 services.

18 Aberlour accepts that there have been occasions
19 where abuse occurred and the response sent to the
20 Inquiry has identified all of these instances that are
21 known to Aberlour and also any allegations or complaints
22 where the facts are not necessarily clear.

23 In relation to any children who did suffer abuse
24 while in its care, Aberlour recognises that this should
25 not have happened. Aberlour apologises unreservedly to

1 these children and to their families.

2 Aberlour hopes that the independent scrutiny by the
3 Inquiry will establish an accurate picture of what
4 occurred in the establishments in question. It hopes
5 that this will be of benefit to anyone who is still
6 looking for a resolution in relation to their time
7 there.

8 Aberlour further hopes that any defects of practice
9 that might be identified in any of the organisations
10 involved in the Inquiry will inform policy and practice
11 in relation to child care in the future.

12 Aberlour recognises the value of the Inquiry's work
13 and undertakes to give the Inquiry its fullest
14 assistance. Thank you my Lady.

15 LADY SMITH: Thank you very much Mr MacPherson.

16 Ms O'Neill, you would be due next to speak for
17 Scottish Government. Can you give me an indication of
18 how long you think you require?

19 MS O'NEILL: My Lady, I expect to be 15 or 20 minutes but no
20 longer than that.

21 LADY SMITH: We will proceed just now. Thank you very much,
22 if you would like to proceed with your statement.

23 Opening statement by MS O'NEILL

24 MS O'NEILL: I'm grateful, my Lady, for the opportunity to
25 make this opening statement on behalf of the Scottish

1 ministers. As I mentioned at the preliminary hearing,
2 I also appear on behalf of those executive agencies
3 which form part of the Scottish Government and for which
4 the Scottish ministers are directly responsible.

5 In the context of this Inquiry those agencies
6 include Education Scotland, Disclosure Scotland and the
7 Scottish Prison Service.

8 However, I should also say that I do not represent
9 the Crown Office and Procurator Fiscal Service, whose
10 interests are dealt with separately.

11 The Scottish ministers established the Scottish
12 Child Abuse Inquiry under The Inquiry's Act 2005 with
13 the intention that it should be entirely independent
14 from government, that it should be robust, and that it
15 should succeed. You, my Lady, as Chair of the Inquiry
16 of course have the full range of powers conferred by the
17 2005 Act.

18 The terms of reference of the Inquiry were announced
19 to the Scottish Parliament by the Cabinet Secretary for
20 Education and Life Long Learning on 28th May 2015.

21 On 17 November 2016, the terms of reference were
22 amended by the Deputy First Minister to make it clear
23 that the Inquiry can consider the abuse of children who
24 were in care regardless of where that abuse took place.

25 The terms of reference focus on institutions and

1 bodies with legal responsibility for the care of
2 children and the extent to which those institutions and
3 bodies failed in their duty to protect children in care
4 in Scotland, or children whose care was arranged in
5 Scotland, from abuse and to identify any systematic
6 failures in fulfilling that duty.

7 The Scottish ministers and their predecessors are
8 among the bodies which had legal responsibility for the
9 care of children during the Inquiry reference period.

10 The Inquiry was established to provide Scotland with
11 an opportunity to acknowledge and to confront the abuse
12 experienced by children who were in the care of the
13 State in Scotland and to learn from past failures to
14 protect those children.

15 In terms of its scale and breadth, this Inquiry is
16 expected to be the largest public inquiry held in
17 Scotland involving people across Scotland and around the
18 world.

19 The Scottish ministers are committed to
20 participating fully in the Inquiry as a core
21 participant. Ministers will ensure the Inquiry has
22 access to all the evidence it wishes and under the 2005
23 Act is entitled to have from the Scottish Government.
24 That includes historic records from previous
25 administrations within the time period being

1 investigated by the Inquiry.

2 The Scottish Government introduced a moratorium on
3 the destruction of government records in 2015 to
4 preserve those for the Inquiry. The Scottish ministers
5 will address changes to practice, policy or legislation
6 which arise from the Inquiry, to better support those
7 who experienced abuse in the past and to best protect
8 children in care in the future. Ministers are committed
9 to supporting the most vulnerable young people in
10 Scotland including those for whose care and protection
11 the State is directly responsible.

12 I should my Lady mention some aspects of the
13 background to this Inquiry. The Inquiry is one of
14 a number of steps taken by the Scottish Government,
15 previously the Scottish Executive, to respond to the
16 needs of survivors of abuse in care.

17 On 1st December 2004, the First Minister, Jack
18 McConnell, made a statement in the Scottish Parliament
19 in which he apologised on behalf of the people of
20 Scotland to survivors of abuse in institutional care and
21 recognised that they were wronged and that more must be
22 done to support them in future.

23 Mr Gale made reference to that apology earlier in
24 the morning but it does bear repetition. The apology
25 acknowledged the abuse that had taken place.

1 Mr McConnell said that:

2 "It is clear that some children were abused in
3 Scottish residential care homes in the past. Children
4 suffered physical, emotional and sexual abuse in the
5 very places in which they hoped to find love, care and
6 protection. Those children, adults today, deserve our
7 full recognition of what happened to them. They should
8 not have been abused, they were badly wronged. Such
9 abuse of vulnerable young people whenever or wherever it
10 took place is deplorable, unacceptable and inexcusable."

11 He also acknowledged the role of those who, despite
12 their pain, had brought that abuse to the attention of
13 the public and to politicians. He noted that because of
14 the bravery of those who have suffered abuse we now know
15 much more about the propensities of some members of our
16 society to abuse children.

17 There is now a much greater awareness in our society
18 that such abuse of young people did happen and we know
19 that without the vigilance of all of us, including
20 government and its associated agencies and authorities,
21 it could happen again.

22 It is that recognition of the potential for abuse
23 that has led to alterations to the statutory and
24 regulatory structure in which establishments operate and
25 how we monitor them.

1 He went on to say that it would be a mistake for us
2 to try to fit all that happened in the past into the
3 framework of our own knowledge and experience, but some
4 things are and always have been wrong. Now that we know
5 what has happened, it falls to us as representatives of
6 the Scottish people to acknowledge it. It is for this
7 generation of the people of Scotland to say quite
8 clearly that it was unacceptable that young people were
9 abused and that it was appalling that they were abused
10 by those entrusted with their welfare.

11 That is why, he said:

12 "I offer a sincere and full apology on behalf of the
13 people of Scotland to those who were subject to such
14 abuse and neglect and who did not receive the level of
15 love, care and support that they deserved and who have
16 coped with that burden all their lives."

17 All parties represented in the Scottish Parliament
18 welcomed the First Minister's apology in 2004. The
19 Scottish government continues to endorse that apology
20 and the First Minister's acknowledgement of the abuse
21 that took place and the crucial role played by those who
22 experienced abuse in bringing that abuse to light.

23 Since then steps taken by the Scottish Government
24 have included the following: in 2005, the Scottish
25 ministers launched a national strategy for survivors of

1 childhood abuse, which focuses on raising awareness and
2 improving support for survivors. Scotland remains one
3 of only a few countries in the world to have such
4 a dedicated strategy. That was followed in 2008 with
5 the establishment of In Care Survivors Service Scotland
6 to support those who had experienced in care abuse and
7 their families.

8 "Getting it Right for Every Child" was launched in
9 2006. This is the Scottish Government's overarching
10 policy for all children in Scotland which aims to
11 improve outcomes and support the wellbeing of children
12 and young people. Part of that involves ensuring
13 children and their families are provided with the right
14 support at the right time.

15 In 2009 the Scottish ministers commissioned the
16 Scottish Human Rights Commission to develop a framework
17 for justice and remedies for historic abuse of children
18 in care. This framework was to support the work of
19 a confidential forum, to hear the experiences of those
20 who were in institutional care as children.

21 The Time To Be Heard pilot forum in 2010, led by
22 Tom Shaw, was an opportunity to test the feasibility of
23 a forum in which people who had experienced abuse in
24 care could describe their experiences in a confidential
25 supportive setting.

1 Following the pilot forum, the Scottish ministers
2 introduced the legislation which became the Victims and
3 Witnesses Scotland Act 2014 and which created the
4 National Confidential Forum in 2013. The National
5 Confidential Forum began holding hearings in 2015 and
6 continues to be a forum in which the voices of in care
7 survivors can be heard, acknowledged and understood.

8 The Action Plan on Justice for Victims of Historic
9 Abuse of Children In Care was published by the Scottish
10 Human Rights Commission in 2013. It included key
11 recommendations for action by the Scottish Government
12 and others under key themes of apology, reparation and
13 access to justice. The Apologies (Scotland) Bill was
14 introduced by Margaret Mitchell MSP and supported by the
15 Scottish ministers. It was passed in 2016 and will come
16 into force on 19 June this year.

17 The Act is intended to encourage changes in social
18 and cultural attitudes towards apologising and to help
19 facilitate contrition and acknowledgement by preventing
20 apologies being used in a range of legal proceedings to
21 establish legal liability on the part of the person
22 making the apology.

23 In relation to reparation, the Scottish ministers
24 established the Future Pathways Support Fund for in care
25 survivors in October 2016. That fund has increased

1 funding available for support services from £200,000 per
2 year to £13.5 million over five years. The fund enables
3 those who have suffered abuse to choose services
4 tailored to their individual needs and to access a
5 discretionary fund in addition to support provided by In
6 Care Survivor Service Scotland.

7 In November 2016 the Scottish Government committed
8 to a formal process of consultation and engagement with
9 survivors and other relevant parties to fully explore
10 and gather a wide range of views on financial redress.
11 It will specifically consider redress for survivors of
12 in care abuse. The consultation is due to begin this
13 summer. It will be led by the Centre for Excellence for
14 Looked After Children in Scotland, in partnership with
15 The Interaction and Action Plan Review Group, which
16 includes representation from survivors and survivor
17 support organisations.

18 In relation to access to justice, and in addition to
19 this Inquiry, and following consultation with people who
20 had experienced abuse and others, the Scottish ministers
21 introduced the Limitation Childhood Abuse (Scotland) Bill
22 in the Scottish Parliament on 16 November 2016. The
23 principles of the Bill have received cross-party support
24 and it is currently making its way through Parliament.

25 Should it pass, the Bill will remove the three year

1 limitation period on seeking damages in the civil courts
2 for cases involving childhood abuse.

3 On 25 February 2016 the Scottish ministers announced
4 the Child Protection Improvement Programme, which
5 includes an emphasis on identifying and intervening to
6 support neglected children so that their situation at
7 home can be improved at the earliest stage possible.

8 However ministers recognise that some children may
9 need residential care and want to ensure that those who
10 do experience fulfilling and secure childhoods. On
11 15 October 2016 the First Minister announced
12 an independent review into the care system. The work of
13 that review began yesterday.

14 It will consider the whole spectrum of care measures
15 from early intervention with families on the edge of
16 care, to transitions out of care into adulthood. It
17 will look at the underpinning legislation, practices,
18 culture and ethos of the care system. It will be driven
19 and shaped by evidence from those who have experienced
20 care with a view to proposing changes to the care system
21 that will improve both the quality of life and outcomes
22 of children and young people in care.

23 While the Scottish ministers view all of these
24 measures as important steps, ministers remain determined
25 to ensure that compassion, fairness and justice remain

1 at the heart of the Scottish Government's response to
2 those who experienced abuse in the past and that those
3 values underpin action to protect children from abuse in
4 the future.

5 The Scottish ministers therefore welcome phase one
6 of this Inquiry. As required by the Inquiry for this
7 first phase, the Scottish government has submitted
8 a report on Scottish central government responsibilities
9 in relation to children in care, dealing with the period
10 from 1930 to the present day.

11 The purpose of the report in accordance with the
12 Inquiry's requirements is to describe central
13 government's administrative and legislative
14 responsibilities over time in relation to children in
15 care. In order to assist the Inquiry's work and those
16 who may read the report, the report is to be considered
17 at the hearings due to take place on 6th and 7th June.

18 The Scottish ministers take the responsibilities to
19 the Inquiry very seriously. They will continue to
20 co-operate and engage fully with the Inquiry to assist
21 it in fulfilling its terms of reference and producing
22 a comprehensive public record and commentary on past
23 abuse of children in care in Scotland.

24 Ministers understand that one of the most important
25 reasons that people come forward to talk about the abuse

1 they experienced, whether at this Inquiry, in the
2 confidential forum or elsewhere is the desire to ensure
3 that children in care in Scotland now and in the future
4 are protected from abuse. Ministers also understand
5 that coming forward can be extremely difficult.

6 The Scottish government wishes to record its
7 gratitude to all those who have already come forward to
8 participate in this Inquiry and its hope that others
9 will do so. The Scottish ministers will continue to
10 listen and will remain determined to take steps to
11 support those who experienced abuse in care and to
12 protect children in care in Scotland in the future.

13 Thank you my Lady.

14 LADY SMITH: Thank you very much Ms O'Neill.

15 Unless there's anything anybody now wishes to raise
16 with me, that completes the business that was planned
17 for today and I propose to adjourn the hearing until
18 tomorrow morning at 10 o'clock.

19 Is there anything that anyone wants to raise? No?
20 Well, thank you very much. We will now adjourn until
21 tomorrow morning.

22 (12.55 pm)

23 (The Inquiry adjourned until 10.00 am
24 on Thursday, 1st June 2017)

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