

1 Tuesday, 29 January 2019

2 (11.00 am)

3 (Proceedings delayed)

4 (11.08 am)

5 LADY SMITH: Good morning. Mr Peoples, I think our witness
6 is ready this morning.

7 MR PEOPLES: She is. The next witness is SallyAnn Kelly,
8 who's the current chief executive officer of Aberlour
9 Child Care Trust.

10 LADY SMITH: Thank you.

11 SALLYANN KELLY (sworn)

12 LADY SMITH: Please sit down and make yourself comfortable.

13 I should say welcome back. You know how important
14 it is to use the microphone so that we can pick up
15 everything you say properly. I'll hand over to
16 Mr Peoples and he'll explain what happens next.

17 Mr Peoples.

18 Questions from MR PEOPLES

19 MR PEOPLES: Good morning again.

20 A. Hello.

21 Q. Do you mind if I call you SallyAnn today?

22 A. Not at all.

23 Q. SallyAnn, you'll know the procedure by now, that we have
24 a red folder there which contains statements that you've
25 provided on behalf of the organisation that you're

1 currently chief executive officer of. They're there for
2 your use at any point, but if you have other notes I'm
3 perfectly happy for you to work off what works best for
4 you. There's a screen in front of you, as you know, and
5 that has a copy of the statement or statements you have
6 provided to the inquiry.

7 Can I start off, maybe for the benefit of the
8 transcript, by giving the identification numbers of the
9 document that you have provided. You did provide us
10 with a CV first of all and I'll just give the
11 reference -- I don't think we need to go to it: it's
12 ABE.001.001.0406.

13 Then you have provided on behalf of the
14 organisation, Aberlour Child Care Trust, an
15 organisational statement, as we've described it, which
16 is ABE.001.008.9057.

17 You have also provided an addendum to that statement
18 more recently, which is ABE.001.008.9172.

19 I would propose when I'm looking at the
20 organisational statement to simply refer to paragraph
21 numbers, if that's convenient for you, so that we can
22 just work on that basis. I think it's probably easier
23 than trying to use the long numbers that we use. I'll
24 endeavour to do that today.

25 So far as introducing matters is concerned, as

1 I say, you have given us a CV and I think we did on the
2 last occasion hear a bit about your background --

3 A. Yes.

4 Q. -- and previous employment prior to joining Aberlour.

5 So at this stage can I just take it from you that
6 you are currently chief executive officer with Aberlour
7 Child Care Trust?

8 A. I am.

9 Q. And I think that you began in that capacity around June
10 of 2014?

11 A. That's correct.

12 Q. You are currently based at the headquarters of the trust
13 in Stirling; is that right?

14 A. I am.

15 Q. So far as the statement is concerned, I propose just to
16 look at some of the matters that you deal with there and
17 ask you perhaps to comment on them in the course of your
18 evidence today.

19 Before I do so, I think you can confirm you have
20 listened to quite a lot of the oral evidence that was
21 given in relation to Aberlour given by former staff,
22 given by former residents, and --

23 A. Yes, I have. I have also listened to some evidence from
24 Quarriers and Barnardo's.

25 Q. So you've heard that as well?

1 A. Yes.

2 Q. So you've got a good grasp of the evidence that we've
3 heard in the course of this case study, I take it.

4 A. Yes.

5 Q. Because I don't intend today to go back to the detail of
6 that, but obviously I'd ask you to bear it in mind if
7 we're looking at any issues that you deal with in your
8 statement.

9 A. Of course.

10 Q. And if you feel that you want to comment in light of
11 that evidence, then please feel free to do so.

12 A. Okay.

13 Q. So far as the statement is concerned itself, can I just
14 perhaps begin at paragraph 3 because I think what you
15 tell us is that the information in the statement is
16 based on an assessment and analysis of historic records
17 that have been kept by Aberlour Child Care Trust.

18 A. That's correct.

19 Q. Can I just call it Aberlour at the moment?

20 A. Yes.

21 Q. Is that okay?

22 A. Yes. I do.

23 Q. It'll make it easier for me. It's a bit of a mouthful
24 to refer to. I think it's called the trust here, but
25 I think Aberlour is probably easier for us to use.

1 The other thing that you say in the introductory
2 part of the statement is that you have broken down the
3 statement essentially into three distinct periods, as
4 you tell us, so that when we hear about what's called
5 "the orphanage years", and that could cover from really
6 the foundation of the orphanage in 1875 or thereabouts
7 until its closure in 1967.

8 A. Yes.

9 Q. So that's the orphanage years?

10 A. Yes.

11 Q. There's another period which has been described in the
12 statement or referred to as "the group home years",
13 which is said to be from 1962 to about 1987.

14 A. It does say actually 1967, but 1962 is probably more
15 accurate.

16 Q. I was going to say. I think we've heard evidence now
17 that in fact the first group home was established around
18 1962. So there was an overlap with --

19 A. Yes, there was an overlap with the orphanage.

20 Q. We can keep that in mind that there was a group home
21 then; was that The Dowans?

22 A. In fact, there was more than one group home at that
23 point. There was The Dowans, which had opened -- well,
24 changed into the group home and then
25 Constitution Street, which opened in 1962, which was

1 a group home for older young people in Aberdeen.

2 Q. So the first group home opened in Constitution Street in
3 Aberdeen in 1962 and The Dowans became a group home,
4 having previously been a nursery?

5 A. Yes.

6 Q. Was it The Dowans, just so that we can recall the
7 evidence, that was run for a time by Mr and Mrs BCI/BCJ?

8 A. Yes.

9 Q. Which we've heard some evidence about and I think you
10 deal with that in your statement.

11 A. Yes.

12 Q. I think the reason you've chosen 1987 or thereabouts as
13 the end of the group home years was that by that stage
14 -- and we've heard evidence about this -- there was
15 a programme of closures of group homes which had been
16 completed on or around that time, perhaps maybe slightly
17 later.

18 A. A combination of a closure of group homes and then
19 a move to a different form of staffing for children's
20 houses. So some of those group homes actually changed
21 their staffing arrangements and became children's
22 houses, "the service years".

23 Q. And the service years in the statement are referred to
24 as from 1987 to 2014, but I think we've heard that
25 what was described as the Sycamore Services in the Fife

1 area were really begun in about 1982 or thereabouts --

2 A. Yes, there was a crossover in this period as well.

3 Q. As you say, some of what were called the group homes
4 became --

5 A. Children's houses.

6 Q. -- children's houses in the service years.

7 A. Yes.

8 Q. So far as the current position is concerned, can I just
9 take it from you at this stage that residential services
10 these days for Aberlour is quite a small part of the
11 overall services provided by the organisation; would
12 that be correct?

13 A. It would depend how you measure small.

14 Q. In the sense of numbers of children cared for in
15 residential care.

16 A. Numbers of children, yes. We have 15 children in
17 Highland in residential care. Then we have capacity for
18 22, I believe, in Fife. Plus we have a long-term
19 residential house in Dunfermline for children with
20 additional support needs, complex disabilities. That's
21 five children -- well, young adults.

22 Q. If we were looking at -- we're really dealing probably
23 more with long-term residential care rather than respite
24 care --

25 A. Yes.

1 Q. -- so are some of these services for respite care
2 service?

3 A. No, the ones I have just mentioned are all residential
4 care. We have additional respite facilities in a number
5 of different local authorities in Scotland. Those are
6 all for children affected by disability.

7 Q. And I think you provide quite a number of support
8 services for young people and indeed families of young
9 people; is that right?

10 A. Yes, we have a number of early intervention family
11 support services which are aimed at keeping children at
12 home with their parents and we have particular edge of
13 care services where they are specifically looking at
14 trying to support families to continue to care for their
15 children rather than them being received into care or
16 put on the child protection register.

17 Q. Does Aberlour have an adopting or fostering service that
18 it operates currently?

19 A. We do. We have two: we have one in Elgin and we have
20 one based in Fife. We are just about to expand into the
21 west of Scotland and we're currently recruiting carers
22 in the west of Scotland.

23 Q. Are there also adult services that Aberlour provide?
24 I know that some of the other providers have moved more
25 into the area of adult services for vulnerable adults.

1 A. So, no, we don't provide at this stage specific adult
2 services. However, we did change our articles of
3 association last year in our constitution to make sure
4 that we can continue to provide care beyond the age of
5 25. That was the limit up until last year. But that
6 would really be for children who grow up with us into
7 adulthood to try and make sure that we can continue to
8 care for them and help them as long as they need support
9 and help.

10 Q. Is that against a background of maybe more recent
11 developments about continuing support for children in
12 care up to perhaps their mid-20s or thereabouts? Is
13 there not initiatives going on?

14 A. We were already covered for that up to the age of 25,
15 but I think what we wanted to do was make sure that
16 we can go beyond 25 in a recognition that many young
17 people need support beyond the age of 25, just as our
18 own children do. But it was also specifically around
19 children with disabilities and their movement into adult
20 services and we felt that if we had looked after them
21 through childhood and adolescence then if they wanted to
22 remain, they could be looked after by Aberlour, in
23 independent or semi-independent settings, and we would
24 want to do that.

25 Q. In paragraph 88 of your statement on page 34, I'll just

1 read it out -- I don't think I need to quote it -- it
2 says:

3 "In the service years since 1987 the trust has cared
4 for 20 to 70 children per year within its residential
5 services."

6 Would than the type of services that provide
7 long-term --

8 A. Yes.

9 Q. -- care?

10 A. Yes.

11 Q. So that's the sort of numbers you're dealing with?

12 A. Yes, in long-term care.

13 Q. If I can go back towards the beginning of the statement,
14 you give us quite a lot of historical information and
15 I mean no disservice when I say I'm not necessarily
16 going to take you through that in detail today. We
17 heard some evidence from you on a previous occasion
18 about history.

19 A. Yes.

20 Q. We have obviously got the material here to read as well
21 about how Aberlour was established and its
22 constitutional documents. But one thing that I think
23 seems to be a recurring point that's made within the
24 statement, and no doubt you can confirm this, is that
25 you're seeking to make clear that Aberlour as an

1 organisation had certain core aims, if you like.
2 I think at various points in the statement we see
3 references to these aims and what I'll maybe just do at
4 this stage is just pick out one or two so that we have
5 that as the background to some of the other comments you
6 make.

7 I think, for example, in paragraph 7, about six
8 lines down, there's reference to:

9 "The stated purpose and principal aim being of
10 providing a home in the sense of [I think] something
11 that's akin to a normal family home."

12 A. Yes.

13 Q. I think that's an aim that you say really has been
14 present throughout the history of Aberlour.

15 A. Yes.

16 Q. I think that in paragraph 10 of your statement, there's
17 reference to a statement in one of the documents in
18 1961:

19 "Those in the care of voluntary organisations should
20 be provided with an environment as similar as possible
21 to normal family life."

22 Again, I think that echoes the previous aim --

23 A. Yes.

24 Q. -- and ethos, as you say, of creating a home. I think
25 that's the point you're trying to make.

1 A. Yes.

2 Q. If we follow that through, can I look at one of the
3 modern statements. You say in paragraph 16 of the
4 statement on page 6 that:

5 "The current purposes of the trust ..."

6 And you've explained there's been some changes

7 I think to terms of the trust:

8 "... are underpinned by a value system which the
9 trust publicly and expressly subscribes to."

10 You have what's called a vision statement.

11 A. Yes.

12 Q. And then you set out a number of values which are now
13 prominent, I think --

14 A. Yes.

15 Q. -- in the published material of the organisation. These
16 values are: respect, integrity, innovative and
17 challenging. While the aim of creating as far as
18 possible a family home is concerned is set out in some
19 of the historical documents, this statement, is this
20 a re-statement or a modern statement of the values of
21 the organisation?

22 A. It's a more modern statement and it speaks to the fact
23 that the organisation is a much different organisation
24 in terms of the support that it provides. It's not
25 solely a provider of homes to children; we do much more

1 than that.

2 Q. Then if we go on in the statement, again, to try and
3 pick up some of the general aims of the organisation.
4 I think if we go to paragraph 17, do we also see there
5 that it's set out that again, taking this from the
6 current mission statement for the Sycamore Services, the
7 aim is:

8 "... to offer a safe and loving place to live"?

9 A. Yes.

10 Q. Indeed, if we move on, I think we see in paragraph 30 of
11 the statement on page 13, the final sentence, there's
12 the statement:

13 "The trust endeavoured to adhere throughout its
14 period to the constitutional aim of providing
15 a comfortable home, prioritising the safety and
16 well-being of children in their care."

17 So that's, I think, another, is it, aim that the
18 trust set out to achieve?

19 A. Yes.

20 Q. I think there are other statements such as the aim of:

21 "Creating as homely an atmosphere as possible,
22 whether in a large institution [like the orphanage] or
23 a smaller group home as the years went by."

24 A. That would be the aspiration.

25 Q. And indeed, if we look at specific aims again, by

1 reference to the document that you've produced, we see,
2 I think, that in paragraph 50 of the statement on
3 page 19, there's reference to an entry made in 1953 to
4 the effect this:

5 "It was the governors' aim, no less than the
6 Department's [and that was a reference to the Scottish
7 Home Department at the time], to promote the happiness
8 of the children within the care of the organisation."

9 A. Yes.

10 Q. I think, again, to assist us, you've set out in
11 paragraph 53 something that was also said in, I think,
12 around, would it be 1960 or 1959? It's paragraph 53.
13 It's a statement to the effect that:

14 "A child cannot be happy unless he feels secure."

15 A. Yes.

16 Q. So that was being said at that time?

17 A. Yes.

18 Q. That you have to make the child or do your best to make
19 the child feel secure?

20 A. Yes. And this was at the time where the conversations
21 around the move to smaller establishments had started to
22 happen.

23 Q. And whether that would increase the likelihood of the
24 security that you're seeking to achieve?

25 A. Yes.

1 Q. It says, if I read on in the passage that's quoted:

2 "A child cannot be happy unless he feels secure.
3 Security is a frame of mind which has been created in
4 the child by its past experiences. The house mother
5 cannot make the child feel secure, but she can provide
6 the conditions in which he has the best chance of making
7 his own feelings of security."

8 So there was a recognition there, I take it, of the
9 key role of a house parent in creating conditions in
10 which children would feel secure?

11 A. Yes.

12 Q. You'll see why I'm asking this, because you'll have
13 heard evidence in the course of this inquiry that in the
14 case of some houses at Aberlour, and indeed in the case
15 of some group homes, there were clearly children who
16 at the time didn't feel secure, felt in fear of what was
17 going to happen to them, and you've heard, I think,
18 quite a number of descriptions of that state of affairs,
19 have you not?

20 A. I have.

21 Q. I think you recognise, do you, in the statement that
22 perhaps there was more risk in the group homes model of
23 that situation arising because there was perhaps less
24 direct day-to-day face-to-face control on the part of
25 the senior management with the house parents?

1 A. I think that that refers to a comparison between group
2 homes and children's houses. So if you're in a more
3 closed environment, whether that's a group home or even
4 a bigger institution, where you have less adults around
5 you, if you have adults who are in day-to-day contact
6 with you who you cannot trust, then that presents
7 a greater risk potentially to children. The converse of
8 that is if you have adults who are modelling all of
9 those positive behaviours that you would expect of
10 house parents, then the reverse is true, but I think it
11 was a comparison between that and the move to the
12 children's houses and different staff who you could
13 potentially have different relationships with.

14 LADY SMITH: SallyAnn, when you're comparing group homes and
15 children's houses, what's the distinction you have in
16 mind?

17 A. So in group homes, the key members of staff were the
18 house parents, usually a married couple at that point,
19 with some support staff. But they were very much seen
20 as the people who managed the houses at that point, the
21 married couple.

22 The service years, then there was a different
23 staffing complement that were used in what I would
24 describe as children's houses. So you would have shifts
25 and rotas of staff, but you'd have a bigger pool of

1 staff and you then potentially could argue that children
2 could find in that bigger pool of adults people they
3 could potentially make relationships with. But that was
4 only in a scenario where the behaviours that we expect
5 of house parents were not being properly modelled and we
6 know that that did happen on occasion.

7 MR PEOPLES: Yes. If house parents were doing what the
8 trust's aims asked them to do, there wouldn't be
9 a problem that there was simply two house parents or
10 a couple in charge with a limited number of staff and a
11 lot of children --

12 A. That's right.

13 Q. The problem can arise -- and it would appear did arise
14 based on the evidence we've heard -- where the
15 house parents did not behave in accordance with certain
16 standards and aims and treated children in an abusive
17 way. So you recognise that, I take it?

18 A. I do, and what I would also say is that that behaviour
19 is set within a broader culture. If that broader
20 culture is a culture where people don't -- and I mean
21 adults in this situation as well -- feel comfortable to
22 feel about what's happening, then that becomes a very
23 dangerous environment on a much more ongoing basis. So
24 what's important is that if those behaviours are
25 evident, that they are caught very quickly and dealt

1 with very quickly.

2 Q. But I suppose, again, maybe the evidence bears this out,
3 that that didn't always happen. For whatever reason,
4 there may have been -- it's sometimes been described not
5 necessarily relating to Aberlour as such, but a closed
6 culture in some establishments or units where things
7 happened within the unit, people know it's happening
8 within the unit, but no one outside the unit is told
9 what's happening.

10 A. Well, I can speak for Aberlour, but I can't really
11 comment on the evidence led on behalf of Aberlour --

12 Q. I'm not asking you to comment, I am just trying to look
13 at the situation generally, that if you have that, these
14 conditions present, then there's going to be a problem.

15 A. Yes.

16 Q. And I suppose what you're trying to do, whether you have
17 a group home or a large institution, is to ensure that
18 if something isn't being done properly, it will come to
19 light?

20 A. Yes, absolutely.

21 Q. Staff will say something, if it's not them that's the
22 culprit, and if it's their colleague, they will report
23 it?

24 A. Staff and children.

25 Q. We have had a lot of evidence in this inquiry from

1 applicants from a number of places and providers who
2 have pointed out the difficulties they had in feeling
3 able to report, either because of what happened when
4 they did report or because of the fears of reporting
5 itself.

6 A. Absolutely. I think one of the things I would want to
7 say at this point is in terms of depending on what was
8 happening, I think there are some forms of child abuse
9 that are particularly difficult to talk about for
10 children because of the dynamics of that kind of abuse.

11 For example, sexual abuse of children is something
12 that research would tell you children do find very hard
13 to talk about at the time, regardless of the context of
14 that abuse.

15 The physical abuse, the overuse of corporal
16 punishment, is potentially something that's more
17 obvious, if there are injuries to the child but, yes,
18 I would acknowledge that. But I wouldn't want to clump
19 all forms of abuse together.

20 Q. I'm not asking you to. You make a point that it might
21 be more difficult, but we have heard evidence that
22 regimes or harsh regimes did exist in certain places,
23 maybe in certain houses, and they were maintained for
24 a period of time so the system wasn't eradicating
25 regimes where harsh regimes turned into abusive regimes.

1 A. Are you talking about Aberlour at this point?

2 Q. We have heard evidence, for example, of The Dowans.

3 A. Yes.

4 Q. That had a lot of forms of abuse. We have heard
5 evidence that there were a lot of forms of abuse going
6 on and ultimately the **BCI/BCJ** were removed.

7 A. Yes, when it came to the attention of the organisation.

8 Q. But it appears that that state of affairs at least was
9 present for an appreciable time before it came to light.

10 A. It would seem so.

11 Q. So in one sense, the system didn't manage to pick that
12 up, the staff didn't seem able to come to the
13 organisation and say something at the time. Is there
14 any way that you can explain that or help us explain why
15 you think that was the situation?

16 A. I can't comment on the reasons. What I think is evident
17 is that the staff who did talk about what their
18 experiences in The Dowans were like did it after the
19 event in the sense that they had left the organisation,
20 which would suggest that they did not feel able to talk
21 about that at the point where they were in situ.

22 Q. That was the 1970s or early 1970s.

23 A. Early 1970s, yes.

24 Q. We're not going back to the 1940s or 1950s?

25 A. No. That situation in that house was clearly

1 unacceptable and I don't think anybody would say
2 otherwise.

3 Q. The other point I might make while we're talking about
4 The Dowans is there seems to have been some difficulty
5 on the part of the organisation's leaders at the time,
6 in particular the principal, in accepting that the
7 [BCI/BCJ] could ever do such a thing, and indeed initially
8 the first complaint seems or allegation to be made by
9 a former member of staff seems not to have led to any
10 action being taken against them.

11 A. Yes.

12 Q. I think it --

13 A. The warden seemed taken aback that an allegation could
14 be made against this particular group of
15 house parents -- couple of house parents because of his
16 perceived relationship with them at the time.

17 Q. I think it was Miss Craven, actually. [REDACTED]

18 [REDACTED] I think Miss Craven
19 [REDACTED] conducted the initial
20 investigation and presented the matter to the governors.
21 That's as I recall the evidence. I think, perhaps with
22 hindsight, she was maybe not the best person who
23 investigate because she had already had a view about the
24 [BCI/BCJ] which she expressed at the time.

25 A. Yes.

1 Q. So it wasn't maybe the best example of a well-handled
2 investigation.

3 A. Yes, I would agree.

4 Q. It still does give rise to the question: if in 1970,
5 staff weren't speaking up until they left the employment
6 of the organisation, that points out a problem, doesn't
7 it, for the organisation? I don't know what lessons
8 were learned. Are you able to help us whether lessons
9 were learned and there was some effective way of
10 ensuring that wasn't going to be the situation going
11 forward?

12 A. There were certainly moves within the organisation in
13 terms of the training for house parents, but that was
14 happening at a time when that was happening across
15 Scotland anyway. I certainly haven't encountered
16 a document which links specifically what happened at
17 The Dowans to specific training that then took place.
18 But there was certainly a very clear view about the
19 treatment of bed-wetting, for example, which is one of
20 the issues where it was quite clearly stated, re-stated,
21 what the organisational position on that was.

22 Q. I suppose you will appreciate more than anyone, if
23 you're the service user or child that's resident and are
24 not getting these standards that are being continually
25 re-articulated, it's not much comfort to say that the

1 strong views were expressed that this is contrary to the
2 aims and rules and so forth. That wouldn't be of any
3 consolation to those that don't seem to be benefiting
4 from those aims and roles.

5 A. No, and neither is it an attempt to undermine in any way
6 what those adults as children experienced. I think that
7 we've listened very, very carefully to what the
8 children's experiences were and we would in no way seek
9 to condone them.

10 Q. If I go back to the statement again, I think one point
11 that you tell us -- and perhaps this might have been
12 a difference between Aberlour and some of the other
13 voluntary providers in this case study -- at
14 paragraph 25 that generally admissions historically
15 would come through the local authority rather than
16 private placements.

17 A. Yes. There was some private placements, a small number.

18 Q. I think we know from the Mr Lee episode there were
19 private placements in the early 1960s.

20 A. Yes.

21 Q. But generally speaking, a lot of children came through
22 the children's officer?

23 A. Yes.

24 Q. And were referred. And I'm sure we had this
25 conversation on the previous occasion. A lot of them

1 were perhaps -- they had been in a number of places
2 before they got to Aberlour?

3 A. Yes.

4 Q. And Aberlour was seen as a place that maybe could do
5 something for children that other places couldn't --

6 A. Yes.

7 Q. -- for whatever reason?

8 A. Yes.

9 Q. I don't know whether you're able to tell us what the
10 thinking was, how Aberlour might achieve that. Is there
11 any indication in the historical records what local
12 authorities thought about Aberlour and its regime and
13 whether it was well suited to dealing with what were
14 I think maybe then termed maladjusted children?

15 A. Certainly for preparation for the inquiry, I've read
16 children's files and extensive reading of files, not
17 just of children who have then become applicants to the
18 inquiry, but beyond that, and certainly there is
19 reference in records from children's officers who are
20 arguing to have the children admitted to the orphanage
21 as a place where they perceive that the children would
22 be well-supported and nurtured. I don't know what
23 formed that view, but it's certainly there in terms of
24 the children's officers' submissions.

25 Q. You use the words "well-supported" and "nurtured", did

1 they ever use the term "well-controlled"?

2 A. Not to my memory, no.

3 Q. The other point you're making in paragraph 25, I think,
4 is -- I think you're asking us to bear in mind that key
5 decisions in the case of children placed by authorities
6 would rest with the local authority rather than
7 Aberlour. Is that the point you're making?

8 A. Yes. I think ultimately the decision around moving
9 children on from the orphanage, whether it was at the
10 school-leaving age or before that, were taken by the
11 local authorities. That's not to say that the orphanage
12 wasn't at times involved in commenting on those, if they
13 were given notice of them, but certainly from a legal
14 perspective, it was the local authority that had that --

15 Q. But from a practical perspective, it surely must have
16 been the case that Aberlour would have quite an
17 influence and their views would be taken into account
18 quite seriously about whether something should happen
19 such as the removal of a child to a different setting?
20 Are you telling me that's not the way the records --

21 A. There's evidence in the records where that influence has
22 been brought to bear successfully. But equally, there's
23 evidence that we weren't listened to.

24 Q. I have in mind, and I can't remember the precise
25 situation, where some boy was perceived to be difficult

1 in Aberlour and the warden was in fact recommending
2 perhaps that he should go to a stiffer regime, some sort
3 of List D type school or something regarded as perhaps
4 a more strict regime --

5 A. In terms of -- I wouldn't see that as the local
6 authority -- ultimately it would still be the local
7 authority's decision.

8 Q. Yes.

9 A. Certainly within the orphanage, if there were children
10 who presented difficulties beyond what the orphanage
11 felt they were able to deal with, then they can make
12 that assessment and put that case to the children's
13 officer and latterly it would be through the Children's
14 Hearings, for example, in the group home years.

15 So, yes, there were certainly children that the
16 warden or the staff in the orphanage thought would be
17 better placed elsewhere.

18 Q. And I think I can remember -- the one I'm thinking of is
19 probably before the Children's Hearing where a report
20 was made to the court --

21 A. Yes.

22 Q. -- as to what would be an appropriate disposal for a
23 child who got into trouble, and I think the warden's
24 view was a change of setting was the appropriate course.

25 A. That's right. That was a young person who was involved

1 in offending, I believe, locally and who the orphanage
2 was struggling to deal with on a day-to-day basis in
3 terms of his behaviour.

4 Q. I can't remember whether that person was also involved
5 in the Mr Lee incident or not. I think I'm getting
6 a nod from my junior that that may have been one of the
7 boys who was involved, I believe. We can check that.

8 A. We can check that, yes.

9 Q. I suppose the other point you make about what I'd call
10 the legal responsibility in this state of affairs
11 is that it's for the local authority to decide at the
12 point of admission how much information to provide to
13 the orphanage. Is that the point you're also making?

14 A. No, I don't think I did make that point.

15 Q. I thought I saw it. At paragraph 29 I think you make
16 that point.

17 A. Sorry, I thought you meant in my oral evidence, sorry.

18 Q. No, your written evidence, the statement. It's making
19 the other point that in relation to -- because we've
20 heard a lot about the importance of information about
21 a child, particularly in a child-centred approach, where
22 you want to know as much as possible.

23 A. Yes.

24 Q. I think the point being made in the written statement
25 is that it would be really a matter for the authority to

1 decide how much information or what information or how
2 much to give to the trust about the child's background
3 before and circumstances on arrival to care.

4 A. Yes.

5 Q. Is there evidence that the quality of information or the
6 amount varied --

7 A. Yes.

8 Q. -- materially?

9 A. Yes, and there are occasions when the trust went back to
10 the local authority to find out additional information
11 because they didn't have enough information to make
12 a decision.

13 Q. But that cuts two ways, I suppose.

14 A. Yes.

15 Q. My recollection of Mr Lee -- and I keep coming back to
16 Mr Lee -- is when the trust wrote to the children's
17 officers after the event, after the conviction, to
18 inform them of what happened for the first time,
19 it would appear, one authority or one officer had to
20 write a letter to get more information than was given
21 initially.

22 A. Yes.

23 Q. So there wasn't maybe as much of a disclosure as there
24 ought to have been.

25 A. I think from recollection that was for the purposes of

1 preparing a report to the local committee on what had
2 happened and therefore the officer needed more detailed
3 information.

4 Q. I follow that, but just to be told that one of the boys
5 has been interfered with, with not much else, given the
6 gravity of the situation, as we have now found out from
7 the evidence, it's not much of a report and not maybe
8 timeously given either.

9 A. Yes. There is also reference to the fact that the
10 details were reported to the local inspectorate. Now,
11 I think to be fair, it's not clear what that
12 inspectorate is to me today, or whether in fact that
13 report was shared with the children's officers. In this
14 case it obviously wasn't. But, yes, if that was the
15 only information that children's officers had, then it
16 was not very detailed.

17 LADY SMITH: Is there anything in the records that shows
18 Aberlour telling the local authority they need more
19 information about the child and the local authority
20 refusing to disclose anything else?

21 A. Not that I have found.

22 LADY SMITH: But there are records that show Aberlour asking
23 for more and getting it?

24 A. Yes. In fact, one of the applicants, actually, when
25 they were -- when the application was made from the

1 local authority to the orphanage to accept the child
2 when they were a baby, the orphanage went back to
3 basically ask for additional information in relation to
4 medical history.

5 MR PEOPLES: And was given the information?

6 A. Yes.

7 Q. There wasn't a process as such of routinely trying to
8 get as much information as possible, it might be there
9 would be occasions when more information was asked for,
10 but there's not any sort of system, if you like, of
11 saying: if we simply get the basic details, we will have
12 a follow-up in every case to get full details? That
13 wasn't the type of system that was in operation in the
14 orphanage years, I take it?

15 A. There was certainly no evidence in written form of that,
16 but certainly it was the warden who took responsibility
17 for admissions and discharges. But whether that was
18 done via telephone, there's certainly not in the very
19 early days extensive written material on that.

20 Q. You do deal in the organisational statement with the
21 role of the governors --

22 A. Yes.

23 Q. -- and the visitor and the warden. You deal with that,
24 I think, between paragraphs 35 through to 57. I was
25 going to ask you a little bit about that, if I may.

1 You tell us in paragraph 36 that:

2 "It was the governors who made decisions in all key
3 issues affecting the organisation."

4 So that was the decision-making process, that they
5 made the key decisions?

6 A. Yes.

7 Q. But I take it, whatever decisions they took ultimately,
8 they would be heavily influenced by the views of the
9 warden, generally speaking?

10 A. Yes, generally speaking, yes.

11 Q. Because he was the day-to-day contact with the orphanage
12 and its affairs and they weren't there every day, they
13 weren't meeting every day?

14 A. No.

15 Q. And so they would be relying on him heavily --

16 A. Yes.

17 Q. -- to be their eyes and ears and give advice and views?

18 A. Yes, albeit they did have visiting arrangements in
19 place.

20 Q. Do you today recognise that there could be a weakness in
21 putting a lot of responsibility on the shoulders of one
22 person, such as a warden, who's got to be the link
23 between the governing body and the day-to-day
24 operations, who's got to deal with recruitment issues,
25 personally often, and things like that, to have it all

1 in one basket? Is that a possible weakness of the
2 system?

3 A. Yes, in terms of -- if you compare it by modern
4 standards, that would not be something we would want to
5 see in place in any modern organisation. At the time,
6 then, yes, there was obviously the assistant warden who
7 supported the warden. But, yes, this was a post that
8 had huge responsibilities attached to it.

9 Q. I suppose that [REDACTED] particularly as time went by,
10 if we take [REDACTED] BLK, for example, who was [REDACTED] BLK for
11 [REDACTED] he would become quite
12 a influential figure with quite a lot of authority and
13 influence within the organisation in terms of its
14 direction, in terms of any views he expressed.

15 A. Yes. That would seem to be the case from records, but
16 he was also somebody who was respected outside of the
17 orphanage as well.

18 Q. Yes. I'll come to that in a moment. He, though, if
19 he was, for example, heavily involved in the recruitment
20 side, particularly recruitment of house parents --

21 A. Yes.

22 Q. -- it was down to one man's judgement then sometimes?

23 A. Well, we don't have any evidence of the procedures for
24 recruitment at the time.

25 Q. No.

1 A. So I am not in a position to say that he was the only
2 person that had an overview of potential recruits to the
3 organisation. He would certainly have been involved in
4 all of them, but whether he was the only person involved
5 in all of them I simply cannot say that because I don't
6 have written evidence to support that.

7 Q. If that was one of his areas of responsibility, does it
8 not seem likely that he would be heavily involved in
9 important appointments like house parents?

10 A. I'm sure he was heavily involved, yes, but even in
11 modern times the recruiting manager, as I would call it,
12 is heavily involved, but they're supported by other
13 staff.

14 Q. Were you able to find -- I appreciate you've told us,
15 I think, that you couldn't find any formal policies and
16 procedures on recruitment in the orphanage years or,
17 I think, in the group home years.

18 A. Yes.

19 Q. But were you able to find any evidence to give us
20 a flavour of how often the warden would personally be
21 involved in interviewing candidates for position such as
22 housemaster or housemistress?

23 A. There are references in minute books to some processes
24 of recruitment for more senior people that the warden
25 and in fact some of the governors were involved in.

1 I don't have them to hand, but if you want me to get
2 them --

3 Q. I'm trying to get a general picture at this stage just
4 to see how often he was directly involved in that way.
5 Because if the interview was a key part of the process
6 historically, I just want to know who was doing the
7 interviewing.

8 A. I'm sure he would have been involved in most if not at
9 all of them, but I don't have the evidence that I can
10 give you to support that.

11 Q. If we're looking at the other side of the coin, where
12 there was a staffing issue and an issue perhaps of what
13 action, if any, to take about some matter concerning an
14 individual member of staff, am I right in thinking that
15 at least at that stage [REDACTED] would generally be
16 quite heavily involved?

17 A. Yes.

18 Q. Although he might to some extent be discussing it with
19 the governors or would that be after the event?

20 A. After the event?

21 Q. In the sense that say he took a decision to dismiss,
22 would he then report that to the governors or before he
23 took that decision would he speak to the governors?

24 A. Well, there's evidence that he spoke to the governors
25 and the governors were involved in decisions to dismiss

1 people as well as **BLK** being involved in those
2 decisions.

3 Q. So it was probably a mixture of the two?

4 A. Yes.

5 Q. He wouldn't always ask for the final decision --

6 A. No.

7 Q. -- from the governing body, he might well just dismiss
8 someone?

9 A. Yes.

10 Q. And then report it in due course if it was considered
11 appropriate to do so?

12 A. Yes.

13 Q. Can I just ask you this: the composition of the board.

14 I think there's a reference at least to representation
15 perhaps in the late 1960s, I think it's said in the
16 statement, there's perhaps more representation of people
17 with maybe a more obvious social care background.

18 Am I right in thinking that's what you've picked up from
19 the historical records?

20 A. Social care and, I think, also educational.

21 Q. More so after maybe the Social Work (Scotland) Act has
22 been passed and we're going into the era of the
23 professional social work departments?

24 A. I think this is covered in the organisational statement.

25 I don't know if you can bring the part of the

1 organisational statement up.

2 Q. I'll try and do that.

3 A. The reason that I asking is that I thought it was
4 slightly earlier than the late 1960s that we began to
5 see that and potentially after the ...

6 LADY SMITH: I think Mr Peoples is looking at, is it
7 paragraph 35 of this statement?

8 A. I may be wrong.

9 MR PEOPLES: Yes. You're right, my Lady.

10 LADY SMITH: When you say from 1969 onward, the composition
11 contained fewer clergy and more professionals from the
12 spheres of social services, education and local
13 authorities.

14 MR PEOPLES: I'm grateful.

15 A. But I don't think 1969 was the first time we had
16 representation from education or social work. It might
17 be that they were also connected to the church earlier,
18 but they were -- I would need to check the details.

19 LADY SMITH: You don't say that. Previously, you included
20 professionals from education and childcare; that's
21 in the previous sentence on paragraph 35. It's at the
22 top of page 15. Don't worry. I don't read what's said
23 there as indicating that it was only in 1969 that
24 Aberlour began to think about involving people on --

25 A. Sorry, that was my --

1 LADY SMITH: -- governing body that had knowledge and skills
2 in the field of education and childcare. That's been
3 covered. The impression I got from that was there was
4 a shift in balance, if you like, and more weight --

5 A. Yes, absolutely.

6 LADY SMITH: -- on the social services and education side
7 within the governing body --

8 A. That would be correct and fewer clergy --

9 LADY SMITH: That would not be surprising after the 1968
10 Act. Aberlour wouldn't have been the only organisation
11 that shifted their thinking about governance at that
12 stage.

13 A. Yes.

14 MR PEOPLES: I think we have heard evidence that lots of
15 organisations were thinking about these matters and, as
16 her Ladyship says, we're not singling out Aberlour here,
17 we're just trying to understand the picture.

18 Can I take you in this regard to paragraph 56, which
19 maybe tells us a little bit about the position in 1964.
20 This is on page 21, SallyAnn. There's reference in the
21 statement to a minute of a meeting of 19 August 1964,
22 where a governor is noted as saying that:

23 "Childcare had become a field for experts in the
24 immediately preceding years but that the board had the
25 benefit of the expert input of [REDACTED] BGF [REDACTED]"

1 So it looks as if that's a recognition, at least by
2 one governor, that the board itself maybe lacked
3 a degree of expertise in a field which was becoming
4 a field where expertise was required, but they had at
5 least the benefit of the expert input of [REDACTED] BGF
6 to guide them.

7 A. Yes.

8 Q. What childcare qualifications did [REDACTED] BGF
9 have?

10 A. Well, my understanding was that he had no -- he was
11 [REDACTED] who had a lot of working experience in
12 childcare, but I'm actually not sure that he had any
13 specific qualifications in childcare which would be
14 probably in 1964 akin to many people.

15 Q. And what about [REDACTED] BLK

16 A. The same would be true of [REDACTED] BLK yes.

17 Q. There is mention of an individual called -- is it a
18 visitor -- there was one visitor, was there --

19 A. There's certainly mention of a visitor. Is this
20 in relation to --

21 Q. I can take you to paragraph 40. It gives us a little
22 bit of information about the role of visitors:

23 "The visitor of the institution referred to is
24 a role believed to have been created by the original
25 constitution of the organisation and which remained in

1 the constitutions of 1882 and 1932 as a mechanism for
2 the governors not only to maintain supervision of
3 orphanage conditions but also to act as final arbiter if
4 there was a dispute between the governors and the
5 warden. The role of visitor continued throughout the
6 orphanage years and indeed at a governors' meeting of
7 28 May 1959 it was decided to increase the frequency of
8 supervisory visits to the establishment which took place
9 around monthly."

10 Are you able to help me any further on what the
11 visitor did and who the visitor was?

12 A. No, I don't have the records of that, but I could
13 certainly look in the minute books to see if there's any
14 mentioned at that point.

15 Q. If this was a form of oversight as well as a dispute
16 resolution procedure, I suppose what I'm interested in
17 is whether this visitor, if visiting whether monthly or
18 otherwise and providing reports to the governing body,
19 whether the visitor was raising at any point any
20 concerns, for example, about the way the orphanage was
21 run or the practices of particular houses or
22 house parents or how children felt they were being
23 treated? That's the sort of thing I was curious about
24 if you're able to help me.

25 A. There was certainly an example of -- now, I would need

1 to be reminded whether it was a visitor or one of the
2 governors -- had stayed overnight in the orphanage to
3 test some thinking about increasing the numbers of
4 children to the orphanage. Based on their stay at the
5 orphanage, they made it clear that they didn't think
6 it would be prudent to increase the numbers of children,
7 that it should remain at the same level as it was. But
8 there is not -- there are not numerous references to
9 visitors challenging within the context of the minutes,
10 albeit --

11 Q. Was the visitor a member of the Episcopalian Church or
12 holding some recognised office, or was it someone who
13 would be appointed more generally?

14 A. I would need to check but I think at this stage, in the
15 1930s and 1940s, the likelihood is that it would be
16 potentially a lay member of the church, but I'd need to
17 check that.

18 Q. You have a section dealing with the role of [REDACTED]
19 in the statement, and I was just going to ask a few
20 points about that. Paragraph 42 reads:

21 "The general culture and atmosphere within the
22 establishments run by the organisation, particularly
23 over the period from establishment to the early group
24 home years, were heavily influenced by [REDACTED] from
25 time to time, given his role in recruitment, in

1 reporting to and informing the governors, and his
2 implementation by day-to-day management of all staff
3 from [REDACTED] onwards of policy decisions."

4 So that seems to be a recognition that really
5 culture and atmosphere is to a large extent influenced
6 and dictated by [REDACTED] from time to time and how
7 that person performs their job.

8 A. Yes.

9 Q. And I suppose therefore, we've got [REDACTED] BLK [REDACTED] who was
10 in post from [REDACTED] so he was [REDACTED] for quite
11 a substantial period of the time that we've been looking
12 at.

13 A. He was.

14 Q. Would I be right in thinking that the staff would to
15 some extent take their cue from [REDACTED] BLK [REDACTED]

16 A. Yes.

17 Q. That would follow: you have [REDACTED] in this role --

18 A. Yes, that would be expected.

19 Q. -- and they provide the direction and leadership or
20 perhaps they set the standards or attitude or create the
21 culture.

22 A. Yes.

23 Q. The reason I ask that is I want just to ask you if
24 you're able to comment -- you have seen a draft report
25 that was prepared by Professor Abrams and I'm not going

1 to take you to that report today other than for this
2 purpose. There's reference in it, INQ.001.004.0158, to
3 what an inspector from the Home Department, I think,
4 wrote in [REDACTED] about [REDACTED] BLK I think that must be
5 a reference to [REDACTED] BLK

6 A. Yes.

7 Q. I'll just read it. It says:

8 [REDACTED] BLK in consequence of being in continuous
9 contact for over 20 years with 350 orphans of both
10 sexes, all of them difficult, many of them abnormal, was
11 having his character profoundly modified by the
12 experience and found it necessary, quite understandably,
13 to protect his sensibilities with a formidable armour of
14 insensitiveness and to function as [REDACTED] BLK in some
15 detachment from the normal human emotions. This
16 impression gained strength from the fact that he always
17 referred to himself when addressing the children as [REDACTED] BLK
18 [REDACTED] BLK Mr Cunningham [and this seems to be one of the
19 officials from the Department] admits that he felt
20 a little prejudiced by this outlook, but in our
21 discussion had quite clearly formed the same impressions
22 as the other inspectors have formed from time to time.
23 Mr Cunningham was not impressed by the fact that he held
24 individual children up to ridicule in front of the other
25 children and pilloried the boy [and the name is

1 mentioned] in front of the whole of the dining room."

2 This seems to be taken from a document held by NRS,
3 a minute dated [REDACTED] 1948, where
4 a Mr Hewitson-Brown, and the writer was accompanied, as
5 it says, on this inspection by a Mr CC Cunningham. So,
6 any comments to make about that?

7 A. I read that in Professor Abrams' report and I was
8 actually very concerned about it because it was
9 a description of [REDACTED] BLK [REDACTED] that I was not familiar with
10 in terms of how strong it was. I also have not seen the
11 actual document from which it came. But i'm also unsure
12 whether that was ever shared with the orphanage.
13 I would have to say if that was the view, then it should
14 have been shared. But what I did do in terms of reading
15 that is that I went to the file of the child that it
16 referred to, to find out what that child's story was,
17 actually, from what I could glean because it did concern
18 me in terms of that description.

19 It was quite a curious situation because actually,
20 when I went to the file, this was a wee boy who was in
21 letter contact with [REDACTED] BLK [REDACTED] up until his early
22 20s and described [REDACTED] BLK [REDACTED] as the only thing he had
23 in the world and was very, very fond of him. So it was
24 quite starkly different from that description.

25 I'm not saying that description is untrue, but what

1 I'm saying is this was a wee lad who, albeit he left the
2 orphanage shortly after that to go somewhere else,
3 continued to make contact with the orphanage over a long
4 period of time.

5 So that's as far as I got with my analysis of what
6 happened because the other thing for me is we have
7 evidence around [REDACTED] BLK [REDACTED] which seemed quite contrary
8 to what was being presented in that report.

9 So it was a very mixed view of the man.

10 Q. But you see the general point I'm trying to --

11 A. Absolutely.

12 Q. It may not have had an impact or an adverse impact on
13 the particular boy whose records you checked, but if at
14 assembly those at the assembly, including staff, see the
15 [REDACTED] BLK [REDACTED] --

16 A. Absolutely.

17 Q. -- behaving and ridiculing a child and that's the way
18 that it was perceived by the external inspector in 1948,
19 there's a clear danger that if they think [REDACTED] BLK [REDACTED] can
20 do that, then it's obviously an acceptable practice for
21 them to do likewise.

22 A. Absolutely. I would say very clearly that I would not
23 seek to condone or even excuse that behaviour. It was
24 unacceptable if that's what happened.

25 Q. Because the rules at that time, as I understand it --

1 and I know it's maybe not said in terms about ridicule
2 and humiliation, but I think you make it clear in the
3 statement that the rules that would have been in force
4 then about maintaining discipline and punishment and
5 what was permissible and not permissible in terms of
6 treatment of children would certainly, not in your
7 interpretation, have authorised or condoned humiliation
8 or ridicule.

9 A. Absolutely.

10 LADY SMITH: Mr Peoples, it's just 12.05 now. I think
11 I want to give the stenographers a break, just a short
12 one, no more than 10 minutes -- a bit less than that
13 perhaps.

14 (12.05 pm)

15 (A short break)

16 (12.20 pm)

17 LADY SMITH: SallyAnn, are you comfortable if we carry on
18 now?

19 A. Yes, absolutely.

20 LADY SMITH: Thank you.

21 Mr Peoples.

22 MR PEOPLES: SallyAnn, I was dealing with the section of the
23 statement that was dealing with the role of the
24 governors, the visitor and BLK, and I asked you
25 some questions about that. We were looking at

1 until perhaps 1962 to 1964 when a decision was made to
2 close the orphanage over time and concentrate on group
3 homes.

4 A. Yes. There's extensive evidence in the minute books of
5 the conversations that took place between [REDACTED]
6 to [REDACTED] on this issue.

7 Q. Just on the question of [REDACTED] BGF [REDACTED], my recollection
8 was that at least some of those who gave evidence saw
9 him as a somewhat cold and distant or remote figure so
10 far as they were concerned. I don't know if you can
11 recall.

12 A. I do recall that, yes.

13 Q. Not maybe someone that mixed a great deal with children.
14 That seemed to be the impression, that was their
15 experience.

16 A. That was certainly the evidence led by the ...

17 Q. I don't know whether the historical records are able to
18 help us as to how he was viewed. There was quite a lot
19 about [REDACTED] BLK [REDACTED] here, but not so much about
20 [REDACTED] BGF [REDACTED]. Do we know much about him?

21 A. From the minutes in terms of the conversations around
22 the moving away from the orphanage model to the group
23 home years, he is very much seen as someone who's
24 bringing to the governors a different outlook and
25 a different perspective on caring for children, much of

1 which was actually quite child-centred. That does not
2 speak to his day-to-day behaviour with children, but
3 certainly in terms of the decisions he was seeking to
4 influence the board to make, they seemed to be very
5 child-centred.

6 Q. So do I take it from that that at least the records
7 would indicate at least that he was, broadly speaking,
8 a supporter of moving in the direction of group homes as
9 that was the way the wind was blowing?

10 A. He was a supporter of the group home model. I don't
11 know whether that's because the way the wind was
12 blowing. He does make reference to good childcare
13 practice. He wasn't doing that on a whim.

14 LADY SMITH: Can you give me an example of something you
15 read that made you think that ██████████ BGF ██████████ approach
16 was child-centred?

17 A. So within the minutes, he references the 1959 Scottish
18 Home Department report and uses that as evidence to
19 influence the board in terms of the kind of atmosphere,
20 the kind of caring arrangements he would want to have in
21 place for all of the children. He accepts the
22 limitations of the large-scale institutions in terms of
23 offering children the type of nurture, care and
24 stability that children should be offered in a living
25 situation.

1 LADY SMITH: Thank you.

2 MR PEOPLES: Just on what he was like, I've already
3 mentioned some of the descriptions of him or impressions
4 of him that some children formed, according to the
5 evidence we've heard.

6 There's one other piece of evidence that I was going
7 to ask you to comment on. We heard some evidence from
8 an individual who used the pseudonym, "Rab". I think
9 you'll know who I mean. He was a person who spoke about
10 Mr Lee; he was one of the boys involved in that. Apart
11 from giving evidence about that matter, he did, I think,
12 in the course of his evidence tell us a little bit about
13 his level of engagement with [REDACTED] BGF

14 I think his position, and I'll maybe summarise it
15 for you, if I may -- if Mr Lee and the house mother in
16 Spey House dealt with minor misdemeanours, he said --
17 and I think Catherine, who was the house mother gave
18 evidence confirmed this, I think she didn't punish, use
19 corporal punishment on the boys, and I think she didn't
20 see it used.

21 Anyway, what Rab said was if things were more
22 serious, you'd be sent to [REDACTED] BGF, and one
23 example he gave of a more serious matter that would
24 cause you to be sent to [REDACTED] BGF was if you ran away.
25 I don't know if you remember that evidence.

1 A. Yes.

2 Q. He said what would happen next would be you'd be belted
3 by [REDACTED] BGF -- and we're talking here about
4 a period in [REDACTED]. I think he was there from [REDACTED]
5 until [REDACTED]. He
6 described what would happen:

7 [REDACTED] BGF would bend you down, put your
8 head between his legs, and belt you with your shorts
9 down on the bare backside. You would get about six
10 strokes. He was great with the belt."

11 So that was his description of [REDACTED] BGF.

12 I wonder how that accords with what were considered
13 to be the rules on corporal punishment at the time.

14 A. That would not be in keeping with the rules of the
15 orphanage at the time in terms of corporal punishment.
16 That would be seen -- if you look at the rules, corporal
17 punishment was still permitted. The belt, the tawse,
18 was permitted on the bottom, but it was through the seat
19 of the trousers. And I believe the maximum number of
20 strokes was three or four. So that would be in excess
21 of what the rules allowed.

22 Q. If that description is accurate, then clearly this is

23 [REDACTED] BLK --

24 A. Yes, it's not acceptable.

25 Q. -- who seems to be acting in violation of the

1 organisation's own rules?

2 A. Absolutely. Yes, absolutely.

3 Q. It's maybe the same point as [REDACTED] BLK [REDACTED] if we have that
4 other evidence I spoke about before the break, if you
5 see or you hear that [REDACTED] BLK [REDACTED] does these things, it's
6 not setting a great example of encouraging compliance
7 with the rules if [REDACTED] doesn't seem to be
8 observing them himself.

9 A. Absolutely.

10 Q. In a sense, he is the organisation's representative.
11 He's symbolic of the organisation so far as staff are
12 concerned.

13 A. Yes.

14 Q. They take their cue from him.

15 A. They do.

16 LADY SMITH: And that leaves to one side the bigger
17 question, if you like, of whether or not a child who had
18 run away should have been being belted in response to
19 having done that at all.

20 A. Absolutely.

21 MR PEOPLES: I was going to say that.

22 We have talked about what I have just described
23 being in violation of the written rules and you
24 mentioned the one set of rules that you've been able to
25 locate and try and date. But those rules appear, as

1 I understand it, to treat absconding in the general
2 sense as a punishable offence.

3 A. Yes, and that's not something that in modern times, or
4 even at the time, I think I could concur with.

5 Q. That's not child-centred?

6 A. No, it's not. It's not.

7 Q. In any era?

8 A. No.

9 Q. So if the rules -- leave aside what [REDACTED]
10 practices are, if the rules are saying if you abscond,
11 you'll be punished, without regard to the reasons, then
12 it sounds like the rules should have been reviewed and
13 changed.

14 A. Yes. That was certainly an issue for me in relation to
15 that time of how organisations in the plural perceived
16 absconding and whether it was a difficulty that was
17 presented to staff in terms of behaviour. It should
18 have been addressed by a more compassionate approach.

19 Q. You make the point -- and we heard this yesterday as
20 well -- that all behaviour is a form of communication.

21 A. Yes.

22 Q. You don't exclude absconding from that?

23 A. No, and one of the first things you need to understand
24 is that if a child runs away, are they running to or
25 from something. That's advice I give to staff to this

1 day. The first two questions are: are they running from
2 or to something.

3 Q. So far as creating the right culture, atmosphere and
4 environment is concerned, we have spoken about the
5 importance of the person in charge setting a good
6 example and perhaps we've seen two examples where, if
7 these are accurate accounts of what happened, neither
8 were setting a good example.

9 A. Certainly in these two examples, that would be true.

10 Q. And they might therefore create a perception that these
11 things were okay?

12 A. Certainly staff could interpret it as such.

13 Q. And that corporal punishment wasn't something to be used
14 sparingly but could be used quite liberally?

15 A. If a staff member was motivated to interpret it that
16 way, then yes.

17 Q. But if a child thought that [REDACTED] was great with
18 the belt, that rather suggests he had a reputation that
19 he would be quite happy to use the belt quite often and
20 administer punishment when children were sent to his
21 office.

22 A. I mean, I can't give you a view about how other than he
23 used the belt because we have one person's testimony,
24 which is important to hear, but I don't know that it
25 actually takes us any closer to understanding the

1 prevalence of that type of behaviour, because what we
2 don't have is a number of people coming forward to tell
3 us similar stories.

4 Q. If we don't have the records but we have some people
5 telling us this and not just saying what happened to
6 them but appear to be talking about the general
7 reputation, it does count for something, doesn't it?

8 A. Well, is it a general reputation or is it an
9 interpretation by that boy of a particular experience
10 he had?

11 Q. He seemed to know what would happen if you did more than
12 a minor misdemeanour.

13 A. It happened to him and I'm not -- I would not support
14 that in any level, but what I don't know, and
15 I genuinely do not know, is what the prevalence of that
16 was in the orphanage at that time. In the absence of
17 any other evidence to the fact that it was prevalent,
18 I cannot say that it was prevalent or it wasn't.

19 Q. But we have heard -- I'm not going to go through the
20 evidence from those that gave evidence about the
21 orphanage years, but there was a good deal of evidence
22 about physical abuse in particular houses. You can
23 recall there was quite a --

24 A. Yes, and the trust, in terms of the historical research
25 that we have done, has certainly provided a number of

1 examples to the inquiry where the use of corporal
2 punishment was brought to the attention of the governing
3 body and steps were taken to address that as well. So,
4 yes, we know that corporal punishment happened and we
5 also know there was instances of excessive corporal
6 punishment being used.

7 Q. But obviously, if BGF he's
8 not going to report himself to the governing body if
9 he is doing something that's in violation of the rules,
10 even on one occasion.

11 A. Yes, absolutely. I absolutely support your view that
12 that was not the type of behaviour that should have been
13 modelled in the orphanage. Absolutely not.

14 Q. It's also said in relation to culture and atmosphere and
15 environment within establishments or particular houses
16 or particular group homes -- I think you accept and
17 recognise at paragraph 58 that the role of house parent,
18 particularly in the group home years, although you could
19 apply this to housemasters and mistresses in houses in
20 Aberlour Orphanage, but you say it's recognised that the
21 role of the house parent in influencing the atmosphere
22 within the establishment is central. So I think that's
23 maybe just a commonsense conclusion. If they can create
24 the atmosphere, they can either create the feeling of
25 security or create the sense of fear --

1 A. Yes.

2 Q. -- depending on how they behave towards children.

3 A. Yes.

4 Q. I think if we go back to the evidence of Rab, he spoke
5 of feeling in constant fear when he was in Spey House
6 because his housemaster was Mr Lee.

7 A. Yes.

8 Q. And we know why he felt that way now.

9 A. Yes.

10 Q. And indeed, we've heard from Catherine, who was the
11 housemistress, who I think in hindsight thinks that
12 there were signs that ought to perhaps have been picked
13 up that the children were afraid. I don't know if you
14 recall that she said things along the lines that boys
15 would go in threes to the bathroom --

16 A. Yes.

17 Q. -- rather than one when Mr Lee was around and perhaps
18 she should have -- she had a feeling at the time but she
19 didn't actually report anything.

20 A. Yes.

21 Q. But clearly, for boys in Spey House between 1961 and
22 1963, that must have been a dreadful atmosphere to live
23 in.

24 A. Absolutely and I have listened to the testimony from the
25 boys and I've seen more information provided in terms of

1 the charges and, yes, absolutely, it must have been
2 a horrendous situation for those boys.

3 Q. Can I just make the point at this stage. I think you'll
4 accept that until you'd heard a bit more about Mr Lee,
5 you weren't well-informed as an organisation about his
6 activities or the scale of them or the detail of them,
7 because the records are quite limited in relation to
8 Mr Lee; is that not correct?

9 A. There is reference in the minute of a housemaster having
10 been dismissed. The details are not in the minute in
11 terms of the reasons for that, certainly in terms of the
12 individual charges, if you like, the indictment that was
13 presented at the time. I only came across that detail
14 as a result of the inquiry's approach to recover those
15 documents. There's certainly no copy of charges within
16 any of the children's records. It simply refers to
17 indecent interference.

18 Q. There is no specification of the nature of that
19 interference?

20 A. No. Of a sexual nature -- it's clear it was of a sexual
21 nature but, no, there was no detailed -- so I still
22 do not know -- and neither should I at this stage --
23 it's not clear from individual children what their
24 individual experiences were from the case records.

25 Q. No, but I think we can infer it from the nature of the

1 offences that took place and he pled guilty to. There
2 were nine lewd and --

3 A. Oh, absolutely.

4 Q. Sodomy and sadistic practices.

5 A. I don't mean in any way to minimise it: it's just
6 a statement of fact that there was no detail in any of
7 the children's records.

8 Q. That's a point that troubles me because I think there's
9 lots of detail in other matters which might arguably be
10 a lot less important. This is one of the darkest
11 periods in Aberlour's history, isn't it, when ten boys
12 in one house over an 18-month period are seriously
13 sexually abused? And yet it doesn't get a lot of
14 coverage in the records, the minutes, the governors'
15 meetings or anything. Yet there's all sorts of other
16 things that seem to occupy their time and get recorded.
17 But this matter doesn't. Why is that?

18 A. It was recorded, it just wasn't recorded in detail in
19 terms of the offences.

20 Q. I think you know the point I'm making. It's probably
21 the most serious issue that could confront you, but
22 there's no record of a meeting of the governors,
23 a special meeting to discuss it, to review the whole
24 matter or give you a trail of what happened between
25 August 1963, when the matter came to light, the

1 conviction in September, and the letter to the
2 children's officers in October. It's not a great state
3 of affairs. It doesn't say much for the records or the
4 record keepers.

5 A. The record keepers can only record the information
6 they're given. I wouldn't lay the blame at their door.
7 I think the people responsible for that were the people
8 in the orphanage who had the day-to-day care
9 arrangements for the children and who had that
10 information to hand.

11 Q. We heard from Catherine, who seemed to think she was
12 told not to speak about it and not to say anything.
13 Maybe that explains that the general approach was: keep
14 this as quiet as possible.

15 A. Yes, I heard Catherine's evidence and again I was
16 curious about exactly what and when she was told about
17 not saying anything. Because her account was she had
18 overheard the children speaking about it and then she
19 had obviously asked for more information, quite rightly,
20 and immediately reported it to the warden, who very
21 quickly reported it to the police. So I wasn't actually
22 sure from her information if she was told immediately
23 not to speak about it because actually, she would have
24 been the first natural confidant of these children and
25 was perhaps a witness in a criminal case, because at

1 that point you wouldn't know whether this person was
2 going to plead guilty or in fact whether there was going
3 to be a criminal trial.

4 Q. But I think reading her evidence as a whole, as I did
5 last night before I came here, it suggests it was a bit
6 more than that. I'm just looking at what she told us.

7 She said:

8 "It was all kept very quiet after I reported it. It
9 was all kept very quiet. I think they were afraid
10 it would get to the newspapers and they would make a big
11 thing of it. I was told not to talk about it by

12 BGF And after it came to light and Mr Lee was
13 taken away I was told to keep quiet about it. I think
14 possibly all the house parents were told to keep quiet
15 about it."

16 And then she goes on to say that she didn't even
17 know there were ten boys involved and they were in her
18 own house as housemistress, and she didn't know the
19 nature of the abuse that came out in evidence, and
20 things to that effect.

21 Then she said:

22 "I was very much kept in the dark about what
23 happened."

24 She didn't know whose statements were taken, she
25 didn't accompany the boys to the medical, she didn't

1 know how many went. That seemed to be the recurring
2 theme that she was -- and she said, ultimately, I think,
3 her position was on reflection:

4 "I think they were hell-bent on keeping everything
5 quiet so it didn't get out to the press and the board of
6 governors and things like that, I don't know."

7 She said then that the press coverage didn't refer
8 to Aberlour; she thought it was just a children's home
9 in the north-east. So it has all the hallmarks and
10 appearances of trying to keep it as quiet as possible,
11 has it not?

12 A. I suggest in 1963 if you were motivated to keep
13 something quiet, you would not report it to the police
14 and you would not seek for that person to be removed
15 from an institution and you would not then go through
16 the process that they went through.

17 I think that there were certainly issues in terms of
18 the support for the children afterwards in terms of
19 people's understanding of what those boys needed in
20 terms of support.

21 In terms of the press, I think she also said in her
22 evidence, if I recall it correctly, that there wasn't
23 any statement around not having the local paper in the
24 orphanage grounds. So they weren't given advice not to
25 allow the press on the grounds -- copies of the paper on

1 the grounds.

2 Q. It wouldn't be a problem if the press didn't actually
3 name the orphanage as the place where the abuse took
4 place.

5 A. I have no information as to why --

6 Q. That was her information and that was her
7 recollection --

8 A. But I think she also said they were trying to keep it
9 from the board of governors, which is clearly not true,
10 because there is a record of it in the board of
11 governors and there was a record of the letter to the
12 children's officers, albeit in October rather than
13 August.

14 Q. How much were the governors told?

15 A. The minute would suggest that the house father had been
16 dismissed because of indecent interference against some
17 of the children.

18 Q. Did they know how many boys? Were they told how many
19 boys?

20 A. From memory, I don't think it does detail that, but
21 I can certainly check.

22 Q. Because I got the impression when we asked for
23 information initially, it was thought there were three
24 boys involved.

25 A. That's because of the -- so the historical searching of

1 records that we did -- in the initial enquiry from the
2 inquiry we did reveal three boys. There was a letter in
3 one file that referred to three boys who actually,
4 I think, all happened to come from the Edinburgh area,
5 I think, and the letter to the children's officer. And
6 it wasn't until subsequently we found there were more
7 boys.

8 What we did say to the inquiry is that we were -- in
9 terms of how our archives are structured, we can't -- we
10 need the name of children before we can retrieve their
11 records. So had we been given the name of ten children
12 who you were looking at in terms of this offence, then
13 we could have told you earlier that it was ten children
14 and not three, but we didn't have that information.

15 Q. Without asking, surely the records should have shown --

16 A. They didn't, no, they didn't detail the names of the
17 children. There's an argument in terms of the board
18 minute that perhaps those names should not have been
19 evident in terms of the confidentiality of the children.
20 It could have referenced ten children, by all means,
21 yes.

22 Q. Exactly. But there was no special meeting to discuss
23 this matter at all and to tell you what review or steps
24 they would take to ensure that nothing of this magnitude
25 should ever happen again. There's nothing.

1 A. No, there's certainly nothing on record of that.

2 Q. And indeed, if we look at the children's files
3 themselves, they're very uninformative -- and this was
4 at a time when no one expected the children or their
5 parents to see those files.

6 A. Yes, there's brief reference to it.

7 Q. Very brief.

8 A. Yes, absolutely.

9 Q. Can you tell me whether there's any evidence that
10 anything was done in the case of children who were not
11 placed by placing authorities but under private
12 arrangements? Was anything done to notify their parents
13 what had happened, because we know there were two boys
14 that went to the United States who were not placed by
15 the local authority and there is nothing, it would
16 appear, in their files.

17 A. And I think there's one other boy who was a private
18 placement and nothing was evident in his file. So based
19 on the files, I can only surmise that that did not take
20 place --

21 Q. Surely that's an appalling omission?

22 A. Yes, absolutely.

23 Q. It's indefensible not to tell the parents that their
24 child has been sexually abused.

25 A. Absolutely.

1 Q. How can it be justified, even in the case of placing
2 authorities, to wait until 3 October to tell them when
3 it's a fait accompli: this has all happened, he has been
4 convicted and jailed and now we would like to let you
5 know in very unspecific terms that the person you placed
6 with us has been the subject of indecent interference?

7 A. I wouldn't justify that, I wouldn't seek to justify
8 that. What I would say is that letter also includes
9 reference to a report to the inspectorate locally. What
10 I don't know is when that report took place. But if the
11 first report to the authority was on 3 October after the
12 allegation at the end of August, then I would say that
13 was far too late. It should have been done immediately.

14 Q. I think it's clear from the wording of the letter that
15 that was the first information. I think it starts,
16 "I regret to inform you", so it does have all the
17 appearances that until then they were not made aware --

18 A. The children's officer certainly, yes.

19 Q. And these are the people that, according to your own
20 statement, make the key decisions.

21 A. Yes. And I have accepted that that should have been
22 done --

23 Q. I'm not blaming you, by the way. I just want to explore
24 this issue because it doesn't seem that it gets anything
25 like the sort of coverage you'd expect at the time in

1 terms of when the events happened and also what action
2 was taken in light of them.

3 A. It was at a time -- I can't speak to why that is the
4 case at the time, but what I can say is it was at a time
5 where there was not the level of knowledge about sexual
6 abuse that we have today.

7 Q. But you had the knowledge because there were ten boys,
8 the detail was there, and it happened, and he got six
9 years.

10 A. I mean in terms of how you'd then coordinate your
11 response to it. I think what is a bigger concern for me
12 is the fact that I couldn't see anything from the
13 individual case records of the time of individualised
14 responses to each of these boys and how they should be
15 supported thereafter in the context of their everyday
16 care.

17 Q. But you have heard from one of them that he wasn't
18 supported, there was no counselling, no feedback, no
19 attempt to talk to him on a one-to-one basis, explain
20 what happened and give him whatever support he needed
21 at the time.

22 A. Yes, yes.

23 Q. He got nothing, as he said.

24 A. Yes, and that's not acceptable. The only thing I can
25 see which is evidenced in any way is the fact that that

1 house was staffed by house mothers as opposed to
2 house fathers. What I don't know is whether the
3 organisation at the time assumed that a house mother
4 would bring less of a risk to the boys than
5 a house father would, potentially.

6 Q. It wasn't the first time that some form of suggestion of
7 interference or allegations about housemasters had come
8 up. I appreciate this was a slightly different context,
9 but there was an assistant house father in 1961, was
10 there not, who had been the subject of allegations?
11 Can you tell us about that? What do we know with that?

12 A. So what I know about that is there is a reference in the
13 minutes that I've read in terms of a house father who
14 was subject of allegations. From the minutes it is
15 actually not that clear whether it was allegations
16 in the orphanage in situ or to somewhere where he went
17 thereafter. But basically, the governors were concerned
18 about the fact that this man could still be working with
19 children, albeit not in the orphanage. They had
20 a discussion about the seriousness of that man
21 continuing to work with children. They decided that
22 they should write to the Scottish Home Department,
23 I think it was, requesting that a list of those not
24 suitable to work with children be established and that
25 there was some type of monitoring of people who have had

1 allegations made against them so that they can be
2 prevented from working in childcare in future.

3 Q. You might have thought -- I know that suggestion wasn't
4 taken up, I think that's what we understand.

5 A. Yes. The Home Department didn't think that that would
6 be appropriate.

7 Q. But it having happened in 1963, the ten boys, it might
8 have occurred to the governors maybe to re-raise the
9 issue or record it --

10 A. Yes.

11 Q. -- and discuss it again at a high level and say to
12 themselves, well, what should other people be doing and
13 what should we be doing. But there's nothing to show.

14 A. No.

15 Q. We know some things happened because Mr Lee left so
16 he had to be replaced and I think a diary -- there was
17 evidence a diary system started to evolve, but there
18 were some changes, but it's not much.

19 A. No, I agree. There are many things that could have been
20 done differently.

21 Q. So that is a clear example of an organisational response
22 that was totally inadequate.

23 A. It was inadequate. I wouldn't say it was totally
24 inadequate because we were operating at a time where in
25 some institutions it may not have made it to the police.

1 So I believe that --

2 Q. Well, let's take that one up. Why did [REDACTED] BCK
3 case not to go to the police? Because a boy was bruised
4 as a result of a excessive beating by [REDACTED] BCK
5 [REDACTED] BCK. Why was that dealt with as an internal
6 matter and the police were not brought in, according to
7 the records?

8 A. There is nothing in the records to justify that decision
9 so I can't tell you exactly why that happened. But
10 there were a number of -- I don't think that was the
11 only one in terms of corporal punishment that didn't get
12 referred to the police at the time. So I don't know if
13 he was treated differently or the same as people in his
14 position.

15 Q. I'm not necessarily singling out Aberlour, but clearly
16 there are examples in Aberlour's history where, on the
17 face of it, there were grave matters or criminal matters
18 that ought to have been reported to the police but
19 weren't, and maybe [REDACTED] BCK is a good example, is
20 it not?

21 A. Yes, certainly if there was evidence, and I think there
22 was, of -- I think what's referred to as extensive
23 bruising to the boy's leg. Then, yes, that could have
24 and should have been.

25 Q. It was a junior colleague who was so concerned that they

1 raised the matter with the managing body, the governing
2 body?

3 A. Yes.

4 LADY SMITH: SallyAnn, just going back to Mr Lee for
5 a moment, you didn't agree that there was a totally
6 inadequate organisational response, you say it was
7 inadequate. What is it that you have in mind as being
8 an appropriate organisational response that occurred at
9 that time? Is it anything more than the diary?

10 A. No, no, I think I was thinking about the whole
11 situation, so I think that the fact that the
12 house mother reported it was right. The fact that the
13 warden acted on that report was correct, and referring
14 it to the police was exactly the right thing to do.
15 I think that the police then took their job very
16 seriously as well. So the bit that I think is
17 questionable for me is the response to the children
18 thereafter --

19 LADY SMITH: I think that's what Mr Peoples was talking
20 about. It was the response once it was known that
21 Mr Lee had been convicted.

22 A. Yes. For me, it was the individual responses to the
23 children and, yes, I think there is a point about what
24 did the organisation learn as a consequence. And
25 I don't see anything in our organisational records other

1 than those small changes that were made within that
2 specific house to suggest that there was a broader
3 learning.

4 LADY SMITH: Just going back to responding to the children
5 making allegations and, as you rightly point out in this
6 case, a house mother took it further and it ended up
7 in the hands of the police. Was that, on your reading
8 of the records, happenstance or was it because of some
9 written policy or procedure that was being followed
10 at the time?

11 A. There is nothing in the policies and procedures that
12 refers to -- there was the rules and regulations.
13 We haven't been able to uncover policies and procedures
14 and there's nothing specifically around sexual abuse
15 that I've been able to find. So I think that was based
16 on the house mother's understanding of the severity of
17 what was happening and the need for it to go further.

18 LADY SMITH: So it was really dependant on the wisdom of the
19 individual house mother?

20 A. In the absence of any evidence of -- absence of evidence
21 isn't evidence of ... maybe the other way round.
22 There's nothing that I know of that was written down.

23 LADY SMITH: So it could be that, had it been a different
24 house mother who'd done nothing, Mr Lee would have been
25 left to carry on harming more children?

1 A. Yes, you would have to rely on the adult taking action,
2 appropriate action --

3 LADY SMITH: Yes.

4 A. -- which thankfully, she did.

5 MR PEOPLES: There is also another element of good fortune
6 here on one view of the evidence. It wasn't a child who
7 directly went to Catherine to report this. The way she
8 described it, which is consistent with what the boy who
9 said to his friend -- it was consistent with his
10 evidence -- was that she overheard something being said
11 between boys and then asked them about the matter, which
12 led to a disclosure.

13 A. Yes.

14 Q. So it wasn't even as if the boys were telling her; she
15 was just lucky enough to be in the right place at the
16 right time to overhear something. So although it's said
17 in the statement the voice of the child was heard, the
18 voice of the child was overheard on that occasion, not
19 heard. So it wouldn't be right to think that the
20 organisation's processes led to this matter coming to
21 light: it was just a chance occurrence that she
22 overheard that conversation at that time --

23 A. Yes.

24 Q. -- and decided to ask some questions. Is that not the
25 fair interpretation of how she presented it?

1 A. I think, yes, in one sense, but I think if you
2 understand sexual abuse and how children tell about
3 sexual abuse, they don't tend to always tell adults
4 about that. Sometimes it can be around speaking to
5 other children. So, yes, she was fortunate to be in the
6 right place to overhear that conversation, and that was
7 good because actually, had she not been there, maybe
8 none of these children would have been able to tell.
9 Who knows?

10 Q. Another matter that you address in the statement, and
11 I'll maybe just ask you something about this, is what's
12 described as staffing challenges. I want to be clear
13 what you have managed to glean from the assessment and
14 analysis of the historical records. I think there is
15 a recognition that there were staffing challenges during
16 the orphanage years and indeed the group home years.

17 A. Yes.

18 Q. I was just wondering -- I think you attempt to maybe
19 explain some of the reasons for that and I think you
20 accept that one of the reasons might have been the
21 geographical location of Aberlour. Is that one issue?

22 A. Yes.

23 Q. At least for some people perhaps?

24 A. For some people, yes.

25 Q. Limited funds of the organisation. They didn't have

1 necessarily a lot of money to offer, money was tight?

2 A. In terms of salary comparison in the early years, yes.

3 Q. I suppose another might be a more general point: the
4 work was clearly demanding.

5 A. Yes. I think we accept that and I think actually
6 Professor Abrams recognises in each of her three draft
7 reports that staffing was an issue within residential
8 childcare across this period. I would like to be able
9 to sit here and tell you that that's all resolved in
10 modern Scotland in 2019, but that would not be the
11 truth.

12 Q. That's a matter for Thursday.

13 A. That's maybe a matter for Thursday. But all of those
14 issues that you allude to in terms of salary and in
15 terms of just the challenges for adults working in
16 residential childcare continue to this very day.

17 Q. Maybe this ties in with -- I think you're trying to help
18 us in your statement with why there were challenges and
19 why they weren't necessarily fully addressed.

20 I think one point, if I just understand what the
21 statement is saying, is that -- and I think you say this
22 at paragraph 111:

23 "The aim is always to obtain suitably skilled staff
24 with relevant experience."

25 But basically in the real world that's not always

1 possible. Is that --

2 A. Yes.

3 Q. I'm putting it rather bluntly, but I'm just trying to
4 get to the essence of what you're saying. A point you
5 make about training and qualifications, and correct me
6 if I've misunderstood it, is that while there were some
7 training opportunities so that people could obtain
8 residential childcare qualifications, they were not
9 sufficient in number to be able to provide a fully
10 trained qualified workforce for all the providers who
11 were looking for residential care staff?

12 A. That's correct, yes.

13 Q. There were not enough places --

14 A. Yes.

15 Q. -- to equip or to create a fully qualified workforce?

16 A. That's correct.

17 Q. That's one of the --

18 A. And in the early days there wouldn't even have been an
19 expectation that people would come with a qualification.

20 Q. Indeed, I'm probably right in saying the majority,
21 probably in the orphanage years and possibly even in the
22 group home years, didn't have formal qualifications?

23 A. Yes.

24 Q. And some didn't have relevant childcare experience of
25 residential care?

1 A. Yes.

2 Q. I think we've heard that more generally, but I think we
3 want to just --

4 A. I think we acknowledge that as an organisation.

5 LADY SMITH: Mr Peoples, it's now just after 1 o'clock.

6 We'll stop now for the lunch break and I will sit again
7 at 2 o'clock.

8 (1.02 pm)

9 (The lunch adjournment)

10 (2.00 pm)

11 LADY SMITH: Good afternoon.

12 SallyAnn, are you ready to carry on?

13 A. Yes, thank you.

14 LADY SMITH: Thank you.

15 Mr Peoples.

16 MR PEOPLES: SallyAnn, I'd like to ask some questions about
17 the section of the statement that deals with the
18 recruitment of staff. You've already told us that you
19 haven't been able to find any policies and procedures
20 for the orphanage and group home years.

21 A. Yes.

22 Q. And you've explained, I think, what information you've
23 been able to glean about the process. I think you tell
24 us -- and I'm going to take this fairly briefly, but
25 just so that we've got a reasonable picture of matters,

1 I think, as the statement indicates, there were some
2 quite significant changes in the 1990s in the area of
3 recruitment so far as the organisation was concerned.
4 I'm thinking, for example, that the organisation created
5 the post of head of HR, paragraph 117 --

6 A. Yes.

7 Q. -- as one significant, I suppose, development. The
8 trust became an SQA approved centre in 1999, I think you
9 tell us.

10 A. That's correct.

11 Q. Indeed, one of the other significant changes perhaps of
12 wider interest was that from around 1990 -- and I think
13 you tell us this at paragraph 119 and you deal with this
14 later on -- there was a system for checking for previous
15 convictions that was put in place.

16 A. Yes.

17 Q. In addition, in paragraph 120, I think you tell us that
18 apart from that check, there were other pre-employment
19 checks.

20 A. Yes.

21 Q. Just so far as the historical position is concerned,
22 can you tell us a little bit about the position from
23 1990 until maybe 2012, I think, when the PVG scheme and
24 the Disclosure scheme were established? I think you
25 tell us a little bit about it and, to some extent, you

1 think there were some shortcomings in the overall
2 general system at that time.

3 A. Yes -- this is pre-PVG?

4 Q. Yes.

5 A. Yes. We would have at that time, early 1990s, relied on
6 what we'd have referred to as SCRO checks, via local
7 authorities in some instances in terms of people coming
8 in. Those checks, I believe, were Scottish-based
9 checks. There was a separate process in relation to
10 going wider than the Scottish boundary, if you like, in
11 terms of previous convictions for people.

12 Q. Do you know when that process involved in the wider
13 process?

14 A. I think the wider process was individual approaches to
15 individual police constabularies in England based on
16 geographical boundaries and you would obviously need to
17 have addresses that you wanted them to check, but
18 I think again, from my understanding -- I have spoken to
19 our head of HR about this -- that was not always handled
20 consistently south of the border. So some police areas
21 would check going back quite significant times, whereas
22 others would set time frames on it. That's my
23 understanding of that.

24 Q. Whereas the SCRO check should disclose any previous
25 convictions in Scotland?

1 A. That's my understanding.

2 Q. And that would at least have given you some background
3 information to check against applications.

4 A. Yes. That's my understanding.

5 Q. Was there ever to your knowledge used in Aberlour
6 anything like this? We have heard evidence about this
7 Home Office circular procedure that was used in the
8 1960s and perhaps beyond where they would write to
9 a department and they would sometimes get a stamp back
10 saying, "No observations", or perhaps a telephone call
11 with observations. Is there any evidence of a system of
12 that kind being used within the organisation?

13 A. Do you mean by department, a council department?

14 Q. No, it looks like it was a government department. It
15 looks like the Home Office and then perhaps the
16 Department of Health and Social Security, for example,
17 in the 1960s where they would send off some information,
18 it would come back with a stamp, "No observations",
19 maybe typically, but sometimes, according to
20 Sir Roger Singleton, who gave evidence, there was
21 occasionally a telephone call to say, "I think you
22 should speak to so-and-so".

23 A. I have not seen any evidence of that but, as you know,
24 our HR records don't go that far back.

25 Q. Can I say to you, of course, that was Barnardo's who

1 were operating across the UK so their procedures may
2 have been different for that reason alone.

3 A. They may well have been.

4 Q. You told us about the suggestion in 1961 from the
5 organisation that a list should be compiled by the
6 Scottish Home Department, I think it was then, of
7 unsuitable persons. That didn't happen. Are you aware
8 either from your experience in Aberlour and the records
9 that you've seen or otherwise whether such a list, an
10 unsuitable list, ever came into being prior to the
11 legislation, I think, that did create a listing process?

12 A. Within Aberlour?

13 Q. Either.

14 A. I'm not aware of any list in terms of childcare. I do
15 believe that there was a list that referred to teachers,
16 but I've certainly not seen any evidence of lists within
17 Aberlour or other organisations.

18 Q. I may be wrong, but I think there was some reference,
19 very loosely, in some evidence we saw, either in
20 a document or someone saying something about an SWSG
21 blacklist. Were you aware of such a list?

22 A. Is that a document we provided?

23 Q. No, I'm just asking if you can help me with that. The
24 Social Work Services Group, they may have had some form
25 of list.

1 A. Sorry, I don't have any knowledge of that.

2 Q. Okay. At paragraphs 132 to 138, you pick up on an issue
3 where there was some evidence about the recruitment and
4 employment of a Mr Adrian Snowball.

5 A. Yes.

6 Q. You'll recall the evidence about him and the fact that
7 he had a conviction before and after his service with
8 Aberlour.

9 A. Yes.

10 Q. You have set out, I think quite fully, the background
11 and the information about that process. I'm not going
12 to take you through it in detail as we heard some
13 evidence about it and we can read it for ourselves.

14 I think, arising out of that particular case, is it
15 the position of the organisation that that did disclose
16 some systemic shortcomings in the general system prior
17 to the pre-PVG system coming into place?

18 A. Yes. So based on the evidence that we have in the file
19 that we have, we couldn't see any reference to checks
20 being done, constabulary based checks. That doesn't
21 mean that they weren't done necessarily, but we
22 certainly never saw any evidence of that. Also I think
23 the issue for us was the last English -- or the area in
24 England where the offence took place was a considerable
25 period of time before the person came to Scotland. So

1 there was no -- so where we would have gone in that
2 five-year period, if they did go back, they wouldn't
3 necessarily have found anything because I don't think
4 all of the systems spoke to each other in England either
5 at that time.

6 So there was certainly an issue in terms of the
7 overall operation of previous conviction checks, which
8 I think is widely acknowledged at the time, which is why
9 PVG came into being. So, yes, I think that would be
10 correct.

11 Q. Do you happen to know in Mr Snowball's case whether the
12 organisation itself did do anything beyond an SCRO check
13 for Scottish convictions?

14 A. I can't find any evidence of that in the file.

15 Q. The other matter I'll maybe touch on is Mr Snowball was
16 recruited and then applied for various posts --

17 A. Yes.

18 Q. -- within Aberlour.

19 A. Yes.

20 Q. And at least on one occasion, I think, in 1991 or
21 thereabouts, he completed an application but failed to
22 fill in the box related to PCs.

23 A. Yes, that's correct.

24 Q. Is it accepted that would be a failure on the part of
25 the trust perhaps not to pick up that point and question

1 him on that omission?

2 A. As far as I can see, it was a mandatory question that
3 was asked on the application and it wasn't answered and
4 it should have been. Somebody should have gone back to
5 clarify what his answer to that question was.

6 Q. But there is no evidence that he was ever questioned or
7 the matter was queried?

8 A. Not to my -- there's nothing in the file that suggests
9 that he was questioned further on that.

10 Q. I suppose -- and I think you might use the expression in
11 the statement -- that was a missed opportunity, wasn't
12 it?

13 A. Yes. In the sense that, yes, but without ... Well,
14 yes, but given Mr Snowball's conduct, he is likely to
15 have said, no, he didn't have any convictions, as he
16 did, I think, in one application thereafter.

17 Q. So you're saying even if things had been done, you
18 believe there's a real possibility that he might simply
19 have said what he said in the completed application
20 form?

21 A. He would have continued to lie.

22 Q. You've explained -- we have heard evidence of the PVG
23 scheme from other witnesses and Disclosure Scotland and
24 I'm not going to take up too much time today on that.
25 What I would like -- maybe this is a convenient point --

1 we've been discussing recruitment historically and
2 processes. Are you able in a sort of succinct way to
3 give us the key features of the recruitment process
4 within Aberlour today to compare it with what happened
5 historically?

6 A. So there's core aspects of that that would apply to any
7 post, which would be a completed application form with
8 relevant checks or questions in relation to previous
9 employment, police checks -- not police checks but any
10 criminal convictions. Part of that is a health
11 questionnaire and screening in relation to equal
12 opportunities. It's all part of that form. We ask for
13 references of previous employers: I understand there's
14 three references that we ask for.

15 In terms of shortlisting, those are all done in
16 terms of -- we have job descriptions with essential
17 characteristics, desirable characteristics and
18 shortlisting would be done by the recruiting manager
19 with the support of HR and one other person. There's
20 always a gender balance in those panels as well.

21 When we call people to interview, we usually give
22 people a presentation or a task to be done. It's
23 a competency-based interview, so we ask people about
24 their previous experience and ask them to give practical
25 examples of things they have done and the contribution

1 they've made.

2 In terms of residential care and certainly
3 recruitment for (inaudible) of our services, including
4 up to chief executive, we would also have staff panels
5 who would be involved in recruitment and also panels of
6 children and families.

7 So if I can make that practical, when I was
8 recruited, I was interviewed by the board of governors,
9 by a group of managers, and by a group of young people
10 as well, which was probably the hardest bit of it
11 because they're very --

12 Q. I was going to ask you: how did you find that?

13 A. It was enjoyable, but it was actually quite taxing as
14 well because they obviously have their questions agreed,
15 but they were very interesting and they don't stand on
16 ceremony in terms of the questions that they ask
17 applicants, which is quite right.

18 Q. But did you think that then was an improvement to the
19 process that they are involved, even at the highest
20 levels of appointment?

21 A. Absolutely, yes, and we continue to make sure that we,
22 wherever possible, get children and parents involved.

23 In residential care, there are panels of children
24 who will be -- they will be asked directly about
25 residential workers that have been through the process

1 and their views of them. We do have examples where
2 people who are interested in coming into residential
3 care do spend time in the children's houses in advance
4 or during the process and again the children's views are
5 sought in terms of their immediate responses to people.

6 Q. So would you say overall it's a far more elaborate and
7 robust process than the historical process so far as you
8 can tell?

9 A. Yes.

10 Q. I think you said there is an interview process and it
11 involves a number of people you have to be effectively
12 interviewed or questioned by.

13 A. Yes.

14 Q. We've heard evidence from others about something called
15 a value-based question approach. To some extent does
16 your process incorporate that general approach?

17 A. Yes. There's always a specific question around our
18 values. First of all, that is to try and elicit
19 information from the applicant about how much work
20 they've done, about the organisation and what they
21 understand us to be about and for. But each of the
22 questions will bring out areas around values, so it is
23 very important.

24 Q. So you are trying to get things like attitudes --

25 A. Absolutely.

1 Q. -- and suitability assessments from the questions being
2 posed?

3 A. Absolutely.

4 Q. You've mentioned the current PVG scheme and the
5 disclosure. I've asked this of others: what happens if
6 the person being recruited or applying is from a non-EU
7 state or EU state other than the UK? Is there any
8 special provision made for that situation to check out
9 matters?

10 A. My understanding is there is a list of countries on the
11 Disclosure Scotland website, which will be -- if the
12 person has a nationality outside of the UK, for example,
13 and is from any of these countries, there's about
14 12 countries, all of which I can't remember -- then
15 those countries will be approached for information.

16 I think if you wanted to make a specific request,
17 you would need to make -- beyond those countries that
18 are listed, you would need to make that explicit for
19 non-UK nationals.

20 Q. So the 12 countries, do they perhaps represent countries
21 that have got some reciprocal arrangements with the UK
22 that they've agreed they will provide information in
23 return for the UK doing likewise? Is that how it works?

24 A. I don't know, actually, because it's not a simple --
25 it's not the EU countries, for example. So I don't know

1 why it's those countries. I think that's --

2 Q. If they're not on the list, perhaps the only thing you
3 can do is to try and make some direct enquiries with
4 some appropriate body in the countries concerned?

5 A. Yes. I've certainly had to do that in previous
6 employment. When I was in the local authority, we had
7 people who had applied for jobs that came from --
8 I think on one occasion somebody came from Africa and we
9 actually had to get in touch with those states to find
10 out if there were any issues on the record that were of
11 note. It was a very long process.

12 Q. I was going to ask you. Without getting into too much
13 detail, who would you have approached in the first
14 instance?

15 A. International Social Services assisted us with how
16 we would go about that.

17 Q. Is that an organisation that is a sort of umbrella body?

18 A. At that time it was an umbrella organisation for
19 international social services and they had links to some
20 of the key states across the world. What I don't know
21 is if they continue to exist, but they certainly gave us
22 advice and assistance about how we would actually go
23 about finding more information.

24 Q. Maybe this is as good a time as any if we're looking at
25 current practices -- in terms of child protection

1 training, again, can you outline how things work now in
2 terms of training?

3 A. We have child protection procedures place within the
4 trust -- child protection procedures and adult
5 protection procedures. We have our historical abuse
6 procedures as well. And we have basic training
7 requirements for all staff coming into the trust
8 in relation to child protection. Basic child protection
9 training can take place as an e-learning module, but
10 staff working in services have annual reviews and
11 refreshers of child protection training within their
12 services and they also have a requirement they will also
13 do adult protection training as well. So it's something
14 that's an ongoing process.

15 Q. And these are mandatory training requirements?

16 A. Yes.

17 Q. And there's refresher training as part of the process?

18 A. Refresher training too.

19 Q. If someone comes to the organisation, do they have to
20 undergo that training within a certain time of
21 employment?

22 A. Yes. I would need to look at what that timing is. It's
23 all part of the induction process.

24 Q. Don't worry about the exact times. But basically the
25 process is that --

1 A. Yes.

2 Q. -- at a relatively early stage you want to get them
3 involved in the training for child protection --

4 A. Yes, absolutely -- and it would be refreshed every two
5 years, I think it is.

6 Q. Can I also ask you -- I'm trying to remember the acronym
7 we heard yesterday. Qualifications for residential care
8 workers --

9 A. Yes: SCQF.

10 Q. SCQF? What does that stand for?

11 A. Scottish Credit and Qualification Framework.

12 Q. Is it a 7 after that?

13 A. SCQF refers to the overarching framework that
14 qualifications for care are looked at in -- not just
15 care, other organisations too. It's at different
16 levels. So within those different levels, it tells us
17 what would be required of workers in a specific field.

18 So in the field of residential childcare, the
19 qualification at the level 7 of the SCQF framework is
20 what's required. That would be an HNC. It's not
21 a requirement that has to be in childcare, but an
22 HNC-level qualification plus an SVQ in childcare. So
23 that's at level 7.

24 Q. Is that a minimum requirement for all residential care
25 workers working with children today in Scotland?

1 A. They have to be working towards it. They don't need to
2 have it at the point that they're employed. There's
3 a five-year qualification period in order for them to
4 train to become qualified at SCQF level 7.

5 Q. But the idea is then that anyone working in residential
6 childcare today will obtain that qualification within,
7 at most, five years of starting work?

8 A. Yes.

9 Q. And will be registered with the SSSC and therefore be
10 regulated?

11 A. Yes.

12 Q. Do you have any views, because I think the matter was
13 canvassed with another witness, whether the five-year
14 period to obtain it -- do you have any views about the
15 length of that period, whether it's too long?

16 A. Yes, I think there is debate and discussion going on in
17 residential childcare at the moment in relation to
18 qualification levels. Actually, the government made
19 a decision two years ago that actually, the minimum
20 qualification level should be SCQF level 9, which is
21 actually a degree, in residential childcare. However,
22 that's been put on hold pending the care review and so,
23 again, there would be a minimum period through which
24 people would be invited to attain that. Yes, five years
25 does appear to be a fairly long period within which

1 people are allowed to get that qualification.

2 Q. This possibility of moving up to two levels, to what
3 would be the equivalent of a degree, if it was
4 implemented would apply to -- any residential care
5 worker working with children, would have to obtain that
6 within a certain time?

7 A. Yes.

8 Q. And did you say that had the backing of the government
9 at the moment or --

10 A. Yes, there was a decision taken that we should
11 implement -- and I think this was actually one of the
12 recommendations that came from the 2009 report that
13 Romy Langeland was involved in. So yes, there was
14 a decision and it was a decision to implement the
15 recommendation of an SCQF level 9 qualification for
16 residential childcare. I think there was a lot of
17 concerns expressed, not about the principle of an SCQF
18 level 9 qualification, but the logistics of getting
19 everybody through to level 9 within the constraints of
20 time and resource.

21 Q. Because I suppose, if you introduce it, it's not just
22 for new entrants into the --

23 A. Also our existing --

24 Q. -- it's for everyone as well --

25 A. -- employees, yes.

1 Q. -- so you have to get the whole workforce up two levels?

2 A. Yes, and there was even debate -- and there is even
3 debate about equivalency, so even those managers who
4 have a qualification at SCQF level 9 at the moment,
5 there is still a debate about whether that would still
6 be recognised or whether in fact they would need to
7 additional credits to qualify.

8 Q. But the issue of appropriate levels of qualification is
9 very much a live issue then --

10 A. Yes, absolutely.

11 Q. -- at present?

12 A. Yes. And it's only been put on hold pending the
13 completion of the first phase of the independent care
14 review.

15 Q. Is that by --

16 A. Fiona Duncan, yes.

17 Q. Maybe again when we're looking at current practice,
18 I might just ask you about one other matter: restraint
19 or intervention or de-escalation. Obviously, we have
20 heard all these terms. Can you just tell us what is
21 happening? I know you have an initiative and I'll maybe
22 leave that until Thursday. What's the current position
23 about restraint in terms of the organisation?

24 A. So we currently employ an approach called crisis
25 aggression limitation management, CALM for short.

1 That's an accredited course our staff, not just in the
2 Sycamore Service, but there's wider staff groups
3 involved in this, and there's two levels of CALM. Our
4 staff in Sycamore go through level 1 and 2. Level 2
5 takes you into parts of the module which could include
6 the physical -- I don't like the word "restraint" -- the
7 physical interventions for a child, to handle them
8 safely if they were upset, distressed or causing
9 themselves serious harm or potentially causing other
10 people serious harm.

11 The whole ethos of the approach is about
12 de-escalation, so phase 1, module 1 is about how we work
13 with situations to take the heat out of them, to support
14 children, to regulate themselves, because the message
15 that we very clearly give to staff is that actually,
16 physical restraint, holding people safely, whatever you
17 want to call it, should be something that is used very
18 sparingly within the system and is something that we
19 should try and avoid if we possibly can by de-escalating
20 situations.

21 Q. I take it, and I don't need too much detail, we've heard
22 evidence that currently people in care settings would
23 have care or support plans.

24 A. Yes.

25 Q. They would have individual risk assessments, risk

1 management situations as well as more general
2 assessments and these would all feed into how you best
3 de-escalate situations because you've already planned
4 for these possibilities and how you deal with them?

5 A. Yes. The approach within residential care is to have
6 individualised care plans for children and within that
7 you would look at any risk factors in relation to
8 behaviour or distress which might mean you need to be
9 really very conversant with how you talk that young
10 person down, how you support them to try and help
11 regulate themselves and, if in the event of there
12 needing to be a physical intervention and a hold, what
13 would be acceptable or appropriate for that young
14 person. CALM does not allow and we would not allow any
15 holding of children which inflicted physical pain on the
16 child.

17 Q. And there will be, under the CALM processes, recognised
18 techniques that are taught --

19 A. Yes.

20 Q. -- if they are required?

21 A. Yes.

22 Q. Historically, are you able to give us any picture of
23 what would happen in these situations? Because
24 presumably, the children at Aberlour, some of them would
25 fall into the category of people who might require

1 restraint.

2 A. Yes.

3 Q. Is there much in the records to tell us what happened?

4 A. So in every incident where there has been an
5 intervention, a CALM intervention, there is a record
6 kept of that within the trust. That would describe
7 exactly what the situation was, what led to it, what
8 holds were used, what the outcome of that intervention
9 was. That would be reviewed within the cluster and
10 there would be debriefings for any staff or children who
11 were involved in the incident, and also incident reports
12 are shared with our head of safeguarding.

13 We also report any physical interventions/incident
14 reports to our board on a quarterly basis through our
15 internal monitoring system. If there are any issues
16 in relation to practice, those are dealt with at the
17 time, and if there are any issues in terms of poor
18 practice or holds that are not part of CALM
19 accreditation, then we would look at what the learning
20 from that should be, whether it should be in fact
21 a disciplinary process or whether in fact we would need
22 to work with workers to put them -- retrain them in the
23 CALM process or whatever that might be. But we would
24 within that speak to the children about their
25 perspectives as well.

1 Q. If we go back to the orphanage and the group home years,
2 am I -- what is the position about advice or guidance on
3 restraint during those periods? Have you found any?

4 A. No. No, I think the -- it's in the organisational
5 statement that when we started to use CALM -- and that
6 kind of post-dated those two periods of our operation.
7 There was guidance in relation to physical punishment of
8 children --

9 Q. Yes.

10 A. -- but that's --

11 Q. A slightly different matter.

12 A. Yes.

13 Q. You didn't find anything equivalent in relation to what
14 we've called some sort of restraint, either to prevent
15 risk of harm to the person restrained or others?

16 A. No.

17 Q. So that's a relatively modern --

18 A. Yes.

19 Q. -- development, if you like?

20 A. Yes. And I think it's a positive development in
21 response to, I think, evidence in the late 1980s, maybe,
22 around inappropriate mechanisms being used in
23 organisations for restraint.

24 Q. In your statement you have a section, I think, about
25 paragraph 169, which is headed, "Supervision, monitoring

1 and appraisal". Have you got that in front of you?

2 A. I do now, yes.

3 Q. I think the point being made there is that if there was
4 any evidence of some failure to adhere to organisational
5 policies and that was brought to the attention of the
6 trust, action would be taken, appropriate action. And
7 you've given us some examples, you say, of where that
8 happened.

9 A. Yes.

10 Q. Was there actually any form of supervision policy itself
11 or monitoring policy or appraisal policy that you've
12 been able to locate to say what form supervision,
13 monitoring or appraisal should take?

14 A. No, we haven't. What we have found is that from fairly
15 early on, there was a six-month period where people
16 would be taken on on a temporary basis. Within such
17 time they would be assessed as to whether or not the
18 organisation would continue to employ them or not.
19 There is nothing to say what happened during that
20 six-month period, but I would suggest that the issue
21 around that six months' probationary period would
22 suggest that at least there was something in place,
23 albeit we do not have the forms, which tells us that
24 people are being assessed in the workplace.

25 Q. Looking maybe at the group home years -- you've

1 mentioned the rules and regulations that would have been
2 in force and we'll come to them in the orphanage years.
3 But looking at the group home years, when there were
4 house parents in different parts of the country, were
5 they issued with any form of general guidance about how
6 they should look after children in their care in
7 a particular home?

8 A. Again, I think we speak to this in the organisational
9 statement -- there are certainly other submissions --
10 that we haven't been able to locate previous policies
11 and procedures.

12 What we find is evidence within some of the case
13 records of memos, old-fashioned memos, going back and
14 forwards between group homes and headquarters and one
15 such time, and I think actually in relation to --
16 I think it related to one of the applicants, actually.
17 There was a child who was slapped in the face by
18 a house mother, who then referred that on to
19 headquarters to report the fact that she had done this
20 because obviously she was concerned about the fact that
21 she had done it.

22 So that would suggest that there was some
23 understanding of what was acceptable or not acceptable
24 practice, but we haven't found the procedures.

25 Q. But there was no care and control policy or manual of

1 a general kind that was issued to house parents which
2 should be in their particular unit? You've not found
3 anything like that?

4 A. We haven't found that. Again, it doesn't mean it didn't
5 exist, but we haven't found it and certainly --

6 Q. You haven't found references to it either?

7 A. Not to something called a care and control --

8 Q. Or something equivalent to that; I'm not trying to give
9 a precise description.

10 A. No, what we have found is people reporting in incidents
11 that have happened.

12 Q. I suppose that is very much down to whether someone
13 feels they should contact headquarters or seek advice,
14 that sort of --

15 A. To be honest, I don't know, because in the absence of
16 the document, I don't know. If it was in place then,
17 they may have been very clear about what they were
18 supposed to report and what they were not. So I don't
19 know the answer to your question.

20 LADY SMITH: What about responses to these reports? You say
21 you found records of people making reports --

22 A. Yes.

23 LADY SMITH: -- to head office. Is there any pattern of the
24 type of response that was sent?

25 A. Yes. The principal, it would have been at the time, did

1 reply to the house mother in relation to the incident to
2 the effect that it was a very difficult incident and she
3 did not condemn or criticise the house mother about the
4 incident.

5 LADY SMITH: I get that that's a particular instance, but do
6 I take it from what you say that there's no
7 documentation that shows you that there was a systematic
8 way --

9 A. Yes.

10 LADY SMITH: -- of responding to a report of a problem with
11 a child?

12 A. Yes, we haven't found that documentation.

13 MR PEOPLES: The example you give is more of an incident
14 being reported after it has occurred or perhaps seeking
15 some kind of either reassurance or advice or guidance or
16 instruction in light of that report --

17 A. Yes.

18 Q. -- rather than a document that would tell them --

19 A. It was a memo. It wasn't a form or anything like that.
20 It was a memo.

21 Q. Can I move to discipline and punishment. Because this
22 is one where you at least have found a document, is it,
23 the rules and regulations --

24 A. Yes.

25 Q. -- that were in existence at least for some of the

1 period --

2 A. Yes.

3 Q. -- that we're looking at.

4 Maybe I can just start -- you say at paragraph 174
5 under this head:

6 "The maintenance of discipline and the imposition of
7 punishment were matters which were discussed by the
8 board of governors on a regular basis."

9 And I think you show us in the statement examples of
10 discussion on the general matter.

11 Am I right in thinking that the only rules
12 in relation to discipline and punishment you found are
13 the ones that have been submitted to the inquiry?

14 A. That's the only rules that we have found. There are
15 rules or -- well, I'll use the term "rules" broadly for
16 the moment. There are references in the minutes to
17 incidents that go beyond the physical punishment rules.
18 That document does as well. So for example,
19 bed-wetting. There's certainly reference in the minutes
20 to the fact that the wetting of beds by children should
21 not result in punishment and should be dealt with
22 sensitively and they shouldn't be given punishments.
23 But there is no separate record of a policy on
24 bed-wetting.

25 Q. Can you help us with why these records were made in the

1 first place if they appear in here and there in the
2 general record?

3 A. Well, the reference to the bed-wetting was in relation
4 to a complaint again, not by an applicant at the time
5 but concerning potentially an applicant. It was made by
6 an ex-member of staff and the house parents were being
7 investigated.

8 Q. Is that one of the ones we have heard about?

9 A. Yes.

10 Q. Is that the **BCI/BCJ**

11 A. Yes, and they were being investigated because of these
12 concerns that had been raised. Within the body of the
13 minute, I believe I'm correct in saying it was that case
14 -- if you forgive me, I could check that for you --

15 Q. We'll maybe come to it.

16 A. But there was reference to the fact that the orphanage
17 and the board of governors were very clear that
18 punishment for bed-wetting was not something that should
19 be done.

20 Q. So far as the rules that you have been able to locate
21 are concerned, and that are mentioned in the statement,
22 I think that one of the things that you sought to do was
23 to try and put a date to those rules.

24 A. Yes.

25 Q. Is that right? And I think if we go to paragraph 206 of

1 the statement, I think you tell us what really your best
2 estimate was in terms of the date of the rules that are
3 before us. I think you tell us that you can say with
4 some confidence that the document pre-dates 1958, likely
5 a matter of years rather than months, and that the rules
6 stated in it were in place from around the late 1940s.

7 A. Yes.

8 Q. So that would be the approximate date when these rules
9 were issued --

10 A. Yes.

11 Q. -- although there might have been rules earlier, I think
12 you touch upon that possibility --

13 A. Yes. We don't have copies. Sorry.

14 Q. Is one of the reasons why it probably dates from the
15 late 1940s is the reference to trainees being 15 or
16 over? Would that be one reason? Because the
17 school-leaving age was raised in 1947.

18 A. Yes. In terms of sourcing the implementation of it,
19 yes.

20 Q. So that might be saying -- it's maybe a response to that
21 change in school-leaving age to at least update the
22 document if nothing else?

23 A. It could be.

24 Q. And indeed I think you say by 1958 the system of
25 trainees that's mentioned had largely disappeared?

1 A. Yes.

2 Q. So far as the rules that have been produced are
3 concerned, are you able to give us a general idea for
4 how long they remained in force and were applied in
5 practice? Because if they started life in 1947 to 1948
6 or thereabouts, how long were they the applicable rules
7 of the organisation?

8 A. Certainly beyond 1958 -- and beyond which time I can't
9 give you a date of when they remained in place.

10 Q. It's not possible from the records to --

11 A. No. There were developments in terms of the use of
12 corporal punishment, which meant that those would not be
13 fit for purpose when the approach to corporal punishment
14 quite rightly changed. But what I can't say is whether
15 these rules were in force immediately before those
16 changes in legislation and practice took place. Sorry.

17 Q. If we even look to the closure of the orphanage in 1967,
18 is there any evidence that these rules, or at least some
19 of them, were still being adhered to and referred to in
20 historical records?

21 A. I don't have any information that they weren't in force
22 at that time. I could double-check that situation.

23 Q. Well, it might be helpful if you can. We can get that
24 information at some point if you're able to help us.

25 The rules themselves, can I maybe get you to try and

1 talk me through what they are? Because you have set out
2 various stages of development, there seems to have been
3 some discussion on them, and I wonder if you could help
4 me on that, about what in effect they were telling or
5 saying about corporal punishment.

6 A. We did submit a copy of the rules. I don't have it in
7 front of me. It might be useful to have that.

8 LADY SMITH: Is it easy to get up on screen, Mr Peoples? It
9 might be helpful.

10 A. It's a four-page document, all of which I can't
11 remember.

12 (Pause)

13 MR PEOPLES: I actually thought you'd set out a lot of it in
14 your statement.

15 A. Yes, we have.

16 Q. I'll maybe try and do that. It's maybe easier if I try
17 and go back to that for a moment.

18 A. 208 begins to describe --

19 Q. Yes. If you go back further to 179, maybe we'll take it
20 through how you have set it out. You've referred to the
21 copy that you've been able to find, which you've tried
22 to date.

23 A. Yes.

24 Q. And we'll refer to that as "the rules", if I may. You
25 refer to it in paragraph 179. Then in paragraph 180,

1 I think you take a section of that rules headed "Esprit
2 de corps", and you quote from it in 180. This is the
3 point that:

4 "Every member of staff is expected to remember that
5 the orphanage is the children's home."

6 And then it ends with:

7 "It's the spirit and atmosphere of a home rather
8 than merely of an institution that we wish to
9 cultivate."

10 A. Yes.

11 Q. And I think we've talked about the aims earlier today.
12 There's a special note added within those rules to the
13 effect of:

14 "Punishments should always be remedial, never
15 administered in a temper, and always of such a nature
16 that the child will recognise its justice."

17 A. Yes.

18 Q. I think you say at 182, towards the foot of
19 paragraph 182:

20 "While permitting corporal punishment to
21 a controlled extent, the rules placed emphasis on other
22 forms of punishment."

23 A. Yes.

24 Q. And I think that's a reference to the fact that other
25 forms were prescribed as well.

1 Then there's reference to -- you say at 183:

2 "The policy suggests downgrading of children and
3 a consequent loss of pocket money."

4 For example, which may have been one form of
5 sanction.

6 A. Yes.

7 Q. Then you quote, I think, from the rules again on the top
8 of page 69 at paragraph 183, and I'll read what it says:

9 "Other punishments may be given such as imposition,
10 depriving them of little privileges, standing outside
11 the housemaster's room, going early to bed, but under no
12 circumstances [and this is in bold] are the children to
13 be deprived of their food, except with the warden's
14 sanction."

15 So we see a range of possible punishments?

16 A. Yes.

17 Q. One of which is deprivation of food, but it has to be
18 with the warden's sanction?

19 A. Yes.

20 Q. I see you've got an expression there, maybe you could
21 put that into words. What does that strike you --
22 what's your immediate reaction to seeing that?

23 A. It would strike me that the deprivation of food for
24 children would not be a reasonable sanction.

25 Q. It's not a very child-centred approach?

1 A. No.

2 Q. And then the other one that maybe caught my eye,

3 "Standing outside the housemaster's room"; what do you

4 make of that one?

5 A. I think the practice of children standing in corners or
6 standing outside the door was probably quite commonplace
7 in society at the time. So that of itself would not be
8 unusual. I think that the lack of further direction in
9 terms of time, for example, might be an issue for us in
10 terms of, okay, you can make a child stand outside the
11 door. I would argue that it's not an effective
12 punishment, but I'm not sure that people understood in
13 1948 that it was an ineffective punishment.

14 But if that was going to happen then I think you
15 should be very clear about how long you expect the child
16 to do that.

17 Q. Yes, because there's nothing --

18 A. There's nothing there to say that.

19 Q. So there is a bit of discretion and judgement --

20 A. Yes.

21 Q. -- conferred on the housemaster?

22 A. Yes.

23 Q. Then you go on at 184 -- and I'll take you through this
24 section:

25 "It was also specifically recorded that those who

1 were deserving corporal punishment had to be sent to the
2 warden or the lady superintendent."

3 Can I understand this so that I'm clear on this.

4 Is that simply before punishment could be administered
5 by a housemaster or housemistress that there had to be
6 some assessment before this should happen? Is that what
7 it's meant to convey?

8 A. Yes. That it should not be done in temper or --

9 Q. Or without prior assessment by the lady
10 superintendent --

11 A. Yes.

12 Q. -- or the warden?

13 A. Yes.

14 Q. And I suppose in the case of boys, it would be normally
15 the warden, but maybe in the case of girls it could be
16 the lady superintendent?

17 A. Yes.

18 LADY SMITH: Was there anything in the rules requiring the
19 warden or the lady superintendent to find out directly
20 from the member of staff who'd sent the child what it
21 was all about?

22 A. There's nothing in the rules that specifies that.

23 LADY SMITH: Because this would still allow for that member
24 of staff in a temper to tell the child to go to the
25 warden.

1 A. Yes. I can't comment on what happened at the time.

2 LADY SMITH: No, I accept that.

3 MR PEOPLES: I know that, but I was just going to ask about
4 records. Is there any evidence of assessments being
5 made and recorded and said that, I have just seen
6 so-and-so and --

7 A. There's certainly some -- and I can't recall which file
8 I have seen this in. But certainly when children were
9 sent to the warden, they went along with the
10 house father. I'm not saying it happened all of the
11 time, but certainly there are files where that did
12 happen, and the house father or mother explained what
13 misdemeanour had taken place.

14 Q. So there's some evidence that that was one way in which
15 it might have happened.

16 A. Yes.

17 Q. Then it comes at paragraph 185, where I think again
18 there's a quote from the rules which we can look at
19 that. This is to do with permitted corporal punishment
20 by housemasters and housemistresses; is that correct?

21 A. Yes.

22 Q. It says:

23 "Housemasters are permitted under the rules to
24 administer corporal punishment at their discretion to
25 boys guilty of offences which merited corporal

1 punishment."

2 I suppose that in itself is a bit circular.

3 A. Mm.

4 Q. Although, we've seen examples of some things that
5 perhaps in other documents or the same document would
6 attract punishment; is that right?

7 A. Sorry, I don't understand your question.

8 Q. I think there's reference to minor and major offences at
9 other -- is that in the same document as this one, about
10 stealing or ... or disobedience? I think there is some
11 quote from some --

12 A. I would need to look again at --

13 Q. Leave that to one side. We'll follow this through, what
14 it says is:

15 "Corporal punishment may be administered but only to
16 the extent of three strokes on the hand or on the
17 trouser seat."

18 So there's a number?

19 A. Yes.

20 Q. And there's a place?

21 A. Yes.

22 Q. And it can't be the bare backside?

23 A. No.

24 Q. And I think we've already talked about evidence where
25 that didn't happen.

1 Then if we turn to -- we see boys. There's no --
2 this is any boy in residence who's subject to the rules,
3 of any age?

4 A. Yes, there's no reference to ages in terms of the boys.

5 Q. And if we look at housemistresses, they're permitted
6 under the rules to:

7 "... occasionally smack a naughty child on the hand
8 or on the trouser seat, but under no circumstances [and
9 I think this is again in bold in the rules] must
10 housemasters or housemistresses strike the children
11 about the head, face or ears."

12 A. Yes.

13 Q. Housemistresses at this time, would they have been in
14 charge of both girls' houses and houses for young
15 children of boys and girls?

16 A. Housemistresses were employed in both boys and girls'
17 houses and in the -- well, in the nursery.

18 Q. Could they smack a naughty boy or a naughty girl under
19 this rule?

20 A. Yes, it doesn't differentiate: it just says "child".

21 Q. But again, it has to be on the hand or the trouser seat
22 if that happens, nowhere else?

23 A. Yes.

24 Q. And then at paragraph 186, just looking again at the
25 rules, you say:

1 "This was included in a portion of the rules
2 entitled, 'Information relating to children and trainees
3 which may be passed on to them if and when necessary'."

4 Then there's the statement:

5 "Children were intended to have information on these
6 limitations."

7 I just want to ask you about that. The words quoted
8 say "if and when necessary". So information may be
9 passed on. So there's no requirement under these rules
10 that children are given this information as a matter of
11 course?

12 A. No, it's not a -- it would appear not to be mandatory,
13 but the fact that it is mentioned at all would seem to
14 suggest that they understood at times that it should be
15 passed on. They don't then specify what times that
16 would be.

17 Q. Is there much evidence that this information was passed
18 on and it was understood that housemasters could only
19 administer three strokes and only on the hand and
20 trouser seat, for example? Is there much evidence or
21 any evidence?

22 A. What we do have evidence of is reporting of what was
23 felt to be at the time over-chastisement of children,
24 usually by other staff members. But we don't have
25 direct reference to the rules, as you probably

1 appreciate, because at the point we were doing the file
2 reading, we didn't know that these were still in
3 existence.

4 So we have in parts a culture where people felt if
5 chastisement had been too severe for children, then they
6 were reported on to -- we have evidence of that, but we
7 don't have reference to these rules being made.

8 Q. Or evidence that shows that the children generally had
9 an understanding that three strokes were the maximum, it
10 could only be the hand or the trouser seat?

11 A. Not from the files that I have read.

12 LADY SMITH: I'm not sure I follow exactly what you're
13 explaining in the whole of paragraph 186. It may be
14 because it's a very long sentence. It's not
15 a criticism; I see that you're trying to explain a lot.
16 Can you try and give me the sense of what you're getting
17 at there?

18 A. So I think we were just making the point that these
19 rules and regulations did exist. We have provided them
20 to the inquiry and within the context, within the body
21 of the rules and regulations, there is a specific
22 statement in relation to the sharing of the information,
23 the rules and regulations, with children and trainees.

24 LADY SMITH: There is no requirement to do that?

25 A. But it's not a requirement, no.

1 LADY SMITH: "If necessary", it says. Is there anything in
2 the rules that indicates how the person who might share
3 the information is to decide whether it's necessary to
4 do so or not?

5 A. No, it doesn't within the rules, but we do have an
6 example, and I think we've provided this to the inquiry
7 in terms of some of the senior girls, where they were
8 unhappy about their treatment in terms of the girls who
9 were being paid to work, and that being raised by the
10 girls with the orphanage. What we don't know is whether
11 that action was a direct result of their knowledge of
12 this or not, but they certainly raised concerns about
13 unfair treatment in terms of being -- I think the word
14 was -- I can't remember the word actually, but basically
15 being downgraded, I think is the word.

16 LADY SMITH: But this is about hitting children. This is
17 about whether or not children are going to be warned
18 when they're going to be hit and, furthermore, hit with
19 an instrument.

20 A. The rules are actually more than just physical
21 punishment. There's also reference to other forms of
22 discipline within them. So it's not solely about --
23 this part of 185 is certainly about that, but the
24 general statement is about the whole rules, not just the
25 physical punishment aspect.

1 LADY SMITH: Have you found anything that shows that
2 children were ever told in advance that if they were to
3 do something that was assessed as deserving corporal
4 punishment, here are the limits of what can be done to
5 you?

6 A. No.

7 LADY SMITH: Thank you.

8 MR PEOPLES: I paused there because I had a point in mind
9 and I think I've now remembered the point I wanted to
10 raise with you. If you were sticking to the rules,
11 I suppose someone that was a bit overzealous with the
12 belt could cause bruising, even with three strokes.

13 A. I don't think you would need to be overzealous to cause
14 bruising with a belt. I'm not a medical expert, but
15 even with one stroke of a belt.

16 Q. So it wouldn't necessarily be a guarantee that three
17 strokes would prevent any form of harm or trauma to the
18 person who received the strokes, it would depend on the
19 person administering?

20 A. No, I think the context here is it was at a time when
21 generally, corporal punishment was accepted as a norm.
22 We're very far away from that nowadays.

23 Q. Can I just raise another point with you? You mentioned
24 trainees. Can I just be clear, and I don't want to go
25 into the whole history of the trainees, we can read it

1 and I think I understand, but these were sometimes
2 referred to as the working girls, I think.

3 A. Yes.

4 Q. But trainees, so that I'm clear, who are referred to
5 specifically as a category in these rules, are older
6 girls who are over 15 and who have left school. They're
7 categorised as junior trainees, senior trainees and
8 special depending on their age, over 15 --

9 A. Yes.

10 Q. -- if I remember.

11 A. I need to check because there were also boys who were
12 working, but they tended to be younger. So this will be
13 those girls who had reached school-leaving age, but the
14 word "trainee" might actually also cover the boys who
15 were working before they left.

16 Q. But I suppose the point is, a trainee isn't really in
17 one sense in care any more as they've left the period of
18 care between 5 and 15.

19 A. Yes.

20 Q. They've reached school age, they're being trained,
21 perhaps it's seen as a form of employment?

22 A. Yes.

23 Q. But they can have their wages docked?

24 A. Yes.

25 Q. Indeed, it's not really wages, because in fact the

1 terminology used in the rules is "pocket money"; it is
2 not employment.

3 A. My understanding is working girls did get paid a wage.

4 Q. I think they got paid pocket money in terms of the
5 rules. The term was "pocket money".

6 A. I would need to go back --

7 Q. Take it from me. I looked at it last night and I think
8 the words "pocket money" are there and they talk about
9 a bonus as well, and then they talk about when you can
10 lose some of this money. That doesn't really -- to
11 those who are familiar with employment and wages and
12 contracts, that's not employment --

13 A. No.

14 Q. -- in the true sense.

15 A. No. I wouldn't seek to argue that it was.

16 Q. No, I'm not suggesting -- I just want to clarify.

17 So trainees are rather a special category with these
18 rules for a special situation?

19 A. Yes.

20 Q. But over and above that, they're children and children
21 is a more general classification and there are boys and
22 girls and these are the rules of what can happen with
23 boys and girls?

24 A. Yes.

25 Q. The example you gave of the girls complaining, I think,

1 was trainees, I suspect, or older girls --

2 A. Yes.

3 Q. -- rather than children who --

4 A. Yes, it was older girls.

5 Q. I think all examples you gave are of trainees are older
6 girls who are having their voice heard.

7 A. Yes. The one example I did give was definitely
8 in relation to girls, yes.

9 Q. If we go on to paragraph 187, page 70, you tell us the
10 rules, or at least the statement tells us the rules --

11 LADY SMITH: Mr Peoples, before you leave that, to finish
12 the section on trainees, have I got the right passage
13 in the statement? It starts at 191:

14 "Special rules for trainees."

15 And then it's expanded on in 192 --

16 MR PEOPLES: Yes.

17 LADY SMITH: -- and 193.

18 MR PEOPLES: Yes.

19 LADY SMITH: Is that what you were referring to in the
20 questioning?

21 MR PEOPLES: Yes. I don't want to read all of that, but
22 there's certainly special rules about these girls who
23 had reached school-leaving age, who became trainees, and
24 were classified as either junior, senior or special.

25 I think SallyAnn is saying it's possible that the term

1 "trainees" might also have applied to boys in some
2 cases.

3 A. Yes. However, the boys left earlier and they left at
4 school-leaving age, which is why they were children.

5 LADY SMITH: I get that. There's an interesting thread in
6 both the quotation in 191 and 192 that the rules are to
7 be as in the past. The same rules carry on and it's
8 in the quotation at 192 that we're told if trainees get
9 bad marks for misconduct, cheek, defiance or slackness,
10 as they could have done when they were just children in
11 care, they would lose pocket money, and that would be
12 for the lady superintendent to decide, and then they
13 would be -- promotion would be withheld and so on.

14 A. Yes.

15 LADY SMITH: So there doesn't really seem to have been
16 a recognition of this complete change in their status,
17 actually, because although it was called trainee, they
18 weren't being treated as employees --

19 A. No.

20 LADY SMITH: -- according to these rules.

21 MR PEOPLES: I might also help you. I'll maybe just raise
22 this while her Ladyship has mentioned it. I did
23 actually look at the rules and regulations. If you want
24 me to bring them up, I can. I've actually found the
25 reference, but I probably don't need to. What I would

1 say is it says:

2 "Special rules for girls in training, 15 to 15 and
3 a half. Junior trainee: pocket money 12 and 6. Over
4 16, a special, 15 shillings a week."

5 But there's obviously provision for losing some of
6 that for poor conduct or unruly behaviour.

7 The other thing that caught my eye -- and maybe I'll
8 just mention it in relation to this rule:

9 "When girls reach the age of senior, her incoming
10 letters will be examined; outgoing letters may be sent
11 unscreened."

12 It doesn't suggest that they had lost their status
13 as people who were cared for and --

14 A. Children.

15 Q. -- under the care and authority of --

16 A. Absolutely, I wouldn't disagree.

17 Q. It's maybe a little concerning that their incoming
18 letters were to be examined before they saw them, even
19 at the age of 15 and over.

20 A. Yes, if that's a blanket rule then, yes, I would suggest
21 that's correct.

22 Q. I suppose it's just pointing up a point we raised
23 earlier, that these rules, if they did apply over
24 a substantial period from 1947 through to some time
25 in the 1960s perhaps, were outmoded and should have been

1 reviewed and updated to reflect current policies and
2 practices as approved by the organisation.

3 A. Yes, if they were --

4 Q. If they were.

5 A. -- and I don't have evidence either way as to when these
6 rules changed completely for another set of rules.

7 Q. But even if the system of trainees died out in 1958,
8 that would have been a good occasion to change the rules
9 and take out this --

10 A. Absolutely, and they may well have been changed --

11 Q. What evidence --

12 A. I don't have any documents that I can give you. I wish
13 I did, but I don't have those documents.

14 Q. Don't be apologetic, I just want to clarify the fact.
15 There's nothing indirectly to say that the rules did
16 undergo change when the training status ceased to be
17 used?

18 A. There's nothing directly to say that, yes.

19 Q. If I could pass on to paragraph 187, following through
20 this chapter on discipline and punishment, it says:

21 "The rules also include some information for
22 children on the sort of actions which might result in
23 punishment, although clearly this is not intended to be
24 exhaustive."

25 Minor offences for which a bad mark could be given

1 included the following -- and it says:

2 "With a large family of children, there will always
3 be minor offences, as well as from time to time major
4 offences, such as stealing, absconding, rebellious
5 behaviour, wilful and wanton damage, persistent
6 laziness, et cetera. Minor offences covers offences
7 such as neglect of work; untidiness; dirtiness of hands,
8 faces and boots; acts of disobedience; and so forth.
9 Major offences comprise stealing, defiance, out of
10 bounds, foul or filthy language, serious damage to
11 furniture or fabric of the orphanage."

12 So there we have an express statement that
13 absconding, for whatever reason, is a major offence.

14 A. Yes.

15 LADY SMITH: Mr Peoples, I don't know longer you expect the
16 evidence to take with this witness. We could have
17 a break now or, if you think you'd be finished by

18 3.30 --

19 MR PEOPLES: Probably a short break so that I can see how
20 much more I've got to cover.

21 LADY SMITH: Just a five-minute break at this point.

22 Thank you.

23 (3.05 pm)

24 (A short break)

25 (3.15 pm)

1 LADY SMITH: Mr Peoples.

2 MR PEOPLES: SallyAnn, we were looking at the section of the
3 statement on discipline and punishment. We'd been
4 discussing at paragraph 186 the expression "if and when
5 necessary". The part that follows that in paragraph 186
6 reads:

7 "Children were intended to know what was and
8 what was not to be expected of those caring for them and
9 were intended to know the views of senior management on
10 this, giving a standard to compare the conduct of adults
11 to and a norm to compare that behaviour to, avoiding
12 a need for a child who may have experienced harsh
13 treatment elsewhere, to the extent of coming to see it
14 as a norm, having difficulty in assessing when it was
15 appropriate to speak out to others about treatment
16 experienced in the orphanage."

17 That is quite a mouthful to take in. But the point
18 I would like to just clarify is: is that really a ex
19 post facto rationalisation or is there anything in the
20 records that would suggest that that was the thinking
21 behind this provision that somehow this phrase
22 "discretion to reveal information about punishment" was
23 done so that the children would have a standard to
24 measure the conduct of staff against? Is there anything
25 in the records that would support that?

1 A. The only thing that we have in support of it is the
2 actual statement in the rules themselves, which, as
3 we have rightly discussed, is not a mandatory part of
4 the process or rule.

5 LADY SMITH: If a child in Aberlour did know about that
6 rule, do you really think that's how their mind was
7 going to work? Let's take an 8-year-old, for example.
8 Do you really think an 8-year-old was going to go
9 through those thought processes?

10 A. In my view, no, but I wasn't involved with writing the
11 procedure.

12 LADY SMITH: I'm not suggesting that. It seems to assume
13 a level of mature adult analysis and reasoning that
14 would be surprising in a young child.

15 A. Yes, and I think it was written at a time when people
16 did not understand the kind of emotional coercion that
17 abuse entails, presumably emotional and sexual abuse,
18 but also physical abuse on occasion as well.

19 MR PEOPLES: If I could move on to paragraph 189, SallyAnn.
20 The statement there says:

21 "Nothing in the rules authorises isolation, locking
22 up or locking out, physical chastisement by anyone other
23 than the warden or lady superintendent."

24 I wonder, just pausing there, when it says "physical
25 chastisement by anyone other than the warden or lady

1 superintendent", does that really mean other than after
2 they've assessed whether it's appropriate? Because
3 we've seen the rule --

4 A. Yes, because it does allow for --

5 Q. Housemaster --

6 A. -- housemasters and housemistresses, yes.

7 Q. I think that may be just a reference to the fact that
8 may just have to have some involvement in the process.

9 A. Yes.

10 Q. But you go on:

11 "Nothing in the rules authorises [and I have
12 mentioned some matters but also] use of implements in
13 physical chastisement other than those created for that
14 purpose."

15 And:

16 "Nothing in the rules authorises humiliation,
17 ridicule or belittling comments."

18 In making that statement, I think you're saying,
19 well, it's not maybe said expressly, but there is no
20 express authorisation to carry out any of these forms of
21 behaviour.

22 A. Yes, and I think it also speaks to the fact that there
23 is some evidence that's been presented from applicants
24 where these things did happen to them. But it's making
25 the point that there was nothing in the rules that

1 suggested that was in any way okay.

2 Q. I do wonder if we go back to the rules as set out --
3 you'll recall, if we go back to them briefly at page 69,
4 paragraphs 183 and 185, the sections in bold, presumably
5 they're there for a reason in bold:

6 "Children are not to be deprived of food except with
7 the warden's sanction."

8 And:

9 "Under no circumstances must housemasters or
10 housemistresses strike the children about the head, face
11 or ears."

12 These parts of the rules get particular emphasis.
13 Have you been able to work out why it was felt necessary
14 to put the emphasis on those parts? Is there anything
15 to suggest there was a reason for that?

16 A. No. I have not seen anything in the minutes in relation
17 to that. They are clearly emphasised, they're
18 emphasised for a reason, but I don't know if that was to
19 do with historic occurrences or if it was about
20 protecting children -- and protecting in its wider
21 sense -- from over-chastisement in the future. I don't
22 know what motivated that.

23 Q. So we can't really tell?

24 A. No.

25 Q. We just know they are emphasised?

1 A. Yes, they are emphasised.

2 Q. Going on at paragraph 190, the statement goes on:

3 "There is nothing in the rules which authorises or
4 proposes punishment for bed-wetting or daytime
5 incontinence or for declining to eat food on grounds of
6 taste or lack of appetite, of for speaking out about
7 harsh behaviour at the hands of others, be they adults
8 or other children. Such conduct would be entirely
9 against the value system which the rules require all
10 staff to adhere to."

11 So I take it that you've heard evidence of some of
12 these things happening?

13 A. Yes.

14 Q. And so is it the organisation's position that
15 in relation to anything of that kind that I have just
16 read out that's not authorised by the rules, that that
17 would be both contrary to the value systems and the aims
18 and ethos of the organisation, but that doesn't
19 obviously mean that it didn't happen?

20 A. Yes, it would be against the values and ethos, but
21 you're right, in terms of those testimonies,
22 unfortunately we did hear examples of occasions when
23 those behaviours did happen.

24 Q. I'm not going to go to the trainee rules, because
25 I think we've covered those -- well, at least we've

1 covered them sufficiently for present purposes.

2 LADY SMITH: I have one short question. Something called
3 a day room is referred to in rule 183: what was the day
4 room or what was a day room?

5 A. The day room -- in each of the houses within the
6 orphanage there was a day room, almost like a living
7 room type situation.

8 LADY SMITH: Well, I thought that, and then I see that the
9 way it's referred to in 183 suggests that it was also
10 used to refer to a particular group of children:

11 "The whole day room could be penalised."

12 A. It would be hard for me to say anything definitive at
13 this point, but one interpretation of that would be if
14 there was a group of children in the day room together
15 acting mischievously, for example. It may refer to
16 something like that.

17 LADY SMITH: They all get punished? It could be.

18 A. It could be. Could be.

19 LADY SMITH: Thank you.

20 MR PEOPLES: Can I move to paragraph 193. The first
21 sentence there reads:

22 "For the older girls, there is nothing in the rules
23 to authorise corporal punishment."

24 I think that means trainees.

25 A. Yes.

1 Q. Because clearly, we've seen from the rules that girls
2 can be the subject of some form of discipline in terms
3 of at least a smack, at least some can: a naughty child
4 can get a smack from a housemistress. So that could
5 cover a male or female child under the rules?

6 A. Yes.

7 Q. Are we right in assuming that 193, when it says "older
8 girls", is possibly a reference to trainees rather than
9 older girls generally?

10 A. Yes, and that was from the board minute of a period --
11 1948, was it?

12 Q. If I just take a simple example. If the school-leaving
13 age is 15 and you've got a girl who's 14, it's not being
14 suggested that the rules exclude her from corporal
15 punishment, at least as worded?

16 A. I think that would be true because it does then go on to
17 talk about senior girls that are specifically referred
18 to in the rules.

19 Q. Indeed, I think it goes on to say that discipline was
20 maintained, in the case of the older girls, by docking
21 wages; that seems to be specifically geared towards the
22 trainee situation.

23 A. Yes.

24 Q. That's how they would be sanctioned, if you like.

25 A. Yes.

1 Q. Then if we go on to paragraph 195, there's reference to
2 a minute of the board of governors, a meeting of
3 13 November 1947, indicating that on a recent visit,
4 there has been discussion with the Scottish Home
5 Department on the appropriate approach to corporal
6 punishment:

7 "While the record of that discussion is not
8 available to the trust, the decision of the governors
9 was that there ought to be a review of the issue by the
10 management committee with a report back."

11 So you're not able to glean from the records what
12 exactly was the purpose of this discussion and what the
13 attitudes or views were?

14 A. No.

15 Q. But you do get some further information, do you, because
16 you say at 196:

17 "The report ..."

18 And I take it it's the report of the management
19 committee?

20 A. Yes.

21 Q. "... was considered by the governors at length on
22 26 February 1948. It was reported that the trust's
23 contact at the Scottish Home Department had recommended
24 that corporal punishment should not be administered to
25 girls. It was noted that it was already the case that

1 there was no desire to use corporal punishment with
2 older girls, and the question was raised of whether the
3 orphanage rules should be followed in full as they stood
4 or whether there should be any alterations or additions.
5 This does demonstrate that the rules existed in some
6 form at that date and it was commented that the rules,
7 if they were followed, were effective."

8 That seems to be suggesting that there was an issue
9 being considered about whether you simply have
10 a complete prohibition on corporal punishment for girls.

11 A. For girls.

12 Q. And the indications are that the Scottish Home
13 Department were perhaps in favour of that?

14 A. Yes, based on the minute book reference, yes.

15 Q. And that the trust then had to consider the matter in
16 light of the review conducted by the management
17 committee of the matter; is that right?

18 A. Yes.

19 Q. Then you tell us, I think, what the upshot was of that.
20 In paragraph 197, page 74, it's recorded:

21 "It was therefore decided to accept the rules but on
22 the basis corporal punishment would be administered to
23 girls over 12 only at the warden or lady
24 superintendent's discretion, as with any child, but this
25 discretion would only be utilised in exceptional

1 circumstances."

2 So they didn't favour a complete ban on corporal
3 punishment for girls?

4 A. That would be correct.

5 Q. There was a conscious decision to retain corporal
6 punishment?

7 A. Yes.

8 Q. But are we to read this decision as being that corporal
9 punishment could be administered to girls over 12 but
10 not girls under 12, or what?

11 LADY SMITH: Or you didn't need the warden or lady
12 superintendent involved if it was a child under 12 who
13 happened to be a girl.

14 MR PEOPLES: If you're under 12, what is the decision there?
15 Is it you don't need the intervention, as Lady Smith
16 says, and also --

17 A. My understanding is that for under 12s it would be
18 permissible only in exceptional circumstances, but
19 again, I don't think we have a definition of what
20 exceptional circumstances are.

21 Q. But it would be permissible?

22 A. That's my understanding. It says at paragraph 200 --

23 Q. Yes. I was trying to clarify maybe between 197 and 200
24 what the situation was. So if we look at girls over 12
25 then, just tell me what you understand to be the effect

1 of this decision.

2 A. That those girls over 12 would not be subject to
3 corporal punishment.

4 Q. Not?

5 A. Yes. If you look at 197, the final sentence:

6 "In effect, girls over 12 in the Aberlour School
7 could not, from that point on, be subject to corporal
8 punishment from classroom teachers from 1948, which was
9 a much stricter policy on corporal punishment than
10 existed ..."

11 LADY SMITH: There are two points there. One was that it
12 meant a classroom teacher couldn't administer it in the
13 school, but that doesn't rule out corporal punishment
14 in the home. The earlier part of that paragraph would
15 seem to indicate that if it was being administered
16 either because of something in school or because of
17 something in the home and you're over 12, then the
18 warden or lady superintendent have got to sanction it.

19 A. Yes.

20 LADY SMITH: It still tells us nothing about the under 12s
21 or generally about the approach if it wasn't to do with
22 school.

23 A. Yes, and there was clearly a debate going on within the
24 board of governors too. Some believed that corporal
25 punishment was not an effective discipline in any form,

1 whereas others --

2 MR PEOPLES: Just so I'm clear then, when the governors met
3 on 26 February 1948, which was quite an important year,
4 the Children Act was coming into play, they have
5 decided, as far as you can tell from the records, that
6 corporal punishment would not be prohibited for girls of
7 whatever age and in the case of girls over 12, and this
8 is paragraph 197, it could be administered but only
9 at the warden or lady superintendent's discretion, but
10 this discretion would only be utilised in exceptional
11 circumstances. So it was putting some kind of
12 limitation on the discretion of the warden or lady
13 superintendent in assessing whether corporal punishment
14 should be given.

15 A. Yes.

16 Q. And if they decided in the exercise of discretion that
17 it should be administered, do we go back to the rules as
18 to what could happen? What can happen, what type of
19 corporal punishment can be administered? A smack?

20 A. I don't have --

21 Q. A stroke?

22 A. What we know is that these rules were in evidence at
23 1948, so -- but I don't have a direct link between these
24 conversations and this policy and what that means in
25 terms of changes to it.

1 Q. So we don't actually know what form the corporal
2 punishment would take, whether it would be a stroke or
3 a smack on the hand or -- it won't be the trouser seat,
4 that's not a very good expression for girls. So it's
5 a bit unclear, isn't it --

6 A. Yes.

7 Q. -- what exactly the position was after this meeting,
8 according to the records, at least, that exist now?
9 Is that fair comment?

10 A. Yes. These rules were in evidence in 1948. Whether
11 these rules cover wholly what the board was talking
12 about at this time is up for interpretation.

13 Q. Then it's mentioned, I think, that at that particular
14 meeting in February 1948, when considering options
15 available, I presume other options for disciplining
16 older girls -- and I don't know whether this is trainees
17 or girls of a certain age, whether trainees or not -- it
18 says:

19 "It was specifically noted that solitary confinement
20 was not an approved form of punishment."

21 So at least we have a recognition there, whatever
22 the rules may or may not have said, at governor level
23 that was disapproved of as a form of punishment.

24 A. Yes.

25 Q. But what we don't know is how far that expression of

1 disapproval was disseminated to the staff --

2 A. No.

3 Q. -- if it wasn't the subject of a new rule or an explicit
4 rule.

5 A. I don't have those policies or procedures and I've not
6 seen them.

7 Q. At paragraph 199, just carrying on in this topic, it's
8 mentioned that a governor noted -- would this be at the
9 same meeting?

10 A. Yes, I believe so.

11 Q. There was a comment that:

12 "The punishment book for the girls' wing, which was
13 then home to 155 girls, had been reviewed and
14 punishments for a quarter of the year filled only one
15 page. Governors noted that corporal punishment was more
16 effective the less frequently it was used."

17 So I suppose that tells us that there were
18 punishment books --

19 A. Yes.

20 Q. -- in existence at that stage and for at least for the
21 girls' wing, and that for a particular quarter the
22 recorded punishments at least filled only one page of
23 the book --

24 A. Yes.

25 Q. -- in the case of a complement of 155 girls.

1 A. Yes.

2 LADY SMITH: It doesn't tell us how many entries there were
3 on the one page.

4 MR PEOPLES: No. It could depend on the size of the page
5 and the size of the writing and the number of entries,
6 but it's not terribly illuminating.

7 A. Insofar as it's a contemporaneous note that somebody
8 felt was relevant at the time to note that there was in
9 three months, you know, a quarter -- was it? Yes,
10 filled one page. We don't know how big the page was,
11 but it would seem to me to suggest that at the time,
12 somebody viewed that as a not excessive use of corporal
13 punishment, and the comments that then come thereafter,
14 again, contemporaneous comments, would suggest that they
15 backed up this person, this report, by saying the
16 effectiveness of the punishment is in its infrequent
17 use.

18 Q. So they were maybe seeing whatever was on the page as
19 evidence of less frequent use and that was a good thing?

20 A. You could interpret it that way.

21 Q. That's one possibility?

22 A. Yes.

23 Q. That might be --

24 A. Yes.

25 Q. And then just moving on to the following month,

1 28 March 1948, the governors meet again and discuss this
2 issue of corporal punishment for girls, it would seem,
3 and you tell us there at paragraph 200:

4 "It has been determined that corporal punishment was
5 permissible for girls under 12 in exceptional
6 circumstances and only at the discretion of the lady
7 superintendent or warden."

8 That seems to be the same rule as for the over 12s.
9 Am I missing something? I'm not sure if ... There
10 seems to be the same rule. Do you see that?

11 A. Yes.

12 Q. Is that how it reads?

13 A. I think the reason we've included that is the fact that
14 the warden makes a very specific comment about his
15 reluctance to dispense such corporal punishment.

16 Q. But he wouldn't necessarily be dispensing it anyway
17 because he was just assessing whether it should be
18 dispensed.

19 A. It does say the lady superintendent or the warden.

20 Q. For administration?

21 A. Yes.

22 Q. So he obviously -- it says:

23 "The warden was keen that, where it was intended, he
24 should administer corporal punishment to girls under 12,
25 making it plain that he was not comfortable with doing

1 so. It was noted the warden should not dispense such
2 corporal punishment, nor should any male member of staff
3 dispense corporal punishment to a girl, although they
4 could admonish girl cores."

5 A. Yes.

6 Q. It then says:

7 "A wide-ranging discussion ensued with strong views
8 again expressed on the use of corporal punishment in
9 general."

10 I will just carry on reading:

11 "One governor was firmly opposed to its use at all
12 and the warden, Canon Wolfe, expressed that he himself
13 opposed its use as anything other than an extreme
14 resort. The warden noted again the value of corporal
15 punishment lay not in its use but in its lack of use.
16 While the rules continued to require that the warden or
17 lady superintendent be involved in the decision to
18 administer corporal punishment, it was noted that in the
19 girls' wing the punishment would be administered by the
20 lady superintendent and in the boys' wing by the warden,
21 sub-warden or senior housemaster only."

22 There's quite a lot of variations going on there.
23 Because the rules suggested perhaps that the warden or
24 lady superintendent's function was just to make an
25 assessment and leave it to others, perhaps normally, to

1 administer corporal punishment. Now it seems there's
2 a discussion about in what circumstances the warden
3 should actually administer punishment himself and,
4 in the case of girls under 12, and then it would appear
5 that the upshot is that, for the girls' wing, punishment
6 would be administered by one person alone, the lady
7 superintendent --

8 A. Yes.

9 Q. -- and in the boys' wing by three people only; is that
10 right?

11 A. What we've tried to demonstrate here is that the issue
12 of corporal punishment was not one that was ever taken
13 lightly by the orphanage, either the warden or the
14 governing body. So there was debate and discussion
15 about how it should be or if it should be applied. What
16 we're also very clear about in terms of paragraph 201
17 is that we're also trying to establish that rules
18 existed in some form prior to 1948.

19 However, the copy that we have may not be a printed
20 form of exactly what was in place beyond that time
21 because we don't have anything beyond the 1948 period.

22 Q. So what you're saying is that we're pretty certain it's
23 post 1947 -- because the school leaving age didn't rise
24 until then, I think that's the date it rose to 15 -- the
25 rules we have?

1 A. Yes, possibly.

2 Q. But the rules we have may not have been the form of
3 rules that were under discussion at the time of these
4 meetings in 19 --

5 A. They may not be the final version of that.

6 Q. Okay. Whatever rules, it appears that, by March of
7 1948, only one person could administer corporal
8 punishment to girls. Is that the lady superintendent?

9 A. The lady superintendent.

10 Q. And only three people could administer corporal
11 punishment to boys: the warden, sub-warden or senior
12 housemaster. Is that the position, or at least it
13 appears to be?

14 A. It appears to be.

15 Q. Could you just help me with this: who's the senior
16 housemaster? I think we've heard there were a number of
17 houses, including for senior boys, more junior there's
18 the Wee Kids' house, which was Spey House, so they went
19 from different house to house, according to age. Who
20 was the senior housemaster then?

21 A. I would need to check the records and see whether in
22 fact there was only a single senior housemaster or in
23 fact if there was more than one. I can't answer that
24 question just now, sorry.

25 Q. There would clearly be more than one housemaster at this

1 time, so clearly they weren't all allowed to administer
2 corporal punishment?

3 A. Yes, that would be the inference.

4 Q. Just picking up again at 203 -- this is going back to
5 the rules and the part quoted:

6 "Information related to children and trainees which
7 may be passed on to them if and when necessary."

8 There's reference in relation to that quotation to
9 a meeting of the board of governors on 23 February 1956
10 where it's noted that in the existing rules -- they
11 might be the rules before us or they might be some other
12 rules:

13 "There were some provisions which children ought to
14 know, for example the type but not extent of punishment
15 which the trust accepted could be inflicted, and some
16 provisions which were unsuitable for the children to
17 know. It was noted that accordingly there should be two
18 sets of rule, one for children and one for staff."

19 Why was the extent of punishment as opposed to the
20 type something that --

21 LADY SMITH: Something that had to be withheld --

22 MR PEOPLES: -- had to be withheld from the children, the
23 extent of the punishment rather than the type?

24 A. It doesn't say what the distinction is in the records
25 and neither have we uncovered a second set of rules for

1 children.

2 MR PEOPLES: The notes don't indicate the thinking behind
3 this distinction?

4 A. No.

5 Q. But it seems that they thought it would be a good idea
6 to have effectively two sets of rules, one that would be
7 staff rules and one that would be rules that could be or
8 might be disclosed or could be disclosed to children?

9 A. But we haven't found those rules.

10 Q. All you can say is that the rules you have supplied
11 contain a discrete section, which seems to be adapted to
12 be related to children? "Information that may be passed
13 to children", I think is the heading in those rules.

14 A. Yes.

15 Q. And that might suggest that it post-dated this meeting
16 because it's separated out, those provisions.

17 A. I think if it post-dated this meeting and there was
18 a separate rule for children at that point, it would
19 refer to sharing the rules with the children.

20 Q. You do say at 186 that the rules that you've produced,
21 this section, there is a portion in it, "Information
22 relating to children and trainees", and it may be said
23 that may be passed on to them if and when necessary. So
24 it does look that someone has made a conscious decision
25 to select out provisions which could be passed on to

1 children. Unless they had foresight, this might link
2 with what was said at the meeting in 1956.

3 A. I'd need to see the actual part of the rules because in
4 terms of what that says -- from memory, it doesn't go
5 into the detail that you would be suggesting it has --

6 Q. No, I'm just saying --

7 A. -- a rule for the children in and of itself.

8 Q. I'm just taking the heading that you've quoted. It
9 seems to be heading it up, "Information that may be
10 passed". Therefore someone has identified that as
11 information that's suitable for the children to be told
12 about and separated it out from the rest of the rules.

13 A. But it could be that --

14 Q. Do you see?

15 A. This is speculation because we simply don't know. But
16 it could be that that has been included in that version
17 for staff to understand that they can share information
18 with children. It wouldn't seem to me to be a separate
19 set of rules for children --

20 Q. It might well be --

21 A. -- just what this meeting was discussing.

22 Q. It might well be that giving effect to the principle
23 here, you would devise rules in such a way that someone
24 could pick out from one set of rules information that
25 they could pass on children.

1 A. That would be the inference to this meeting, yes.

2 Q. And the rules that I've just referred to that you
3 mentioned in the previous paragraphs could fit that.
4 There was one set of rules, but they had a discrete
5 section with information that could be passed to
6 children.

7 A. I don't want to speculate.

8 Q. I'm not asking you to speculate --

9 A. It could also be that those there were not sufficient
10 enough, which is why they've had a conversation about
11 two sets of rules.

12 Q. Okay. So we really can't take it any further than that?

13 A. Okay.

14 Q. What you do tell us is whatever the position,
15 trainees -- you seem to indicate that that system really
16 largely disappeared. Is that based simply on general
17 evidence in historical records or is there something
18 that specifically refers to the abolition of the
19 training system?

20 A. There's reference to the -- at this point you're looking
21 at reducing numbers --

22 Q. 204?

23 LADY SMITH: 204 is quite interesting, isn't it?

24 MR PEOPLES: Yes. It seems to be a discussion in 1958 on
25 24 April, which is alluding to:

1 "... an increase in the wages bill, which has arisen
2 from the virtual abolition of the system under which
3 a large part of the domestic work was done by trainee
4 girls."

5 A. Yes.

6 LADY SMITH: I suppose that also seems to tell us that the
7 girls weren't being paid market rate in the pocket money
8 they were receiving for their work. I know one response
9 would be that they were getting bed and board, I can see
10 that, but it does at least tell us that it wasn't a huge
11 amount of money they were being paid.

12 A. Yes.

13 MR PEOPLES: Is there any evidence that the trainee system
14 itself was really a response to a difficulty getting
15 sufficient staff to do all the work within the
16 orphanage, including domestic work?

17 A. I think that certainly there's evidence that I have read
18 in the minute books that would suggest it had two
19 purposes: one was to provide that staffing in areas
20 where there were issues around staffing; secondly, it
21 was also about genuinely trying to equip young women
22 with some skills they could use when they left the
23 orphanage beyond the age of 15 or 16. It was very
24 restrictive, obviously, in terms of what those skills
25 were and that's part of the progress in terms of the

1 reduction in the use of it is actually an understanding
2 that children and young people need a much broader mix
3 of skills and young women would need a more broad mix of
4 skills as the employment opportunities for young women
5 in this period post war were opening up in a way that
6 they had never before.

7 Q. At 208, I think you tell us at least that:

8 "The rules give us a clue to the approach of the
9 trust and monitoring compliance with the policy and
10 discipline because they state the punishment book was to
11 be maintained with entries being made for corporal
12 punishment and indeed the black marks for other
13 offences."

14 A. Yes.

15 Q. And:

16 "The book is to be reviewed by the warden or lady
17 superintendent at the end of each week."

18 It's said that:

19 "This would result in awareness on the part of
20 senior management of at least all recorded punishments."

21 So that was a system that they intended to operate?

22 A. Yes.

23 Q. And do we know whether these reviews took place on
24 a weekly basis and did anything arise out of them?

25 A. We don't have those punishment books. As you know,

1 we've not been able to provide those to the inquiry. We
2 do know that when complaints were made in relation to
3 children being treated poorly by other members of staff,
4 when those were raised, they were dealt with. But in
5 terms of children's punishment, if you like, we don't
6 have the books that can evidence that.

7 Q. Is there any evidence, at least more indirectly, that
8 reviews were being carried out on a weekly basis as
9 envisaged by the rules?

10 A. I have not seen any documentary evidence of that.

11 Q. I don't know if I need to go into -- there is an example
12 of where the trust in paragraph 210 has dismissed
13 a school cleaner for striking a girl on the head -- this
14 is in 1940, around then -- and was dismissed.

15 A. Yes.

16 Q. I don't suppose a cleaner had any business to be doing
17 any form of disciplining or sanctioning --

18 A. No.

19 Q. -- under the rules.

20 A. No.

21 Q. So this wasn't even envisaged by the rules?

22 A. No.

23 Q. You mentioned the BCK case and we've covered
24 that, I'll not go back. That was a matter that came
25 before the trustees. But that was because, as I think

1 you tell us -- was it another member of staff who had
2 reported the matter because of the significant bruising
3 that was observed on the boy?

4 A. Yes.

5 Q. And [REDACTED] BCK [REDACTED] resigned, I think,
6 shortly afterwards, having been maybe -- it having been
7 indicated to him that he might be better suited to
8 parochial work rather than continuing in the childcare
9 field.

10 A. Yes.

11 Q. I think that was perhaps a kind way of presenting the
12 matter to him. Do you have any views as to what would
13 have happened if he hadn't resigned?

14 A. I don't. That would be speculation. I know that the
15 governing body was not happy with his conduct. Beyond
16 that, I cannot say what would happen.

17 Q. What we do know is that it doesn't appear that the
18 matter was reported to the police.

19 A. Not to --

20 Q. There's nothing to indicate it did?

21 A. No, and I don't have any record of it having been
22 reported.

23 Q. And he was a [REDACTED] at the time?

24 A. Yes.

25 Q. Was he effectively [REDACTED]?

1 A. Yes.

2 Q. And was he originally appointed by [REDACTED] or by [REDACTED]

3 [REDACTED]

4 A. I would need to check. [REDACTED]

5 [REDACTED] but in terms of his actual
6 appointment, I would need to check the records.

7 Q. I'll maybe return to Mr and Mrs BCI/BCJ tomorrow if
8 necessary because I think we're reaching a point where
9 I'll perhaps stop for the day.

10 My Lady, I think it's a good point to call it a day
11 for today. I think mainly tomorrow, I would like to
12 turn to response to the evidence. This witness has
13 a specific section there that I think she would like to
14 obviously comment on.

15 A. Yes.

16 MR PEOPLES: And express the position of the organisation.

17 So if we can do that tomorrow and I'll maybe pick up on
18 anything else if there is anything.

19 LADY SMITH: It would give us the opportunity, if it does
20 seem necessary to pick up on it, to go back to anything
21 in terms of the rules that we've been discussing that
22 hasn't been quoted in the report for any of us who want
23 to raise that.

24 Very well. I will rise now for today and sit again
25 at 10 o'clock tomorrow morning.

1 (3.53 pm)

2 (The inquiry adjourned until 10.00 am

3 on Wednesday 30 January 2019)

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SALLYANN KELLY (sworn)1

Questions from MR PEOPLES1

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