

1 Wednesday, 7th June 2017

2 (10.00 am)

3 MS CAROLINE BEATTIE (continued)

4 Questions by MR PEOPLES (continued)

5 LADY SMITH: Good morning.

6 Good morning, Ms Beattie. If you are ready, I will  
7 invite Mr Peoples to resume your evidence; is that all  
8 right?

9 A. Yes, thank you.

10 LADY SMITH: Mr Peoples.

11 MR PEOPLES: Good morning, Ms Beattie.

12 Can I perhaps take you back to the report that we  
13 were looking at yesterday, prepared on behalf of the  
14 Scottish Government, which is SGV.001.001.0001. I think  
15 when we finished yesterday I had been obtaining  
16 a general picture of how, at ministerial and  
17 Civil Service levels, government was working in the  
18 broad sense, in the high-level sense of how the process  
19 worked in terms of, for example, policy formulation.  
20 I think we had kind of ended with this process where  
21 within a department there would be various individuals  
22 involved in the formulation of policy and then passing  
23 that matter up the chain, as it were, of command and  
24 eventually it would get to ministers for consideration,  
25 perhaps with recommendations or advice as part of that

1 process.

2 Would that be a broad --

3 A. Yes. The highest level in relation to the policy  
4 formulation would obviously come from the ministers, but  
5 then the officials would be the one who would try to put  
6 the meat on the bones of that.

7 Q. What you are saying is that in relation to some  
8 significant policy area of national policy, whether in  
9 relation to child care or some other matter, perhaps the  
10 initial initiative for that would be from a ministerial  
11 level, which would reflect the government's wishes or  
12 manifesto or whatever on certain matters. That would  
13 then be conveyed to the departmental structures, to the  
14 appropriate division or department or team to take  
15 action upon and to develop and then to pass it back up  
16 through the process we have been hearing about.

17 A. That's a reasonable summary.

18 Q. Is that okay?

19 A. Yes.

20 Q. In chapter 1 of part A, dealing with the period 1930 to  
21 1948, apart from -- there is a common format to the  
22 various chapters but we have the heading "Ministerial  
23 designations and portfolios" followed by "Civil Service  
24 departments" and this is giving general information  
25 I think and then within each chapter there's also some

1 discussion about the responsibilities of individual  
2 departments over time.

3 A. Yes.

4 Q. Just maybe I could again adopt the same approach as  
5 yesterday. I'm going to be somewhat selective because  
6 we have the report to read. It is available for all  
7 that are interested to see what's in it in matters of  
8 detail but I would like to pick up on some matters in  
9 the chapter dealing with the individual departments to  
10 get some idea of what the situation was in the various  
11 periods, if I can proceed in that way. I was not very  
12 helpful yesterday in giving you references, but I will  
13 try and give you more references to particular parts to  
14 where these points may be found to assist you in giving  
15 answers if I may.

16 A. Yes, thank you.

17 Q. So far as one of the important departments perhaps for  
18 our purposes is concerned, it is the Scottish Education  
19 Department, which if -- could you turn to page 0011 of  
20 part A and I think that that is where begins the  
21 discussion about that particular department. Do you see  
22 that?

23 A. Yes.

24 Q. What I just want to take out of that is just a few  
25 points. First of all, there is the general point made

1 at paragraph 1.18 that the Secretary of State had  
2 overall responsibility for the general supervision of  
3 education in Scotland. Do you see that is the broad  
4 statement of responsibility?

5 Without -- I mean it is a difficult question,  
6 I suspect, that I'm going to ask you, but the phrase  
7 "general" or "overall responsibility" is one that is  
8 frequently used in this context to describe a minister's  
9 responsibility in a particular area, including, for  
10 example, child care or matters of that kind. Are you  
11 able to help us? In very short compass, what does that  
12 mean in practice in terms of general supervision?

13 A. This would just be my opinion about what I thought it  
14 meant in this context and that would be that the  
15 Secretary of State for Scotland would have the  
16 overarching responsibility for these matters and if any  
17 of that responsibility was to be given to others, he  
18 would be the one who would be responsible for then  
19 designating that or delegating that.

20 Q. But am I right in thinking that a lot of the spadework  
21 and hard work is done by the supporting team -- the  
22 department, the divisions, the civil servants -- and  
23 that the minister then takes responsibility --

24 A. Yes.

25 Q. -- in terms of constitutional responsibility --

- 1 A. Yes.
- 2 Q. -- but in reality a lot of work in policy, to develop  
3 a policy and to put it into practice, is done by the  
4 Civil Service?
- 5 A. Yes, "responsibility" in this context means  
6 accountability and it is accountability to the  
7 Parliament.
- 8 Q. Yes, rather than that you have a minister that's --
- 9 A. Yes, that's actually doing the day-to-day work on it.
- 10 Q. Day-to-day work on the work.
- 11 A. Yes.
- 12 Q. But of course the minister will see the product of the  
13 work done by the departments when it is submitted  
14 upwards under the process we have been discussing.
- 15 A. Yes, because the Civil Service are responsible for  
16 implementing the minister's policies in that regard, so  
17 the Civil Service will be answerable to the minister who  
18 is whose ultimately answerable to Parliament.
- 19 Q. Yes. So we see it more in terms of accountability for  
20 the departments or the department of state under his  
21 control?
- 22 A. That's how we would see it, yes, as accountability.
- 23 Q. In relation to this particular department, one of the  
24 points that's picked up in the report -- this section is  
25 at paragraph 1.19 -- which seeks to give, so far as

1 relevant to our Inquiry, one of the responsibilities of  
2 the Scottish Education Department, which is said to be  
3 the administration of certain provisions of the Children  
4 and Young Persons (Scotland) Act (1932) relating to  
5 juveniles ordered by a court to be sent to an approved  
6 school or committed to the care of an education  
7 authority and I think, just in passing, just for the  
8 record, I would just say that footnote 12 does give us  
9 a little bit of background information about what  
10 an education authority is in that context, which I think  
11 makes the point that we discussed a little bit with  
12 Ms Irvine yesterday, that it is a locally elected body  
13 and it gives some indication of its composition, that it  
14 consists of county and large borough representatives as  
15 well as a number of church co-opted members, which  
16 I think perhaps was the general direction in which we  
17 reached yesterday --

18 LADY SMITH: Yes.

19 MR PEOPLES: -- just to try to get a general picture of what  
20 this type of body was and who was on it. I think that  
21 footnote gives us some information on that. It is  
22 probably sufficient at the moment to note it.

23 So far as the department was concerned, in relation  
24 to this area of responsibility, we see that obviously  
25 the education authority would have functions in terms of

1 the actual provision of schools or some involvement at  
2 that level, at local level. But when it says that the  
3 department responsible for the administration of  
4 provisions relating to these areas that are mentioned in  
5 paragraph 1.19 ... Can you help us: what does that mean  
6 in terms of -- if a court makes an order that, for  
7 example, a child is to be sent to an approved school or  
8 what it became, a List D school, under the Children's  
9 Hearing System, what would that trigger in terms of the  
10 department's responsibility?

11 A. I think --

12 Q. Are you able to answer it?

13 A. I'm probably not able to answer it except that the Act  
14 itself would probably specify where the various  
15 functions lay and what the Secretary of State was then  
16 going to be responsible for and what the education  
17 authorities were responsible for. So in terms of what  
18 the Civil Service would then do, it would depend very  
19 much on what the Act has said and left with the  
20 Secretary of State.

21 Q. You see the point of my question: I'm really trying to  
22 work out in a practical way just what happens in terms  
23 of what happens at a departmental level or central  
24 government level and what happens at a local level in  
25 terms of, for example, children that are sent to

1 approved schools.

2 So you are not really able to give me that level of  
3 detail -- and I appreciate this is an overview -- but  
4 that's something perhaps that I am sure we can establish  
5 through other inquiries; is that correct?

6 A. Yes, although I think the starting point for that would  
7 be what does the Act actually say about where the  
8 various levels of responsibility lie.

9 Q. Well, I appreciate the point you are making that  
10 obviously that is the starting point but if one was to  
11 flesh that out, one might need to know just how that Act  
12 was interpreted and applied in practice.

13 A. Yes.

14 Q. Just to move on, if I may, to page 0012. At  
15 paragraph 1.21 the statement is made, which we are now  
16 perhaps familiar with to some extent that:

17 "All educational institutions, including State  
18 schools, approved schools and independent or private  
19 schools, were subject to inspection by HM Inspector of  
20 Schools [in the period 1930 to 1948]."

21 Is that what that is saying and telling us?

22 A. Yes.

23 Q. I think others have told us that that particular  
24 Inspector has a long history dating back to the  
25 19th century under legislation that needn't concern us



1 today.

2 Can I just ask you this: since I think it is  
3 something that we may have to be clear about, when we  
4 are dealing with the functions of an inspector of  
5 schools in relation to educational institutions,  
6 including approved schools where children are  
7 accommodated and perhaps schools which have boarding  
8 facilities, am I right in thinking that so far as that  
9 particular inspector was concerned, his functions would  
10 be very much to do with education within the school and  
11 standards rather than what we could describe as the  
12 welfare of children and the treatment of children within  
13 care settings like approved schools?

14 Would that have been historically what the inspector  
15 was doing? He was not going in to check whether  
16 children were being well cared for materially or being  
17 abused or not abused or things of that nature; would  
18 that be correct?

19 A. I'm not really in a position to answer that. I think  
20 the issue about what inspectors actually did  
21 historically is something that when this report was  
22 compiled we recognised might require further  
23 investigation.

24 Q. I'm obliged, it may be something that -- as Ms O'Neill  
25 told us yesterday, if we raise this issue, albeit it is

1 something which you feel is not covered by this report  
2 or is capable of being answered by this report, it is  
3 something that can be investigated and provided to the  
4 Inquiry later on?

5 A. Yes.

6 Q. This is perhaps a suitable opportunity for me to say  
7 that -- and because it may become apparent when we look  
8 at some other parts of part A that it is certainly not  
9 entirely clear to me what the various inspection systems  
10 and teams were and how they fitted into statutory  
11 provisions and regulations or whether they were simply  
12 inspection teams which were part of arrangements made by  
13 central government to discharge certain functions. Do  
14 you see the point I'm making?

15 A. Yes, and I think it is a very fair comment: the nature  
16 of inspections, how they were carried out, what they  
17 were doing was not something that we were actually able  
18 to find out in the information that we had available for  
19 this report. But it would certainly merit further  
20 investigation.

21 Q. It is the sort of thing that would be useful to have  
22 some sort of paper on so that we have some kind of  
23 proper understanding of what these various teams or  
24 labels represented in terms of their place in the  
25 statutory and legal framework or their place within

1 central government structures; do you see?

2 A. I think that is right, yes.

3 LADY SMITH: We are talking about a period when the  
4 department was responsible for appointing the  
5 inspectors. It wasn't an independent inspector as such  
6 like today; is that right?

7 A. That is right, my Lady. In relation to the inspection  
8 reports and what the various inspectors have actually  
9 done, as I understand it, when this report was compiled  
10 the information about that -- we didn't really look at  
11 the information about that because it wasn't within what  
12 we were actually asked to look at but it did become  
13 clear that there wasn't an awful lot of information  
14 about inspections and inspection reports and what they  
15 were doing. But we were not specifically looking for  
16 that at that time so it is something that we could be  
17 looking for.

18 LADY SMITH: Do you expect such information to be within  
19 government repositories? It sounds as though it should  
20 be.

21 A. I find that quite difficult to answer. I don't know  
22 what is actually in the records of what's held, where  
23 they are held, or how the inspections were carried out  
24 and therefore if there was a requirement to actually  
25 provide manual reports on the inspections. So I think

1 I can accept that there is work to be done around what  
2 inspections were and who did them and what, if anything,  
3 they actually provided as a record of the inspections  
4 that were carried out.

5 LADY SMITH: It won't simply be a matter of what was the  
6 outcome of the inspections, but I would certainly be  
7 interested in what guidance was issued, if any, to  
8 inspectors, whether there were standard practices,  
9 standard questions they should be addressing, such as we  
10 see now, for example, in HMI practice. We really need  
11 to try and find that out and compare it to what's  
12 happening today and what perhaps ought to happen in the  
13 future. But perhaps we can leave that with you,  
14 Ms Beattie.

15 A. Indeed, my Lady.

16 LADY SMITH: Mr Peoples.

17 MR PEOPLES: Just before we finish off -- clearly, I'm not  
18 simply interested in identifiable inspectors that are  
19 appointed by Her Majesty or His Majesty under statutory  
20 provisions because we see what was Her Majesty's  
21 Inspector of Schools or His Majesty's Inspector of  
22 Schools as a long-established inspector that was  
23 appointed under a process that has a statutory -- is  
24 underpinned by statute. But it does appear to me that,  
25 quite apart from that inspector, there were other

1 inspectors, including Chief Inspectors, who were on the  
2 scene and they were not necessarily involved in  
3 education but involved in what we are perhaps more  
4 directly concerned with, child care.

5 If I can at this stage just say for the record --  
6 when I was looking at the report -- I think some of the  
7 information about this does come from the team that  
8 prepared this report -- I came across terms or labels  
9 such as "The Child Care and Probation Inspectorate"  
10 which I think the report indicates was abolished when  
11 the Central Advisory Service was established after the  
12 passing of the Social Work (Scotland) Act (1968).

13 I will come back to the Social Work (Scotland) Act  
14 and that advisory service in due course, but I'm just  
15 mentioning the inspectorate that seems to have been in  
16 existence prior to 1968 and I'm just wondering what that  
17 inspectorate was, when it was established, whether there  
18 was a statutory basis for its establishment, the period  
19 over which it operated, its general functions and  
20 responsibilities, and where inspections were conducted  
21 and so forth. Do you see the point I'm making?

22 A. Yes.

23 Q. Then there was another one that is referred to and I'm  
24 not entirely clear from the report -- and it is maybe my  
25 fault -- but there is another one that is mentioned

1 which is perhaps of more recent origin which may  
2 postdate the 1968 Act called the Social Work Services  
3 Inspectorate. I'm not entirely sure whether that is  
4 a departmental creation or something that was required  
5 from statute and I'm not entirely sure precisely what  
6 it -- how it fits into the child care system and over  
7 what period. So I'm just trying to flag up the sort of  
8 things we are interested in and there's another one that  
9 seems to be referred to in part A called the Child Care  
10 and Social Service Inspectorate, which seems to have  
11 been sitting within something which we will come to  
12 called the Social Work Services Group until 1996.

13 There is also something called the Social Work  
14 Inspectors' Agency, which seems to have been established  
15 in 2006 to replace the Social Work Services  
16 Inspectorate. It seems to have been what we have  
17 been -- it seems to have been an executive agency. So  
18 that is an example, I think, of a body that's created by  
19 executive decision as part of the arrangements within  
20 central government; would that be correct?

21 A. Yes.

22 Q. Then finally we get to something that's perhaps more  
23 recognisable to the public, which is the  
24 Care Inspectorate, which was founded in 2011. That is  
25 a statutory body, it is independent, it is created by

1 statute, and it brought together, I think, various  
2 functions, including ones carried out by what was known  
3 as the Care Commission, which was established in 2001,  
4 and also the work of the Social Work Inspectors' Agency,  
5 which was the executive agency.

6 So you can see my difficulty, that there is a lot of  
7 terminology and a lot of inspectorates floating around,  
8 but I'm not entirely sure what they are doing, what  
9 their area is, where they are going, what they are  
10 reporting, and so forth. It is just that we can flag  
11 that up, if I may, at this stage. It is a useful  
12 opportunity to do that. I'm not expecting answers ...

13 A. Yes, I think that is fair comment and "inspectorate"  
14 will be used interchangeably with "regulatory" at times  
15 as well. So the mapping of it is something I can  
16 understand this Inquiry will be very interested in.

17 Q. It is somewhat complex and not easy to understand at the  
18 moment. But I think we will want to have more detailed  
19 information on that area. I think I can leave that  
20 there for the moment. It is just a suitable time to  
21 perhaps bring it to the attention of those that you  
22 represent today.

23 If I go back to the report itself at page 0012,  
24 again at paragraph 1.22. This tells us, I think, that  
25 within this particular department, the Scottish

1 Education Department, there was something at least at  
2 one point known as the Approved Schools Branch. It  
3 wouldn't known as that post-1968, I suppose, because the  
4 approved schools terminology disappeared and was  
5 replaced by List D schools.

6 It tells us that that branch within the department  
7 had responsibility for various matters, including the  
8 recognition of approved schools and something that we  
9 may be interested in: the making and allocation of rules  
10 for their management -- and indeed:

11 "The approval of staff and supervision of the  
12 arrangements made by the managers for health, welfare  
13 and release of pupils."

14 So we see there that specific responsibility for  
15 an area that's of interest to the Inquiry, namely  
16 approved schools, was the responsibility, at least for a  
17 time, of the Scottish Education Department and in  
18 particular the Approved Schools Branch within that  
19 department and that that branch seems to have had  
20 particular responsibility for various matters, including  
21 making an allocation of rules for management.

22 Do we see that?

23 A. Yes.

24 Q. Does that tell us a bit about how these things work? If  
25 one is trying to find out how rules come into being or



1 don't come into being, we have to have an understanding  
2 that, well, at central government level, certain matters  
3 within child care or certain establishments that are  
4 child care establishments are the responsibility of  
5 particular parts of government or particular departments  
6 and they have responsibilities for things like rules and  
7 so forth?

8 A. Yes. Rules -- in this context, I'm not sure what that's  
9 actually meant to mean, whether that is statutory rules  
10 or just the allocation of some sort of guidance for  
11 their management.

12 Q. Well, rules tend to be something different from  
13 guidance, in my book anyway.

14 A. Yes.

15 Q. But perhaps again this is something that can be taken up  
16 in an appropriate way.

17 A. These sort of terms are used interchangeably across the  
18 years, so it is never entirely clear that what a rule  
19 meant in the 1930s is what we would understand by a rule  
20 nowadays.

21 Q. Well, that may point out a weakness of the system, but  
22 certainly it would help us to know what was meant in the  
23 1930s by a rule and whether it was a rule that people  
24 had to observe under a regulation or some form of  
25 guidance which they were free to apply or not. Do you

1 see the point I'm making?

2 A. Yes.

3 Q. If it is possible to find out these things -- I think  
4 they are highly relevant to the sort of questions that  
5 we might want to explore and address in due course.

6 LADY SMITH: I see there that voluntary homes are  
7 particularly referred to. It may have been that these  
8 were conditions that were required to be fulfilled to  
9 enable the voluntary home to continue receiving its  
10 grant aid from government and they would be warned that  
11 if they didn't fulfil these conditions the grant might  
12 be withdrawn. That makes sense.

13 A. That is certainly a possibility, yes.

14 MR PEOPLES: If I could pass onto another department that  
15 was operating in that period briefly, the Department of  
16 Health for Scotland at page 0013 of the report. I don't  
17 want to take up too much time on this one but can we at  
18 least note that at paragraph 1.24 this department, which  
19 was part of the Scottish Office at that time, oversaw  
20 compliance by local authorities with the Poor Law  
21 (Scotland) Act (1934) and that it is said in the report  
22 that:

23 "This included undertaking inspection of foster  
24 parent homes to ensure living conditions for boarded-out  
25 children were satisfactory."

1           Indeed, if we pass on to the next paragraph, 1.25,  
2           I note that it is said that the responsibility for  
3           boarding out regulations was subsequently transferred to  
4           the Scottish Home Department in 1947 to mirror the  
5           arrangements south of the border within the UK  
6           Home Office; is that what we are being told?

7           A. Yes.

8           Q. I see that the source of that information -- and this  
9           may help us a little bit with what has to be examined,  
10          which is that at footnotes 21 and 22, this information  
11          seems to come from a couple of sources. One seems to be  
12          a Treasury source, I'm not quite sure what that means,  
13          and the other one is information held by the National  
14          Records of Scotland, presumably records that may have  
15          come from the Scottish Office on these matters that have  
16          been archived and held in the National Records; is that  
17          correct?

18          A. Yes.

19          Q. So that would be a source for this sort of information,  
20          would it or it could be potentially?

21          A. It could be potentially. In compiling this report we  
22          did examine the National Records of Scotland for the  
23          various information that they had. I'm not sure how  
24          much else there is there but certainly if we were  
25          widening this to look more deeply at these matters there

1           may well be more information.

2       Q.   Yes, I'm not wanting to take this at any length today  
3           but we can see, I think, if we wished to look at it, the  
4           methodology that was adopted in preparing the report at  
5           part E of the report, and that's set out in some detail  
6           and it starts at 0367.  I don't think we need to go to  
7           it.

8           I just want to say that it is there and you do --  
9           the report does explain what was done and it seems to  
10          have been a fairly elaborate and detailed exercise that  
11          was carried out.

12       A.   That is correct.

13       Q.   Indeed, part of the product of that exercise is  
14          contained in parts C and D, which is an attempt to,  
15          I think, assist the Inquiry in identifying documentation  
16          that appears to be relevant to the terms of reference  
17          and the work that the Inquiry is doing; is that right?

18       A.   Yes.

19       Q.   Including government -- central government circulars.

20       A.   Many government --

21       Q.   Many government circulars.  I think, in fact, just on  
22          that, just to show the scale of the exercise, I think it  
23          is said -- and again I don't think we need to take you  
24          to it, but I will give the reference at page 0371 --  
25          that there are 10,000 hard copy circulars held by the

1 Scottish Government Library and presumably there are  
2 other electronic records that are also held. So it is  
3 a big --

4 A. It is a big exercise.

5 Q. But there is a lot of material though that might have  
6 valuable information within it?

7 A. Yes. Obviously, in looking for the circulars for this,  
8 various search terms were used so there may be other  
9 circulars if different search terms are used.

10 Q. So part of it is identifying the sort of search terms,  
11 using a recognised method of searching, that would  
12 produce the sort of information that one is looking for,  
13 that's part of what you do, you try to find words --

14 A. Yes.

15 Q. -- that will bring out the right material?

16 A. Yes.

17 Q. Just on the question of sources -- I don't want to again  
18 take this at too much length today -- part E, I think,  
19 does -- or perhaps not part E, I think it is perhaps  
20 other ... it is actually -- well, if we could put up on  
21 the screen 0336, if I may. Do we have that now?

22 I think there is some reference to source material  
23 there. I'm not sure it is clear from the bit that is on  
24 the screen but I'm hoping that if we scroll down there  
25 might be something towards the foot. Yes. Do we see

1 for example that we have -- do we see here that we have  
2 some indication of where we might find material and one  
3 source would be what's called the Police Division. Just  
4 so that we are not misunderstanding what that means, is  
5 that a division within Scottish Central Government?

6 A. Yes.

7 Q. It is nothing to do with Police Scotland?

8 A. No.

9 Q. And another source of potentially relevant material and  
10 perhaps, and maybe a more direct source of relevant  
11 material, is the Office of the Chief Social Work  
12 Adviser, which we are told -- if we go to page 0337,  
13 which is the following page, do we see about three  
14 quarters of the way down that that office holds  
15 a collection of Scottish -- sorry, Social Work Services  
16 Group circulars, some of which may also be in the  
17 Scottish Government Library collection as well?

18 A. Yes.

19 Q. Can you help me, just while I'm on this point: is there  
20 today a Chief Social Work Adviser or do you know?

21 A. I don't know the answer to that.

22 Q. I think we know from your report there was a Chief  
23 Social Work Adviser in the past at least and that post  
24 was created around the time of the Social Work  
25 (Scotland) Act (1968); is that right?

1 A. That sounds right, yes.

2 Q. I don't think that was a post that has any statutory  
3 foundation but -- we will maybe look at that in the  
4 report, but just at this point I think that was a post  
5 that was created and it was a post that worked closely  
6 with the Social Work Services Group that we have been  
7 talking about and that this individual post holder was  
8 in charge of the Central Advisory Service for a time  
9 before it was abolished.

10 A. Yes, I seem to recollect that.

11 Q. We can come to that. I think we will be able to pick  
12 that up in the report but it is maybe helpful just to  
13 have a general understanding of this -- can I say that  
14 you have, in your report -- and I don't intend to look  
15 at today the large number of circulars that you have  
16 given examples of that might be relevant to our work,  
17 but I think one point that's made in the report is that  
18 certainly from the time that the Chief Social Work  
19 Adviser came into post after the 1968 Act, and when the  
20 Social Work Services Group was established around that  
21 time, that thereafter between them the Group and the  
22 Adviser produced a substantial number of circulars which  
23 were sent out from central government to those that they  
24 were directed to, including perhaps local authorities,  
25 professionals, directors of social work, voluntary

1           organisations and so forth; is that correct?

2           A. That sounds correct, yes.

3           Q. Without trying to oversimplify matters, the impression  
4           I get from the report is that at least from 1968, when  
5           these groups and posts were formed, that the Secretary  
6           of State's functions in relation to social work and his  
7           general responsibility under the Act, the 1968 Act, was  
8           in large measure discharged in practice by the work done  
9           by the Social Work Services Group and the Chief Social  
10          Work Adviser and the Central Advisory Service that he  
11          headed; is that a fair comment?

12          A. They would be carrying out the administrative functions  
13          but the Secretary of State would still be ultimately  
14          responsible for them.

15          Q. I think that is your accountability point.

16          A. Yes.

17          Q. I'm just trying to see the realities -- I do appreciate  
18          the point you are making and I am not suggesting they  
19          were independent or they could suddenly go off on  
20          a frolic, but what I'm trying to get at is that if we  
21          are trying to see who is doing what in a particular  
22          period of time, and we are looking at post-1968 until  
23          the Social Work Services Group at least disappeared,  
24          which it did, then, a lot of the work itself was being  
25          done by that group or teams within that group or by this



1 Chief Social Work Adviser and the team that he headed.

2 A. Administratively, yes, they were doing the work.

3 Q. You use the term "administratively" and I don't want to  
4 quarrel with you and I understand why you are saying  
5 that, but I'm just trying to get the realities that --  
6 the detailed work that had to be done, albeit under the  
7 direction or general direction or supervision of the  
8 minister, was done in practice, in large measure, by the  
9 group and the individual I have been mentioning.

10 A. Yes, that's fair comment.

11 Q. Just before we pass away from the source materials that  
12 were used in the compilation of this report, you have  
13 mentioned that it drew heavily on information that may  
14 have been held with the Scottish Government Library,  
15 which is an extensive collection of material, I take it.

16 A. Yes.

17 Q. It also drew to some extent on material that was held by  
18 or on behalf of the Scottish Government, I take it, in  
19 the National Records of Scotland.

20 A. Yes.

21 Q. And also on material held at the National Library of  
22 Scotland.

23 A. Yes.

24 Q. It drew on or it may have drawn, I'm not sure, on this  
25 police division which seems to separately hold

1           potentially relevant records, is that -- I don't know if  
2           it is a source; is it a source?

3       A.   It is a source but to a much lesser extent.

4       Q.   So these would be some of the main sources that --

5       A.   For compiling this report.

6       Q.   For compiling this report?

7       A.   Yes.

8       Q.   Would these be the obvious sources one would start  
9           looking at if we are wanting the sort of information  
10          that is relevant to the work of the Inquiry about  
11          government and central government and the workings of  
12          departments?

13      A.   Yes, I'm trying to think of any other places where the  
14          information might be held.

15      Q.   What about the National Archives at Kew?  Would that  
16          hold Scottish Office material, would that be held there?

17      A.   I don't know the answer to that.

18      LADY SMITH:  Do I take it from that that you haven't  
19          checked?

20      A.   I personally haven't checked whether --

21      LADY SMITH:  Or your team?

22      A.   I don't know if the team checked because it doesn't form  
23          part of this report.

24      LADY SMITH:  I see.  Because of course the centre of  
25          operations for Scotland didn't move here until, as we

1           have been told, 1939 and no doubt there was much  
2           documentary information in relation to Scottish affairs  
3           held in the south at that time. The question then is:  
4           did it move with the people or did it not?

5           A. Again, I don't know the answer to that question.

6           LADY SMITH: That maybe needs to be checked.

7           MR PEOPLES: I was going to say I am sure someone will have  
8           the answer somewhere and perhaps that is what we are  
9           trying to search for because, as my Lady says, the  
10          pre-1939 or pre-war period is clearly one that is within  
11          our time frame and there were quite significant things  
12          happening, as we saw in the evidence of Ms Irvine  
13          yesterday, in the 1930s and there was significant  
14          legislation in that decade as well as in earlier  
15          decades. It is clearly something that we would probably  
16          like to find out whether we can get some information  
17          from that quarter on such matters.

18          A. I imagine that would be relatively easy for us to find  
19          out whether we can access anything from the  
20          National Archive but I'm afraid I can't answer that  
21          today.

22          LADY SMITH: If you could do that, we would be very  
23          grateful. Thank you.

24          MR PEOPLES: If I could come back to the report itself at  
25          page 0013, paragraph 1.26, and move to another

1 department that was then in being, the Scottish Home  
2 Department, which I suppose would that be the kind of  
3 Scottish equivalent of the Home Office --

4 A. Yes.

5 Q. -- which we are told came into existence on 4th  
6 September 1939 and it indicates the areas that it became  
7 responsible for at that time; do we see that?

8 A. Yes.

9 Q. If we could pass over to the following page, 0013. My  
10 eye caught one of the responsibilities which seems to be  
11 the registration and inspection of voluntary and remand  
12 homes and also that the remit for prisons and borstals  
13 was brought under the Scottish Home Department having  
14 previously been held under what was called the  
15 Prisons Department for Scotland; is that right?

16 A. Yes.

17 Q. I suppose that is an example and I don't want to -- that  
18 is an example of what we see from time to time in your  
19 report, that at central government level and  
20 particularly at departmental levels you sometimes gets  
21 transfers of responsibility for one reason or another  
22 and they can be quite significant areas.

23 A. That's a fair comment.

24 Q. Indeed, again, without taking you to the detail at this  
25 stage because I appreciate it is an overview, we might

1 have a situation -- and I think you may have or the  
2 report may have mentioned this -- where important  
3 functions in relation to particular areas such as, say,  
4 child care could, from time to time, be the  
5 responsibility of different departments.

6 A. Yes. The reasoning for that is usually because there  
7 may have been changes at ministerial levels so the  
8 departments are then trying to mirror what's happening  
9 at ministerial level so that the lines of accountability  
10 and communication are the same.

11 Q. So I suppose you have a situation there where, if  
12 department A reported to minister 1 and department B  
13 reported to minister 2 and they were both concerned with  
14 child care matters, albeit different ones, they would be  
15 operating to some extent independently of each other?

16 A. They would have a separate responsibilities, yes.

17 Q. Of course, and I know we are not here to express  
18 opinions and you are not here to express, but one can  
19 see at least an argument for saying that if there is  
20 a particular area, such as child care matters in the  
21 broad sense, that has the potential to create  
22 inconsistency and differences of approach in the same  
23 area, does it not? It has a potential; I'm not asking  
24 you to comment whether it did.

25 A. I would say that an issue like child care obviously

1 covers a broad spectrum of ministerial portfolios and  
2 the policies will be developed by the ministers; whether  
3 those policies are joined up is not something I can  
4 comment on.

5 LADY SMITH: But we have just seen the Scottish Home  
6 Department had responsibility for voluntary and remand  
7 homes --

8 A. Yes.

9 LADY SMITH: -- and also had transferred to it what looks  
10 like quite a major responsibility for prisons and  
11 borstals. Now, I have no idea what the actual volumes  
12 at that time and going forward were, but my immediate  
13 reaction is the likelihood is that department had far  
14 more work to do in its prisons and borstals area than in  
15 its voluntary and remand homes; would that seem fair?

16 A. If the work had increased, then people might have moved  
17 with the work. So they would have matched up what they  
18 were trying to do with the resources that they had  
19 available.

20 LADY SMITH: So if we wanted to get an idea of what the  
21 proportions were in the department's work as between  
22 prisons and borstals and children's homes, one guide  
23 might be to look at what the staffing levels were on  
24 each side, might it?

25 A. If that information was actually now available.

1 LADY SMITH: You will probably see what I'm getting at,  
2 Ms Beattie. I'm wondering whether we need to explore  
3 whether it becomes difficult for a department with such  
4 disparate responsibilities as the welfare of a child in  
5 a voluntary home, for instance, and the appropriate  
6 supervision of a prison to give the attention to the  
7 child that the child deserves if most of its work has to  
8 be directed towards the security of prisons, for  
9 example.

10 A. I certainly see that point. Historically I don't know  
11 if the records would be available for the actual numbers  
12 of people in each particular branch who were carrying  
13 out those functions. It will become available certainly  
14 later on. I think from about 1974 onwards we have  
15 actual branch structures which would give us numbers but  
16 before that date I don't think we would actually have  
17 the numbers.

18 LADY SMITH: That would be helpful. Then we have the  
19 separate point that Mr Peoples has been following up  
20 about other difficulties that may emerge if different  
21 responsibilities for child welfare were sited in  
22 a different department.

23 A. That would be -- that touches on one of the things we  
24 talked about yesterday where we were talking about  
25 submissions to ministers and ensuring that if you were

1 doing a submission that impacted on another department  
2 that that department was also aware of it. So that was  
3 how they would join up issues in relation to child care  
4 that covered a number of departments.

5 MR PEOPLES: I suppose it would depend in practice on  
6 whether that decision was taken by the department, that  
7 they needed to involve another department in the  
8 particular matter, or whether they could simply keep it  
9 within their own area of responsibility. I suppose it  
10 would depend very much on how it was operated, would it  
11 not?

12 A. Yes.

13 Q. Just on the matter of records and going back then about  
14 departments and the work of the departments and how much  
15 was being done by particular divisions or teams or  
16 whatever terminology was then used, would I be right in  
17 thinking that both pre-devolution and post-devolution,  
18 whatever you call the departments, they must presumably  
19 prepare departmental reports annually that are submitted  
20 to, well, certainly to ministers and possibly to high  
21 level -- and perhaps even to Parliament? I don't know.

22 A. Not necessarily.

23 Q. No? So are you saying -- are you talking about now or  
24 are you talking about historically or both?

25 A. I'm talking about both. Departmental reports of work



1           that is maybe carried out on a yearly basis, I don't  
2           think such things actually exist. I certainly don't  
3           remember seeing anything like that.

4           Q. You were in the Scottish Office?

5           A. Yes.

6           Q. Can you just tell us what period that would cover?

7           A. The Scottish Office? I would have been there from 1992  
8           to 1999.

9           Q. So in that period you have no recollection of, say, the  
10          preparation annually of departmental reports that would  
11          be compiled and distributed at least internally?

12          A. Lots of reports are compiled but they cover various  
13          different things. A departmental report, which is  
14          an overarching report about everything that the  
15          department has actually done that year, I don't think  
16          such a thing exists but other reports will exist.

17          Q. So there's no such thing like how you might get an end  
18          of year report about how the department had functioned,  
19          the major areas of work that were carried out, and so  
20          forth? Would there be anything of that kind? It seems  
21          a bit odd to me that there wouldn't be something of that  
22          kind.

23          A. There might be. I can't think of anything that is  
24          actually compiled in that way.

25          Q. Maybe in looking at it in another way. Departments have

1 to run on a budget. We all know that government has  
2 a finite resource and that certain departments have to  
3 fight for or certain departments of State have to fight  
4 for so much of the financial cake. Within that  
5 department presumably individual Civil Service  
6 department have to work within the overall budget.

7 The point I'm making is that if you do that then  
8 I assume you have to say what you want to spend money on  
9 and therefore make your case. Surely there would be  
10 some kind of record about how much of the budget was  
11 spent by the Scottish Education Department in  
12 a particular year and in what areas.

13 A. Yes, those sorts of reports are available for the  
14 preparation of budgets and for obviously accounting for  
15 those budgets at the end of the year.

16 Q. We all know I think that Government and Treasury are  
17 very interested and probably through history have been  
18 very interested in making sure that they can work within  
19 budgets that are set.

20 A. Yes. So reports in terms of budgets would certainly be  
21 done, but an annual report about -- not in the way that  
22 I'm thinking of an annual report, but it may be we are  
23 at cross-purposes about the sort of departmental report  
24 you are thinking about.

25 Q. No, I think I was trying to cover both. I wasn't trying

1 to confine it to one or other. I'm just trying to get  
2 a flavour as to where we might find something that would  
3 help us to piece together over what is a substantial  
4 period within the remit. I'm just seeking some  
5 guidance. But no doubt you have taken on board or those  
6 instructing you have taken on board -- I can leave it at  
7 that.

8 Other than that, in terms of the records themselves,  
9 am I right this thinking that whilst you have told us  
10 sources where records might exist that are of relevance,  
11 it would be wrong of me to think that so far as what  
12 I would call departmental records are concerned, like  
13 records of the work of the Scottish Education  
14 Department, that it is realistic to -- am I right in  
15 thinking that it was realistic to proceed on the  
16 assumption that such records will not be comprehensive  
17 today and archived in the sort of places you have  
18 mentioned? We will not have a full set of departmental  
19 records anywhere; is that fair?

20 A. Departmental records -- there is a lot of files and  
21 there are a lot of files that are stored that are still  
22 in paper copy that can still be looked at. What they  
23 actually contain we don't yet know.

24 Q. No, I appreciate that and I think you make that point  
25 and I don't want to be unfair. You have certainly told

1 us and we did ask for an overview rather than a detailed  
2 exposition of what's in them.

3 So there are records, but we don't know just how  
4 comprehensive they are, particularly the further back in  
5 time we go?

6 A. Yes.

7 Q. But I take it -- and these records that you have in  
8 mind, would these be records that are held within the  
9 Scottish Government Library or in the National Archives  
10 or National Library?

11 A. These files are held in storage. These are all our  
12 stored files.

13 Q. Within the Scottish Government --

14 A. Yes.

15 Q. -- rather than with National Records?

16 A. Yes.

17 Q. But National Records also hold government records?

18 A. Yes.

19 Q. So there are two sources one could start with. Okay.

20 So far as archive materials are concerned or  
21 material that's stored, is that something that,  
22 certainly until recent times, would depend on the view  
23 taken about the importance of the records? Do you see  
24 the point I'm making?

25 A. Yes. All government files will be stored for a certain

1 period of time and then they are obviously opened to the  
2 public, so files shouldn't be destroyed.

3 Q. Is that quite right? I understand what you are saying,  
4 that sometimes files are stored and archived and they  
5 are not available for public inspection as a matter of  
6 right or entitlement or practice for maybe a period of  
7 time. I think we all know about that when we read about  
8 release of papers under 50-year rules and 30-year rules  
9 and so forth. But those records do eventually become  
10 available and can be accessed, for example, by the  
11 Inquiry. But they won't be comprehensive necessarily  
12 because not everything that's generated by way of  
13 a record is archived or retained, is that the reality?

14 A. That's the reality, yes.

15 Q. And that files that were opened and then closed within  
16 a department or a division or whatever would presumably  
17 undergo some process of periodic review as to whether  
18 they should be kept and archived because they were  
19 historically interesting or simply disposed of?

20 A. Disposed of, yes.

21 Q. Is that what happens?

22 A. That is what happened historically, yes.

23 Q. I take it that if that's the convention or the practice,  
24 presumably those who were choosing what was worth  
25 keeping and what had historical interest for social

1 historians and researchers, academics, inquiries,  
2 anyone, would seek to preserve and retain documents that  
3 were thought to be of particular interest, for example,  
4 say in relation to preparation of important legislation  
5 or rules or regulations --

6 A. Yes.

7 Q. -- and, say, any important papers relating to the  
8 setting up of a major inquiry or commission.

9 A. Yes, anything which showed government policy in  
10 a particular area.

11 Q. If the matter was of acute public concern at any stage  
12 or internally was a matter of great disquiet that papers  
13 of that kind might well be available under that  
14 conventional practice, that they may exist somewhere to  
15 tell us why things happened, what the state of knowledge  
16 was about a particular matter and what was done?

17 A. I would expect that would be the case.

18 Q. You would expect it? If we could now go back to your  
19 report briefly on the matter of the Scottish Home  
20 Department.

21 Can I just pick up one other matter here for present  
22 purposes at page 0014 at paragraph 1.28. Do you see  
23 that there's reference there to something that which no  
24 longer exists but was known as the Scottish After Care  
25 and Juvenile Welfare Service, which appears to have been

1 attached to the Scottish Office in the 1930s. It maybe  
2 picks up on some of the points that we discussed in  
3 general terms earlier, that seems to have been a service  
4 which had a staff of inspectors and welfare officers; do  
5 you see that?

6 A. Yes.

7 Q. I think that information appears to come from Treasury  
8 records. Footnote 29, is it? That is on page 0014.

9 A. Yes.

10 Q. One of the things that we are told about that particular  
11 service and its remit was that -- it is stated, I think,  
12 at paragraph 1.28 at 0014 and 0015 -- and I don't think  
13 we need -- you can perhaps look at it -- when the  
14 Children and Young Persons (Scotland) Act (1932) was  
15 implemented, the inspection, which I think would have  
16 covered amongst other things use of corporal punishment  
17 and registration of voluntary homes and approved  
18 schools, remand homes and so forth, was added to the  
19 remit of the service.

20 So that seems to have been a service that had some  
21 specific responsibility for matters that were dealt with  
22 in the 1932 Act; is that right?

23 A. That's what it appears to be, yes.

24 Q. That would be a central government service that was  
25 established in that period?

- 1 A. It appears to be.
- 2 Q. That particular service, at that time at least, had some  
3 kind of inspectorate, which might have been  
4 an administrative arrangement rather than a statutory  
5 arrangement? It is possible. We don't know, do we,  
6 from --
- 7 A. We don't know from this information.
- 8 Q. If we could move on to a later period briefly. The 1948  
9 to 1968 period, which is dealt with in chapter 2 of  
10 part A at 0015. One matter that's mentioned is that in  
11 this period, 1948 effectively up to the passing of the  
12 Social Work (Scotland) Act of 1968, I think that is the  
13 significance of the date between the Children Act of  
14 1948 and the Social Work (Scotland) Act of 1968, do we  
15 see at page 0015 at paragraph 2.4 that we are told that  
16 any -- so far as ministerial responsibility was  
17 concerned, that any matters that concerned approved  
18 schools, remand homes, child protection and local  
19 authority child care services were considered by -- it  
20 is called the Undersecretary of State who held the child  
21 care brief. An Undersecretary of State is simply  
22 a junior minister, isn't it?
- 23 A. It appears to be, yes.
- 24 Q. That was the way things were done in those days: there  
25 was a Secretary of State and he would be assisted by



1 a team of more junior ministers, usually two or three  
2 perhaps in the Scottish Office, would that --

3 A. That would seem to be the structure at the time, yes.

4 Q. It says, at least on straightforward issues, whatever  
5 that might mean, this minister would have authority to  
6 make decisions on these matters; is that correct? He  
7 would not have to refer to his boss, the Secretary of  
8 State.

9 A. That is right.

10 Q. But if decisions involved the making of legislation or  
11 required finance or raised an issue of wider political  
12 interest we are told that the issue was directed  
13 additionally to -- well, first to the Minister of State,  
14 who I think was the senior junior minister under the  
15 Secretary of State and indeed the Secretary of State,  
16 who would consider the departmental papers submitted and  
17 decide the appropriate action. So on quite important  
18 matters the senior ministers were involved?

19 A. That's what appears, yes.

20 Q. That seems to be the case where decisions involved  
21 legislation. Can you help me with this: would that  
22 embrace both primary legislation and secondary  
23 legislation such as making rules? I suppose it would  
24 because the minister/Secretary of State would have to  
25 sign the rules.

1 A. Yes, I can't answer definitively but given there wasn't  
2 an awful lot of subordinate legislation made in Scotland  
3 at that time, I would have thought that the Secretary of  
4 State would have an interest in knowing what was going  
5 on legislatively.

6 Q. So far as this period is concerned, can we also go to  
7 page 0016 at paragraph 2.6? We are told that, according  
8 to the researches that have been carried out, there was  
9 a significant reorganisation which occurred in June 1962  
10 when the Department of Health for Scotland and the  
11 Scottish Home Department were abolished and all of their  
12 functions were transferred to what was the newly  
13 established Scottish Home Health Department. That  
14 sounds like a pretty big change.

15 A. It does.

16 Q. Just so that we are clear, the reasons for that change  
17 are not contained in the report, so we don't know quite  
18 why that happened, do we?

19 A. No.

20 Q. If we look at particular departments that were in being  
21 at that time, the first that's dealt with in this  
22 chapter is the Scottish Education Department at  
23 page 0016.

24 I think if we could turn to 0017, which was dealing  
25 with this department at that time, I don't want to get

1           bogged down on this but there is a table there that's  
2           showing basically the internal allocation of  
3           responsibility of the Scottish Education Department in  
4           1967, in terms of the groups and divisions that were  
5           handling various matters; do we see that?

6           A. Yes.

7           Q. I think we see, for example on the right-hand side,  
8           there was a division which seems to have been called the  
9           Children and Special Services Division.

10          A. Yes.

11          Q. That rather suggests it might have some responsibility  
12          generally for child care matters, would that be right,  
13          or is it difficult to tell?

14          A. It is difficult to tell but if they were dealing with  
15          child care matters, that would seem to be the natural  
16          home for it.

17          Q. Well, exactly. We would expect perhaps that they would  
18          have some significant remit in that matter, otherwise  
19          the title seems rather inapt.

20          A. That's fair comment.

21          Q. What we do see also I think at that stage is that there  
22          is an HM inspectorate which is seen as -- is that the  
23          HM Inspectorate of Schools? It sat within the Scottish  
24          Education Department in the 1960s. Is that what that  
25          inspectorate is a reference to? It looks like it is.

1 A. It looks like it is. I could not say for certain but  
2 I can't think what other inspectorate would actually  
3 fall within the education department at that time.

4 Q. Yes, because I didn't think there was an HM Inspectorate  
5 of Social Care or Child Care --

6 A. No.

7 Q. -- at that stage. There was an HM Inspector of  
8 factories, of schools, of prisons but I think in the  
9 area of child care there was not such a thing, unless  
10 I'm much mistaken. Is that fair comment? Maybe it is  
11 not something you can answer.

12 A. I probably can't answer that. I would have thought,  
13 given where that's sitting, that it is HM Inspector of  
14 Education.

15 Q. If we could pass on to 0018 briefly, which gives us some  
16 information about the responsibility of the Scottish  
17 Home Department, at least until 1962 when it was  
18 abolished.

19 It says at paragraph 2.11 -- do we see that that:

20 "Until 1960, the [Scottish Home Department's] remit  
21 in relation to children in care largely remained the  
22 same as in the period between 1932-1948, albeit its  
23 responsibilities would increase after 1948 with the  
24 implementation of the Children Act (1948) ..."

25 Do you see that?

- 1 A. Yes.
- 2 Q. I think we saw yesterday from the evidence of Ms Irvine  
3 and indeed from the evidence of Professor Norrie that  
4 that was a very significant piece of legislation in the  
5 area of child care --
- 6 A. Yes.
- 7 Q. -- as indeed was the Social Work (Scotland) Act (1968),  
8 which we will come onto.
- 9 A. Yes.
- 10 Q. But picking up on maybe this idea or this apparent  
11 practice of division of functions, do we see that at  
12 paragraph 213 on the same page, page 0018, do we see  
13 that in April 1960, before the department was abolished,  
14 some of the functions it held in relation to children in  
15 care were transferred to the Scottish Education  
16 Department and in particular to what was known as  
17 Children and Special Services Division?
- 18 A. Yes.
- 19 Q. I think that's what we saw back in table 3 that we  
20 looked at.
- 21 A. Yes.
- 22 Q. But that other functions were retained by the Scottish  
23 Home Department at that time, including functions  
24 relating to prisons and borstals, court administration,  
25 including administration of the juvenile courts that

1           were then in being, and the inspection of child care?

2       A.   Yes.

3       Q.   So although some child care matters went to the Scottish  
4           Education Department, the inspection of child care was  
5           a responsibility that was kept by the Home Department;  
6           is that right?

7       A.   Yes.

8       Q.   I think we get the source of that information.  On this  
9           occasion it seems to be some record that's held by the  
10          National Records of Scotland; that's footnote 45.

11      A.   Yes.

12      Q.   If we could move on to page 0019, firstly at  
13          paragraph 2.16.  This tells us a little bit about  
14          administration of institutions for the detention of  
15          young offenders, does it not?

16      A.   Yes.

17      Q.   I think at that time -- well, sorry, it tells us about  
18          the institutions as at 1967, which I think was after the  
19          creation of the Scottish Home and Health Department as  
20          we have just seen; yes?

21      A.   Yes.

22      Q.   At that time these institutions were the responsibility  
23          of the Scottish Home and Health Department, is that  
24          right, all the institutions to which young offenders  
25          could be sent?

- 1 A. Yes.
- 2 Q. And these would include borstals institutions?
- 3 A. Yes.
- 4 Q. Of which there seems to have been five at that time in  
5 various parts of the country; yes?
- 6 A. Yes.
- 7 Q. Detention centres of which there seems to have been two.
- 8 A. Yes.
- 9 Q. I don't need to worry about the history. I think we get  
10 the history of how these things came into being from  
11 part B of the report and I think Professor Norrie also  
12 told us a bit about how new types of institution were  
13 established over time.
- 14 Then, the third type of institution was a remand  
15 institution and again there were two of these. The  
16 fourth type, which was the young offenders institution,  
17 which I think was of relatively recent origin at that  
18 stage, there were two of those.
- 19 A. Yes.
- 20 Q. And then passing on to paragraph 2.17 -- and this is  
21 perhaps also of some significance and it maybe touches  
22 upon what we had been discussing earlier about what  
23 happened at central government level around 1968 and the  
24 passing of the Social Work (Scotland) Act.
- 25 But ahead of the introduction of the Social Work

1 (Scotland) Bill, a group known as the Social Work  
2 Services Group was established under the Scottish Home  
3 and Health Department; is that what we are told?

4 A. Yes.

5 Q. If we could pass on to the third period that your part A  
6 is concerned with, 1968 to 1994, and turn to page 0020.  
7 Do we see at paragraph 3.4 there's some general  
8 information which seems to have been obtained from the  
9 Civil Service Year Book for 1984? I simply mention it.  
10 I think it is just as well just to record this: it is  
11 an attempt to describe the role of the Secretary of  
12 State in fairly general terms but -- I will just read  
13 what it says:

14 "The Secretary of State for Scotland is responsible  
15 in Scotland for a wide range of statutory functions  
16 which in England and Wales are the responsibility of  
17 a number of departmental ministers. He also works  
18 closely with ministers in charge of Great Britain  
19 departments on topics of special significance to  
20 Scotland within their fields of responsibility. His  
21 statutory functions are administered by five main  
22 departments: the Department of Agriculture and Fisheries  
23 for Scotland, the Scottish Development Department,  
24 Scottish Economic Planning Department, the Scottish  
25 Education Department, and the Scottish Home and Health



1 Department."

2 I think we are principally concerned with the last  
3 two departments, are we not?

4 A. Yes.

5 Q. Then it goes on to indicate that apart from these  
6 departments there are what are called a number of  
7 central services which support these departments  
8 generally; is that right?

9 A. Yes.

10 Q. Indeed it goes on to state, towards the foot of  
11 page 0020 and on to 0021, that in addition there are  
12 a number of other Scottish departments for which the  
13 Secretary of State has some degree of responsibility  
14 including the Scottish Courts Administration, the  
15 Department of the Registrar General for Scotland, the  
16 Scottish Record Office, and the Department of the  
17 Registers of Scotland.

18 I don't think I need to deal with the final sentence  
19 in paragraph 3.4, which is not, I think, relevant for  
20 present purposes.

21 So that gives an idea of the various areas and  
22 structures that were in being at that time.

23 A. Yes.

24 Q. If I could pass on to page 0022, picking up on something  
25 that was said earlier at 3.7:

1 "With the establishment of the SWSG in 1967 ..."

2 This is shortly before the passing of the 1968 Act,  
3 the Social Work (Scotland) Act:

4 " ... new ranks were added ..."

5 And the examples given are the social work adviser,  
6 the deputy chief advisers and senior advisers:

7 "The Chief Social Work Adviser was responsible for  
8 providing social work advice and guidance to local  
9 authorities on the development of services, education,  
10 and development of the social work workforce as well as  
11 providing ad hoc advice and guidance to the secretary on  
12 various ..."

13 I think that is the Secretary of State for Scotland:

14 "... on various social work issues. The SWSG was  
15 headed by an Undersecretary, in other words a pretty  
16 high-ranking senior civil servant, who reported to the  
17 Parliamentary Undersecretary, that is the minister, who  
18 held responsibility for child care services. The teams  
19 within the Social Work Services Group continued to be  
20 served by the various assistant secretaries, principals  
21 and chief executive officers.

22 I think that's the various ranks of civil servants.

23 A. It is, yes.

24 Q. I don't want to take this at too much length, but the  
25 appointment of the Chief Social Work Adviser that was

1 a first, wasn't it?

2 A. I certainly don't recall seeing it before in any of the  
3 literature.

4 Q. That appointment or that post required professional  
5 qualifications, did it not?

6 A. I don't know the answer. I would assume it would.

7 Q. But it looks as if it is an attempt, at least in 1968,  
8 to introduce within the central government structures,  
9 in the area of social work, including child care, the  
10 use of some sort of professionally qualified personnel  
11 on a standing basis.

12 A. That would make sense given what the Act was intended to  
13 do.

14 Q. Indeed. It looks as if, in order to discharge his  
15 statutory functions under the 1968 Act, the Secretary of  
16 State put in place this post and these groups, like the  
17 Social Work Services Group, to enable him to discharge  
18 the functions that were placed on him under the 1968  
19 Act.

20 A. I think that is one of the purposes of setting up the  
21 group.

22 Q. Indeed I think we are told, I think, that one of the  
23 areas, from 3.7 that we have read, that this group was  
24 supporting the Secretary of State in relation to  
25 discharging his overarching responsibilities in relation

1 to child care services. That is one area that would be  
2 within the province of the group and the Chief Social  
3 Work Adviser --

4 A. That's what the report --

5 Q. Clearly the 1968 Act, and we don't need to look at it,  
6 was dealing heavily with social care, including the care  
7 of children in need of care and protection.

8 A. Yes.

9 Q. So far as the Social Work Services Group itself was  
10 concerned, am I right in thinking that that would be  
11 headed by a permanent senior civil servant within one of  
12 the departments or do you not know?

13 A. Sorry? The head of the Social Work Services Group?

14 Q. It wouldn't be headed by the Chief Social Work Adviser?

15 A. No, I had understood that the head of the Social Work  
16 Services Group was equivalent of the head of a division,  
17 so that, yes, that would be a senior civil servant.

18 Q. And not necessarily someone who personally would have  
19 social work qualifications of the type that a Chief  
20 Social Work Adviser might have?

21 A. It would be a Civil Service post so it would depend what  
22 the necessary criteria was for the post which -- I don't  
23 know what the criteria was.

24 Q. We would have to find out what --

25 A. Yes.

1 Q. But within a group of that kind, if it was composed of  
2 people within the Civil Service, not advisers, but  
3 within the conventional structure, within a group of  
4 that kind, would teams or divisions dealing with, for  
5 example, social work matters be composed of individuals  
6 with direct social work qualifications and experience or  
7 not necessarily?

8 A. I'm not entirely certain but I think the answer is  
9 probably not necessarily.

10 Q. Would that be one good reason why you would want a Chief  
11 Social Work Adviser to assist departments and ministers  
12 on matters which would require a degree of professional  
13 experience and qualification to give sound advice on?

14 A. That would makes sense.

15 Q. The only other point that I will maybe refer to in  
16 passing is that, at paragraph 3.9 on page 0022, it is  
17 just recorded there, I see, that functions relating to  
18 children in care -- and this is not just children  
19 generally -- continued in this period to be divided  
20 between two main departments, the Scottish Education  
21 Department and the Scottish Home and Health Department.  
22 So children in care, which was a subgroup of children  
23 generally, were the responsibility of two different  
24 departments.

25 A. In relation to the different aspects that the two

1 departments were dealing with, yes.

2 Q. If I could pass on to page 0023, which contains  
3 a discussion of the Scottish Home and Health Department  
4 which came into being, I think, in 1962, to replace the  
5 two previous departments of Health and Home. It does  
6 mention, again at paragraph 3.13, the setting-up of the  
7 Social Work Services Group; do you see that?

8 A. Yes.

9 Q. It tells us that the group consisted of teams drawn from  
10 the Scottish Education Department, which was still in  
11 existence, and the Scottish Home and Health Department.

12 We are told it was responsible for the  
13 reorganisation of social work, the local authority  
14 welfare service, children and special services, with the  
15 latter reporting to the Scottish Education Department  
16 and something that was known as the Child Care and  
17 Probation Inspectorate, which I mentioned earlier on.

18 A. Yes.

19 Q. Do we see that at paragraph 3.14 that once the 1968 Act  
20 was passed and, in other words, when the legislation was  
21 in force, the group that had been set up in 1967 was  
22 moved to the Scottish Education Department, where it  
23 remained until 1991 and was then transferred back to the  
24 Scottish Home and Health Department for reasons which we  
25 don't know.

1 A. We have not examined that.

2 Q. But what we can see is that at least from about 1968  
3 until about 1991, that group, which seems to have been  
4 quite an important group, along with the Chief Social  
5 Work Adviser and another and the body that he headed was  
6 within the responsibility of the Scottish Education  
7 Department.

8 A. Yes.

9 Q. If we pass on to page 0024, which is dealing with the  
10 Scottish Education Department during this period, at  
11 paragraph 3.16 we are told, I think, that within this  
12 department there were a number of divisions. We know  
13 what that means, that this is just one of these  
14 divisions within a department.

15 There is an example given of what the remit of  
16 a division, which is described perhaps colloquially as  
17 "a schools team", that the remit would include, in  
18 relation to primary and secondary schools, a number of  
19 matters.

20 One of the things I see, for example, is that  
21 discipline in schools would be a matter within the remit  
22 of the schools team, which was a division within the  
23 Scottish Education Department; is that right?

24 A. Yes.

25 Q. Another matter which would be within their general remit

1 would be independent schools?

2 A. Yes.

3 Q. The point is made at 3.17, I think, if we just carry on  
4 in this page, that in addition to functions that have  
5 already been discharged by the Education Department in  
6 relation to the provision of education and the  
7 inspection of schools for that purpose, the remit of the  
8 SED widened because it took in responsibility to some  
9 extent for children in care and indeed within it sat the  
10 Social Work Services Group, which had moved there after  
11 the 1968 Act was passed.

12 A. Yes.

13 Q. So education became more of a department's concern, not  
14 just with education in the purest sense but with child  
15 care, child welfare and matters of that kind --

16 A. It appears so.

17 Q. -- at least at that point.

18 Then if we go on to 3.18, if I may. There we see  
19 a statement which was published by the Scottish Office  
20 telling us what the remit of the Social Work Services  
21 Group was and perhaps I can just read that to you and  
22 you can confirm that this is what it says:

23 "The Social Work Services Group, which is part of  
24 the Scottish Education Department, has responsibility  
25 for the discharge of the Secretary of State's functions



1 under the Social Work (Scotland) Act 1968. These  
2 include ..."

3 And I think these are the functions of the Secretary  
4 of State:

5 " ... advice and general guidance to local authority  
6 social work departments on the implementation of the  
7 Social Work Act and liaison with voluntary organisations  
8 working in the social work field."

9 Is that correct?

10 A. Yes.

11 Q. I think the voluntary organisations would include  
12 organisations that, at that time, were involved in the  
13 provision of, for example, residential child care for  
14 children in need, the provision of foster care  
15 placements for children in need of care, and protection  
16 and so forth.

17 A. I would assume so.

18 Q. If we can move on to page 0025. At paragraph 3.19, we  
19 learn a little bit more, do we not, about the Social  
20 Work Services Group and its responsibilities.

21 If I can just again read what that says, that the  
22 Social Works Services Group was responsible for  
23 supporting services relating to the Children's Panel,  
24 probation, after care, social work in penal  
25 establishments, and the administration and financing of

1 residential establishments known as List D schools.  
2 I think, as we know, that was the terminology that was  
3 used after 1968, but largely speaking these schools were  
4 what we had known previously as approved schools and it  
5 also had responsibility the group for the care of  
6 children as regards various matters including adoption,  
7 fostering, and child abuse matters, and secure  
8 accommodation.

9 So there seems to have been some express recognition  
10 that one of the matters that they would be concerned  
11 with was child abuse matters. That's what it seems to  
12 be telling us.

13 A. Yes, it does.

14 Q. Then we see a bit more about the Chief Social Work  
15 Adviser and his position in the great scheme of things.  
16 At 3.20, we see that there was a body known as the  
17 Central Advisory Service, headed by the Chief Social  
18 Work Adviser, which was established to work alongside  
19 the Social Work Services Group. So we have two bodies  
20 at that stage, the Group and the Service, the CAS and  
21 the SWSG, as it is termed in the report. One was headed  
22 by the chief social adviser of the CAS, the Central  
23 Advisory Service, and the other by a senior civil  
24 servant --

25 A. Yes.

1 Q. Just pausing there, before I look at the rest of that  
2 paragraph, I may not have covered this with you or I may  
3 have done so, so forgive me if I ask again: the central  
4 advisory service, the post of Chief Social Work Adviser  
5 and the Social Work Services Group were all, as  
6 I understand it, set up by virtue of executive decisions  
7 rather than because statute required the setting up of  
8 these particular groups.

9 A. I think it was done administratively. I'm not familiar  
10 enough with the Social Work Act to know whether there  
11 was any requirement for these posts --

12 Q. I think the Social Work (Scotland) Act -- and I don't --  
13 I think there is reference in it to a body being set up  
14 but I do not think it was any of these bodies.

15 Can we at the moment proceed on the footing that it  
16 is likely that these bodies were set up by what we might  
17 call -- you say administratively and I might say by  
18 executive decision?

19 A. Yes.

20 Q. They mean much the same thing.

21 A. They were set up in order to implement the Secretary of  
22 State's duties under the Act so --

23 Q. It was his decision though to set them up?

24 A. Yes.

25 Q. He could have set up different arrangements if he so

1 chose, if he thought they would be better.

2 A. Better suited to implement the Act, yes.

3 Q. So he would have some discretion in how to proceed?

4 A. Yes.

5 Q. The one thing he did seem to do at that time was  
6 recognise the need to have some kind of professional  
7 advice from suitably qualified personnel to enable him  
8 to discharge the functions.

9 A. It appears so, yes.

10 Q. If I can perhaps -- before we perhaps -- I'm conscious  
11 of the time and I know the stenographer has had a lot of  
12 work to do this morning, but if I could maybe just  
13 finish off this page.

14 The CAS at paragraph 3.20, we are told, was headed  
15 by the Chief Social Work Adviser and was established to  
16 work alongside SWSG and I think we get there a statement  
17 of its remit. It was responsible for advising and  
18 guiding local authorities on the development of child  
19 care services and the Children's Hearing System and for  
20 liaising across departments on education, health  
21 services, penal services, housing and personal social  
22 services and for providing advice to the voluntary  
23 sector.

24 It says that CAS, the Central Advisory Service, also  
25 took on the functions of the Child Care and Probation

1 Inspectorate, which sat within the Scottish Home and  
2 Health Department, which was abolished from that point  
3 onwards.

4 I will just read what the footnote at 65 says by way  
5 of comment. It seems to be that it is said at  
6 footnote 65 that:

7 "[This] represented a move from highly  
8 institutionalised child care to designing support for  
9 children in family settings was taking effect, hence the  
10 role of professionally qualified social workers was  
11 gaining prominence over a traditional inspection  
12 function."

13 That was thought to be the thinking and direction in  
14 which this area was going as of 1968 and the  
15 establishment of these arrangements.

16 A. It appears so.

17 MR PEOPLES: That might be a convenient point.

18 LADY SMITH: That would be a convenient place to stop,  
19 Mr Peoples.

20 We will pause there for the morning break. If we  
21 could be back to start again at 11.45 am please.

22 (11.31 am)

23 (A short break)

24 (11.45 am)

25 LADY SMITH: Mr Peoples, when you are ready.

1 MR PEOPLES: Thank you, my Lady.

2 Ms Beattie, if we could return to part A of the  
3 report at SGV.001.001.0026. I think that page is taken  
4 up with a table, table 7, which discloses the remit of  
5 the Social Work Services Group and the Central Advisory  
6 Service that we were discussing before the break and it  
7 shows the various units that operated within those  
8 groups and services and their areas of responsibility.

9 I think, just without going through it at any  
10 length, we see that the Social Work Services Group, its  
11 remit included matters such as the Children's Panel and,  
12 about six or seven lines down, under "Remit", social  
13 work research, social work training, staffing and  
14 manpower and if we look at -- these matters seem to have  
15 been dealt with by a particular division or team.

16 Am I to read the second column under "Divisions and  
17 Teams" to mean that the divisions were known as:  
18 Children's Panel; probation, research; training and  
19 staffing? I'm not clear whether that is the name of it.

20 A. It is not clear.

21 Q. No, but there seems to have been some form of separate  
22 division or team within the group which had  
23 responsibility for schools on the Scottish Education  
24 Department's List D. I think that's where they get the  
25 expression List D, is it? There were lists kept by the

1 department, including List D; is that right? I know  
2 there are other lists but I don't want you to tell me  
3 about them.

4 A. That is my understanding, yes.

5 Q. List D, as we have now come to know, essentially  
6 replaced approved schools just as they had replaced  
7 certified reformatory industrial schools in the 1930s.

8 A. Yes.

9 Q. The remit of the division that was responsible for this  
10 particular type of establishment was responsible for  
11 both matters of financing and administration of such  
12 schools.

13 A. Yes.

14 Q. I think that broadly speaking, that for -- this  
15 information is taken from the Civil Service Year Book,  
16 if we look at footnote 66 --

17 A. Yes.

18 Q. -- for the year 1984.

19 At that time, List D schools were the responsibility  
20 of central government and were funded by central  
21 government; is that right?

22 A. I don't know how they were funded.

23 Q. Well, it says that the division's remit involved  
24 financing of List D schools.

25 A. It may have financing to other bodies that were running

1 the List D schools.

2 Q. I may be wrong about this, but my understanding is that  
3 List D schools as a classification -- and I think this  
4 may have appeared somewhere in the report -- that  
5 classification appeared in the mid-1980s when there were  
6 certain changes to funding of such schools and that  
7 there was -- and that that involved a withdrawal of  
8 central government funding from such establishments.  
9 I don't know the detail of the arrangements that  
10 replaced it, but I'm just giving that as  
11 perhaps information -- I don't know if it is information  
12 you know about or can comment on.

13 A. I don't feel I can comment on that.

14 Q. Okay. But at any rate, the Social Work Services Group  
15 did have some form of involvement with List D schools --

16 A. That certainly appears to be the case.

17 Q. -- post 1968?

18 A. Yes.

19 Q. The group also, within what seems to have been the child  
20 care division of the group, the Social Work Services  
21 Group, had responsibility for what are described as  
22 children in care. I think they would now be called  
23 "looked-after children".

24 A. Yes.

25 Q. Let's just be clear that the terminology does vary over



1 time.

2 A. Yes.

3 Q. The responsibilities for children in care would include  
4 in relation to matters of adoption and fostering and  
5 indeed specifically, as is said in column 3 of table 7,  
6 child abuse, assessment services, secure accommodation  
7 and residential training for children committed by the  
8 courts; yes?

9 A. Yes.

10 Q. Then I think we see that the remit of the Central  
11 Advisory Service is shown on page 0026. I don't think  
12 we need to focus on that part at the moment other than  
13 to say that part of the remit would involve those who  
14 were handicapped; do you see that?

15 A. Yes.

16 Q. Correct me if I'm wrong, I think that in relation to  
17 persons with handicaps, physical and mental disabilities  
18 and so forth, responsibility would extend both to adults  
19 and children. The distinction between children and  
20 adults isn't as clear-cut in that area as it is in some  
21 other areas; is that fair to say or do you know?

22 A. I don't know but that would make sense.

23 LADY SMITH: Just before we leave that page in the report  
24 and going back to the remit of the Social Work Services  
25 Group: we have looked at these two categories, one is

1 responsibility for List D schools and the other for  
2 child care, and there's this group "children in care"  
3 identified under child care.

4 The way it is set out, that would suggest that  
5 a child in a List D school doesn't come under the  
6 children in care categorisation; is that right? The  
7 short question is: were children in List D schools  
8 regarded as children in care for these remit purposes or  
9 were they not?

10 A. I'm afraid I don't know the answer to that.

11 LADY SMITH: Because it would be quite important to know  
12 that wouldn't it, Ms Beattie?

13 A. In terms of who had to deal with the policy  
14 responsibility?

15 LADY SMITH: In terms of if anybody was thinking about the  
16 well-being, particularly in terms of child abuse, of  
17 a child in a List D school or whether the approach was  
18 to have that concern it has to be a child in care in one  
19 of the other types of care, for example, adoption and  
20 fostering, which is identified in that box.

21 A. I follow the point, but I don't know the answer to the  
22 question.

23 LADY SMITH: Can we try and find out if that's possible,  
24 please?

25 A. Yes.

1 LADY SMITH: Thank you.

2 MR PEOPLES: Perhaps picking up, in perhaps a similar vein  
3 there, the responsibility of the child care division or  
4 team for matters that included child abuse, I suppose  
5 that begs the question: at the time of the remit in  
6 question, was that seen as child abuse in a community  
7 setting that caused children to come into care or was  
8 concerned also with the abuse of children within a care  
9 setting? Do you see the point?

10 A. I do and I don't know the answer to that question.

11 Q. Indeed, if it did extend to both situations, I suppose  
12 one would want to know to what extent, in relation to  
13 child abuse of children in care, that that was  
14 a significant part of the remit and practice of the  
15 group at that time.

16 A. Yes, but I don't know to what extent.

17 Q. I appreciate you don't know, but it is maybe something  
18 that we would need to know a bit more about.

19 Just before we leave that page under Central  
20 Advisory Service, I think also the Central Advisory  
21 Service had responsibility -- I may have read that too  
22 short, but I think that the first box was "physically  
23 handicapped" and I think that the second box was --  
24 "mental health problems" was an area within the remit of  
25 the Central Advisory Service. That would presumably

1 extend to both adults and children with mental health  
2 problems. Do you see that at the foot of page 0026?

3 A. Yes.

4 Q. I think it maybe echoes the point I made earlier that in  
5 the area of mental health perhaps there is not, as  
6 I say, the same kind of distinction that you get in the  
7 area of criminal justice between children and adults and  
8 the way that they are dealt with.

9 A. Yes. I'm not sure there what mental health is actually  
10 referring to because they say "mental health and  
11 addiction", so whether it is mental health relating to  
12 addictions or if they are separate matters --

13 Q. I see. If we pass onto the following page, 0027, do we  
14 see that the Central Advisory Service, which was headed  
15 up by the Chief Social Work Adviser, the new post that  
16 came into being in 1968 or so, one of the matters was  
17 within the remit of that service was List D schools. Do  
18 you see that at the top?

19 A. Yes.

20 Q. Another matter is described as "child care services and  
21 children's hearings"?

22 A. Yes.

23 Q. Although the point might be made that the child care  
24 services might include children who are in List D  
25 schools, the point that her Ladyship was making earlier.

1 A. I took that to be the point, yes.

2 Q. I think one of the areas also that was covered and  
3 I don't -- just to note at this stage, is some  
4 responsibilities in the area of what's called manpower.  
5 I think the expression then used in training. And also  
6 policy liaison with the SED assessor to the Central  
7 Council for Education and Training in Social Work (UK);  
8 post-qualifying training; manpower planning.

9 That, on the face of it, seems to be something to do  
10 with -- well, we need to concern ourselves with  
11 education and training in this area and that the purpose  
12 of the CAS was no doubt to assist in doing that; is that  
13 a fair reading of it?

14 A. That is a fair reading.

15 Q. Perhaps that's also maybe reinforced, that  
16 interpretation, by the final box in table 7, that part  
17 of the functions of the CAS, which was set up was to  
18 concern itself with social work methods and organisation  
19 of practice.

20 A. Yes.

21 Q. That's a pretty broad expression that could take in  
22 quite a lot of things including, no doubt, the practices  
23 of care staff in residential child care establishments  
24 and so forth.

25 A. It may well do.

1 Q. There's no reason why that wouldn't be included?

2 A. No reason why it wouldn't be included. Exactly what it  
3 means we would need to look at that in more detail.

4 Q. Just moving on, on the same page, to paragraph 3.21.

5 This information seems to have come from the  
6 Civil Service year books that we have been referred to.  
7 It states that the entries in that source indicate that  
8 the functions and divisions of the CAS were, as it is  
9 put, integrated into the SWSG in the late 1980s and that  
10 there continued to be a child care team within the SWSG  
11 with responsibilities which included fostering  
12 residential care services -- I'm reading this short --  
13 child abuse, secure accommodation, residential training  
14 for children committed by courts, Children's Hearings  
15 System and review of child care law. So that seems to  
16 have been added --

17 A. It does, yes.

18 Q. -- by this time in the late 1980s.

19 Then, if we move on to 3.22 on the same page -- and  
20 I think this was the point I was talking about earlier  
21 and it is recorded in the report that you are -- in this  
22 part, that many List D schools were closed in 1986,  
23 except for a small number that continued but were known  
24 as "residential schools" or by their legal name, it is  
25 put, "residential establishments".

1           So if we are trying to piece together the various  
2           establishments, List D is an expression that disappears  
3           in 1986 and henceforth, insofar as those schools  
4           continued in being, however they were funded, they would  
5           be know as either residential schools or residential  
6           establishments, because that seems to be what we have  
7           been told; is that right?

8       A. That appears to be the case, yes.

9       Q. The source of that information, at least in part, is  
10       Hansard, as footnote 67 informs us.

11           When we are talking about sources, that's often  
12           a useful guide, is it not, the debates within the House  
13           of Commons and House of Lords and questions to ministers  
14           about information and about matters such as approved  
15           schools, List D schools, and any concerns that might be  
16           raised about such places?

17       A. It would give you information about ministerial views on  
18       certain subjects and, yes --

19       Q. And questions raised --

20       A. And questions raised in Parliament, yes.

21       Q. Say there was a concern about a particular  
22       establishment, that might be the subject of a question  
23       in Parliament or the subject of a debate in Parliament?

24       A. It might be, yes.

25       Q. Of course, that's one way in which the matter gets

1 attention --

2 A. Attention.

3 Q. -- and perhaps has to be responded to both in Parliament  
4 and by action at ministerial and departmental level.

5 A. Yes, if raised.

6 Q. I think obviously this shows that, at least for the  
7 purposes of part A, to some extent there was an attempt  
8 to see what light Hansard might shed on some of the  
9 matters in part A; do we take that from it?

10 A. Yes.

11 Q. Just while we are on sources, just to help me, I think  
12 we have seen the Civil Service Year Book, which seems to  
13 have been seen as a useful source of information for  
14 particularly historical information and obviously we  
15 have just been discussing Hansard.

16 One of the other sources that seems to have been  
17 used in compiling this part of the report and perhaps  
18 other parts, I'm not -- is something called the British  
19 Imperial Calendar and Civil Service List or BICCS for  
20 short. Can you help me with that: what is that?

21 A. I would refer to that as the Civil Service Year Book.  
22 It is just what it was called before -- I think about  
23 1974.

24 Q. So the Civil Service Year Book was in existence under  
25 that name from about 1974?



1 A. The Civil Service Year Book was in existence as the  
2 Civil Service Year Book from 1974. Prior to that it was  
3 the British Imperial Calendar and Civil Service List.

4 Q. Just to help us, if you can, what sort of information  
5 would I get from that if I was interested in looking at  
6 it?

7 A. It is published by HMSO, it contains information about  
8 ministerial departments and ministers, and then tries to  
9 map that with the actual departments and the civil  
10 service structure.

11 Q. Was that in part used to produce these various diagrams  
12 and structures for this report?

13 A. Yes, it was used as a starting point for all of the  
14 spreadsheets that have been compiled.

15 Q. But if you were looking for things like the work of  
16 a department, would that be a source?

17 A. It would be the work of the department down to branch  
18 level, therefore what the branches are called, which  
19 gives you quite a good education of what the work of the  
20 branches are is now contained in the Civil Service Year  
21 Books, but I think it was only introduced into them in  
22 the mid-70s, so before that it only went to divisional  
23 level.

24 Q. But both before and after the mid-70s, what it wouldn't  
25 show, apart from showing the areas of work, would be

1           what work was actually being done in any particular  
2           period?

3       A.  No, it wouldn't.  It would show you what the  
4           responsibilities were over the period of the year but  
5           not what was actually done under each subject matter.

6       Q.  If we could now turn over to page 0029 and just -- do we  
7           see a paragraph 3.24 where we are told that the Social  
8           Work Services Group is on the move again and this time  
9           back to the Scottish Home and Health Department from the  
10          Scottish Education Department, and that happened in  
11          1991 --

12      A.  Yes.

13      Q.  -- or thereabouts?  Certainly there was a change --

14      A.  In the early 1990s, yes.

15      Q.  Again, we don't know why that change was made, but  
16          clearly there must have been some rationale for it.

17      A.  I would have thought there would be a rationale for it  
18          given that it is a quite a substantial move between  
19          departments.

20      Q.  You would see that as a substantial -- if you had seen  
21          that at the time, you would think there's something  
22          significant about this?

23      A.  Yes.  What that significance is obviously I can't  
24          comment on.

25      Q.  No, I appreciate ...  At paragraph 3.25, we find

1 reference to one of the many inspectorates that were  
2 mentioned earlier on this morning, the Social Work  
3 Services Inspectorate, SWSI for short. We are told that  
4 this inspectorate was added to the Social Work Services  
5 Group as from 1 April 1992.

6 A. Yes.

7 Q. Then, there is set out thereafter the function of the  
8 inspectorate and I will just read what it says. The  
9 function was to provide:

10 "Advice to government on social work policy and  
11 practice issues. Guidance to local authorities on  
12 policy implementation and practice. Publishing of  
13 national reports following evaluation of key aspects of  
14 social work services. Reports on individual authorities  
15 following local inspections. Oversight of achievement  
16 of national policy aims. Assessment of local authority  
17 performance and standards of social work service  
18 achieved. Service appraisal, performance measurement  
19 and effectiveness studies. Professional advice on  
20 social work methods and practice. Capital allocations  
21 for social work building programme. Training and  
22 manpower policy. Social work research and statistics.  
23 Liaison with professional organisations."

24 I think the source of that is the Civil Service Year  
25 Book for 1992.

- 1 A. Yes.
- 2 Q. It is quite a broad set of functions.
- 3 A. I don't disagree.
- 4 Q. It would take in some of the practical side of social  
5 work, including child care services that are operating  
6 locally.
- 7 A. I don't feel I could answer that --
- 8 Q. Can we not answer it from the function because if it's  
9 got to deal with reports that follow evaluation of  
10 aspects of social work services and reports on  
11 individual authorities following local inspections, it  
12 seems to envisage that there will be involvement based  
13 on information that's derived from inspection on the  
14 ground at local level by whatever team of inspectors is  
15 doing the inspection?
- 16 A. I would agree with that, yes.
- 17 Q. One can, I think, reason apply infer, can we not, that  
18 part of the purpose of this function is to no doubt  
19 inform and provide appropriate advice on social work  
20 methods and practice and so forth --
- 21 A. Yes.
- 22 Q. -- and whether there's any need for training or any  
23 manpower or staff implications or resources and so  
24 forth?
- 25 A. Yes.

- 1 Q. All these things?
- 2 A. Yes.
- 3 Q. It is, I suppose, a way of central government, through  
4 the work of this inspectorate, and indeed more generally  
5 the work of the Social Work Services Group, to be  
6 informed as to what's happening at a grass roots level  
7 and local level?
- 8 A. Yes.
- 9 Q. That that will presumably inform whether there need to  
10 be changes to policy or legislation or practice or the  
11 issue of guidance or circulars, rules and so forth?
- 12 A. If they are providing advice in all of these areas then  
13 yes.
- 14 Q. That is a normal process, isn't it?
- 15 A. It would be.
- 16 Q. It is familiar to you, isn't it? Not in this context  
17 but that's the way that government works.
- 18 A. Yes.
- 19 Q. That's the way that government gets some information  
20 passed up to it and evaluates it and acts on it or not.
- 21 A. Yes, if it is advising government on all of these  
22 matters then the government would be expecting to be  
23 advised on all of these matters.
- 24 LADY SMITH: I see that central to this is an oversight of  
25 the achievement of national policy aims: is the national

1 policy being delivered or not and to what standards is  
2 it being delivered; what are the performance and  
3 standards being achieved locally?

4 A. Yes, that's what it seems to imply.

5 LADY SMITH: It really is a key responsibility, isn't it?

6 A. Yes.

7 MR PEOPLES: My Lady, Ms Beattie, if I could move on to  
8 a new chapter, chapter 4. We are now into the period  
9 1995 to 2007 and it is SGV.001.001.0030 I'm starting  
10 this chapter at.

11 What it seems to do -- I think this chapter is  
12 a little bit different from the previous chapters in  
13 that during this period -- this is in the run-up to  
14 quite significant changes in terms of devolution. It is  
15 shortly before devolution came into being.

16 A. Yes.

17 Q. The chapter does deal with two periods, the  
18 pre-devolution period dealing with the period 1995 to  
19 1998 and the post-devolution period, which is the period  
20 from 1998 to 2007; is that right?

21 A. Yes.

22 Q. Sorry, can you just remind me of the significance of  
23 2007 as the end point of this period?

24 A. 2007, that would be when the SNP government took over.

25 Q. So it is not to do with -- the chapter itself isn't

1 a pre-devolution, pre-1995, from the Children Act to  
2 the --

3 A. I didn't take it as being a major legislative change;  
4 I thought it was a political change --

5 Q. Change of government. That is probably the significance  
6 of that year --

7 A. Yes.

8 Q. -- you had a change of government and that is the --

9 A. Because the structure has changed as a result.

10 Q. And it has caused a change of structure.

11 Well, if I look very briefly, if I may, at the  
12 pre-devolution period, which was a fairly short period  
13 in this chapter of about three years or so. When we are  
14 looking to the departmental structures, all I would wish  
15 to maybe make reference to at 0030, at 4.3, is that,  
16 well, we have some changes of terminology but it doesn't  
17 seem very different to what we have seen before.

18 We have departments still, which -- that's still the  
19 major title, isn't it? The departments are still in  
20 existence. The person in charge is called the head of  
21 department.

22 A. Yes.

23 Q. Within departments they seem to now be calling them  
24 groups and that is the next senior division within the  
25 department, groups?

1 A. Yes.

2 Q. That is headed by someone called the group head. Then,  
3 within each group we have something called divisions,  
4 which is a term that was used before and these divisions  
5 are each headed by a person called the division head.

6 A. Yes.

7 Q. That's the structure. It is not materially different to  
8 what we have seen before, is it?

9 A. No.

10 Q. If we look at the responsibilities of the Scottish  
11 Education Department in this period between 1995 and  
12 1998, if we could turn to page 0031, at 4.4 do we see  
13 that:

14 "The Scottish Education Department continued to be  
15 responsible for the provision of education as well as  
16 for the inspection of schools ..."

17 What we are told, no doubt to make sure we realise  
18 that there is a change of name as well, is that from  
19 1991 -- am I right, from 1991 it was the Scottish Office  
20 Education Department; is that right?

21 A. Yes.

22 Q. So the SED from 1991 became what was known as the  
23 Scottish Office Education Department. It wasn't  
24 a material change, just a change of name?

25 A. It doesn't look like a material change, just a change of



1 name.

2 Q. Indeed it became the Scottish Office Education and  
3 Industry Department in 1995, but again that is a name  
4 change?

5 A. A name change. If it has "industry" in it I imagine  
6 other functions were put into it.

7 Q. That might have involved an allocation of additional  
8 responsibilities involving matters concerning industry?

9 A. I would assume so.

10 Q. The department as a whole, following devolution, we are  
11 told became the Scottish Executive Education Department?

12 A. Yes.

13 Q. That was to reflect the terminology -- the devolved  
14 administration was then known as the Scottish Executive  
15 until it was changed formally in 2012 to the Scottish  
16 Government.

17 A. Yes.

18 Q. There's some discussion of the Scottish Health and Home  
19 Department, which seems -- is it?

20 A. I thought it was "Home and Health Department" --

21 Q. So did I, but maybe it is just a typo. It is perhaps  
22 more easily done if it is SHHD. But let's assume it is  
23 the Scottish Home and Health Department that was created  
24 in 1962, I think it was.

25 We are told at 4.5 on page 0031 that the

1 department's remit continued largely as before until  
2 1996. There is reference there, we don't need to dwell  
3 on it, to quite important legislative change we are  
4 concerned with, the Children (Scotland) Act (1995),  
5 which was passed.

6 A. Yes.

7 Q. We are told at 4.6 that the SHHD continued to include  
8 the SWSG that we have been hearing about and within that  
9 group sat what's known as the Child Care and Social  
10 Service Inspectorate until 1996.

11 I'm not sure it is here. Maybe we will find it  
12 later on. Was that the year that the inspectorate  
13 disappeared from the structure? Do you know?

14 A. I don't know.

15 Q. We might find it later on. We I will see.

16 Paragraph 4.7 records that the Social Work Services  
17 Group was transferred to the Scottish Office Home  
18 Department when the Scottish Home and Health Department  
19 was split in 1996 between the Scottish Office Home  
20 Department and the Scottish Office Department of Health.  
21 Is that what it says?

22 A. Yes.

23 Q. Then, if we pass on to the Scottish Office Home  
24 Department, at 4.8 we are told that that department was  
25 formed in 1996 and it had within its remit the Social

1 Work Services Group and the Scottish Prison Service, is  
2 it?

3 A. Yes.

4 Q. That it also took on Home and Justice responsibilities  
5 from the Scottish Home and Health Department and that  
6 that Scottish Office Home Department, which was pretty  
7 short lived it would appear, was superseded  
8 post-devolution by what was known as the  
9 Scottish Executive Justice Department.

10 A. Yes.

11 Q. If we look at footnote 74 we are told that the  
12 Scottish Executive Justice Department, following  
13 devolution, retained responsibility for the Scottish  
14 Prison Service, however its functions in relation to  
15 children in care were transferred to the  
16 Scottish Executive Education Department and we will  
17 probably see that later on as well. Is that --

18 A. Yes.

19 Q. Just to help me, I'm not sure: the Scottish Prison  
20 Service, did it have responsibility for establishments  
21 for juvenile offenders or by this stage was that  
22 separate from the Scottish Prison Service? Did it have  
23 any responsibilities or do you know?

24 A. I don't know and I had assumed from what we had looked  
25 at earlier that everything in relation to juvenile

1 services was the responsibility of the education  
2 department.

3 Q. That would certainly reflect the idea of treating  
4 juvenile offenders as a group that should not be treated  
5 in the same way as adult offenders and dealt with by way  
6 of disposals that involved prison.

7 A. Yes.

8 Q. If we pass onto page 0032 -- and we are now into the  
9 post-devolution period which is the period in this  
10 chapter that starts in 1998 and, for the purposes of  
11 this chapter, ends in 2007.

12 From the general points made at 4.10, do we see that  
13 the formation or establishment of the  
14 Scottish Executive -- was that around May 1999?

15 A. Yes.

16 Q. Involved the transfer of much of the Scottish Office of  
17 the UK Government, including many of its civil servants,  
18 into the service of the newly devolved administration.

19 The ministerial team of the Scottish Office, we are  
20 told at 4.11, which became the Scotland Office, was  
21 reduced to two, being the Secretary of State for  
22 Scotland and a Minister of State.

23 A. Yes.

24 Q. We are told at 4.12 that the policy portfolios of  
25 Scottish Central Government, which were relevant to the

1 Inquiry, continued post-devolution as they were before,  
2 namely, education, health, justice and social care. In  
3 that sense the impact of devolution was --

4 A. On those areas was minimal.

5 Q. Was minimal.

6 If I could pass over to page 0033, if I may.

7 Do we see that when the first Scottish Cabinet was  
8 formed post-devolution, that one of the ministries  
9 created was the Minister for Children and Education?

10 A. Yes.

11 Q. I'm not sure you can help us, but would that be the  
12 first time that there was explicit reference in  
13 a ministerial designation to children?

14 A. I don't recall there being one before then.

15 Q. We do see the reference to education?

16 A. Yes, but not to children specifically.

17 Q. While education is quite important for children,  
18 children have other needs including social care  
19 sometimes.

20 A. Yes.

21 Q. There's also something now which is a new expression  
22 which appears post-devolution, one of the other  
23 ministers is a Minister for Enterprise and Life Long  
24 Learning, which I think is a new expression we see --

25 A. Yes.

1 Q. -- and has continued perhaps over time. Then, if we go  
2 to page 4.15, do we see what's described as "a slight  
3 alteration" to the Cabinet in 2000?

4 A. Yes.

5 Q. The Post of Minister for Children and Education was  
6 removed; do we know why that was?

7 A. No.

8 Q. But the responsibility for children seems to have become  
9 part of a new post, the Minister for Education, Europe  
10 and External affairs; is that right?

11 A. Where the posts were subsumed into, I don't know.

12 Q. Does it not say at paragraph 4.15 that the Minister for  
13 Education, Europe and External Affairs included  
14 responsibility for children, and there's reference to  
15 footnote 80 which says "children and young people,  
16 pre-school and school education"; do you see that?

17 A. Yes.

18 Q. So it does appear as if that responsibility was  
19 inherited by this particular minister --

20 A. Yes.

21 Q. -- along with education in general, which is what the  
22 previous minister had, but also the minister seems to  
23 have acquired responsibility for quite major areas  
24 involving Europe and external affairs; would that be  
25 fair to say?

- 1 A. Yes.
- 2 Q. Then there seems to have been another change in late  
3 2001 according to paragraph 4.16; do we see that?
- 4 A. Yes.
- 5 Q. We are not back to the Minister for Children and  
6 Education but we now have a minister for Education and  
7 Young People, do we?
- 8 A. Yes.
- 9 Q. I suppose "young people" is maybe a modern parlance,  
10 quite a good expression, because in previous legislation  
11 we have children defined as under 14 and young persons  
12 under 17, so I suppose we have both groups and "young  
13 people" might adequately cover both or can you comment  
14 on that?
- 15 A. I can't comment.
- 16 Q. Indeed, this ministerial post replaced the post, the  
17 short-lived post again of Minister for Education, Europe  
18 and External Affairs.
- 19 A. Yes.
- 20 Q. It didn't last long.
- 21 If we go over to page 0034. Can I just pick up on  
22 one thing that's said about ministerial responsibilities  
23 at this time, at paragraph 4.18. Do we see that the  
24 Minister for Education and Young People, the minister's  
25 portfolio included oversight of HM Inspectorate for

1 Education and we are told that that inspectorate was  
2 re-named HM Inspectorate of Education in 2001 from its  
3 previous name of HM Inspectorate of Schools.

4 We also see that this minister also had within their  
5 ministerial responsibility HM Inspectorate for Social  
6 Work. So we have now got HM Inspectorate for Social  
7 Work.

8 A. Yes.

9 Q. That's not an expression we have seen before. Do we  
10 know when that status was conferred and how it happened  
11 and so forth?

12 A. No.

13 Q. We will find out --

14 A. We will find out and we will look in more detail into  
15 the work of the inspectorates.

16 Q. I suppose that the HM Inspectorate for Education, the  
17 change from schools to education for that particular  
18 inspectorate, am I right in thinking -- I may have read  
19 this somewhere else -- that that perhaps reflected  
20 a wider educational remit beyond school education?  
21 Would that be a reason why the title might change or do  
22 you know?

23 A. I'm afraid I don't know.

24 Q. If we go to paragraph 4.19 do we see that -- we are told  
25 to make note of one consideration which is that --



1 I think we touched on this this morning, I believe:

2 "As was the case pre-devolution, it should be noted  
3 that Civil Service departments may report to more than  
4 one minister, although a department is likely to report  
5 in the main to the minister most relevant to its  
6 portfolio."

7 A. Yes.

8 Q. So we don't even have a situation where a department has  
9 one minister necessarily?

10 A. Generally it is one minister but that situation can  
11 arise when there's a combination of interests.

12 Q. So far as departmental structure is concerned, at  
13 paragraph 4.21 on page 0034, we are told -- and I think  
14 this is all we need to know at this stage -- that the  
15 basic departmental structure, from high to low, which  
16 existed in this period from devolution to 2007, begins  
17 at the top with departments. We then descend to groups  
18 or directorates and then, below that, divisions and  
19 finally branches.

20 A. Yes.

21 Q. If we can move on to page 0036. I can perhaps just  
22 start briefly by recording there's reference to the  
23 Scottish Criminal Record Office and that that office  
24 reported to the Head of Police Division.

25 I think we have already established the Police

- 1 Division is a division within --
- 2 A. The Scottish Government.
- 3 Q. The Scottish Government. And that the Record Office, we  
4 are told, carried out criminal checks on behalf of  
5 public sector bodies. That was part of their functions.
- 6 A. Yes.
- 7 Q. Perhaps we should just take this in passing: in 2001,  
8 the Disclosure Scotland was established as an office  
9 within the Scottish Criminal Record Office with  
10 responsibility for carrying out the record checks.
- 11 A. Yes.
- 12 Q. We are told that, at that time, Disclosure Scotland  
13 staff were civilian employees of what was then the  
14 Strathclyde Joint Police Board.
- 15 A. Yes.
- 16 Q. We are told that, at paragraph 4.26, that the Scottish  
17 Prison Service was moved from the Scottish Office Home  
18 Department --
- 19 A. Yes.
- 20 Q. -- where it sat pre-devolution to the Scottish Executive  
21 Justice Department and that the Scottish Prison Service  
22 was led by a chief executive who reported to the head of  
23 the Scottish Executive Justice Department; yes?
- 24 A. Yes.
- 25 Q. So that the Scottish Prison Service sat within

1 a department and reported to the head of the department,  
2 albeit it had a chief executive?

3 A. Yes, at that point it would have been an executive  
4 agency of the Scottish Government but it would have  
5 reported to the head of a department.

6 Q. So it wasn't an independent body --

7 A. It is not independent.

8 Q. -- either created by statute or in some other way with  
9 that degree of independence?

10 A. It is not independent.

11 Q. No. Then if we go on to paragraph 4.27, under the  
12 heading "Scottish Executive Education Department", which  
13 was formerly the Scottish Education Department  
14 pre-devolution. We are told it had a number of groups,  
15 including the Children and Young People's Group. Do we  
16 see that at 4.27?

17 A. Yes.

18 Q. And also the Social Work Services Inspectorate, which we  
19 are told was previously under the Social Work Services  
20 Group in the Scottish Office Home Department  
21 pre-devolution; yes?

22 A. Yes.

23 Q. Footnote 84 tells us that the report -- the  
24 inspectorate, in other words the Social Work Services  
25 Inspectorate, reported to the Children and Young

1 People's Group and was led by a Chief Inspector. So the  
2 inspectorate and the Chief Inspector reported to  
3 a senior civil servant who was the group head?

4 A. Yes.

5 Q. Who in turn reported to the departmental head?

6 A. Yes.

7 Q. We are told at footnote 84 that:

8 "The inspectorate advised the Scottish Executive on  
9 social work policy and practice issues and provided  
10 guidance to local authorities on policy implementation  
11 and practice. The inspectorate was also responsible for  
12 publishing national reports following the evaluation of  
13 key aspects of social work services and reports on  
14 individual authorities following inspections."

15 A. Yes.

16 Q. I think that echoes some of the things we saw earlier  
17 on.

18 A. Yes.

19 Q. If we move on to page 0037, if I may.

20 We are still, I think, dealing with the  
21 Scottish Executive Education Department. This is more  
22 focused in terms of the group within that department.  
23 If we look at 4.29, do we see that the Children and  
24 Young People's Group, which we have just seen reference  
25 to, contained a number of divisions which we are told

1 would be relevant to the Inquiry's work? One being  
2 Young People and Looked-after Children; I think that is  
3 the expression that is used now rather than "children in  
4 care".

5 It also deals with a more general description of  
6 "Early education and child care" and I'm not sure how  
7 far that touches upon us, but it is said it could be  
8 relevant so no doubt we will be told what areas of  
9 relevance of our Inquiry were covered by this particular  
10 division.

11 And it also has a Children and Families Division.  
12 I see that we are told in the footnotes what the various  
13 specific responsibilities were of these divisions.  
14 Footnotes 85, 86 and 87. Perhaps I could just pick up  
15 on footnote 85 for the moment.

16 The division that was responsible for young people  
17 and looked-after children, that division's  
18 responsibilities, at that time, included policy on --  
19 I think the word "policy" -- we have to make sure that  
20 we understand its policy on various matters including  
21 fostering, residential services for children, child  
22 protection and abuse, secure accommodation -- I'm  
23 reading this short -- Children's Hearings System and  
24 services for children with disabilities, and grants to  
25 child care organisations.

1 A. Yes.

2 Q. It is not obvious from footnote 86 that there's quite  
3 the same direct connection between looked-after  
4 children, as a group and this other division of Early  
5 Education and Child Care. But there may be some --

6 A. There may be some links.

7 Q. -- link or overlap.

8 Then there is the third division mentioned at 4.29  
9 and its responsibility is set out at footnote 87, which  
10 does include, I see, child protection, including vetting  
11 systems.

12 Do we know whether that responsibility extended to  
13 protection and vetting systems in relation to  
14 looked-after children?

15 A. I don't know for the purposes of this report.

16 Q. Both children looked after by the State or by others?

17 A. I don't know.

18 Q. But that's something we can no doubt be told. Not in  
19 the report but we can find that out, I take it?

20 A. Yes.

21 Q. I just note in passing, because I think it is important  
22 for present purposes to note, at 0038, under the section  
23 headed "Scottish Executive Health Department" as it was  
24 then known, that at paragraph 4.33 it is recorded that:

25 "The Survivor Scotland team was formed in 2005

1 within this department with the responsibility for  
2 improving support for adult survivors of child abuse and  
3 engaging stakeholders."

4 For those of us not familiar with the terminology in  
5 use, what is a stakeholder?

6 A. A stakeholder would be anybody with any relevant  
7 interest in the subject. So the stakeholders would  
8 include survivor groups and local authorities, social  
9 work departments. So just anybody who had an interest  
10 in what the team were actually trying to achieve.

11 Q. If I could move on from there to chapter 5, which is  
12 taking us forward from 2007 to 2014, which is when this  
13 present Inquiry was announced by the Minister, I think,  
14 in December of 2014. I think I have my dates roughly  
15 correct. Can I just ask you briefly about this period  
16 as well.

17 If we have page 0038, do we see that we get more  
18 name changes?

19 A. Yes.

20 Q. We now see that at 5.2 that cabinet ministers have  
21 become cabinet secretaries and deputy ministers have  
22 become ministers.

23 A. Yes.

24 Q. If we move over the next page at 0039, at table 10 do we  
25 see the differences between the ministerial designations

1 pre-election in 2007 and post the Scottish Parliament  
2 election of 2007; is that right?

3 A. Yes.

4 Q. There is a comparison. If we focus on the left-hand  
5 side of table 10, the post-Scottish Parliamentary  
6 election 2007, do we see that there is a Cabinet  
7 Secretary for Education and Lifelong Learning?

8 A. Yes.

9 Q. If we look at footnote 90, we see that the  
10 responsibilities of that cabinet secretary included:  
11 school education, HM Inspectorate of Education,  
12 nurseries and child care, children's services,  
13 children's hearings, social work and the Social Work  
14 Inspection Agency?

15 A. Yes.

16 Q. Within that ministerial portfolio, under the Cabinet  
17 Secretary for Education and Lifelong Learning, do we see  
18 that there is now a Minister for Children and Early  
19 Years?

20 A. Yes.

21 Q. Yet again there is a change of name and we are told that  
22 that minister became the Minister for Children and Young  
23 People in 2011?

24 A. Yes.

25 Q. Indeed it adds, by way of additional factual



1 information, that from 2012 the responsibilities also  
2 included Kerelaw and historic abuse?

3 A. Yes.

4 Q. Can you help us with that?

5 A. Sorry, in what sense?

6 Q. Well, what's the significance of that?

7 A. It is simply to show where that responsibility, in terms  
8 of the minister, now rests.

9 Q. Do we take it that from 2012 responsibilities for  
10 Kerelaw -- is that for the place or issues that arose  
11 out of a problem at Kerelaw or both?

12 A. It is probably in relation to the issues that arose out  
13 of Kerelaw.

14 Q. And historic abuse is a wider term and I think, possibly  
15 by the date we were looking at, that was very much in  
16 the political and public eye.

17 A. Indeed it was.

18 Q. We are now eight years on from the First Minister's  
19 apology that we heard about in the opening statements.

20 So where did responsibility for historic abuse lie  
21 before 2012?

22 A. I don't know.

23 Q. Could you find out? Can we find out when that  
24 responsibility first appeared and what it entailed?

25 A. Yes. I mean issues around historic abuse would

1 obviously have been dealt with in other areas within the  
2 government from a much earlier stage than 2012. That's  
3 the first time that it has obviously appeared as being  
4 an actual responsibility.

5 Q. Does that tell us anything about its importance at that  
6 stage and its importance prior to that stage?

7 A. I don't think so.

8 Q. No. Well, no doubt we will find out when we see why  
9 this change occurred.

10 A. It is possible, but it has been a matter of considerable  
11 importance to the government for many years.

12 Q. Are you able to tell us when that period started?

13 A. I'm afraid not. Obviously, I'm aware of the apology in  
14 2004 and a bit of the background to that and I am aware  
15 that it is a matter that has been dealt with very  
16 seriously by the government since that time.

17 Q. I think, as we saw from the extracts of the opening  
18 statements, from the First Minister's apology in 2004  
19 that certainly by that stage there was  
20 an acknowledgement and acceptance that there had been  
21 abuse of children in care.

22 A. Absolutely.

23 Q. Presumably -- and again I don't expect you to be able to  
24 tell me the detail of this, but you know how government  
25 works in a general sense -- a First Minister would not

1 issue a public apology of that nature without having  
2 a sound basis for doing so and evidence to support it.

3 A. I can't comment on the background to the making of the  
4 apology.

5 Q. I think part of that will probably appear in the second  
6 report that we have asked for, the state of knowledge  
7 over time about abuse in care and the response to it;  
8 would that be fair to say?

9 A. It may well do, yes.

10 Q. Well, one might hope that.

11 Just so that we -- I don't want to get bogged down  
12 now with the departmental structure but I suppose  
13 I ought to just record that at 0040 we now have  
14 departments know as directorate generals; is that right?

15 A. Yes.

16 Q. Essentially their remits are as they were before. If we  
17 take, for example, the Scottish Executive Education  
18 Department, which became the Directorate General for  
19 Education, the remits would be much the same?

20 A. They are broadly similar. I recall they were set up in  
21 order to match and mirror as far as possible the cabinet  
22 secretary posts.

23 Q. What I might just note in passing at 0041, if I may, if  
24 we could go to that, paragraph 5.8, do we see that the  
25 Children and Young People's Group, which was formed

1 under the Scottish Executive Education Department, was  
2 renamed to become the Young People and Social Care  
3 Directorate, under the Directorate of General Education;  
4 is that what it is saying?

5 A. Yes.

6 Q. And that responsibility for oversight of  
7 Disclosure Scotland until 2011 and also responsibility  
8 for the HM Inspectorate of Education sat under this  
9 Directorate General of Education?

10 A. Yes.

11 Q. And that the Directorate General of Justice, as it had  
12 become, oversaw the Scottish Prison Service?

13 A. Yes.

14 Q. Indeed, just to follow that through a little bit, so far  
15 as Disclosure Scotland is concerned at 5.9, we see staff  
16 transferred from the Strathclyde Joint Police Board to  
17 join the core Civil Service.

18 A. Yes.

19 Q. Disclosure Scotland at that point became an executive  
20 agency of the Scottish Executive.

21 A. Yes.

22 Q. If we just pass over the page to 0042, if one is looking  
23 to find the specific responsibilities of  
24 Disclosure Scotland, we are told they are contained in  
25 the Police (Scotland) Act (1997) and there is some

1 reference to that matter contained in part B, which was  
2 the report prepared by Ms Irvine. Also responsibilities  
3 are contained in the Protection of Vulnerable Groups  
4 (Scotland) Act (2007); yes?

5 A. Yes.

6 Q. If we move on to 0043, do we see that the children at  
7 5.17 -- it is just at the foot of the page. Do we see  
8 the Children and Families' Directorate was created in  
9 the Directorate of General Health and Social Care in  
10 2011?

11 A. Yes.

12 Q. And that the relevant divisions and branches of that  
13 directorate are set out on table 11. We will look at  
14 that in a moment briefly. It says:

15 "The directorate assumed responsibility for most of  
16 the remit of the Children and Young People's Group,  
17 which had previously sat under the Directorate General  
18 Education (where it had been called the Children, Young  
19 People and Social Care Directorate) and before that it  
20 had been sitting under the Scottish Executive Education  
21 Department."

22 A. Yes.

23 Q. It is not only quite a mouthful, but it is quite  
24 difficult to keep track of all these changes, is it not?

25 A. I think I would agree with that.

1 Q. If we look at page 0044 briefly. This, I think,  
2 attempts to give us some information on table 11 on the  
3 Children and Families' Directorate -- I don't know if  
4 you are able to see that -- both at regional and branch  
5 level within the directorate.

6 One division is Children's Rights and Well-being.

7 A. Yes.

8 Q. Is that possibly the first time we see a specific  
9 reference in the label of a division or an equivalent to  
10 Children's Rights and Well-being?

11 A. I'm not sure. I haven't looked at all the spreadsheets  
12 of the divisions from that period but certainly by then  
13 it is a division that's called Rights and Well-being.

14 Q. Within that division there appear to be three branches  
15 that might be particularly relevant -- they may all be  
16 relevant -- one is the Child Protection Policy Team that  
17 sits within this directorate. That is a branch of the  
18 directorate at that time.

19 A. Yes.

20 Q. Also the Children's Services Legislation?

21 A. Yes.

22 Q. And also Rights and Participation. I think that's  
23 probably underpinned by some developments which had  
24 occurred including the Children (Scotland) Act (1995)  
25 and the UN Convention on the Rights of the Child and so

1           forth. Does that so some extent echo the concept of  
2           children having rights and participation in decisions  
3           affecting their welfare?

4           A. It certainly echoes that principle.

5           Q. Then I think the "Getting it right for every child" team  
6           is a team that presumably was established to take  
7           forward one of the Scottish Government's initiatives?

8           A. Yes I think the "Getting it right for every child" team  
9           was established around 2006, so it has been around for a  
10          while.

11          Q. Was it one of the responses following the First  
12          Minister's apology in 2012?

13          A. I don't know if it was a direct response to the apology,  
14          but it was certainly set up around the same time.

15          Q. It was one of the actions. I think Ms O'Neill helpfully  
16          told us about a range of actions and initiatives between  
17          2004 and the present time that followed upon the First  
18          Minister's apology in 2004; is that right?

19          A. It was certainly a policy to look at how to achieve the  
20          best outcomes for children.

21          Q. If we look again at table 11 at page 0044, do we see  
22          that under the division that's entitled Care and Justice  
23          there are a range of matters that are covered:  
24          children's hearings, youth justice, preventing offending  
25          by young people, improving outcomes for looked-after

1 children.

2 That's part of the responsibilities of that division  
3 and there is a particular branch dedicated to that  
4 particular responsibility, is there?

5 A. Yes.

6 Q. Also, is it a separate branch that's dealing with  
7 "Getting it right for looked-after children"? Is that  
8 how we look at the table?

9 A. It appears to be a separate branch. There appears to be  
10 a spreadsheet but I don't know what spreadsheet that  
11 relates to.

12 Q. So there are two separate branches: one is "improving  
13 outcomes for looked-after children" and the other one is  
14 getting it right for them. One might think that they  
15 are perhaps two sides of the same coin.

16 A. If it is two separate branches they obviously have  
17 remits in relation to two separate matters.

18 Q. But at least they do sit within the same division?

19 A. Yes.

20 Q. If I could just move on to page 0045, and just see that  
21 it is recorded there that there was quite a significant  
22 development in 2011, that the Social Care and Social  
23 Work Improvement Scotland was formed under I think  
24 legislation.

25 A. Yes.



1 Q. But we all know it as the Care Inspectorate and it was  
2 formed, it is stated, by bringing together the functions  
3 of the Social Work Inspectorate Agency and the  
4 Care Commission, both of which were dissolved in 2011.

5 A. Yes.

6 Q. I think the Care Commission, if I'm not mistaken, as it  
7 says in footnote 104, was established under the  
8 Regulation of Care Scotland Act 2001?

9 A. Yes.

10 Q. It was a relatively new body in any event.

11 It states that the Care Inspectorate was formed to  
12 bring together those functions in relation to what are  
13 described as "registered care services" and it also --  
14 as well as functions -- which had been carried out by  
15 the HM Inspectorate of Education, for inspecting  
16 services for the protection of children --

17 A. Yes.

18 Q. -- and for the integration of children's services  
19 also -- was it taking in a lot of services? I'm just  
20 trying to make sense of what it was doing.

21 A. It took in services from HMIE, as it says, in relation  
22 to inspecting services for the protection of children.  
23 So not the major functions of HMIE in relation to  
24 inspecting schools.

25 Q. If I can interrupt you there. Does that mean that the

1 traditional educational functions of inspection would  
2 have been retained by HMIE which became Education  
3 Scotland?

4 A. Yes.

5 Q. But what might be termed the welfare and care functions,  
6 insofar as there were such functions, were transferred  
7 to the Care Inspectorate?

8 A. That's my understanding.

9 Q. We are told that the Care Inspectorates is  
10 a non-departmental public body created by statute?

11 A. Yes.

12 Q. Just help us there. What is the difference between  
13 a nondepartmental body created by statute and say, for  
14 example, an executive agency?

15 A. A nondepartmental public body, as it says, the powers  
16 and the roles and responsibilities for it will be  
17 defined by the statute; so what it can do and the limits  
18 of what it can do are set out in the statute.

19 An executive agency is part of government, so it has the  
20 same functions, roles, rights and responsibilities as  
21 government has.

22 Q. One important distinction perhaps, and it is recorded in  
23 5.20, is that in the case of the Care Inspectorate, it  
24 is independent from the Scottish Government and  
25 Civil Service reporting structure?

- 1 A. Yes.
- 2 Q. It doesn't sit within any of the structures or within  
3 the Scottish Government itself?
- 4 A. It is completely arm's length.
- 5 Q. It says its role is to "scrutinise the provision of the  
6 provision of social care and support services, including  
7 local authority delivery of social work  
8 responsibilities"?
- 9 A. Yes.
- 10 Q. So just to help me if you can, was the  
11 Care Inspectorate, therefore, in terms of status,  
12 different from the Care Commission and the Social Work  
13 Inspectors' Agency? Am I right in thinking the Social  
14 Work Inspectors' Agency was an executive agency?
- 15 A. I know the Social Work Inspectors' Agency was  
16 a executive agency. The Care Commission, if it was  
17 established under an Act I imagine was also  
18 a nondepartmental public body.
- 19 Q. Since 2011 there is perhaps a mixture of organisations  
20 involved in the regulation of care services, some  
21 executive agencies and some akin to the  
22 Care Inspectorate?
- 23 A. Yes.
- 24 Q. But as from 2011 there were no executive agencies  
25 involved in the process?

1 A. No, that is correct.

2 Q. Do we know what the thinking behind that change was?

3 A. I don't know the policy reasons behind it.

4 MR PEOPLES: My Lady, I think we can finish with this  
5 witness. Clearly there are areas that will have to be  
6 covered on other occasions.

7 LADY SMITH: Yes, indeed.

8 MR PEOPLES: There are lots of things one could ask but  
9 I think a lot of the answers, insofar as they are  
10 available, are in the report itself to read. I'm  
11 content at this stage that this witness can be stood  
12 down. Other than perhaps I think -- maybe I should  
13 deal, if I could very briefly, I think there were  
14 some -- I was asked if there were certain matters --  
15 I don't know if they are being pursued at this stage.

16 LADY SMITH: Is it you Mr Anderson, is it?

17 MR PEOPLES: I'm not sure if I have dealt with it enough.

18 MR DAVID ANDERSON: Yes, my Lady. My learned friend touched  
19 on quite a lot of things about record keeping and what  
20 is and isn't archived and your Ladyship asked a question  
21 about that as well.

22 There were some matters which I had asked my learned  
23 friend to raise and I think it is a question which the  
24 witness isn't likely to have the answer to, so I think  
25 it might just be left just now and we can return to it

1 given we will be looking into these matters again.

2 LADY SMITH: Thank you very much.

3 MR PEOPLES: Can I assure my learned friend Mr Anderson that  
4 I think I understand the general point. I think he is  
5 correct in saying that it would not be a question we  
6 would get an answer to, but it does raise a general  
7 issues of what records are retained and what types, and  
8 I will certainly keep in mind when we try to find out  
9 how things operated.

10 LADY SMITH: Thank you very much. Was there anything else  
11 that anyone wished to raise before I let this witness go  
12 at this stage?

13 Very well. Thank you very much. Thank you  
14 Ms Beattie, I can let you go now but I am sure you are  
15 aware of the various issues that have arisen that we  
16 have left with you for further enquiry to be made about  
17 and response to the Inquiry.

18 Thank you very much. We will adjourn now until  
19 2 o'clock.

20 (1.01 pm)

21 (The luncheon adjournment)

22 (2.00 pm)

23 LADY SMITH: Good afternoon.

24 We turn to the next stage of evidence in this week's  
25 sessions and I think that's back to you, Mr MacAulay; is

1           that right?

2       MR MacAULAY:  It is, my Lady, and the first witness I would  
3           like to call this afternoon is Father Crampsey.

4       LADY SMITH:  Thank you.

5                               FATHER CRAMPSEY (sworn)

6                               Questions by MR MacAULAY

7       LADY SMITH:  Thank you.  If you would like to sit down  
8           please.

9           Mr MacAulay.

10      MR MacAULAY:  My Lady.

11                Father Crampsey, are you James Crampsey?

12      A.  I am.

13      Q.  Are you here in your capacity as President of the  
14           Conference of Religious?

15      A.  Yes, I am.

16      Q.  To give you your full designation, you are Father  
17           James Crampsey SJ?

18      A.  Yes.

19      Q.  And you are a member of the Society of Jesus?

20      A.  I am.

21      Q.  In that connection you are in good company because so is  
22           the Pope; is that right?

23      A.  That is correct.

24      Q.  Could I put your profile on the screen.  This is

25           INQ.001.001.0647.

1 I think you provided us with this profile of your  
2 qualifications and your history; is that right?

3 A. Yes.

4 Q. Can we see from this that after your secondary school  
5 education, you entered the religious order of the  
6 Society of Jesus in 1964?

7 A. Yes.

8 Q. After your noviceship, you went to Oxfordshire to study  
9 philosophy; is that correct?

10 A. That is correct.

11 Q. How long did you spend doing that?

12 A. Three years.

13 Q. Then you went to Oxford University?

14 A. Yes.

15 Q. Where you took a degree in French language and  
16 literature; is that correct?

17 A. That is right.

18 Q. Then you spent some time teaching; is that right?

19 A. I did, yes, not too long.

20 Q. I think you said one year of teaching. You then did  
21 a Bachelor of Divinity at Heythrop College  
22 University of London; is that right?

23 A. That is right.

24 Q. Is that a three-year course?

25 A. It is a three-year course.

1 Q. And you were ordained a priest in St Aloysius, Glasgow,  
2 in 1977?

3 A. Yes.

4 Q. You then tell us that in the three-year period 1978 to  
5 1981 you completed a doctorate in the New Testament at  
6 the Vanderbilt University in the USA.

7 A. Yes.

8 Q. Thereafter you joined the staff at Heythrop College to  
9 teach Biblical Studies?

10 A. Yes.

11 Q. How long did you spend doing that?

12 A. 12 years.

13 Q. After that were you appointed Provincial Superior of the  
14 Society of Jesus in Britain?

15 A. Yes.

16 Q. What is that role?

17 A. Well, religious orders are often divided into provinces.  
18 So the province -- the British Province of the Society  
19 of Jesus was England, Wales, Scotland, South Africa and  
20 Guyana in South America, so it was kind of the  
21 leadership role.

22 Q. For how long did you hold that role?

23 A. Six years.

24 Q. You also tell us that you were a parish priest of the  
25 church of St Anselm in London; is that right?



- 1 A. Yes.
- 2 Q. For how long?
- 3 A. Eight years.
- 4 Q. You tell us you inherited a primary school in special  
5 measures; can you elaborate on that?
- 6 A. It is a school that had failed its OFSTED rather  
7 spectacularly and just at the same time I was appointed  
8 the parish priest, it was quite common in school  
9 governance in England and Wales for the parish priest to  
10 be the chair of governors of the primary school.
- 11 Q. That is what indeed you became?
- 12 A. Yes.
- 13 Q. But you tell us that the school came out of special  
14 measures?
- 15 A. Yes.
- 16 Q. And after eight years you came to Edinburgh to be parish  
17 priest at the Sacred Heart Church in Lauriston; is that  
18 correct?
- 19 A. That is correct, yes.
- 20 Q. You then tell us that you became Superior of the Jesuit  
21 Community and Director of the Lauriston Jesuit Centre?
- 22 A. Yes.
- 23 Q. Can you tell us a bit about that role? What did it  
24 involve?
- 25 A. The superior of the community -- one person is usually

1 in charge and tries to make life as pleasant as possible  
2 for those living there and sort of help people in their  
3 work.

4 The Jesuit Centre was an adult education  
5 opportunity, not formal courses, but sort of invited  
6 talks of various kinds that we put on there from time to  
7 time.

8 Q. You tell us that for the last six years or so you have  
9 been one of the two vicars for religious in the  
10 Archdiocese of St Andrews and Edinburgh?

11 A. That is right.

12 Q. Can you tell us a little bit about that? What does that  
13 entail?

14 A. Bishops can appoint a vicar. Somebody who stands in for  
15 them to look after the religious. Myself and a female  
16 colleague hold that role in the Archdiocese of  
17 St Andrews and Edinburgh, but not all dioceses have  
18 vicars for religious.

19 Q. Do you still hold that position?

20 A. I do.

21 Q. You tell us that in October 2013 you took on the  
22 position you presently hold as the President of the  
23 Conference of Religious in Scotland?

24 A. That is right.

25 Q. I think I am right in saying that the Conference of

1 Religious was sent a questionnaire by the Inquiry  
2 setting out nine topics with subtopics.

3 A. Yes.

4 Q. You are here today to deal with some of these topics,  
5 not all of them.

6 A. Yes.

7 Q. In particular you plan to address the topics that are  
8 listed one to four in the report you have produced.

9 A. That is right.

10 Q. Can I put that on the screen, INQ.001.001.0264. I can  
11 tell you there is a hard copy of the report in front of  
12 you should you need to look at that.

13 I think the first four topics of the report that we  
14 are going to look at is looking at matters such as the  
15 structures and role of the Conference; is that correct?

16 A. That is correct, yes.

17 Q. Also its relationship with the Bishops' Conference.

18 A. Yes.

19 Q. And diocese in Scotland.

20 A. Yes.

21 Q. And you are also going to tell us a little bit of the  
22 membership of the Conference.

23 Can you tell us a little bit then about the  
24 background to the establishment of the Conference of  
25 Religious in Scotland?

1 A. Yes, well, I think from 1950 there was a kind of  
2 a movement in the universal church, encouraged by  
3 Pious XII, that religious should come together in  
4 conferences. Something similar was happening with  
5 bishops. At the same time bishops were encouraged to  
6 come together in conferences. So in about 1958 the  
7 Conference of Religious in Scotland was established and  
8 has continued since then.

9 Most countries or parts of countries with Bishops'  
10 Conferences would have a co-relative Conference of  
11 Religious.

12 Q. You are going to tell us a bit about the code of  
13 canon law. Is the Conference mandated by the code?

14 A. There are two canons in the dual code of canon law. One  
15 is that major superiors can be associated usefully. So  
16 it is not a compulsory thing in conferences or councils,  
17 so that by common efforts they work to achieve more  
18 fully the purpose of the individual institutes, always  
19 without prejudice to their autonomy, character and  
20 proper spirit, or to transact common affairs or to  
21 establish appropriate coordination in co-operation with  
22 the Conference of Bishops and also with individual  
23 bishops.

24 Q. What you have quoted from is now on the screen?

25 A. Yes.

1 Q. We can see it is Canon 708?

2 A. Yes, so it describes the optional nature of the  
3 Conference.

4 Q. Perhaps I should backtrack a little bit and just if you  
5 can give us -- in a sentence or two, tell us what the  
6 canon law is. Perhaps it is not possible. A fairly  
7 brief description.

8 A. Canon law is kind of a collection of legal prescriptions  
9 by which various aspects of the church are regulated.  
10 So basically if you want to know anything about  
11 a particular subject, you would kind of try and look up  
12 the code or the commentaries in the code to see what it  
13 said and they kind of -- I imagine they are not  
14 dissimilar to the kind of legal documents you have to  
15 deal with yourself.

16 Q. It is a legal document?

17 A. It is a legal document except there is -- the law was  
18 not codified really until about 1917. That was the  
19 first complete code of canon law. That was a very kind  
20 of narrow type of code, very juridical, almost --  
21 particularly for religious, a sort of a straitjacketing,  
22 trying to sort of pin down absolutely everything that  
23 could possibly be done and have a law for it.

24 At the second Vatican Council -- well, before the  
25 second -- Pope John XXIII decided it needed to be

1 revised and -- but although the council ended in 1965,  
2 the new code was not completed until 1983.

3 Then it was a very different, particularly for  
4 religious, kind of code. It didn't try to describe  
5 everything that everybody did and tell them to do it at  
6 the same time, but it gave some broad perspectives and  
7 then said, well, the important thing is that you have  
8 got to take possession again of your own inspiration  
9 from your founding and once you have ahold of that, then  
10 see how that translates into modern life, and re-write  
11 your own rulebooks to reflect those. That re-writing of  
12 your own rulebooks would then be presented to the  
13 congregation that looks after religious in Rome for  
14 ratification.

15 Q. In short, I think you are telling us there was a code in  
16 a codified form in 1917 for the first time?

17 A. Yes.

18 Q. And that that pooled together from a number of different  
19 sources?

20 A. That is right.

21 Q. And that that code was revised, replaced in 1983?

22 A. That is right, yes.

23 Q. You have provided the Inquiry -- can I just take this  
24 before I look at that -- are you a canon lawyer?

25 A. No.

- 1 Q. Did you study canon law?
- 2 A. No.
- 3 Q. Is it --
- 4 A. I was taught canon law in that period when there wasn't  
5 any, between the beginning of the Vatican Council and  
6 1983. I did study a certain amount of canon law, but  
7 there wasn't actually a code to study then.
- 8 Q. Unlike the Scots law, for whom in the past Roman law was  
9 compulsory, canon law was not compulsory?
- 10 A. Canon law is compulsory; it is just that there wasn't a  
11 document of canon law to study.
- 12 LADY SMITH: Sorry, what had happened to the 1917 code?
- 13 A. It had been more or less superseded by what was to come.
- 14 LADY SMITH: Right. So it was known that it was undergoing  
15 a re-write?
- 16 A. That is right. So by and large we were dealing with  
17 customary law, like what the church was doing in the  
18 field of marriage and so forth. Those were the kinds of  
19 things --
- 20 LADY SMITH: So that was a period of some perhaps -- and  
21 I don't mean to be tendentious -- limbo between 1965 and  
22 1983 when it was known that the agreement had been  
23 reached, that the 1917 code had to be revisited, and the  
24 work was going to to do just that?
- 25 A. It was a long, long process. I think there were various

1 stops and starts of it. I'm not even a historian of the  
2 canon law.

3 MR MacAULAY: Looking at the period that the Inquiry is  
4 interested in, which goes beyond 1983, within living  
5 memory, then at least in principle there were two codes,  
6 the 1917 code and the 1983 code.

7 A. Well, the 1983 code supersedes the 1917 code.

8 Q. I was going to move on to look -- just to identify and  
9 note that I think you produced to try to highlight the  
10 differences between the 1917 and the 1983 code. If you  
11 can look at INQ.001.001.0280 -- you may or may not find  
12 that in that folder but it will come onto the screen.

13 So you have headed this document "Differences  
14 between the 1917 and 1983 codes of canon law". You  
15 provide over a number of pages some information as to  
16 what you perceive the differences to be; is that  
17 correct?

18 A. Yes. I did consult a canonist and the canonist wrote  
19 this for me.

20 Q. I don't propose to go through the detail of it. I can  
21 you know that tomorrow Monsignor Smith is going to come  
22 and give evidence and he is a canonist?

23 A. Yes, he is.

24 Q. Can we just pick up one point, just to try to get some  
25 understanding of this? That is the point at (d) where



1           you tell us that:

2           "On incorporating special faculties into the code  
3           itself ..."

4           I think this is the 1983 code you are talking about:

5           "... greater subsidiarity for bishops and regions  
6           compatibility with the primacy of the Pope, was sought,  
7           but limits were to be specified."

8           I wanted to know what you meant in this quote by  
9           subsidiarity.

10        A. Subsidiarity was one of the big words of the  
11        Vatican Council and it was to do with decisions being  
12        taken at the lowest level at which they can be taken.  
13        So not everything goes upstairs to the top, so the Pope  
14        doesn't have to decide everything, but things are --  
15        bishops can have appropriate sort of legislative power  
16        or whatever. But it may well be that some limits would  
17        specify what bishops could do and what they could not  
18        do, but it was trying to devolve legitimate authority to  
19        the correct level.

20           I think it is something that the European Union  
21        tries to philosophise on, it is the same principles.

22        Q. If we go to your report -- and I'm looking now at  
23        page 0265 and that will come onto the screen as well.  
24        You tell us towards the top of the page, in reference to  
25        Canon 709, that conferences were to have their own

1 statutes approved by the Holy See.

2 Again, as a matter of language, the Holy See when  
3 I look at it in the this context means what?

4 A. The Holy See means the department -- the kind of  
5 congregation for the Institutes of Consecrated Life and  
6 the Societies of Apostolic Life.

7 Q. In Rome?

8 A. In Rome. I suppose it is like a ministry might be the  
9 closest sort of -- they are called decastories, but they  
10 are equivalent to ministries in our government and their  
11 special remit is to deal with consecrated life in all  
12 its aspects.

13 Q. I think you tell us that the Conference of Religious in  
14 Scotland did produce statutes and these had been  
15 approved.

16 A. Several times. Most recently in 2008.

17 Q. I think you tell us that --

18 A. I think I submitted a copy of it.

19 Q. Well, we needn't look at that right now.

20 You move on to tell us about the ethos and purpose  
21 of the Conference. Can you elaborate upon that and what  
22 that is?

23 A. Well, the purpose of the Conference is really to give  
24 support to people of like mind, you know, who are in  
25 consecrated life, or to help one another, if there are

1 common projects to be developed, in such a way that  
2 would help them. And also to have a certain sort of  
3 relationship between the Conference of Religious and the  
4 Bishops' Conference, and maybe even individual bishops,  
5 but that's not in fact the case as far as I can gather  
6 from how we live our life here in Scotland.

7 Q. I may come back to that.

8 If you look at page 0266 of the report, I think  
9 there, under reference to article 2 of the statutes,  
10 provide us some detail as to what the role of the  
11 Conference of Religious is. In particular you tell us  
12 that it enjoys persuasive power rather than power of  
13 governance; is that correct?

14 A. Absolutely.

15 Q. Are you dealing essentially with religious orders?

16 A. Essentially, yes.

17 Q. Such as for example -- we have heard of the Daughters of  
18 Charity, for example; would that be a religious order  
19 that would come under your jurisdiction?

20 A. It is a tricky question that --

21 Q. Perhaps that was a bad example.

22 A. I think they could be a Society of Apostolic Life, just  
23 historically, for historical reasons, but if you took  
24 something like the Good Shepherds, they would be  
25 a religious order -- or a "religious institute" seems to

1 be the preferred portmanteau word for describing the  
2 variety that comes under religious.

3 Q. I'm going to ask you about language and the word  
4 "institute" keeps coming up I think both in your report  
5 and also in what Monsignor Smith says. Does "institute"  
6 cover a whole different range then of types of religious  
7 order?

8 A. It does, yes.

9 Q. For example, would you describe the Daughters of Charity  
10 as an institute?

11 A. No, I don't think they are. It is mainly to do with the  
12 way that they make their commitment. So, there's  
13 basically religious institute, secular institutes and  
14 Societies of Apostolic Life. The religious institutes  
15 make their vows in public -- the traditional vows of  
16 poverty, chastity and obedience -- and they live their  
17 life in common.

18 Secular institutes take their traditional views of  
19 poverty, chastity and obedience, but do not live life in  
20 common, they do not take themselves out of the world,  
21 but as the name secular suggests, they are in the world  
22 and they don't live in community.

23 LADY SMITH: Can you give me an example of a secular  
24 institute with which we might be familiar.

25 A. The Grail used to function in Edinburgh a few years ago.

1           They are a secular institute.

2   LADY SMITH: Thank you.

3   A. I think it is true to say that some of the others are  
4       not so well known. The Societies of Apostolic Life,  
5       they live in community, but they don't take the three  
6       vows of poverty, chastity and obedience, but they take  
7       a commitment by oath or by promise or in another kind of  
8       way to express their mode of consecration.

9   Q. Can you give an example of an apostolic?

10   A. There are quite a lot of groups of priests like the  
11       Mill Hill Fathers or what used to be called the White  
12       Fathers and are now called the Society of African  
13       Missions. The Kiltegan Fathers, they live in community  
14       but they don't take the three vows, but they do make  
15       a particular commitment, although that commitment may  
16       vary between oath and promise.

17   Q. Can I take you to some sections of the code, just in  
18       light of what you have been telling us. I am looking at  
19       INQ.001.001.1016. Again you will not find that in front  
20       of you but it will come onto the screen.

21   A. Right.

22   Q. We are looking at a section of the code of canon law and  
23       you can see it is section 1 headed "Institutes of  
24       Consecrated Life" and titled at (I):

25               "Norms common to all Institutes of Consecrated

1 Life."

2 This is relevant to what you have just been telling  
3 us in evidence, this section?

4 I think if we scroll back up and perhaps look at  
5 573.2, do we see that we are told:

6 "The Christian faithful freely assume this form of  
7 living in Institutes of Consecrated Life ...."

8 We see reference to what is referred to the  
9 evangelical counsels of chastity, poverty and obedience;  
10 are these the three vows you mentioned for the religious  
11 institute?

12 A. Yes.

13 Q. Would your Society of Jesus be a religious institute?

14 A. Yes.

15 Q. It may be these provisions of the court are not familiar  
16 to you, Father Crampsey, I just say so because  
17 I understand you are not a canon lawyer and probably  
18 haven't pored over these provisions.

19 A. Are you asking me a -- I'm not sure what question you  
20 are asking me.

21 Q. Do you recognise these provisions or not as relevant  
22 to --

23 A. It is more or less what I said already.

24 A group of people can follow a particular  
25 inspiration and they can apply to the Holy See for

1           ratification for their way of life. Their commitment  
2           will take shape either through a particular --  
3           an individual vow or other sacred bonds, taking an oath  
4           or something.

5           Some, but not all, will profess the evangelical  
6           counsels of chastity, poverty and obedience, most of  
7           them will, and through the charity to which the counsel  
8           leaders are joined in a special way to the church and  
9           its mystery, that is where it moves from the juridical  
10          into the theological.

11        Q. If we go back to the report at 0266.

12           You set out, having looked at Canons 708 and 709,  
13          what really the role of the Conference of Religious is  
14          in Scotland and the second bullet point you make the  
15          point that you:

16           "... must always respect the patrimony and autonomy  
17          of each institute."

18        A. Yes.

19        Q. Can you elaborate on that aspect of it?

20        A. You might connect it to what I said about the difference  
21          between the 1917 code and the 1983 code, that each  
22          religious institute usually has a person or persons who  
23          have inspired its coming into being. So that is the  
24          patrimony if you like. It may be a particular kind of  
25          inspiration, maybe to commit to a life of poverty or

1 with the poor, and so the patrimony has to be respected  
2 and the shape the congregation takes must relate to that  
3 patrimony.

4 The autonomy is that each religious institute has  
5 its own sort of sense of its own being which cannot be  
6 legislated or changed by the Conference of Religious.

7 Q. What role do you play then in relation to religious  
8 institutes?

9 A. A coordinating and encouraging one.

10 Q. You have no governance whatsoever?

11 A. No governance. As it says, the Conference possesses  
12 their own statutes -- article 3:

13 "The Conference poses legislative power and  
14 executive powers sufficient for all that concerns its  
15 own organisation and the administration of its own  
16 affairs but none in respect of individual member  
17 institutes themselves."

18 Q. Then, so far as membership is concerned -- and this is  
19 something you look at -- what are the purposes or  
20 benefits of institutes becoming members of the  
21 Conference?

22 A. Well, fundamentally kind of solidarity and perhaps news  
23 sharing or sharing of ideas or inspirations that might  
24 help one another.

25 Q. In that connection then do you have regular meetings



1 with members of institutes?

2 A. Yes, we do. Up until now we have had two annual  
3 meetings -- one in the spring and one in the autumn.  
4 There's discussions at the moment whether that's too  
5 many, whether we will go to just the autumn meeting for  
6 the AGM.

7 There are other ways in which religious come  
8 together. They may come together in the diocese that  
9 they live in to discuss some matters or recently, for  
10 example, we had -- there is a process going on in Rome  
11 which is looking at this whole question of the  
12 relationship between the bishops and religious again and  
13 so a number of us gathered together in Edinburgh to talk  
14 about the questions that they were asking us from Rome  
15 and sent up a report on that.

16 Q. You tell us in the report that in Scotland at the moment  
17 there are almost no persons in general or provincial  
18 leadership in their religious congregations?

19 A. Yes.

20 Q. What is the point you are making there?

21 A. Well, the point we are making there is that in the old  
22 days, instead of calling it the Conference of Religious,  
23 it used to be called the Conference of Major Religious  
24 Superiors, which is to do with people in leadership.  
25 But in Scotland there's almost no religious who is in

1           general or provincial leadership. So it is a slightly  
2           different character to the Conference of Religious in  
3           Scotland than it would be for example in England and  
4           Wales.

5           Q. Why is that? Why don't we have the leaders in Scotland?

6           A. It is something that you could call the brain drain.  
7           So, for example, the President of the Conference of  
8           Religious of England and Wales is Scottish and the  
9           General Secretary of the Conference is Scottish, so  
10          a lot of the talent has drifted south and leadership is  
11          concentrated in the larger places -- and not just in  
12          England, but also Wales and in Europe some leaders  
13          exist. So it is the way things are in Scotland and have  
14          been for quite some time.

15          Q. So when you have your meetings then with those who  
16          represent the institutes, who do you meet with?

17          A. Well, each person in sort of -- who is a leader in  
18          a congregation or a moderator, as it is often called,  
19          designates one person to represent them as a delegate  
20          and who then is the member of the Conference. Right?  
21          Those members have the rights at the AGM to elect the  
22          officials of the congregation; they have both active and  
23          passive voices in electing.

24          Q. Are you looking there at members from congregations who  
25          may sit on your committee?

1 A. Yes. But every congregation which has a presence in  
2 Scotland is asked to nominate one of their number to be  
3 a member of the Conference of Religious, to represent  
4 the leader who is not actually living in Scotland, and  
5 in that way they are a link to their own congregational  
6 leader back from our Conference and what it is doing.

7 Q. I think you do provide us with some numbers as to how  
8 many -- perhaps you don't -- institutes there are in  
9 Scotland at present.

10 A. Yes.

11 Q. If you turn to page 0273 of the report. Let's take  
12 2016. The number of male congregations, you say, is 24;  
13 is that right?

14 A. There is just a slight clarification on the figures.  
15 These figures are based on people who have actually paid  
16 their subscriptions, so it is actually smaller than the  
17 actuality of the congregations in Scotland, some of whom  
18 don't belong to the Conference, or the contemplative  
19 orders are not part of the Conference of the Religious  
20 in a strange way.

21 Q. So 24 is a conservative estimate, you think?

22 A. My guess is it is probably 31 altogether.

23 Q. Male?

24 A. Male congregations.

25 Q. And the number of female congregations --

- 1 A. I think it is probably 46.
- 2 Q. The next column, the heading "Number of male religious",  
3 is that the number of people in the congregations?
- 4 A. Yes, present. There are 121 men religious, yes.
- 5 Q. And female religious --
- 6 A. 295, yes: the men could be both priests and non-priests.
- 7 Q. You have provided numbers going back to 2004; we needn't  
8 dwell on that.
- 9 A. Yes, you can get a sense of the diminution of the  
10 numbers, I think.
- 11 Q. If you perhaps go back to page 0268. Insofar as your  
12 executive committee is concerned, I think you have  
13 provided us with some information as to how that is  
14 constituted. Can you tell us about that?
- 15 A. What exactly would you like to know?
- 16 Q. For example, you tell us that the election of members  
17 for the executive committee -- that the president is  
18 elected by members of the Conference at the AGM.
- 19 A. Yes.
- 20 Q. Does that mean on an annual basis --
- 21 A. No. It is for three years; he should be resigning after  
22 three years.
- 23 Q. Can you be re-elected?
- 24 A. I think maybe once.
- 25 Q. Then you tell us there are six councillors who will be

1           elected by members of the Conference at AGM.

2       A.   Yes.

3       Q.   The councillors do what?

4       A.   The councillors form the executive committee together  
5           with the president.

6       Q.   Again you tell us that there are offices of  
7           vice president and treasurer who are also elected.

8       A.   Yes, but that's by the executive, from within the  
9           executive.

10      Q.   Then you have provided us with some information as to  
11           who the current members of the executive committee are,  
12           with you as the president.

13      A.   Yes.

14      Q.   If we turn over the page, you do have a canon lawyer on  
15           the committee.

16      A.   We do.  That was one of the people we thought we really  
17           needed on the committee and sought her out.  It is  
18           usually somebody like, in many of these situations, who  
19           gets their arm put up their back at a meeting, will you  
20           stand for the Conference.

21      Q.   She was willing to do that?

22      A.   Yes.

23      Q.   Just moving on then, you tell us as well as the  
24           delegates all religious in Scotland are invited to  
25           attend what happens at two conferences per year: one

1 includes the AGM and topics of interest and speakers of  
2 quality are invited to speak on subjects of common  
3 interest --

4 A. I mentioned that already.

5 Q. Is that the extent of your direct dealings, if you like,  
6 with members of institutes in Scotland?

7 A. In terms of formality, yes, it is. I think that's about  
8 as much as the congregation can bear, two annual  
9 meetings -- and in fact we are probably going to reduce  
10 it to one, as I said earlier.

11 Q. As you already indicated, you have no jurisdiction over  
12 these institutes.

13 A. No.

14 Q. In a way, I do not want to sound derogatory, this has  
15 become something more like a talking shop if you like,  
16 perhaps giving advice --

17 A. Well, it might be giving advice or kind of opening  
18 people up to something that they have not thought about.  
19 We tend to -- we will probably bring in speakers from  
20 most of the United Kingdom to give talks on various  
21 subjects that, even if people are not going to do  
22 anything about them, will kind of widen their horizons.

23 Q. Will these conferences last about a day or longer?

24 A. A day, kind of 10 o'clock to 3 o'clock.

25 Q. Insofar as the Inquiry is concerned, could I check with

1           you to see whether institutes the Inquiry might be  
2           interested in are members of the Conference of  
3           Religious.

4           We have already talked about the Daughters of  
5           Charity of St Vincent de Paul and they are not members?

6       A. No, they are members.

7       Q. They are.

8           The Sisters of Nazareth?

9       A. Yes.

10      Q. The Good Shepherds' Sisters?

11      A. Yes.

12      Q. The De La Salle Brothers?

13      A. I'm not absolutely sure whether there are still De La  
14      Salle Brothers in Scotland.

15      Q. If they are not in Scotland, then they would not be --

16      A. They would not be.

17      Q. Christian Brothers?

18      A. Equally I am not sure there are any Christian Brothers  
19      left.

20      Q. The Benedictines; I think they still have a presence.

21      A. Maybe one but I'm not --

22      Q. Is there not an abbey in --

23      A. There is Pluscarden. It is slightly complicated because  
24      it is a different branch of Benedictines from  
25      Fort Augustus, for example. Yes, sorry. There is the

1 Subiaco Congregation of Benedictines, and that is quite  
2 a big monastery.

3 Q. Are they members?

4 A. They are not members because they are a monastery.

5 I think I say somewhere in the documentation that  
6 monasteries have their own groups analogous to the  
7 Conference of Religious, so the Union of Monastic  
8 Superiors, for example, is a kind of a governing body --  
9 well, again it is not necessarily a governing body but  
10 it is a group. The abbots come together and on the  
11 women's side, so congregations like the Carmelites and  
12 the Women's Benedictines in Largs and the Poor Clares,  
13 they come under the umbrella heading of the Association  
14 of British Contemplatives and that's their group.

15 People from those groups, which are not members of  
16 the Conference of Religious, will in fact come to kind  
17 of the link conferences which we have been putting on to  
18 help with the safeguarding questions. So they will come  
19 to those.

20 Q. The other institute I was going to ask you about, the  
21 Marist Brothers --

22 A. Yes, they are members.

23 Q. If we go back to the report and turn to page 0270, we  
24 have already talked about the autonomy that each  
25 institute enjoys, but nevertheless an institute would



1 still be within a diocese.

2 A. Yes.

3 Q. Can you explain how that works in practice? By that

4 I mean how being in a diocese may impact upon the  
5 autonomy of an institute, if at all.

6 A. Well, if you are not in a diocese, but you want to be in  
7 one, then the congregational leader or the provincial  
8 leader will probably have a conversation with the bishop  
9 and say, I'm offering to bring three of my men or three  
10 of my sisters to work in your diocese, we would like to  
11 help you in such-and-such an area because this is what  
12 we can do, would you like us to come. There's that side  
13 of things and the other side is if the bishop takes the  
14 initiative and asks a congregation to come and do  
15 a specific piece of work for him then -- the diocese in  
16 a sense is the ground in which a religious congregation  
17 finds its existence and so it is defined by its own  
18 autonomy and patrimony but also in its relationship to  
19 the diocese and how the diocese organises its apostolate  
20 or its liturgy.

21 Q. Do I take from that that the institute would need the  
22 consent of the bishop --

23 A. It certainly would. You cannot set up a religious house  
24 without the consent of the bishop -- without the written  
25 consent of the bishop.

1 Q. That's what you say I think on page 0270. That --  
2 that's a reference, although you don't give us the  
3 section, to the code of canon law?

4 A. Yes.

5 Q. Similarly, if the institute wants to establish a school,  
6 would the consent of the bishop be required for that?

7 A. Yes, it would.

8 Q. Towards the top of the page, you have this sentence and  
9 I just want to ask you about it. It is the last  
10 sentence in the paragraph you say:

11 "Religious life, while not part of the hierarchical  
12 structure of the church, belongs undeniably to the  
13 diocesan community ..."

14 I just want to understand what you mean by that.

15 A. Right, the hierarchical structure of the church is to do  
16 with the Pope, bishops, priests, laity. Religious life,  
17 in a sense, is a kind of floating part of things which  
18 doesn't actually fit into that particular structure.

19 Yet there is no place for religious life to be but  
20 in a particular geographical place and that place is  
21 a diocese, which is under the authority of the bishop.  
22 Therefore, there has to be a kind of a suitable way of  
23 being together that is satisfactory and respects the  
24 dimensions of both of those.

25 So it respects the authority of the bishop, but it

1 respects the patrimony and autonomy of the religious  
2 Order but comes together in the kind of apostolic life  
3 of the diocese.

4 Q. I think as you tell us, indeed, at the end of the next  
5 paragraph, the bishop is to safeguard and protect the  
6 autonomy of the institute?

7 A. Yes.

8 Q. The next paragraph where you talk about the pastoral  
9 authority of the bishop; the religious would also be  
10 subject to that?

11 A. Those are the three areas where we are subject to that,  
12 particularly so: care of souls, public worship and the  
13 works of the apostolate. Those are the proper authority  
14 of the bishop of the place. As to when the religious  
15 Order has its community meetings, that's got nothing to  
16 do with the bishop.

17 There is a whole area of the way that you organise  
18 your internal life which the bishop is probably not  
19 going to claim authority over and indeed he doesn't have  
20 any.

21 Q. But you do tell us that a bishop can prohibit a member  
22 of a religious institute from residing in a diocese?

23 A. Yes.

24 Q. But certain conditions have to be met?

25 A. Yes.

- 1 Q. Can you elaborate upon that?
- 2 A. Well, I think usually what happens -- this has happened  
3 to me -- a bishop would say "I would like you to remove  
4 Father X from this diocese", and it would be pretty  
5 unusual for somebody in the position of being the  
6 provincial to say "No, I'm not going to, I'm going to  
7 leave them there." You would usually remove them. But  
8 it would usually be for a grave reason.
- 9 Q. Perhaps it would be worthwhile quoting this in the code,  
10 and if I put it on the screen. It is INQ.001.001.1047.
- 11 Now at Canon 679, we are told that:
- 12 "When a most grave cause demands it, a diocesan  
13 bishop can prohibit a member of a religious institute  
14 from residing in the diocese ..."
- 15 Then we see there are conditions:
- 16 " ... if his or her major superior, after having  
17 been informed, has neglected to make provision; moreover  
18 the matter is to be referred immediately to the Holy  
19 See."
- 20 Is that the provision you had in mind a moment ago?
- 21 A. Yes.
- 22 Q. So we are looking (a) at the superior not doing anything  
23 about it, and also there being a most grave cause?
- 24 A. Yes.
- 25 Q. Can you give any examples as to what it might be?

1 A. Well, I will try and give a -- so a member of the  
2 religious order is -- a male priestly member of the  
3 religious order is living with a woman and it is  
4 publicly known as a matter of, kind of, scandal. The  
5 bishop might say to the provincial: I would like you to  
6 remove this person from --

7 Q. If the provincial doesn't respond to that?

8 A. Then the bishop will have to take it to the Holy See.

9 Q. What would happen after that?

10 A. The Holy See would almost certainly support the bishop.

11 Q. But removal means what though? Does it mean removing  
12 the member to another location in which the institute is  
13 based or what does it mean?

14 A. I think it is a removal from. The bishop might not be  
15 too concerned about what the "removal to" is. That  
16 would be the problem of the provincial; what will he do  
17 with the person he removes. The bishop will be  
18 interested in removing the person from his diocese.

19 Q. Now, we have already touched upon this, but as you have  
20 told us in your report, that a religious institute would  
21 need the written consent of the bishop to open a house  
22 and/or a school, for example, is that correct?

23 A. To start any kind of work in the diocese.

24 Q. We know that there have been religious orders who have  
25 been involved in schools in Scotland historically?

- 1 A. Yes.
- 2 Q. Even before 1983, the new code, would these Orders have  
3 required the consent of the bishop to open up schools,  
4 for example, either by invitation or consent?
- 5 A. I'm not sure I can speak with any authority on  
6 pre-1917 --
- 7 Q. Post 1917 will do.
- 8 A. Yes, I am sure they would have. It is a kind of fairly  
9 standard thing. I do not think it is in dispute  
10 particularly that you open up a school without  
11 consulting the bishop.
- 12 Q. And getting consent?
- 13 A. And getting written -- well nowadays certainly you have  
14 to get written consent.
- 15 Q. If you turn to page 0271, you certainly make the point  
16 there that there requires to be a written agreement  
17 between the institute and the bishop?
- 18 A. Yes.
- 19 Q. You also tell us in the next paragraph that if  
20 a religious house that has been legitimately opened is  
21 to be closed, then the diocesan bishop has to be  
22 consulted?
- 23 A. Yes.
- 24 Q. That is a consultation process?
- 25 A. Yes. I think it is almost a matter of courtesy. It is

1 unlikely that the bishop would say, "Keep it open", but  
2 it is possible he might, but, by and large, you just  
3 don't do it off your own bat, you do it in consultation  
4 with the bishop.

5 I have remembered now about the pre-1917 question of  
6 the schools because I'm afraid the Jesuits disgraced  
7 themselves rather by opening a school in Manchester  
8 without consulting the bishop, who had been wanting to  
9 open his own school, and so there was a big furore about  
10 it.

11 Q. That was pre-1917?

12 A. I think it was 1872.

13 Q. Perhaps then I can ask you a little bit about the  
14 relationship between your organisation and the Bishops'  
15 Conference and tell us a little bit about how that works  
16 in practice.

17 A. Well, it works in practice that there is a -- there has  
18 been in the past two bishops, but now one bishop is  
19 nominated as the liaison bishop with the Conference of  
20 Religious and at present it is the Bishop of Aberdeen,  
21 Hugh Gilbert.

22 In theory, he meets with some of the executive, but  
23 in practice because he is the Bishop of Aberdeen it is  
24 sometimes difficult to sort of manage to kind of  
25 organise meetings. But I have met with him in my

1 capacity as President and spoken with him on matters  
2 which he would then relay to the Bishops' Conference.

3 Q. Would these be regular meetings?

4 A. They should be regular but how regular is regular?

5 I mean I think no more than twice a year.

6 Q. I see. Well apart from your meeting with the bishop  
7 that's been nominated by the Bishops' Conference, are  
8 there any other liaisons between your organisation and  
9 the Bishops' Conference?

10 A. There are very few to be honest. So we did have for  
11 Pope Francis' inauguration, a year of consecrated life  
12 in 2015. So we had an all Scotland sort of celebration  
13 of that, to which a number of the bishops came. Not  
14 everybody could be there. Some were doing things in  
15 their own diocese.

16 But we very rarely meet with bishops as  
17 a collective.

18 Q. One of the questions you were asked was whether there  
19 would be any arrangements between the Conference of  
20 Religious and bishops in relation to the establishment  
21 of a religious congregation and a diocese and I think  
22 you said there would not be any?

23 A. There is not. It is the prerogative of the bishop to  
24 invite who he likes to work in his diocese and he is  
25 certainly not obliged to consult the Conference of



1 Religious.

2 Q. If a particular religious order wanted to work in  
3 a diocese, you would not be involved in that?

4 A. No. It is always possible that out of acquaintance  
5 somebody might say: we are thinking of offering  
6 ourselves to Dunkeld, would you give us a steer on what  
7 we might do there? That is possible. To be honest it  
8 has not happened in my time.

9 MR MacAULAY: Very well Father, I think that is all I want  
10 to ask you today. Thank you very much indeed for that.

11 My Lady, I don't understand there to have been any  
12 written questions.

13 LADY SMITH: You have not been requested to take up any  
14 other lines.

15 Father Crampsey, thank you very much for your  
16 assistance today, you are able to go now. Thank you.

17 (The witness withdrew)

18 MR MacAULAY: I think if your Ladyship intends to have  
19 a short adjournment, it would be a good time to do it.

20 I have one more witness, who will be fairly short.

21 LADY SMITH: If we try to start her at 3 o'clock there or  
22 thereabouts please. We will adjourn until 3.00 pm.

23 (2.53 pm)

24 (A short break)

25 (3.00 pm)

1 LADY SMITH: Mr MacAulay.

2 MR MacAULAY: My Lady can I now call Sister Eileen Mearns.

3 SISTER EILEEN MEARNES (sworn)

4 Questions by MR MacAULAY

5 LADY SMITH: Thank you, do sit down.

6 Mr MacAulay.

7 MR MacAULAY: Sister, are you Eileen Mearns?

8 A. I am.

9 Q. I think you have come here today in your capacity as the  
10 safeguarding representative of the Conference of  
11 Religious?

12 A. Yes.

13 Q. Can I just look at your profile, which will be on the  
14 screen. It is INQ.001.001.0824.

15 A. Yes.

16 Q. You begin by telling us that you qualified as a social  
17 worker in 1983.

18 A. I did, yes.

19 Q. By that time were you a nun at that time?

20 A. I was, yes.

21 Q. At that time you went to work in a child guidance  
22 setting in Liverpool?

23 A. I did, yes.

24 Q. You then give us some information about other positions  
25 that you held, in particular that you went on mission to

- 1 the island of Guam in 1993?
- 2 A. I did.
- 3 Q. How long was that for?
- 4 A. It was about 7 years I was there.
- 5 Q. So that fits in with what you tell us next because when
- 6 you returned to the UK, in the year 2000, you worked for
- 7 Glasgow City Council?
- 8 A. Yes.
- 9 Q. What sort of work were you doing at that time?
- 10 A. Social work with children and families.
- 11 Q. You tell us you are now retired from social work, but
- 12 you have maintained your registration.
- 13 A. I have, yes.
- 14 Q. But what you also tell us is that since you returned to
- 15 Scotland you have been associated with the Conference of
- 16 Religious.
- 17 A. Yes.
- 18 Q. And indeed you were President of the Conference for
- 19 a period of time.
- 20 A. I was yes.
- 21 Q. In that capacity I think you tell us that you had some
- 22 involvement with Tom Shaw in his review.
- 23 A. Yes.
- 24 Q. What was your involvement with him?
- 25 A. It was when I was president that Tom Shaw's review came

1 up and I felt that it was important that the Conference  
2 was involved and we were engaging with the National  
3 Coordinator for the Catholic church.

4 We engaged then with Tom Shaw and met with one of  
5 his associates and provided them with as much  
6 information as we had in terms of which congregations  
7 had been responsible for care facilities in Scotland.

8 Q. You tell us then about what your function is as the  
9 safeguarding representative for the Conference of  
10 Religious?

11 A. Yes.

12 Q. Can you tell us about that. You have devoted a full  
13 paragraph to that, but can you just tell us in your own  
14 words what that involves.

15 A. Well, it was a couple of years ago when the General  
16 Secretary for the Conference was called to England and  
17 they asked if I would take over responsibility for the  
18 safeguarding aspects of the Conference in terms of  
19 attending meetings, the interaction meetings, which had  
20 I had already been attending anyway with Sister Helen.

21 I had kept up to date with everything that was  
22 happening and they asked if I would be responsible for  
23 that area and so I have continued to be involved in the  
24 safeguarding aspects.

25 Q. You say "a couple of years ago", are you talking about

1 2015 or thereabouts?

2 A. I think it would probably be 2014.

3 Q. 2014?

4 A. Yes. But I had been involved and have been involved  
5 with the Safeguarding Commission for the Religious  
6 from -- it was brought into force.

7 Q. Can you remember when that was?

8 A. 2009. 2009 we talked about it, but it officially  
9 started in 2010.

10 Q. In the request that was sent to the Conference of  
11 Religious by the Inquiry, I think you were asked to look  
12 at some of the questions that were asked.

13 A. Yes.

14 Q. And these were some of the topics that you have been  
15 asked about.

16 A. Yes.

17 Q. And these were topics set out at items 5 to 9 of the  
18 request.

19 A. Yes.

20 Q. I think you have had some involvement in the responses  
21 to these issues.

22 A. I did, yes.

23 Q. The first issue that the Conference was being asked  
24 about was in connection with its knowledge of the  
25 existence of alleged abuse, whether physical, emotional

1 or sexual, of children in care in religious  
2 congregations. That was one of the topics that was  
3 being raised with you?

4 A. Yes.

5 Q. What was your response to that?

6 A. The Conference didn't really have any involvement in any  
7 of the facilities, so we would only have heard about  
8 them if the congregation concerned had alerted us to the  
9 situation or we found it in the media.

10 Q. But did you have any history of congregations alerting  
11 you to that?

12 A. No. It is only since we had involvement with the  
13 National Coordinator that we began to be involved in  
14 terms of when we set up the commission in terms of  
15 looking at allegations that had been brought forward.

16 Q. On that note, can we look at page 0274 of the report.  
17 I think you have that in front of you.

18 A. Yes.

19 Q. You have developed your thinking on that in response to  
20 the question. I think what you tell us, as you have  
21 just mentioned, you would not have been involved in the  
22 process of allegations?

23 A. No.

24 Q. But however from 2005 the General Secretary of the  
25 Conference of Religious Scotland was actively involved

1 in working with the National Safeguarding Coordinator in  
2 finding ways to ensure that religious congregations were  
3 aware of the safeguarding policies and procedures being  
4 developed at that time by the Roman Catholic Church.

5 A. Yes.

6 Q. Would that be in connection with the National  
7 Safeguarder for the Roman Catholic Church?

8 A. Yes.

9 Q. That is Mrs Campbell; is that right?

10 A. It is Mrs Campbell now, but in 2004/2005 time it was  
11 Jackie McCaig.

12 LADY SMITH: That is the person who has this title you refer  
13 to, National Safeguarding Coordinator; is that right?

14 A. Yes.

15 LADY SMITH: Do you know when that role first came into  
16 being?

17 A. I think that was already in place when I came back to  
18 the country. So it may have been the end of the 1990s  
19 or into the early 2000s.

20 LADY SMITH: That's just to give me a feel. That's very  
21 helpful.

22 A. Tina, who will be appearing before you, will be able to  
23 give you an exact --

24 LADY SMITH: She should have chapter and verse for me on  
25 that?

- 1 A. Yes.
- 2 MR MacAULAY: She is due to be here on Friday so hopefully  
3 she can help us out.
- 4 A. Yes.
- 5 Q. You tell us that meetings took place with the  
6 congregations and there was a survey, I think, that was  
7 done at that time. If you look at the report --
- 8 A. That was the Tom Shaw --
- 9 Q. I see?
- 10 A. -- historical systemic survey that was taking place at  
11 that time.
- 12 Q. Okay.
- 13 A. The negotiations were also in terms of making sure that  
14 the religious congregations had the manual that was  
15 being developed at that time from the national office  
16 via the Bishops' Conference and that was this awareness  
17 of safety in the Catholic Church in Scotland.
- 18 Q. Was this essentially being driven by the Bishops'  
19 Conference?
- 20 A. Yes.
- 21 Q. And you were, as it were, following on?
- 22 A. Yes. We wanted to be part of a one-church approach and  
23 not you know religious kind of on the sidelines, that we  
24 wanted to be fully involved --
- 25 Q. In safeguarding policies?



1 A. In safeguarding policies.

2 LADY SMITH: What do you mean when you say "one church"?

3 A. One church. A lot of people don't understand where the  
4 religious fit into the Catholic Church and I hope  
5 Father Crampsey clarified some of that for you.

6 LADY SMITH: So when you are talking about one church you  
7 are talking about one Roman Catholic Church --

8 A. Yes.

9 LADY SMITH: -- combining the work of the religious and that  
10 work which is headed by the Bishops' Conference, the  
11 parish churches if you like --

12 A. Yes.

13 LADY SMITH: -- all with one initiative so far as  
14 safeguarding is concerned?

15 A. Most of the religious now are involved mainly in parish  
16 level, rather than previously when they were involved  
17 with care facilities --

18 LADY SMITH: Thank you.

19 A. -- or schools.

20 MR MacAULAY: The next topic or question you were asked in  
21 the Inquiry's request, you will see that at page 0275,  
22 and you have probably covered this already, but the  
23 question was:

24 "Did any member or members disclose to the  
25 Conference of Religious the existence of allegations of

1 abuse?"

2 And you tell us that:

3 "No allegations of abuse have been reported directly

4 to the Conference."

5 A. That is right.

6 Q. It is as short and sharp as that; is that correct?

7 A. Yes.

8 Q. Question 7, because of that answer really doesn't arise?

9 A. No.

10 Q. But let's look at the next question, question 8:

11 "Procedures over time for responding to allegations

12 of abuse in care."

13 You tell us that:

14 "Initially the Conference of Religious did not have

15 any separate procedures for responding to abuse."

16 Is that correct?

17 A. No, we didn't --

18 Q. You move on to elaborate upon that and tell us what has

19 happened since.

20 A. Yes.

21 Q. Can you develop that for us?

22 A. Well, that's when we became involved with the National

23 Coordinator to ensure that the religious were being

24 assisted in managing the policies and procedures or

25 allegations that were arising and we wanted to assist

1           them in whatever way we could and that's why we asked  
2           specifically that each congregation would have the  
3           policies and procedures, that they would have a manual.  
4           To enable that to happen a bit easier, because most of  
5           the major superiors live outside of Scotland, we asked  
6           that each congregation have what we called the link  
7           coordinator, who would be specifically up to date with  
8           what was happening in Scotland, to keep their  
9           congregations informed.

10        Q.   Again, were you, as it were, riding on the back of the  
11           Bishops' Conference in relation to policies and so on,  
12           and procedures?

13        A.   Yes.

14        Q.   So, you tell us on page 0276 that in 2006 the Conference  
15           of Religious introduced the safeguarding auditing system  
16           already being used in parishes.

17        A.   Yes.

18        Q.   Can you just tell me how that would work then?  Would  
19           you send some form out to a religious order --

20        A.   Yes.

21        Q.   -- for them to complete?

22        A.   Each congregation is sent a blank audit form and they  
23           are asked to submit it within a certain date.  They all  
24           go to the national office; they don't come to the  
25           Conference itself.  They go to the national office and

1 it is all collated there.

2 Q. Where is the national office?

3 A. In Bath Street in Glasgow.

4 Q. Can I ask you to look at this document for me. It will  
5 come onto the screen and it is INQ.001.001.0933. This  
6 has been made available to us by the Bishops'  
7 Conference. You will see it is headed:

8 "Bishops' Conference of Scotland. Scottish Catholic  
9 Safeguarding Service. Allegation recording form."

10 Then instructions are given as to what should be  
11 filled in. For example:

12 "Who was the allegation made against?"

13 And to the right we can see:

14 "Religious, priest, brother, sister."

15 Would this be the sort of document that you would  
16 circulate with the religious orders?

17 A. That is the allegation form. There's also the separate  
18 audit form.

19 Q. So what function would this -- this is I think  
20 a five-page document. Would this be a document you  
21 would send on a regular basis? How would this work in  
22 practice?

23 A. Yes, that would go yearly as well.

24 Q. And the audit --

25 A. It would bring up any allegation that we haven't already

1           been informed about so that we can record it and make  
2           sure that the procedures had been followed correctly and  
3           that would be discussed at the Safeguarding Commission  
4           for the Religious, if it was a religious that was  
5           involved.

6           Q. The other document that would be circulated then, that  
7           was an audit, was it?

8           A. Yes.

9           Q. If we look at another document then, INQ.001.001.0939.  
10          It will come on the screen in a moment. This is headed  
11          "Diocesan safeguarding audit", so this is for a diocese?

12          A. Yes.

13          Q. Was there something similar for a congregation?

14          A. The congregation one would be more like the parish  
15          audit, rather than the diocesan one. The diocesan one  
16          collates what comes in from the parishes. That's not  
17          necessarily including the religious.

18          Q. But it would be this sort of document?

19          A. It would be that sort of document, yes.

20          Q. There is another document I can perhaps put to you that  
21          has been sent to us by the Bishops' Conference; that's  
22          at INQ.001.001.0963.

23                 This is described as an audit tool; do you see that?

24          A. Yes.

25          Q. It covers day/residential/retreat centres/care homes.

1 A. Yes.

2 Q. Would this be a document that you would use?

3 A. If any of the religious are responsible for any of those  
4 establishments, yes. They would complete that form.

5 Q. This is an annual document?

6 A. Yes. All the audits are annual documents, yes.

7 Q. Perhaps the final document I should get you to look at  
8 then is 0983. This is a parish safeguarding audit. Is  
9 this similar then to the audit that you had circulated  
10 to the congregations?

11 A. Yes.

12 Q. Would it be this document or a document --

13 A. It would be a document specifically for the religious  
14 and that also comes from the national office.

15 Q. But this document, it is 16 pages long, it is quite  
16 a detailed document. Is the document you have in mind  
17 similar to this?

18 A. I'm not sure exactly, but I could find out.

19 Q. But it is --

20 A. I think it is about nine pages long.

21 Q. Again this would be sent out on an annual basis?

22 A. On an annual basis yes.

23 Q. What would you expect then to come back? The document  
24 would come back completed setting out what had happened  
25 in that period?

- 1 A. Yes, and as I said, they all go to the national office  
2 where they are collated.
- 3 LADY SMITH: Sorry, which national office?
- 4 A. The National Coordinating Office -- the National  
5 Safeguarding Office, which is based in Bath Street.
- 6 LADY SMITH: So the address on this document is the Bishops'  
7 Conference pulling them all together?
- 8 A. Yes.
- 9 LADY SMITH: I see we have got the name of the safeguarding  
10 coordinator being shown here as Tina Campbell and that  
11 is the woman you referred to earlier, I think.
- 12 A. Yes, Tina is now the National Coordinator.
- 13 Q. So all this material would go effectively to her?
- 14 A. Yes.
- 15 Q. Would you be involved at a point in time once this  
16 material has been collated?
- 17 A. We would be informed -- when we have our safeguarding  
18 commission we would be informed if there was any issues  
19 that arose from the audit, if there was any concerns and  
20 we would address them at the commission and take any  
21 necessary action that would be required.
- 22 Q. I think the final question you were asked -- and we will  
23 see that on page 0278 of the response -- was focusing on  
24 policies and procedure for child protection over time  
25 and your response to that was:

1           "The Conference of Religious itself does not have  
2           any policies and/or procedures for child  
3           protection/safeguarding as the congregations themselves  
4           adhere to the policies and procedures laid down by the  
5           National Office for Safeguarding for the Catholic  
6           Church."

7       A. Yes.

8       Q. And that's what you have been telling us about?

9       A. Yes. The Conference has no remit to have those kind of  
10       policies and that was why we felt it was important to  
11       engage with the National Office to ensure that the  
12       religious were aware of the policies and procedures that  
13       the Bishops' Conference had in place and that we would  
14       follow them.

15       Q. And so far as the religious are concerned, would these  
16       documents be sent to those who were members of the  
17       Conference of Religious?

18       A. Yes.

19       Q. Looking to your own experience, are they being  
20       diligently dealt with by these members?

21       A. Yes.

22       MR MacAULAY: Very well. Thank you, sister. That's all  
23       I have to ask you.

24                Again, my Lady, no questions have been submitted for  
25       Sister Mearns.



1 LADY SMITH: Thank you. Can I just check, is that right,  
2 there are no other lines that anyone was wanting to be  
3 followed? Thank you very much.

4 Sister, thank you for your help this afternoon; we  
5 are able to let you go.

6 (The witness withdrew)

7 Mr MacAulay.

8 MR MacAULAY: My Lady that's all for today. Tomorrow  
9 I propose to lead three witnesses: Monsignor Smith,  
10 Father Dougan and Father Boyle, and on Friday Mrs  
11 Campbell.

12 LADY SMITH: So Mrs Campbell is now going to start on Friday  
13 and not tomorrow?

14 MR MacAULAY: She is.

15 LADY SMITH: Because originally I think the thought was that  
16 she might be able to start tomorrow.

17 MR MacAULAY: It depends on how we get on. I think on that  
18 basis it --

19 LADY SMITH: It might be safer to leave her until Friday.  
20 So it is the three witnesses tomorrow that you have just  
21 mentioned.

22 Very well. We will adjourn there for today and  
23 start again at 10 o'clock tomorrow morning, please.

24 Thank you.

25 (3.25 pm)

1 (The Inquiry adjourned until 10.00 am  
2 on Thursday, 8th June 2017)

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