

Monday, 11 February 2019

(10.06 am)

LADY SMITH: Good morning. As I explained just over a week ago, we turn today to the beginning of the closing submissions following the evidence in the case study relating to Quarriers, Aberlour and Barnardo's.

These submissions will take both until lunchtime today, when I will be rising at 1 o'clock and there will be nothing more today after that, and tomorrow, in a running order which, whilst it may not immediately seem logical, I promise you there is a good reason for the running order that we have.

What I am going to do is begin by inviting Mr Peoples, senior counsel to the Inquiry who led on this case study, to deliver his closing submissions.

Closing statement by MR PEOPLES

MR PEOPLES: Good morning, my Lady. This case study began on 23 October of last year, and I am informed that I think there has been, in all, around 42 days' of evidence. The figures I have been given, I hope they are accurate, there have been 84 witnesses who have given oral evidence and there have been 28 statements of evidence read in, in whole or in part, during the period to the end of January when the evidence was concluded. A number of establishments run by Quarriers, Barnardo's

1 and Aberlour Child Care Trust have been the subject of
2 evidence, and there has been evidence both oral and
3 written from former residents and former staff within
4 some of those establishments.

5 The period covered by the evidence as a whole,
6 generally speaking, I think goes as far back as the
7 1930s, and perhaps even a little before that in one case
8 at least. But unlike previous case studies involving
9 religious orders there has also been evidence of current
10 policies, practices and procedures of the three
11 providers because each remains, albeit involved on
12 a greatly reduced scale, in the provision of residential
13 care for children and young persons in Scotland.

14 So far as today is concerned, I intend to focus my
15 closing remarks mainly on the evidence about the past,
16 particularly the period up to 1990. I am using that as
17 a broad watershed for a variety of reasons. I think all
18 of the evidence suggested that there was quite a lot
19 going on after 1990 in terms of activity within
20 organisations, and indeed there were legislative changes
21 and so forth. So in a sense a lot of what we heard
22 evidence about pre-dated 1990 in the case of all three
23 organisations in a broad sense.

24 LADY SMITH: I think that is right. If you are talking
25 about the evidence about abuse of children, it was

1 largely pre-1990. And as I think maybe alluded to by
2 one or who others, the very helpful evidence that really
3 was summarised in the panel session we had was very
4 useful, not just for the case study, but we will be able
5 to draw on our learning from that when we come to look
6 at systems present and for the future and issues of
7 protection and prevention going forward.

8 MR PEOPLES: Yes. I was going to say that I think it is
9 recognised I think by everyone who has participated in
10 this case study that the way in which the three
11 organisations operate today is very different to how
12 they operated historically. And the evidence we have
13 heard about today's current policies, practices and
14 procedures, and about the ways in which the residential
15 care system might be improved for the future, has
16 I think been valuable, as your Ladyship has just said,
17 and will assist the Inquiry I think in fulfilling some
18 of the other terms of reference to do with generally the
19 issue of current policies and practices.

20 So I am not really saying too much at this stage,
21 but I want people to know it was important that we heard
22 that evidence and it will be taken into account as
23 appropriate in the course of the Inquiry's work.

24 I should also say I don't intend this morning to say
25 too much about one issue, the issue of restraint,

1 because I think again it was an issue we did hear
2 evidence about and it is clearly one which is still
3 a live issue, if I can call it that, and it is clearly
4 one that still requires further thought. Indeed we
5 heard some evidence during the panel session on various
6 initiatives that are being considered and taken --
7 Aberlour's pilot, for example -- on that issue.

8 I will just say we did hear evidence and we did hear
9 the importance of recognition of the impact of restraint
10 from the perspective of the child, and whether it is
11 well-intentioned or not seems to be justified clearly,
12 it would appear, on the evidence that at least some
13 people had reservations historically about its use and
14 also about the way in which it was used and the effect
15 it had on the children concerned.

16 I mention Alan Swift, for example, who saw one
17 incidence of restraint which caused him concern when he
18 was working with Barnardo's. But beyond that
19 I don't think it is necessary to say too much today
20 other than to say that that was part of what we heard,
21 and it does raise issues perhaps not dissimilar to the
22 historical issue about the use of corporal punishment
23 that it was perhaps permissible and it was within the
24 powers of those caring for children, but there are
25 clearly possibilities or potential for it being either

1 misused or improperly used or inappropriately used.

2 So I think it is something we have to keep in mind
3 both as part of this case study and perhaps going
4 forward. Beyond that, I don't think it is necessary for
5 me today to say too much more than that.

6 LADY SMITH: I am content with that. Thank you.

7 MR PEOPLES: Can I also say this: the Inquiry must, having
8 regard to the breadth of its remit and the timeframe
9 being considered, it must seek to get a broad picture of
10 how things were historically, what the experience of
11 children in care were, whether for some they were bad or
12 abusive experiences and why those experiences may have
13 occurred. And I think your Ladyship said this in the
14 past, but we are not here to look at each and every
15 individual allegation in minute detail and with a view
16 to making findings but we do want to get a broad picture
17 and to see whether that tells us how children were cared
18 for historically, what happened to them in some cases
19 and why that might have happened. That is the approach
20 that I think hopefully the evidence has sought to
21 explore, and hopefully for those who are looking for
22 answers at least perhaps have got some evidence that
23 might provide some answers to some of these issues and
24 questions.

25 LADY SMITH: You are right, there are themes and they

1 provide pictures of the sort of thing that was happening
2 in different institutions. But equally, as will be
3 clear from the case study findings that have been
4 published already and the ones that are about to be
5 published, there have been so far a whole number of
6 witnesses whose evidence was so clear that it is not
7 difficult to accept that they have given clear evidence
8 that paints a very clear picture of what was going on
9 when they were in care.

10 MR PEOPLES: Yes. I think it was said in previous studies
11 that there was, looking at the matter broadly,
12 a consistency of account of certain practices and
13 themes. And I think the same can be said here, perhaps
14 across the board, that we have certain themes that have
15 emerged, some to a greater or lesser degree with
16 particular organisations, but they all feature and they
17 feature across the decades, and they feature from
18 different people coming from different places saying
19 very similar things. I think that is something that
20 no doubt your Ladyship will bear in mind when deciding
21 what conclusions can be drawn from the evidence that has
22 been heard in this case study on these matters.

23 Can I say at the outset, however, that there is no
24 suggestion as I understand it from any applicant in this
25 case study that his or her experience was the experience

1 of all children then in the care of the organisation who
2 was their particular care provider. However, having
3 said that, and perhaps anticipating the point
4 your Ladyship said, it should also I think be said at
5 the outset that if your Ladyship accepts the evidence of
6 those who have come forward as applicants, and there was
7 a great number of them, there can be no doubt in my
8 submission that abuse, whether it be physical, sexual or
9 emotional, was in no sense an extremely rare occurrence
10 in establishments run by the three providers over the
11 decades between 1930 and perhaps 1980/1990.

12 On any view, if the evidence of the applicants as
13 a body is accepted in material respects, at various
14 times and in various establishments run by each of
15 the providers there was a significant problem of abuse
16 of one kind or another. One can, for example, see in
17 the case of Aberlour orphanage in the early 1960s that
18 demonstrated by the conviction of Mr Lee for sexually
19 abusing ten boys in his care between 1961 and 1963. In
20 the case of Barnardo's, again if the evidence is
21 accepted, it can be said of Tyneholm and of Glasclune in
22 the 1970s where there was evidence of sexual abuse and
23 other forms of abuse, and indeed evidence of abuse at
24 Craigerne of a sexual nature, that there was serious
25 abuse going on within these establishments taking

1 various forms.

2 There was also evidence about various forms of
3 serious abuse occurring in The Dowans which was run by
4 Aberlour around 1970 where a particular set of
5 houseparents were in charge and we heard some evidence
6 about that matter which did come to the attention of the
7 provider.

8 There was evidence in the case of Aberlour of abuse
9 occurring at other group homes, Whytemans Brae,
10 for example, and Bellyeoman. And indeed as regards
11 physical abuse, we heard evidence about the departure of
12 **BCK** in 1958 against the background of using
13 excessive corporal punishment that left a boy with
14 significant bruising.

15 So far as emotional abuse is concerned, we have
16 heard of many instances of what is now accepted to be
17 forms of emotional abuse in the case of all of the
18 organisations and I think there is a general acceptance
19 that such abuse was a feature of life for some children
20 in their establishments.

21 So far as that is concerned we have, and going quite
22 far back in one case, the evidence about the warden of
23 Aberlour humiliating a boy in assembly in 1948. You
24 will recall there was some evidence that that was
25 something noticed by inspectors carrying out

1 an inspection on behalf of the Scottish Office or
2 Home Department at that time.

3 Indeed it was accepted unreservedly I think by
4 Aberlour in the course of evidence that was given at
5 this Inquiry that such conduct was not only now but at
6 the time unacceptable and contrary to the rules and
7 values of the organisation.

8 So we have that sort of evidence which seems to
9 feature in a number of establishments. So I think the
10 idea -- and I think Mr Scott probably said this at the
11 opening statement. We have heard in some case studies
12 the idea there is the odd bad apple, but I think that
13 theory perhaps goes out the window without in any sense
14 saying everyone's experience was one of abuse or poor
15 practice. I think we have to make that clear. Clearly
16 these providers were caring for a large number of
17 children, and it is a point they make and it is a point
18 well made. But nonetheless when we are looking at
19 issues of nature and extent, while we can't perhaps put
20 a precise scale on the matter it was significant abuse
21 across many decades, in my submission, on the evidence,
22 if one accepts the body of evidence that we have heard
23 over the last few months.

24 I think perhaps my task is made a little easier, at
25 least in the case of Quarriers where there is actually

1 an acknowledgment, and no doubt they will come to repeat
2 that, that there was in the past widespread abuse,
3 physical, sexual and emotional, at establishments which
4 they ran. So they are not shrinking from that
5 conclusion based on what has been said.

6 Can I also say this by way of a sort of
7 introduction. There is a good deal of common ground
8 I think in this case study as to what historically would
9 have been unacceptable and indeed abusive, and I think
10 that would obviously include excessive or inappropriate
11 or indiscriminate use of corporal punishment, physical
12 assaults by kicking or punching, or the use of
13 instruments such as shoes, brushes, sticks or batons.
14 Punishing children in any way for bed-wetting,
15 force-feeding, placing children in sheds or cupboards as
16 a punishment, humiliating and denigrating children or
17 making disparaging remarks about their family.

18 So I don't think there is any real dispute that
19 these types of conduct, if they occurred, would be four
20 square abuse at any stage in the period that we are
21 looking at.

22 LADY SMITH: I suppose there is also the point that whilst
23 smacking children, for example, was commoner in early
24 years, a significant issue is whether or not smacking
25 a child at all, for whatever it was the child was

1 getting the backhander or the smack, was abusive, even
2 if it was a light touch. The physical force on the
3 child, what was it for?

4 MR PEOPLES: Yes.

5 LADY SMITH: Did that child actually merit any punishment at
6 all at that time?

7 MR PEOPLES: There is certainly evidence that they were at
8 a loss sometimes to understand why punishment had been
9 meted out, or they described it as indiscriminate where
10 someone would be picked out perhaps randomly in a sense.
11 There is the evidence of the line of boys, or the line
12 of children, and one was picked out, taken and beaten
13 and given punishment. So whether it is a smack or
14 something more significant, then clearly that is
15 a feature on the evidence at least in some places
16 historically.

17 So, yes, I think we have to accept that for quite
18 a large part of the period we are looking at, corporal
19 punishment was a permissible option, but that doesn't
20 mean to say the power to punish couldn't be abused or
21 misused. And I think that that conclusion, based on the
22 evidence you have heard, if accepted, would be
23 warranted, that that power or authority was abused in
24 some instances.

25 LADY SMITH: I should say, I think as I have said before, as

1 I look at my terms of reference, I am interested not
2 only in whether at the time, for example, corporal
3 punishment was accepted or not, but whether as we look
4 back now we can see that that is to abuse a child.
5 Because what at the end of the day I need to deliver
6 from these terms of reference, I have to consider that
7 in addition to whether at the time it was common
8 accepted practice or not.

9 MR PEOPLES: Yes. I think some would accept that nowadays,
10 judged by today, they would readily accept that that
11 would be the proper classification of some of the
12 conduct. And as your Ladyship said, it is not just
13 a matter of saying the remit is to decide whether -- or
14 the issue for you is whether at the time they met the
15 relevant standards of the day, because we are looking at
16 it in the wider context, and to some extent also
17 a context where we are seeking to give people who did
18 experience such conduct answers as to why it happened as
19 well. And hopefully they may have got some answers,
20 they may not like all of them, but they may have got
21 some answers from the evidence we have listened to, and
22 also the response of the organisational witnesses to
23 that evidence and how they interpret it and how they see
24 it from their perspective today. So, yes, I think one
25 should be wary about trying to enter into the debate

1 about, well, did they meet the standards of the day.

2 The other point perhaps made is that there was
3 a good deal of evidence about we have systems and
4 policies and our aims and ethos and values which mean
5 that we don't condone excessive punishment, we don't
6 condone necessarily a great use of corporal punishment.
7 But on the evidence, whatever the aim was, I think the
8 question is: was that aim realised in practice? And
9 I think certainly in some places at some periods that we
10 are looking at that aim wasn't achieved in practice.

11 LADY SMITH: Good intentions are not enough.

12 MR PEOPLES: Good intentions are not enough. There are
13 words and policies but I think one has to recognise that
14 is not the end of the story. It doesn't give one an
15 answer and it doesn't give one a comfort, and indeed it
16 doesn't give applicants a consolation as I think I put
17 to one of the witnesses. It is no consolation to be
18 told, well, we had systems, we did try our best, we did
19 have good intentions, if in fact these intentions were
20 not realised.

21 I think we did get a number of explanations why the
22 good intentions may not have been realised, but whether
23 one categorises them as systems failures or children
24 having been failed by an organisation or being let down
25 or whatever expression is used, the fact remains that

1 children were abused notwithstanding systems,
2 notwithstanding policies, notwithstanding aims and
3 ethos, and that is something which we have heard a great
4 deal of evidence about and perhaps we get some clue as
5 to why that may have happened.

6 I am thinking, for example, your Ladyship heard to
7 some extent the reflections of Sarah Clark who I think
8 tried, and has tried during this Inquiry having listened
9 to the evidence, to try and work out why abuse might
10 have happened, and I think she offered a number of
11 explanations and reasons why that was the case which
12 I think your Ladyship will no doubt look at and consider
13 as part of your assessment of the evidence.

14 There are perhaps some areas of issues that might
15 require a degree of discrete consideration and I just
16 touch on them. There is the issue of separation of
17 siblings and I think clearly there is a historical
18 policy on the part of all the providers of separating
19 boys and girls. That was not done I think with any
20 harmful intent, no doubt at the time, and it may have
21 been thought to have been done for very good reasons and
22 to be a perfectly acceptable practice.

23 But again it maybe comes back to the point that we
24 are now understanding that in a sense that can be
25 re-traumatisation or further traumatisation of a child

1 who is already traumatised by being taken into care
2 often without warning, without explanation or the like.

3 LADY SMITH: I don't think anyone has suggested that
4 the institutions deliberately set out to disrupt family
5 relationships. But as against that, I don't think
6 I have heard any evidence of any recognition of the
7 likely value to children in having these sibling
8 relationships maintained in some way even if, to take
9 Quarriers, for example, they hadn't got space for all
10 the siblings in one cottage, or Aberlour when they were
11 separating the sexes and you had a brother and a sister.
12 Fine. But then what about recognising that the children
13 needed to be given a way to keep up some relationship
14 with their brothers and sisters?

15 MR PEOPLES: I think that is a further point. You may have
16 a reason for separation, but even if you think there are
17 good reasons there is still an opportunity to maintain
18 contact or quality time contact, not simply passing
19 contact perhaps at school when they are in different
20 classes, different ages and so forth. And certainly
21 that doesn't seem to have been something that was
22 factored in or the impact. Because we obviously know
23 that the long-term impact of that has been considerable
24 for many people, that their relationships with their
25 siblings have been damaged as a result of these

1 practices and policies.

2 So that is something, I think. But clearly on the
3 face of it, it seems odd to categorise it as a form of
4 abuse or emotional abuse at first blush, but I think for
5 the reasons that were explored in evidence, and indeed
6 the recognition I think that organisational witnesses
7 had about the practice and how it could impact, then
8 objectively judged it could be seen now properly as
9 a type of emotional or psychological abuse of children
10 who are already damaged when they get into the system.
11 But I do think it can't be lumped with the more
12 traditional, easily categorised forms of abuse.

13 LADY SMITH: It sits rather apart from it.

14 MR PEOPLES: Another one that maybe falls into the same
15 category but can no doubt, like corporal punishment, be
16 misused, abused or used inappropriately was the use of
17 children to do chores. We heard a good deal of evidence
18 about that and certainly historically. I think
19 obviously as the decades went by the practice started to
20 die out as staff did things which children did
21 historically, but there is no doubt -- there was
22 evidence -- that some children were given chores that
23 were beyond their age or their capacity and were given
24 these in some instances as punishment.

25 LADY SMITH: As I have said before, I can see that having

1 children do chores can be a good thing, age appropriate
2 and not excessive, and praised when they do it well.
3 But there can come a time where it is excessive,
4 and when it becomes excessive it is abusive.

5 MR PEOPLES: Yes. I think perhaps it goes back to that it
6 was no doubt thought a good idea to give children some
7 tasks to do. But even then, I think your Ladyship says,
8 the other side of the coin is that one should get
9 praised for doing things and doing them well, whereas
10 the flavour of the evidence as a whole was that
11 children, whether as a punishment or not, did chores and
12 were not really praised for doing so, and there were
13 inspections which often resulted in the children being
14 told "You've not done it well enough, do it again", and
15 perhaps being punished in other ways. And evidence of
16 inspections, bed inspections, floor inspections, of that
17 kind.

18 So one of the features that might be built into
19 a healthy use of chores for whatever reason seems to
20 have been lacking at least historically, and indeed the
21 practice of chores of course today has died out, because
22 we don't expect children who are taken into care to do
23 some of the tasks that children did historically.

24 But again it is an area which again cannot be lumped
25 in I think with just the more conventional and

1 recognisable forms of abuse, but I think one has to
2 recognise how it appears to have operated at least to
3 a large degree historically.

4 Another matter which we heard a good deal about
5 which seems to be a feature of life in the case of
6 children in care is absconding. That is perhaps
7 a slightly different category because I think in general
8 terms, the evidence left us with the conclusion that
9 absconding really was a punishable offence. There
10 wasn't really much consideration for the fact that it
11 could be for a good reason and a justifiable reason.
12 There was very little in the way of asking questions and
13 explanations. So it was seen as something that should
14 not happen and should be punished if it did happen.

15 Again, that seems to betray a lack of understanding
16 which appears to have been maintained for many decades.
17 I think we heard, it wasn't this case study, but I think
18 it was another earlier passage about Roger Kent's work
19 in the 1990s about absconding and you have to ask the
20 reasons. I think the organisational witnesses that we
21 heard from in this study very much echoed no doubt what
22 Roger Kent said in the 1990s, that absconding, like
23 other conduct, is a form of communication and you have
24 to ask yourself why is it happening. And that doesn't
25 appear to have been, at least generally speaking,

1 something that did happen in any regular way. And not
2 only was it a lack of explanation, it was usually met
3 with punishment without really any opportunity to
4 explain.

5 LADY SMITH: In fairness, I think there was a single
6 incident of a boy running away, if it was, spending
7 Hogmanay in Glasgow overnight because he wanted to see
8 what it was like, and it was discovered that that was
9 what he had been doing when he got back, very cold,
10 after having been missing for many hours.

11 MR PEOPLES: Yes.

12 LADY SMITH: That seemed to have been appropriately dealt
13 with.

14 MR PEOPLES: I think the problem is there are very few
15 examples of that type of treatment of children who
16 absconded. It stands out because it seems to have been
17 unusual in the general body of evidence that we heard on
18 this matter.

19 Another issue which again might not fit in naturally
20 with the more obvious categories of abusive conduct was
21 the use of "mummy" and "daddy", calling houseparents
22 "mummy" and "daddy" as a form of requirement. But
23 I think it is now readily accepted that that was or
24 could be seen as emotionally and psychologically
25 damaging to a child, particularly one who is well aware

1 that they have a mummy and daddy and indeed that mummy
2 and daddy may be visiting them from time to time at the
3 establishment they are being cared for in.

4 And I think there is a recognition again that
5 whether there were good intentions that lay behind that
6 requirement historically perhaps in the case of very
7 young children who were orphaned, that might be one
8 explanation. That practice outlived its usefulness, if
9 it ever had a usefulness, and seemed to have been
10 maintained across decades particularly in some places.
11 I think Quarriers, for example, was certainly one where
12 that was quite a common feature even into quite late on
13 in the period I am concentrating on, the 1930s through
14 to the 1990s.

15 LADY SMITH: I think that is right. Judy Cochrane
16 discovered it was still in use and tried to take I think
17 Mr Mortimer to task about it but nothing happened.

18 MR PEOPLES: No, and I think Quarriers will probably now
19 accept that perhaps the management and direction on that
20 issue, as on some other matters we have touched upon,
21 was lacking for one reason or another, and therefore the
22 practice was perpetuated and went unchallenged.

23 That seems to have been again a feature of some of
24 the practices we have heard evidence about, that they
25 were there, and they went on, and they were neither

1 challenged, questioned or changed.

2 I'm generalising, and I think clearly we know from
3 some evidence that as a new, as it was called I think,
4 a new breed of houseparents came in, that some
5 practices, including the one we are just discussing, did
6 change in some places, and there was a recognition that
7 that was not an appropriate way to ask children to
8 address people caring for them away from home.

9 But that said, in other cases it did continue, and
10 I think that is the difficulty. It is not something
11 that is so rare that it could almost be saying, well, it
12 was basically addressed but there was this odd lapse.
13 That is not the picture coming out of the evidence that
14 we heard in the course of this study.

15 Another issue which again perhaps doesn't naturally
16 fall into the category of the traditional idea of abuse
17 is the degree of preparation for leaving care. But it
18 was something that again was a recurring feature of the
19 evidence of applicants across the board, that they were
20 cared for, but then suddenly they were thrown out of the
21 nest, if you like, and felt ill-prepared for life on the
22 outside of care.

23 LADY SMITH: It may be debatable as to whether it could be
24 characterised as abuse but it is I think at the very
25 least relevant context as indicating how children were

1 regarded by the institution.

2 MR PEOPLES: Yes. I think your Ladyship maybe made the
3 point, or certainly someone did, that parents don't
4 simply shut the door on children when they leave home,
5 they continue. Again there is evidence that there was
6 a degree of aftercare and there was evidence there was
7 a degree of support given when they left, but there was
8 still a theme that a number of people felt they just
9 weren't equipped to leave care, to some extent perhaps
10 because they felt, and perhaps felt with justification,
11 they were institutionalised, they didn't have the skills
12 to operate outwith an institutional setting.

13 Again not perhaps because there was a deliberate
14 intention to deprive them or not to provide them with
15 those skills but that was the way it was. It's
16 a terrible thing to say that that was the way it was,
17 but I think on the evidence that was the way for some,
18 and that is the way that some felt and indeed it seems
19 to have damaged them in the short-term and perhaps in
20 the long-term.

21 So again it is something and I think it has to be
22 borne in mind in the context of this case study and
23 perhaps no doubt as a general point in relation to
24 children who were placed in care settings during the
25 Inquiry's timeframe.

1 There is also an issue arising from the evidence of
2 whether the models, whether the central feature was one
3 of control or one of care. And I think while no doubt
4 sterling efforts have been made to say that the ethos
5 and aim was to care and provide a loving and safe
6 environment, one can't help but feel that the evidence
7 as a whole disclosed a model where there was greater
8 emphasis on control and less emphasis on the needs of
9 individual children or, as we might call it today,
10 a child-centred approach.

11 Again I am not suggesting that that was necessarily
12 a very deliberate and conscious policy, to damage
13 children who were taken into care, but it does appear
14 that that was to some extent the way things were and the
15 way things happened and there might have been a number
16 of reasons for that. I think one perhaps that begins to
17 emerge or has emerged is that there were a lot of
18 children, not much support, staff who had to look after
19 a lot of challenging children, they didn't have the time
20 to provide what might be termed "proper quality care" in
21 today's world, with the result that we had children that
22 didn't get nurturing, they didn't get affection, they
23 didn't get time, they weren't listened to as
24 individuals, and as a result they feel a lasting sense
25 of damage from that situation.

1 Yet that seems to be something that was a feature of
2 perhaps all of the organisations historically, that time
3 was simply not there, and that everything was structured
4 and a matter of routine, that the routine didn't build
5 in quality time, therefore to some extent it became very
6 much a regime of control.

7 And I think as Sarah Clark said, it was a model
8 where really the emphasis was on meeting basic needs --
9 food, shelter, accommodation -- but not the soft
10 qualities, I think she called them, which are required
11 perhaps to give the experience a better outcome for the
12 children concerned.

13 Again it may be that the lack of affection and
14 warmth wasn't necessarily in all cases deliberate or
15 intended to harm, it just might have been a fact of life
16 or a reality of life. But that was I think the reality
17 for a lot of children, they didn't feel they got the
18 love or affection or the cuddles or the warmth and the
19 nurturing that they were looking for. And that might be
20 particularly damaging for a child who is already damaged
21 when they are admitted into care and have the very need
22 of these particular features of care.

23 There was a general issue about reporting of
24 ill-treatment or abuse, and I think I can take this
25 fairly shortly, in a way, because there is evidence that

1 some applicants did report what they considered to be
2 abusive experiences but a lot didn't. And those who
3 did, in the main I think the evidence was to the effect
4 that they were simply not listened to, not believed,
5 dismissed. The adult's version, if put forward, was
6 preferred and so on.

7 There were maybe rare occasions when that didn't
8 happen but there was not a lot of it, and indeed one of
9 the maybe striking features of the evidence is that when
10 we look at the historical records, I think all of the
11 organisations conceded that ultimately they didn't find
12 too many recorded instances of complaints being directly
13 made by children, there were complaints but often they
14 came via an adult, sometimes an external body and so
15 forth, but not too many from children. And the
16 applicant's own evidence I think in its generality was
17 to the effect, well, if we said anything, it just wasn't
18 accepted or believed, and I think a number of examples
19 of that happening across the period that we are looking
20 at.

21 It may be that some of -- well, we heard evidence
22 that complaints were made but they are not reflected in
23 the records for the children concerned. So if that
24 evidence is accepted that they were made, we don't find
25 a record, that I suppose reinforces the conclusion that

1 they couldn't have been taken very seriously, they
2 weren't necessarily worthy of being recorded or
3 investigated and findings and conclusions set down for
4 posterity.

5 So that might be a clue I think to the attitude of
6 the time, that children didn't have an effective voice
7 and their complaints went unheard or were not listened
8 to.

9 I suppose something that touches upon the
10 understanding, or lack of understanding perhaps in
11 earlier decades, the historical situation, is how far
12 those caring appreciated the impact or damage that their
13 behaviour was having on children, whatever form that
14 conduct took.

15 We are in the fortunate position that we can hear
16 the perspective of the child, particularly the child who
17 considered that he or she was experiencing abuse. In
18 the case of applicants who gave evidence of abuse, if
19 their evidence is accepted, the overall picture that
20 emerges is of children who felt they were powerless,
21 children who felt a sense of helplessness, children who
22 lived on a daily basis in a state of fear and anxiety
23 fearing what might happen next, and indeed fearing what
24 might happen if they said anything. And children who
25 believed at the time that there was no one they could

1 turn to, and children who felt they were unable to tell
2 anyone what was happening to them, and that included
3 persons who they did like.

4 There were instances where some of the applicants
5 said, "Well, I got on well with [particular people] but
6 I couldn't tell them", or "I couldn't tell my parents".
7 They could sometimes tell -- and I think this was
8 a point picked up by Barnardo's on analysis of the
9 records, they could sometimes tell about bad experiences
10 that happened outwith the care setting and they could
11 disclose those, but if the disclosure was about bad
12 experiences in the care setting, particularly from the
13 conduct of staff, these examples were rare, certainly in
14 the records. And that seems to be echoed by the oral
15 evidence of applicants who perhaps gave one of the major
16 reasons why certain things happened that perhaps went
17 unchallenged or undetected.

18 The other side of that is also one which I think was
19 picked up, and perhaps emerged as a possible explanation
20 why abuse continued in some establishments, was perhaps
21 also the fear of some staff about what would happen if
22 they said anything, particularly junior staff who -- it
23 is difficult to resist the conclusion in the case of bad
24 practices or physical abuse carried out rather openly in
25 units that people didn't see things. It is almost

1 difficult to accept that no one saw anything. Sexual
2 abuse is one thing, but humiliation, emotional abuse,
3 physical abuse were the sort of things that were more
4 visible or noticeable yet it does appear that these
5 things were not picked up or reported and staff didn't
6 challenge. And it does appear there is at least some
7 evidence to suggest there may have been a reluctance for
8 fear of the consequences for the person making the
9 report.

10 There are examples where people did have the courage
11 to report, and I think indeed in the case of Aberlour it
12 was a junior colleague of BCK who had the
13 courage to come along and say "I have noticed this
14 bruising and this boy has obviously suffered some form
15 of physical assault". But that again is a bit like the
16 absconding. It wasn't a very common example either on
17 the record or in the evidence we heard that these things
18 would come up in that way.

19 I don't want to say too much at this stage about
20 impact, but I do think I have to say something. We have
21 the statements, we have the evidence. We can see that
22 in many cases the impact of experience of life in care,
23 particularly for those who gave evidence of abuse, has
24 been lasting and profound. Many have been highly
25 damaged by their experiences in care, many have very

1 vivid recollections of particular instances and
2 experiences, experiences which are burned into their
3 memories. Many have had difficult lives as adults.
4 Some have had mental health problems, some have been in
5 trouble, some have abused drugs and alcohol. Many have
6 experienced difficulties forming and maintaining
7 relationships, and some spoke movingly of difficulties
8 bringing up children of their own, either being
9 overprotective or finding it difficult to show emotion
10 to their own children. I think one witness said the
11 legacy of that isn't just for the person abused, it is
12 a legacy for the family as well.

13 So that is something I think we have to bear in mind
14 if looking at the whole situation and the importance
15 obviously of recognising how conduct can impact on
16 a young life, and indeed have lasting effects.

17 Can I just say briefly something about the position
18 of the providers in relation to the evidence of
19 applicants. I think I am correct in saying, although
20 we don't have the Barnardo's submission as yet, but I am
21 anticipating that certainly Aberlour and Quarriers and
22 indeed I anticipate Barnardo's will be making no comment
23 on individual accounts of abuse which were given by
24 applicants both in oral evidence and in written
25 statements, and that the organisations' position in each

1 case I think is that they are leaving the assessment of
2 that evidence to your Ladyship, a task which they accept
3 is for you to carry out.

4 So the only challenge that has been mounted to
5 evidence of applicants really consists in the evidence
6 of those who were the subject of allegations of abuse,
7 alleged abusers who gave evidence either oral and
8 written to the Inquiry. And as regards those witnesses,
9 clearly your Ladyship is faced with a conflict of
10 testimony and, therefore, it will require to determine
11 so far as it is necessary to draw general conclusions
12 what to make of that evidence and how it impacts on the
13 assessment of the body of evidence as a whole.

14 I say that because again I don't think it is
15 a matter of looking at the individuals necessarily in
16 minute detail and in every respect but -- and I think so
17 far as that evidence is concerned, I think I am correct
18 in saying that largely speaking where allegations were
19 put to alleged abusers, generally it simply consists of
20 "It didn't happen", or "I deny it, they are lying", or
21 "It's fabrication", or "I do not recall that happening".
22 There was very little I think elaboration of the matter
23 on the part of those to whom these allegations were put.
24 But their position was, and I think generally speaking
25 was, that the things attributed to them didn't happen.

1 In some cases where there was elaboration, there was
2 perhaps an attempt to relate it to something that may
3 have happened when the person making the allegation was
4 a child many, many years ago. Your Ladyship has to
5 consider that explanation, but it might seem in some
6 cases to be really clutching at straws because it didn't
7 in some cases make a great deal of sense why someone
8 might harbour some kind of motivation for many, many
9 years, and suddenly come forward to the Inquiry and make
10 a false allegation of something that never happened. So
11 it is again for your Ladyship to judge that.

12 But they weren't coming up with too many
13 explanations, and indeed there is a consistency of
14 allegation in many cases, and in some cases those who
15 were the subject of allegations and did respond were the
16 subject of allegations from a number of people. I am
17 thinking of the lady at Glasclune who was the subject of
18 a number of allegations from former residents as to her
19 treatment of them and yet she just said she denied that
20 any of these allegations had any substance.

21 I am also of thinking of allegations made by
22 Mr Whelan which were put to another of the witnesses,
23 and indeed although that witness was taken through
24 a number of people who seemed to have made similar
25 allegations of ill-treatment and physical abuse,

1 including someone who was deceased but had given
2 a police statement and others who had come forward
3 before Mr Whelan had been contacted by the police, the
4 explanation was, well, it was Mr Whelan who put them all
5 up to it and that is the explanation, and it was just
6 a fabrication.

7 So your Ladyship will have to consider these
8 explanations but against the background of the whole
9 evidence and whether, if it is necessary to form
10 a judgment, whether it in any way alters the impression
11 of the general body of applicant evidence on the matters
12 that have been the subject of evidence in this case
13 study. But that is really I think the only area of what
14 I call dispute.

15 I would say, and it is a matter for your Ladyship to
16 judge what significance this has, but I would remind
17 that the organisational witnesses, who have considerable
18 experience in childcare and social care, did give their
19 own evidence as to the impression that was made by the
20 individuals who came forward to the Inquiry, and it was
21 a powerful impression so far as they were concerned, and
22 I don't think that they had any difficulty for their
23 part in accepting what was said, and indeed some were
24 very explicit in their statements as to what they did
25 accept and what they believed happened. So it is

1 something to bear in mind.

2 Ultimately it is your Ladyship's impression of the
3 evidence that matters, but I think one can legitimately
4 say, well, these people, they are in the business of
5 looking after children, they have had considerable
6 experience of care, they have their own experiences to
7 draw on, and indeed they have reflected on their own
8 experiences in some cases, and they have given their
9 views on what they have heard and the body of evidence
10 they have heard. And I don't think there has been any
11 attempt by them or by their organisation to seek to in
12 any way challenge the evidence or see it as lacking
13 credibility or reliability in its generality.

14 There is the issue why abuse happened and I am not
15 going to labour that. We did have a lot of exploration
16 of that, I think particularly in the chapter after
17 Christmas. I think it is still fairly fresh in
18 your Ladyship's mind and I'm not going to rehearse it
19 all here today. But I think explanations were offered
20 and I think in the submissions we are about to hear from
21 some of the providers perhaps some explanations will be
22 offered for that state of affairs. And I am content
23 just to leave the matter to be addressed, so far as it
24 is considered necessary to do so, by the organisations
25 in their closing submissions.

1 But save to say that I think they all accept to
2 a greater or lesser degree that there were some --
3 looked at at least with today's eyes -- deficiencies,
4 weaknesses, gaps in various areas that were essential to
5 produce good quality safe care for children. I don't
6 want to go through all these areas today, but I think we
7 heard a lot of evidence about the processes of
8 recruitment, supervision, training, guidance and
9 instruction, support for houseparents and carers. And
10 I think in a broad sense there was a recognition that in
11 all of these areas more could have been done, or things
12 could have been done better, if I can put it that way,
13 without trying to put it in any form of legal or
14 regulatory standard. That more could have been done.
15 And I think there is a recognition on their part that
16 historically a number of these aspects of their system
17 and the way the organisation was run could have been
18 done a lot better.

19 I think we see that particularly in the submissions
20 from Quarriers which I think go into that matter in some
21 detail under a specific head of systemic failures. But
22 I think as far as I can interpret it, and I will be
23 corrected if I am wrong, I think the Aberlour
24 submissions do also seek to identify areas where they
25 feel there were deficiencies in terms of the way the

1 organisations handled matters historically.

2 So that is something else which has featured and has
3 been explored and I think one can conclude that in some
4 areas, systems and practices and processes were not
5 robust. And I think there was an acceptance in some
6 cases at least that that might have been a contributory
7 factor to creating conditions in which abuse of children
8 could occur, opportunities for abuse and so forth.

9 So it is not saying that was the cause of it, but it
10 created conditions where it could perhaps happen and
11 sometimes happened without being detected. I think that
12 is something that your Ladyship will no doubt consider
13 when assessing the evidence as a whole.

14 I would intend perhaps just to give a very broad
15 summary at this stage of some themes that emerged from
16 the evidence across the various decades, again I am
17 focusing particularly on the period before 1990. If one
18 begins with Quarriers, a number of applicants gave
19 evidence of their experiences over a number of decades.
20 I think they go back to the 1930s and up to the 1990s,
21 those experiences.

22 One thing that can perhaps be said, and I am not
23 going to elaborate, I think it is dealt with fully in
24 Quarriers' submissions, is that we have heard accounts
25 of physical abuse throughout the decades and

1 I don't think that Quarriers would argue with that being
2 the state of the evidence. We have heard evidence of
3 children being beaten with and without implements over
4 time, and we have also heard instances of punishment
5 which was clearly excessive, unjustified and
6 disproportionate and I think there were quite a lot of
7 these examples. There was a flavour running through the
8 evidence, and one that is I think conceded by the
9 organisation, that there was a huge amount of autonomy
10 and that houseparents could really set their own rules,
11 and I think as Thomas Hagan said in his evidence, they
12 could please themselves as to how they ran their
13 particular cottage.

14 But the result of that of course is --

15 LADY SMITH: That came up again and again from a whole range
16 of witnesses.

17 MR PEOPLES: Yes. Ultimately of course that means that you
18 will have good experiences, bad experiences, good
19 cottages and bad cottages because clearly if there is
20 that variation and no one has trained to say that this
21 is good practice and this should be followed and
22 monitored, then it is almost inevitable that that will
23 happen. It may be to some extent a feature of the model
24 but I think it is more than that, because I think in all
25 the providers one common feature is that if the

1 houseparents or carers, primary carers, behave in
2 a certain way, then abuse can occur or bad practice can
3 occur, regardless of what the systems are and policies
4 and processes, because you are very much dependent on
5 the way in which the carers themselves act as
6 individuals. There is a lot of trust in the system or
7 there was a lot of trust, and perhaps a lot of misplaced
8 trust, ultimately, at least in the case of those who
9 abused children and misused authority and powers.

10 But I think that is a feature of all of them.

11 I think it was particularly noticeable in the Quarriers'
12 model, but I think in any of the models if you see
13 a particular house, its atmosphere, its culture, the
14 state, the prospect of the children, whether they were
15 happy or sad, was dependent on how the particular
16 houseparents ran the unit.

17 LADY SMITH: We also saw it in the female religious orders
18 provision where there wasn't a cottage system or
19 a village system but within one institution there was
20 a division into units, and the rules were you never went
21 into another sister's employment, as they called it.
22 Nobody interfered with the leadership and running of the
23 individual unit once it was up and running.

24 MR PEOPLES: There is a sense of that I think here as well,
25 particularly in Quarriers, but I think in other -- if

1 there was a house or a unit, a house in Aberlour or
2 a cottage in Quarriers or a particular home or whatever
3 in the case of Barnardo's, that it was very much down
4 to, well, it was run in a certain way. It might be run
5 well, it might be run badly. Other people didn't seem
6 to be concerned about how it was run, they just ran
7 their own ship, as it were, and sometimes they did it
8 well, sometimes they didn't.

9 So I don't think one can single out Quarriers and
10 say that model -- I think initially it seems
11 superficially attractive to say of course if you put
12 cottages or effectively separate units then you are
13 maybe going to get that state of affairs. But I think
14 you get it across the board even in a large institution
15 that often, in a practical sense, is divided into units
16 which are looked after by housemistresses or
17 housemasters or houseparents, whatever term you care to
18 use.

19 Clearly if we go to the Aberlour experience of if
20 you were in Spey House in 1961 you were in trouble,
21 there was a huge risk that something bad would happen,
22 and something bad did happen to a large proportion of
23 the children at that time. That is not to say that if
24 you were in the same house at a different time or in
25 a different house at the same time that the experience

1 might have been a very different one, indeed I think
2 there was evidence to that effect, and I don't think one
3 can shrink from that. But that is what was happening,
4 and there were those who were unfortunate to be in some
5 cases in the wrong place at the wrong time.

6 But it wasn't an isolated state of affairs across
7 the board or across the organisations, I think that is
8 the point I still want to go back to. That it can't be
9 said, oh well, broadly speaking the care experience was
10 good for 99.9 per cent of children because clearly that
11 is not what, if the evidence of the applicants is
12 accepted, is the position or the picture that emerges.
13 For a lot of people it was a bad experience but,
14 equally, there were a lot of people for whom it may have
15 been a good experience.

16 So we have that but we have that running through the
17 decades, and I think we get physical abuse running
18 through the decades probably in all cases so it doesn't
19 necessarily always improve.

20 If one takes Quarriers, we have the evidence that
21 a decision was taken in the 60s to remove the tawse from
22 the cottages, but it didn't remove the excessive
23 physical punishment or corporal punishment because we
24 saw that it was replaced by a lot of implements of
25 violence.

1 LADY SMITH: Didn't the tawse actually remain in some of the
2 cottages although they were all supposed to have handed
3 them in?

4 MR PEOPLES: I think there was evidence some may have kept
5 them as souvenirs or mementos and used them from time to
6 time. But I don't think they were required to, because
7 we discovered that if there was some other implement to
8 hand and you lost your temper or got angry, as clearly
9 people did, then they picked up something or used
10 something, a hair brush or whatever, as an instrument.
11 Spoon, sticks, belts, waist belts, towels I think we
12 heard, sandals, Scholls. So there were all sorts of
13 things used. So if the thinking was if we take away
14 the --

15 LADY SMITH: There was one houseparent who threatened with
16 an axe, it wasn't suggested he actually used the axe on
17 a child, but he was very open about using it to threaten
18 the child.

19 MR PEOPLES: Yes, I think that was the one where there was
20 actually a mark on the table. You could say that is
21 a form of -- if it was used in a threatening way it
22 would be legally an assault as well. But leaving that
23 aside, if it was used in anger to make a point then the
24 effect on children sitting at a table, where someone
25 produces an axe and then slams it into the table, it is

1 unimaginable really. And I think that was quite late
2 on -- well, relatively late on in the day as well, that
3 particular example.

4 LADY SMITH: That was in Stuart Mackay's time, I think.

5 MR PEOPLES: Yes, I think he was there in the 80s and
6 beyond, so it is not something that goes back to the
7 mists of time. But it was an example and perhaps quite
8 a graphic example of what could happen and how certain
9 practices were used to perhaps instill fear and to
10 produce control in that way.

11 But there was also lots of evidence about beatings,
12 slappings, punching, kicking, these things were
13 a regular feature in the evidence of the applicants
14 across the decades, and in some cases there was evidence
15 of injury to a greater or lesser degree. Quite often
16 applicants, when asked, would say there were marks,
17 there was sometimes bruising, sometimes the injury was
18 more serious. We had evidence of the ear injury
19 I think, the episode with the ear that bled. So we get
20 examples of injury, either temporary or perhaps more
21 significant, caused by assaults of which there was
22 evidence.

23 We also have evidence -- we have evidence of some
24 rather maybe more unusual forms of punishment, people
25 who were asked to hold their arms above their head or

1 hold their arms out while holding books or something,
2 and if they dropped them they would be punished. That
3 sort of thing seems to have been a feature of some of
4 the evidence, certainly in the case of the applicants
5 who were at Quarriers who spoke of that type of thing
6 going on.

7 It went on through the decades and indeed continued
8 I think into the 1980s, and this was at the time when
9 basically the village was really closing down. So
10 throughout the period of its operation it appears that
11 physical abuse was occurring.

12 There was also the use of excessive chores which
13 again was I think a feature of the evidence,
14 particularly up until the 1960s. And also there was
15 evidence I think in one case in the 1950s or 60s,
16 evidence of Joyce of having her mouth washed with
17 carbolic soap, and her head held underwater, and being
18 scrubbed with a brush until she bled.

19 There was evidence from the witness Matt in
20 the 1950s who told us of children's heads being flushed
21 down toilets. Audrey told of being made to scrub the
22 floor of a shed with a toothbrush and having a bucket of
23 potatoes poured over her, this was in the 1970s. And
24 the witness, Ken, described the practice of holding
25 books with outstretched arms in the 1980s.

1 And of course there was the use certainly at
2 Quarriers of the shed. That seems to have been
3 something that was a common place of punishment,
4 children being placed in a shed, forced to stand for
5 long periods in cold dark conditions. I think
6 your Ladyship will remember that. It wasn't a feature
7 of one cottage, it was a feature, I think a regular
8 feature that the shed was a place that could be used for
9 punishment and in some cases beatings.

10 LADY SMITH: I can see that exclusion of a child to
11 a different place in a building can be a perfectly
12 acceptable form of punishment, but what we heard
13 evidence of were long periods in the cold, in pyjamas,
14 barefoot in the dark and so on. And the way it has
15 carved itself into the memories of the applicants was
16 quite striking.

17 MR PEOPLES: Yes. It may be one thing to send someone to
18 their room to reflect on their behaviour, it is their
19 room and maybe they are alone and they have to be alone
20 and not speak to someone for a short period or whatever.
21 But this is of quite a different order and it seems to
22 have been quite a common practice over a number of
23 decades.

24 The other one that again has come up time and time
25 again is bed-wetting and it seems to have been punished,

1 at least in some places, from the 1930s right through to
2 the 1980s in the case of Quarriers, and there are
3 a number of accounts from applicants of children being
4 punished and humiliated for wetting their bed. Some
5 gave evidence about being placed in cold baths and they
6 were denigrated and called names. Some gave evidence
7 that they had to wear wet or soiled pants on their head
8 or had wet sheets or pants rubbed in their face.

9 Indeed, the most recent account of that I think from the
10 Quarriers applicants was from Ken in the 1980s who told
11 of being beaten for bed-wetting and having his face
12 pushed into a wet sheet.

13 So again there was evidence that bed-wetting was in
14 some places treated sympathetically but there was a lot
15 of evidence that it wasn't, and that this wasn't
16 something that you can confine to a particular decade or
17 a particular period or era which died out or was
18 challenged and eradicated. It seemed to continue for
19 whatever reason. It may have been seen as a nuisance or
20 an inconvenience, it may have been thought that these
21 measures, through ignorance, would have some beneficial
22 effect. But the reality was they didn't, because the
23 problem continued and got worse in most cases and has
24 left many people with lasting damage of that experience.
25 Not just what happened to them, but the public

1 humiliation of being singled out in front of other
2 children and paraded around or identified as
3 bed-wetters.

4 So again, from the perspective of the child, it is
5 difficult to imagine the damage that must have caused at
6 the time and since. But I think we have got a lot of
7 evidence about that so it was something ...

8 And then while I think one can readily accept that
9 over the decades food was a precious commodity in care
10 home settings, a lot of children, maybe tight budgets,
11 food was seen as something that should be cherished and
12 eaten --

13 LADY SMITH: Our evidence covers a significant period of
14 rationing during and after the war.

15 MR PEOPLES: Indeed. But that said, food was used -- food
16 was used and abused, if you like. It was used as a
17 means of punishment because we had evidence, certainly
18 in the case of Quarriers, from Irene in the 1930s that
19 children were made to eat porridge with excessive salt.
20 There was evidence in the 1940s from various witnesses
21 of there being deprivation of food as a punishment. And
22 then of course, perhaps worst of all, there was the
23 evidence when children were force-fed, sometimes to the
24 point where they were sick, and the force-feeding
25 continued unabated. And there was evidence obviously in

1 some cases that meals were re-served until eaten, and
2 children being beaten for not eating.

3 So there was quite a lot of that. And indeed we
4 heard evidence to that effect in the 1907s by
5 David Whelan, by David, by Alison and Audrey, and
6 I think Ken in the 1980s told of being leathered for not
7 eating food. So it seems to have been a recurring theme
8 and problem.

9 We know in the case of Quarriers that there were
10 some convictions for physical abuse, notably perhaps the
11 three convictions of Mary Arnold or Drummond and
12 Effie Climie and Ruth Wallace. They are all I think
13 single houseparents from a certain age, but their
14 offences spanned I think from the early 1950s right
15 through to about the 1980s. So it is not something that
16 was confined to a particular period of time or era.

17 Of course if one goes any further back, there is the
18 difficulty in the case of abuse of a physical kind or
19 any other kind that generally speaking, if it was
20 perpetrated by an adult, that person would be deceased
21 by the time it has come to light. So in that way
22 justice might be seen to be denied to those who suffered
23 such abuse, but I think that is just the fact of the
24 matter, that you can't prosecute someone who is
25 deceased.

1 It is not for me to try and put any mitigation on to
2 these matters but there is, going back, though, this
3 theme that perhaps the system chose single houseparents
4 who were asked to control, care for a large number of
5 children who were highly vulnerable, many perhaps with
6 challenging behaviours. And I think there is a flavour
7 in some of the evidence that some of them simply didn't
8 get the support to cope with that situation. And indeed
9 I think as one witness said, Alison, she thought her
10 particular housemother was out of her depth. And one
11 can perhaps readily imagine that state of affairs if you
12 have 10/15 children in one household and --

13 LADY SMITH: It was asking an enormous amount.

14 MR PEOPLES: A huge --

15 LADY SMITH: Not just of a pair of houseparents but
16 particularly of a single houseparent. We have evidence
17 of very limited domestic assistance for them. A dozen
18 or more children needing looking after practically, in
19 terms of doing their laundry, food for them, doing all
20 the cooking for them, trying to keep the house clean,
21 albeit with the children doing some of the chores, it is
22 no wonder they felt under stress, and if they lashed out
23 at the children it is perhaps not surprising. It
24 doesn't mean that that should have happened and it
25 doesn't mean it wasn't abusive, but they were possibly

1 ideal conditions to allow for somebody just losing it
2 from time to time.

3 MR PEOPLES: I think there was a good deal of evidence that
4 some of the abuse that occurred seemed to occur in
5 situations where there was a lot of control or anger or
6 temper and that some form of violence followed, so it
7 wasn't an uncommon scenario. But your Ladyship is
8 right, I think we get the impression that that was a lot
9 for one person or even a couple to handle, it wasn't
10 just single people, but it was a lot to handle without
11 any degree of support, and indeed it was quite
12 relentless in terms that the houseparents had very
13 little time off. It was basically a 24/7 job, day and
14 night.

15 So one can imagine, if you are trying look at it
16 from their perspective, how difficult that might
17 sometimes have been, without trying to make any excuse
18 for that spilling over into physical assault and abuse.

19 LADY SMITH: Am I remembering rightly there was also some
20 evidence to the effect that a houseparent could be
21 reluctant to talk to, for example, the superintendent
22 about how difficult they were finding it, because they
23 would be afraid of losing not just their job, but their
24 home?

25 MR PEOPLES: I think there was evidence that that might well

1 have been the situation. I think your Ladyship did
2 explore with one person what the benefits of being
3 a live-in houseparent was, and I think in one case the
4 benefit was they had a house, they actually didn't have
5 a house of their own, so there would be lots of
6 benefits. Some were quite young and therefore it might
7 have been difficult to perhaps work out what might
8 happen if you asked for more support in a situation
9 where you were doing things that other people were
10 expected to do, so it might have been a very difficult
11 situation to speak out.

12 I think there was even the witness who was the
13 subject of accusations in the 60s. A houseparent was
14 mentioned in the 1965 inspection report, if I recall,
15 who according to the inspectors needed support and was
16 a bit out of her depth, but in evidence to us she
17 maintained she was coping and she didn't really need the
18 support. But that might have been a slightly stoic
19 attitude and maybe one that she continued to believe was
20 okay. But that was an external opinion in the 60s that
21 this person, who was regarded as sincere, was not coping
22 very well with the demands. I think it was said she
23 had, in the report it said something like six or seven
24 children under the age of 6 to look after and her own
25 young child, which again was a point that came out, that

1 some of these parents had their own children to look
2 after at the same time.

3 So there was a huge demand in one sense placed upon
4 people who were taking on these roles, and perhaps
5 taking them on in situations where the conditions
6 weren't fantastic. They did get a house, so they had
7 that much, but they weren't paid according to -- I think
8 the evidence is, and we didn't go into the actual
9 figures, but they weren't I think paid particularly
10 well, and I think that is something recognised even
11 today. The status of the residential care worker is
12 still something that needs to be at least considered and
13 addressed.

14 So it wasn't easy, no doubt. I don't want to press
15 that too far. But I think if one is looking for
16 explanations why physical abuse could occur, one can see
17 the conditions were there where it could happen. We
18 know I think from our own experience that people lose
19 control, and when they lose control they do things that
20 maybe they regret but have consequences, and maybe in
21 this situation it was no different.

22 We have talked about emotional abuse, and I think
23 again bed-wetting is a very good example of that, and
24 again that was something that as I have said seemed to
25 span the decades through to the 1980s.

1 There is also, and this is something that --
2 children being made to feel worthless and denigrated was
3 again a feature. Remarks were made from time to time by
4 houseparents about children or their families, or that
5 they were idiots, worthless, stupid, whatever. And that
6 seems to have been a not uncommon thing over the
7 decades.

8 One can also see a situation where it wasn't always
9 the abuse suffered by the individual that left the
10 lasting memory, it was the abuse that they witnessed,
11 particularly if it was to a family member. And
12 your Ladyship will remember Esmeralda who witnessed her
13 little brother being beaten and that was her worst
14 memory of I think her time in care, although she did
15 also refer to remarks being made where she was referred
16 to as "the heathen's child", if you remember, and indeed
17 she said she used to scrub herself with carbolic soap.

18 Another example which perhaps stands out is where
19 a child was ridiculed for a speech impediment. That was
20 the evidence, if you remember, of Scottie I think, the
21 boy who had the stutter, the young boy who was denied
22 the birthday cake because he couldn't pronounce the
23 letter "C". That was evidence given by Audrey.

24 So these sort of things were coming out in the
25 evidence. And across the decades I think we again

1 repeatedly have this theme of an apparent lack of love
2 and affection towards children in care and I think there
3 are reasons for that. Because perhaps the demands,
4 there was not the time. It may not have been in many
5 cases a deliberate policy to deny that affection, it
6 just wasn't something that they were able to give or
7 give in a meaningful way, but it certainly was a theme
8 and a recurring theme across the decades.

9 I mentioned separation of siblings and family
10 relationships, I don't think I need to go back over it,
11 but clearly that has been recognised as being something
12 that was a practice that had unfortunate consequences.
13 And perhaps maybe one thing that was particularly
14 troubling was where children were not aware of the
15 existence of their siblings who might be in the same
16 care setting, so there were some examples of that, and
17 that is certainly something that is difficult to justify
18 in any era. Perhaps less so in the more modern era, but
19 there is obviously evidence in earlier decades of what
20 appeared to be conscious attempts to deprive residents
21 of family contact with their family on the outside.

22 I think if one goes back to the earlier times,
23 1930s, there was for example the evidence of Irene's
24 family, visits being kept to a minimum despite repeated
25 requests for a visit. So there was a flavour of that.

1 I think that began to change as we got into the 60s and
2 the Social Work (Scotland) Act and so forth, there
3 seemed to be a recognition that family contact was
4 a good thing and should be maintained wherever possible,
5 but certainly in earlier times it seems that denial of
6 contact was perhaps regarded as a good thing.

7 When it comes to sexual abuse, there was quite
8 a good deal of evidence of sexual abuse at Quarriers.
9 And so far as Quarriers is concerned, there have been
10 a number of convictions of staff for sexual abuse of
11 children in the 1960s and 1970s. We have the
12 convictions of Samuel McBrearty, Joseph Nicholson,
13 Alexander Wilson, John Porteous for abuse of children,
14 really through from the early 1960s to the late 1970s
15 for all of these individuals.

16 We did hear from some of the victims of that abuse,
17 as your Ladyship will recall. We heard from
18 David Whelan and we also heard from the witness Anne who
19 gave evidence of the abuse she suffered at the hands of
20 Sandy Wilson. Your Ladyship will recall there were
21 a lot of charges that were found proved in his case,
22 mainly in relation to residents in Quarriers.

23 We also heard that there was evidence of sexual
24 abuse by a housefather and a befriender and a painter in
25 the 1950s. That was the evidence from Scottie,

1 your Ladyship may recall that one. And I think Troy
2 also gave evidence in that period of being sexually
3 abused by his housefather. And Jenny in the 1950s and
4 60s said she and other children were sexually abused by
5 a house auntie and some older girls and indeed a PE
6 teacher at school. And maybe I should make this point,
7 because it has been made I think by the organisation.
8 The school wasn't --

9 LADY SMITH: No, the local authority was responsible for the
10 school.

11 MR PEOPLES: I think Aberlour was different, I think they
12 did employ staff. But I think I will make that point in
13 case it is misunderstood.

14 Then we have evidence of the 1960s. We had the
15 evidence of George who learned that his sister -- his
16 evidence was that he learned his sister had been
17 sexually abused by her housefather. There was evidence
18 from Fiona that she believed from comments by her late
19 brother, who had been watching television and there was
20 some report about conviction of an employee from
21 Quarriers, that he too had been sexually abused by that
22 individual. And there was Elizabeth's evidence of being
23 sexually abused by the [REDACTED] in Quarriers as well.
24 And again there was evidence of abuse into the 1970s.

25 There was also evidence I think from time to time of

1 peer sexual abuse, although in that case I think in
2 large measure the evidence was to the effect that that
3 wasn't reported or brought to the attention of adults,
4 I think it is fair to say. So that may be a more
5 difficult one to say it was easy to detect.

6 But the general climate must have -- it should have
7 been obvious, perhaps, that there were conditions if you
8 put a lot of children together, some with backgrounds
9 which involved abuse and sexual abuse, that perhaps
10 there should have been a recognition that that type of
11 behaviour could occur and would be a serious potential
12 risk.

13 LADY SMITH: Mr Peoples, it is 11.30 am. I think we will
14 take a break now, a short break of ten or fifteen
15 minutes, then I will sit again.

16 (11.33 am)

17 (A short break)

18 (11.49 am)

19 LADY SMITH: Mr Peoples.

20 MR PEOPLES: My Lady, I was dealing with Quarriers. I'm not
21 going to go back over running away, I have kind of dealt
22 with that more generally, but there was a lot of
23 evidence about running away and the reaction or response
24 of the organisation.

25 Reporting of abuse again I think I have covered

1 adequately. I might just mention for example that in
2 the 1940s Thomas Hagan said he tried to tell Mr Munro,
3 who was I think the then superintendent, I think he was
4 Joe Mortimer's predecessor, that he was belted, and the
5 houseparents were told and he was beaten again. So that
6 was the sort of response he could recall.

7 And your Ladyship will remember about the evidence
8 of Finlay who told his mother about abuse in the 1950s.
9 She came to the cottage to remonstrate with the
10 housemother and there is a record on the file of that
11 matter where I think the houseparent seeks to persuade
12 the superintendent that she has got it all wrong and
13 there is nothing in it. I think that was the evidence
14 that she said he was sorry and had made it all up,
15 something along those lines, so -- but there was
16 certainly a record about that one which was maybe
17 unusual.

18 There was the evidence of Troy who said he reported
19 sexual abuse by his housefather but was not believed
20 again. That is in the 50s and he was made to apologise,
21 he said, to the person who abused him. And the evidence
22 of Jock, I think. He said he reported sexual abuse by
23 a former resident to his housemother who didn't believe
24 him.

25 In the 1950s and 60s, Jenny said she reported sexual

1 abuse by older girls to a cottage auntie and was
2 punished by having her mouth washed out with carbolic
3 soap. Fiona gave evidence of reporting abuse in
4 the 1960s to a local authority social worker. There
5 seems to have been some perhaps questioning on the
6 matter, but she basically said the issue was swept under
7 the carpet and there didn't seem to be anything --
8 nothing seems to have changed.

9 Again, we had similar evidence in the 70s of people
10 making reports and, generally speaking, nothing
11 happening or nothing being done so far as they were
12 concerned to address the matter.

13 There was perhaps one applicant I think who
14 mentioned peer abuse was reported, and the peer abuser
15 was removed from the cottage, but it doesn't appear that
16 where the abuse was levelled at the houseparent that
17 similar action was taken. If anything action, if taken,
18 seems to have been the reverse, that a child might have
19 gone, and I think QKZ was an example. I think
20 it was suggested that after certain things were said
21 about an incident that was --

22 LADY SMITH: She had to apologise.

23 MR PEOPLES: She had to apologise according to the evidence
24 that we had from David Whelan about that matter. And
25 you will recall I think that, in response, those who

1 were asked about it I think simply denied it had
2 happened. So there was that evidence given which
3 your Ladyship will have to consider. That was the
4 evidence, yes, about the incident with the bath where
5 I think her head was -- she was pushed and her head
6 struck off a sink and she ran out. So we have that as
7 well.

8 So there is a theme of some children reporting,
9 certainly not all, but it doesn't seem to have had any
10 great impact or effect so far as their own position is
11 concerned. I think that might then show why people just
12 stopped reporting or were fearful of reporting because
13 of fear of either being punished or reprisals or not
14 being believed, and developing a lack of trust in any
15 adult and seeing all adults as representing the
16 organisation or the system and therefore they couldn't
17 confide. So it creates a terrible situation, the twin
18 fears of: if I say something, something might happen; if
19 I don't say something, something will happen. It is
20 a dreadful situation to be in.

21 There clearly was evidence of awareness of abuse.
22 I think the police evidence was that when they did their
23 investigations, most of the staff were saying they
24 weren't aware of things going on. But I think on the
25 evidence as a whole, it is hard to believe that things

1 that were going on were not being noticed. Perhaps the
2 problem was they weren't being reported or challenged or
3 brought to the attention of managers and others.

4 Because clearly there was evidence that people were
5 aware that cottages or certain people had reputations
6 and that can only come through some form of dialogue,
7 and it is difficult to believe in a village environment
8 that that information won't get around.

9 Indeed, there might have been more obvious evidence
10 because if I could mention what Scottie said, that he
11 had learned from people who I think had been in
12 a different cottage, he later learned that they could
13 hear the screams coming from the cottage. That was when
14 Scottie was there in the 50s. And indeed Matt and
15 Finlay spoke of having bruises which they believed
16 I think staff at a hospital saw.

17 So clearly the signs were there in some cases but it
18 doesn't appear that that seems to have made any
19 appreciable difference.

20 I think again there was some evidence from Joyce who
21 said she met up with Bill Dunbar I think at a funeral of
22 the housemother and it was something along the lines of
23 he knew of her reputation. And he was in quite a senior
24 position over time. Indeed we heard evidence that when
25 Joyce's sister moved cottage she told the Inquiry that

1 the new housemother told her she was safe now. So there
2 are these pieces of evidence which, taken together, if
3 accepted, do show that there must have been an awareness
4 certainly of physical abuse going on, of whatever degree
5 of awareness there was of sexual abuse.

6 I think even some of the evidence from some of the
7 more senior people and social workers at the time was
8 that Joe Mortimer had a good idea that things were going
9 on, bad practices were going on in certain cottages, but
10 he really for a variety of reasons didn't step in and
11 take action or use his authority, and of course the
12 social workers didn't have the power or authority to do
13 that themselves.

14 Indeed we heard -- perhaps the most remarkable thing
15 was where one houseparent, I think it was cottage 33,
16 she gave evidence of how the social worker had been
17 withdrawn at the instigation of, I think it was perhaps
18 Dr Minto at that stage.

19 LADY SMITH: So that was the evidence, yes.

20 MR PEOPLES: Yes. Although that particular person did give
21 evidence, and remarkably I think she questioned records
22 even when various things were put to her, she wasn't
23 having anything, and she said "I wasn't unwelcoming to
24 social workers and all of that sort of thing. But when
25 the records were put she just said that that wasn't

1 a true reflection of the situation.

2 So it wasn't just applicant evidence; in the face of
3 evidence and records, she wasn't prepared to accept the
4 situation as there described. And of course there was
5 the evidence about aftercare, sometimes people felt they
6 weren't well equipped.

7 Clearly there is a general evidence over the piece,
8 particularly in the earlier decades, of a strict and
9 harsh regime, very regimented, almost military-like,
10 lots of inspections and things of that kind, I think one
11 witness likened it to a prison camp at times, I think
12 these were in the earlier days, in the 1930s to 50s,
13 although it is fair to say I think that there was
14 evidence by the 60s that there was a more relaxed regime
15 beginning to come into play in some cottages but that
16 the old-style did maintain in others.

17 If I could just turn briefly to Aberlour because we
18 heard evidence from applicants of their experiences in
19 Aberlour, and I think they went as far back indeed to
20 the 1920s, up to about 1991 there was evidence about
21 Sycamore Services. But I don't think I need to
22 concentrate today on the Sycamore Services because
23 I think ultimately what appeared to be allegations in
24 general terms ultimately were explained as perhaps
25 something different. There was the issue of restraint

1 and I think we understood what Michael Bulla's position
2 ultimately was on that matter so I am not going to dwell
3 on that.

4 But nonetheless, there was evidence of things that
5 were happening both in the orphanage and indeed in some
6 group homes, because we did hear evidence about
7 the orphanage from applicants and about The Dowans,
8 for example in about [REDACTED] when [REDACTED] BCI/BCJ were in
9 charge, Whytemans Brae and Bellyeoman. There was also
10 evidence about Quarryhill but I think the evidence there
11 was positive about the experiences of those who spoke
12 about that.

13 So far as the orphanage is concerned, there was
14 evidence from Ron Aitchison about I think the 1950s and
15 60s about high turnovers of staff, the orphanage being
16 understaffed, very young staff at times. So I think
17 that reinforces the idea that there were conditions
18 which perhaps didn't help matters along at that time.
19 I think his evidence was to the effect that life was
20 quite strict and regimented and run along military
21 lines. Bed inspection and chores were a feature at that
22 time. And I think in his view the orphanage was less
23 a care system and more a system of control, which was
24 meeting children's basic needs. So he was making that
25 point from his perspective of a child at the time.

1 Physical abuse. There was evidence about physical
2 abuse and excessive corporal punishment at the
3 orphanage, although again perhaps the same point can be
4 made that the experiences depended on which house
5 a child was placed in. So we can't just generalise and
6 say that all houses were places of abuse. And indeed
7 some, such as Phoenix, said they felt nurtured and cared
8 for in the house there were in. But others gave very
9 different experiences and told of abuse.

10 For example, Ruth told of being beaten with
11 a long-handled brush, David said he was punched in
12 the face. There were applicants who spoke of scrubbing
13 floors, including with a toothbrush, as punishment.
14 Mary spoke of children being hit on the bare bottom with
15 a hard-soled mule slipper. Rab told of the
16 [REDACTED] BGF [REDACTED] belting him on the bare
17 bottom. And I think that was contrary to Aberlour's own
18 rules, if I remember. That was one of the examples of
19 the [REDACTED] perhaps setting a bad example, just as
20 perhaps [REDACTED] BLK [REDACTED] did in the earlier decades if he
21 ridiculed a child in front of the whole assembly.

22 There was another occasion I think where Ruth said
23 she was strapped on the bare bottom by Mrs [REDACTED] BBG [REDACTED] in
24 front of Mr [REDACTED] BGF [REDACTED] William and Rab gave evidence of
25 random selection for group punishment if a child didn't

1 own up to something. And William spoke of hearing
2 another voice screaming when he was beaten by the
3 housemaster. So there was plenty of evidence about that
4 type of abuse going on, physical abuse in the orphanage
5 at various times.

6 So far as group homes are concerned, again,
7 children's experiences depend on which home they were
8 in. There was positive evidence from David and Angela
9 of their time at Quarryhill. David said he had
10 a positive experience at Bellyeoman in the 1960s,
11 whereas Maria who was in the same place in the early
12 1970s with different houseparents spoke in her statement
13 of being kicked and punched. At Whytemans Brae, Mary
14 spoke of beatings and having her head flushed down the
15 toilet, cold baths as punishment, use of a belt, being
16 hit on the hands and being slapped on the face leaving
17 marks.

18 Ruth spoke of physical abuse at The Dowans, children
19 being beaten and strapped on bare skin with a belt by
20 the housefather. And so far as locking up was
21 concerned, there was evidence again that that was used
22 as a punishment in the orphanage.

23 So we are seeing the same things happening but in
24 a different setting. Pauline and Amber spoke of
25 children being locked up as a punishment at the

1 orphanage. I think in the case of the group homes there
2 was the evidence of Mary, who was at Whytemans Brae
3 group home, who spoke of being locked in a cupboard.
4 Ruth, who was at The Dowans, said she was locked in
5 a cupboard she estimated for four days without food or
6 access to a toilet.

7 Bed-wetting. Again there was evidence that this was
8 punished at the orphanage, that was the evidence of
9 Mary. And I think her evidence was along the lines that
10 names were read out or spoken at teatime and punishments
11 were given in the presence of other children. Pauline
12 told of bed-wetting and having to take sheets to the
13 bathroom and children standing in line to be belted in
14 front of others. Adam McCallum gave evidence that he
15 recalled an occasion when [REDACTED] BGF
16 picked on a child at assembly and ridiculed him for
17 bed-wetting, so that is shades of [REDACTED] BLK again
18 albeit maybe in a different context.

19 David said he remembered children being wrapped in
20 wet sheets in the corridors as he and other children
21 were filing past. In the group homes there was some
22 evidence from Ruth that children were punished for
23 bed-wetting, given cold baths, faces rubbed on wet
24 sheets. And she contrasted that with the night staff
25 who apparently dealt with the matter sensitively but

1 children were still beaten by the houseparents, she
2 said, if they found out in the morning. So in the same
3 place different carers were dealing with the matter in
4 an entirely different way.

5 Again when it comes to food we hear similar sort of
6 stories to those that we heard at Quarriers of people
7 missing meals because they were cleaning floors as
8 a punishment, that was the evidence of Mary. Meals
9 being re-served, that was the evidence of William.
10 Children being punished for not eating, again William
11 said that. Amber spoke of food being re-served and
12 being made to sit in front of an uneaten meal. Pauline
13 told of being force-fed porridge and made to eat her own
14 vomit when she was sick and said she saw this happen to
15 others.

16 In the group homes there was evidence from Mary of
17 meals being re-served if a child didn't eat, that was at
18 Whytemans Brae. CC spoke of uneaten meals being
19 re-served at The Dowans. Maria spoke of food being
20 re-served at Bellyeoman and saw her sister being
21 force-fed by the housefather.

22 So again we are getting the same things time and
23 time again.

24 Emotional abuse. Again, we have the response to
25 bed-wetting in some cases and people's names being read

1 out or called out. And I think name-calling generally,
2 there was evidence of that. I think Ruth mentioned she
3 was called derogatory names such as "red headed
4 bastard". There appeared to be more generally a lack of
5 what might be termed emotional support offered to the
6 boys who were sexually abused by Mr Lee, and I think we
7 have heard a good deal of evidence about that episode
8 which your Ladyship may think doesn't reflect
9 particularly well on the organisation if one accepts the
10 evidence of both Rab and indeed the housemother at the
11 time.

12 In the group homes, again there was evidence of
13 emotional abuse in relation to bed-wetting,
14 force-feeding, and Mary said that the houseparents at
15 Whytemans Brae told children that they had got the worst
16 bunch of kids and no one wanted them. So we are seeing
17 these features again.

18 Clearly there was sexual abuse at the orphanage and
19 we have Mr Lee, again I think your Ladyship will well
20 remember that chapter. And in the group homes there was
21 evidence of sexual abuse of Maria by a housefather at
22 Bellyeoman and indeed by peers. Ruth spoke of sexual
23 abuse by the housefather at The Dowans.

24 So we have similar themes and trends and again
25 I think we see a general lack of reporting by children

1 for perhaps the same reason as we saw in relation to
2 Quarriers and I think we would see in relation to
3 Barnardo's as well. And there were reports of lack of
4 preparation for leading care, and I think some of these
5 matters are touched upon in the closing submissions on
6 behalf of Aberlour so I'm not going to labour these
7 matters at this stage. So again we have these features.

8 Barnardo's, well, we don't have the benefit of
9 a closing submission yet but what I could do is just
10 indicate that we are seeing similar things again. We
11 are seeing historically harsh regimes, we are seeing
12 sexual abuse at Glasclune in the 70s, at Tyneholm in
13 the 50s, at Craigerne in the 60s. We are seeing
14 bed-wetting being treated as a punishable offence and
15 humiliation at Glasclune, and indeed Tyneholm in the
16 50s. The 1960s I think for Glasclune. We are seeing
17 evidence of force-feeding and re-serving of meals, again
18 Glasclune featured there. And particularly I think in
19 the 60s, I think this was probably more in the times of
20 Mr and Mrs QON/Q and their [REDACTED] and also evidence
21 I think was given by Richard, evidence of force-feeding
22 at Glasclune, I think that was in the 60s. There was
23 also the evidence of Richard about force-feeding at
24 Tyneholm.

25 There is evidence again of emotional abuse. One

1 notable example I think came out of evidence of a number
2 of applicants about the pants inspection at Glasclune.
3 There was again evidence of hurtful remarks about
4 residents and family and evidence of lack of affection.
5 That is another theme. Again not perhaps with the same
6 intentions but again it seems that that was a feature of
7 life historically.

8 Again, we had the same theme of lack of preparation
9 for leaving care, some spoke of that, not feeling
10 adequately prepared. And of course we had more general
11 issues about -- I think all three gave issues about
12 training. And I'm not going to labour this but I think,
13 at the very highest, training in both Barnardo's and
14 others was variable in terms of quality and quantity and
15 content, albeit I accept that there was clear evidence
16 that there were opportunities and to some extent efforts
17 were made to train staff.

18 LADY SMITH: The need for it was being recognised in later
19 years.

20 MR PEOPLES: Yes. In fact I think the need was recognised
21 in the 40s, according to Barnardo's, when there was
22 a council set up and Barnardo's themselves were
23 recognising it. But whatever need was recognised, it
24 didn't appear that filtered through into a comprehensive
25 training programme for staff. And indeed we heard lots

1 of evidence about difficulties of recruiting and
2 retraining staff and I think that was a general theme
3 from all three providers.

4 I think we also heard, both in relation to
5 Barnardo's and Quarriers, variable levels of
6 supervision. And I just mentioned the evidence of
7 Mary Roebuck about Glasclune where she didn't really
8 feel the supervision was all that was required, she
9 didn't feel well equipped, and that was in the 70s.
10 Eric gave evidence about Balcary in the early 1970s,
11 where there was no real guidance or training given to
12 him when he was there. So we are getting similar themes
13 there. And of course sexual abuse I've mentioned at
14 Glasclune, Tyneholm, Craigerne at various points.

15 So I think we are seeing the same themes again and,
16 if I am not mistaken, I think ultimately in her evidence
17 on behalf of the organisation there was an acceptance
18 that there was a degree of organisational failure in
19 various respects historically by Barnardo's and they may
20 well want to deal with that in their submissions.

21 I will leave it for them to judge. But your Ladyship
22 knows there was evidence along those lines, we did
23 explore that, and indeed Sarah Clark as I have said
24 explored the whole matter of why abuse happened.

25 So I think we have a similar pattern or themes that

1 emerge across the board and, perhaps for many of
2 the same reasons, why these situations may have
3 occurred, notwithstanding systems, policies and aims.

4 So if your Ladyship does accept this evidence, there
5 was significant abuse of children in the care of all
6 three providers, there were children who lived in
7 a state of constant fear, there were children who didn't
8 have an effective voice, and perhaps that was most
9 children.

10 There was evidence that staff were afraid to speak
11 up, there were closed cultures where unacceptable or
12 outmoded practices were allowed to continue
13 unchallenged. There was a failure to recognise the
14 impact of what would now be seen as behaviour amounting
15 to emotional abuse, albeit accepting that for many
16 children the experience may nonetheless have been
17 a positive one, or at any rate not a negative one due to
18 abuse, if I could put it that way.

19 There was perhaps historically a mindset that carers
20 would not abuse children in their care, the very idea
21 for some being inconceivable, and a recruitment process
22 that was not robust. It does seem that historically
23 care staff and providers were good at meeting basic
24 needs and maintaining control through discipline and
25 punishment, often an over-use of punishment, but that

1 approach was not on the evidence, you may conclude,
2 child-centred, even if affection and nurturing was not
3 deliberately denied.

4 The work was demanding, as I have said. Not well
5 valued, it was relentless. Many children, many with
6 complex needs. Staff not necessarily adequately trained
7 or equipped to cope with the demands. Staff may not
8 have been given sufficient support, direction and
9 guidance, and staff were left to get on with things as
10 best they could. Staff who had considerable autonomy in
11 practice which resulted in variable standards of
12 childcare, some good, some bad. Children who were
13 afraid to report or were not listened to and believed
14 when they did. No time to provide nurturing and
15 affection.

16 So if one does ask the question why some children
17 were abused, in my submission the case study and the
18 evidence we have heard may at least assist in providing
19 some answers to that question.

20 So I think that is all I would wish to say at this
21 stage.

22 LADY SMITH: Thank you very much.

23 I am going to turn now to Mr Gale who represents the
24 Former Boys and Girls Abused at Quarriers. Mr Gale, I'm
25 not sure how long you think you will need. I do

1 recognise it is now 12.15 pm. If you feel that up to
2 1 o'clock, when I will need to rise, won't give you long
3 enough, please just find a convenient place to break.

4 Closing statement by MR GALE

5 MR GALE: Thank you, my Lady.

6 Good afternoon. I begin this submission with some
7 introductory observations. The organisation FBGA was
8 established to provide a resource for those abused in
9 Quarriers homes over the years, and through David Whelan
10 as its spokesman it has conducted and informed a
11 tireless campaign for the voices of survivors to be
12 heard in an independent Inquiry.

13 On behalf of the organisation and Mr Whelan, we
14 would wish to express our appreciation to the Inquiry
15 for the opportunity to participate in this case study.
16 Our primary interest is in the evidence led of those who
17 suffered and survived abuse in Quarriers homes and which
18 records now, for the first time in a formal process, the
19 often harrowing detail of those experiences.

20 This is of course the first case study in which we
21 have played a direct and active role, but in relation to
22 earlier case studies we have acquainted ourselves with
23 the evidence led through consideration of witness
24 statement, transcripts, and, in the case of the
25 Daughters of Charity, the findings of fact issued by

1 your Ladyship.

2 Having attended the oral hearings in that case
3 study, we would observe that only through directly
4 hearing the evidence of survivors does one fully
5 appreciate the effects their experience in childhood has
6 had, and continues to have, on those who have now lived
7 most of their lives. Reading statements simply cannot
8 prepare one for the impact of such evidence.

9 We would like at this stage to recognise and express
10 our appreciation to the Inquiry team, including the
11 Inquiry solicitors, for the difficult work that its
12 members have carried out to enable this case study to
13 provide such a comprehensive record of events in
14 Quarriers. The work of the Inquiry witness support team
15 has been vital before, during and after the presentation
16 of witnesses' evidence, and we recognise and thank them
17 all for what they have done to enable the witnesses'
18 accounts to be given.

19 Can we also thank Mr Peoples QC and Ms Rattray,
20 advocate, who have acted as counsel to the Inquiry
21 during this case study, for their skill and
22 professionalism in presenting the evidence and also for
23 their assistance in answering correspondence and
24 incorporating into their questioning of witnesses
25 matters that we have asked to be raised.

1 I think, my Lady, I could just add there that we are
2 grateful to Mr Peoples for his detailed closing
3 submission this morning. And so far as his general
4 observations and those that are specific to Quarriers,
5 there is nothing in what he has said that we would have
6 any dispute with.

7 LADY SMITH: Thank you.

8 MR GALE: Finally, my Lady, can we express our appreciation
9 to your Ladyship for the way in which she has presided
10 over these hearings. The provision of a forum in which
11 applicants have the opportunity to discuss intensely
12 personal matters, in some cases matters of which their
13 own families remain unaware, is, we recognise, something
14 that requires delicate and perceptive skill. And again
15 adding there, my Lady, I don't think the evidence of
16 Elizabeth could possibly have been delivered unless
17 my Lady had provided the circumstances in which she
18 could do that in a way that she was obviously
19 comfortable with.

20 LADY SMITH: Thank you.

21 MR GALE: My Lady, this has been a case study involving
22 three institutions, the principal common factor being
23 that as voluntary and non-religious organisations they
24 operated under the same regulatory regime. Considering
25 these organisations together has allowed a comparative

1 approach to be taken to the conduct of the
2 organisations, which we say has been informative,
3 particularly in the context of the governance of the
4 organisations.

5 Our submission for obvious reasons will concentrate
6 on the period from the commencement of the Inquiry's
7 remit until approximately 1990 being the period during
8 which evidence shows that abuse occurred. We will also
9 look at the response of the organisation when the
10 occurrence and extent of the abuse became apparent.

11 As we have made clear on a number of occasions, we
12 accept that Quarriers is now a very different
13 organisation to that which tolerated abuse perpetrated
14 by its staff, and we understand that the present
15 management of Quarriers is anxious to uphold its present
16 high reputation.

17 That desire should not, however, be a reason to seek
18 to minimise the extent of the abuse that occurred and
19 the damage which it has caused to survivors who were, at
20 the time of the abuse, innocent children.

21 We have noted the apology and its terms which were
22 given at the outset of the Inquiry and it was repeated
23 at the beginning of this case study. We also note what
24 Ms Harper, the current CEO of Quarriers, said in her
25 evidence and it is worth repeating what she said. She

1 said this:

2 "On behalf of the organisation I accept that there
3 was widespread abuse of children at Quarriers. As
4 chief executive, I am deeply saddened and shocked to
5 hear about this widespread abuse and its nature."

6 She went on:

7 "Personally I am deeply saddened and shocked from
8 the evidence I have heard about children's experiences
9 and the impact on their lives that the abuse has had.
10 I will never forget that. On behalf of Quarriers,
11 I unreservedly apologise to those who suffered abuse
12 when in the care of the organisation."

13 We are grateful that she attended the oral hearings
14 to hear of the abuse and, having seen her obvious
15 emotion in giving her evidence, we have no doubt that
16 she was deeply moved by what she had heard.

17 There are two comments we would wish to make about
18 the apology. Firstly, it is our submission that
19 the organisation must have known several decades ago
20 about the scale and nature of the abuse which went on
21 and, accordingly, it is a matter of regret that
22 an apology of this nature was not issued many years ago.

23 Secondly, the term "widespread" does give some
24 indication of the scale of the abuse of which Quarriers
25 is now aware but it is a somewhat anodyne term which

1 requires to be set in context.

2 It is known that in the period from 1930 to date in
3 excess of 30,000 children were in residential care in
4 Quarriers, and it is known that the numbers from about
5 1990 to date are relatively insignificant. The majority
6 of applicants who gave evidence made it clear that they
7 were not alone in suffering abusive practices but that
8 they observed and were aware that many of their
9 contemporaries were also abused in similar or in other
10 ways.

11 We also made the point in our opening submission
12 that the response documents produced on behalf of
13 Quarriers disclosed the numbers of known and alleged
14 abusers as known to them. This case study has certainly
15 not reduced those numbers. It is our submission that
16 the evidence available to the Inquiry that abuse as
17 defined for the purposes of this Inquiry was, throughout
18 the period in question, endemic in certain cottages and
19 was a part of everyday life.

20 With these observations in mind, it is not
21 unreasonable to conclude that in the relevant period
22 certainly hundreds, if not thousands, of children
23 suffered abuse in Quarriers. The acknowledgment that
24 there was widespread abuse requires to be read in this
25 context and we would invite my Lady to make a finding in

1 fact, perhaps in the terms just suggested, which
2 reflects the scale of abuse in the relevant period.

3 In addition, the number of identified abusers,
4 whether convicted or not, clearly dispels the suggestion
5 that abusers were rare bad apples within a barrel of
6 otherwise kind and competent carers. In his evidence,
7 Tom Shaw made the point of reiterating what he had said
8 in his Time To Be Heard report. That he and his
9 Commissioners had been treated with "respect,
10 sensitivity and graciousness", and that:

11 "We were continuously impressed by the dignity and
12 openness of those who came to be heard. It is
13 remarkable that so many of those who spoke of
14 particularly bad experiences had the capacity to be
15 objective and to acknowledge individual members of staff
16 and aspects of provision to whom and for which they are
17 grateful. We felt that in some cases the individuals
18 had accepted as normal particular circumstances and
19 treatment that even of their time were unacceptable."

20 We cannot improve on that assessment in recommending
21 that the Inquiry takes a similar view of all the
22 applicants who came to give evidence. Applicants came
23 before the Inquiry with a range of personalities and
24 characters, to be expected of a large number of
25 disparate individuals, and some clearly found the

1 experience of giving evidence traumatic and distressing.

2 That said, their honesty and dignity was manifest,
3 in our submission, and we are reinforced in that
4 assessment from the terms of Ms Harper's acceptance of
5 the abuse. The chancers, the money-grabbers and the
6 nutters were notable by their absence and those who
7 previously castigated survivors in those terms should
8 take a long, hard look at themselves.

9 A final observation that we would make at this stage
10 is that in our view and in our submission, this form of
11 investigation has allowed a more informed view to be
12 taken of the culture which existed in Quarriers and
13 indeed in the other organisations over the period in
14 question.

15 Themes have emerged which have been consistent over
16 the years: the casual violence, whether simply
17 gratuitous or under the guise of supposed punishments
18 meted out to children. The appalling treatment of those
19 who were bed-wetters and, in particular, their public
20 humiliation. The cruelty of force-feeding, the
21 separation of siblings within the village and the
22 isolation of children from those in the outside world.
23 The fact that there were good cottages as opposed to bad
24 cottages. The underlying atmosphere of fear and the
25 sexual exploitation of certain children.

1 This is not meant to be an exhaustive list but
2 gaining this overall impression of the culture is not
3 something that could be properly brought out if one were
4 examining the circumstances of specific allegations
5 given the exigencies of a criminal trial or a civil
6 litigation. It has particularly assisted in dispelling
7 the impression that those accused of abuse were not the
8 sort of people who would do such things.

9 On contentious issues a person with a veneer of
10 respectability and a devout Christian ethos had
11 an obvious advantage over a person who might bear the
12 psychological scars of abuse. Ms White, the Procurator
13 Fiscal, put the matter very clearly in what we say was
14 her very perceptive evidence.

15 There is of course a datum point and that is the
16 convictions. Over a number of years eight individual
17 members of staff of Quarriers village were convicted of
18 various offences of historic child abuse. These
19 offences included instance of rape, serious sexual
20 assaults, physical assaults and statutory offences of
21 cruelty towards children, and in three cases in
22 particular they were prosecuted at High Court level and
23 resulted in substantial periods of imprisonment. Full
24 details of these convictions are listed in the
25 amalgamated Quarriers report and will obviously form

1 a critical part of the necessary findings in fact.

2 As far as FBGA is aware, no other organisation in
3 Scotland has thus far attracted so many convictions of
4 members of staff as Quarriers. While the Inquiry has
5 heard only limited evidence concerning the details of
6 the abuse which forms the basis of these convictions,
7 their nature and seriousness speak for themselves.

8 John Porteous gave evidence to the Inquiry. He was
9 convicted of sexual abuse of two boys, one of whom was
10 David Whelan. He continued to deny the abuse of which
11 he was convicted, relying upon clearly spurious reasons,
12 in particular that he did not have a fair trial despite
13 being represented by experienced senior counsel and the
14 absence of an Anderson based appeal. He suggested that
15 the limited success of his appeal was in some way due to
16 a supposed deficiency in the evidence given by
17 David Whelan when in reality it was due to the
18 intervening decision of the High Court in Winston.

19 LADY SMITH: I think it is Webster, Webster v Dominic. And
20 for completeness, your reference to the Anderson case is
21 where a ground of appeal can be taken on the base of
22 deficiencies, significant deficiencies, in failing to
23 represent a defence at trial.

24 MR GALE: Indeed. Thank you, my Lady.

25 He attributed a comment to a judge of the

1 Appeal Court, I think the comment was that it was
2 "unsafe".

3 LADY SMITH: We don't use that expression in Scotland.

4 MR GALE: Which is not used. So we say it is highly
5 unlikely to have been said, almost impossible to have
6 been said. He also attributed to your Ladyship entirely
7 unwarranted reasoning in dismissing David Whelan's civil
8 claim.

9 Mr Porteous was and continues to be a proven liar,
10 the man for whom the comment "vener of respectability"
11 could scarcely be more apposite. And while that may be
12 abundantly apparent, it does little to lessen the
13 distress that his evidence caused Mr Whelan both orally
14 and in his written statement. His failure to offer
15 an apology for his conduct spoke volumes.

16 In connection with the convictions, Ms Harper's
17 statement contains one general and one specific
18 observation. These to a certain extent have already
19 been alluded to by Mr Peoples.

20 She stated:

21 "Simply because individuals have not been convicted
22 of certain offences does not mean that they did not
23 abuse children in the way alleged."

24 That is particularly clear when one considers the
25 very clear evidence which David Whelan gave to the

1 effect that he and his sister had been physically abused
2 by Jack. She also said that the investigation into the
3 allegation against John Porteous in 1982 concerning
4 an account of abuse which was recorded as being "so
5 vivid and detailed that initially it was rather
6 convincing", was, so far as Quarriers was concerned,
7 entirely inadequate. Those observations by Ms Harper
8 were well made, particularly the first, given she had
9 had the benefit of hearing the evidence.

10 My Lady, can I turn now to what we term "the early
11 years".

12 The terms of reference of the Inquiry provide that
13 it should cover events within living memory occurring up
14 until 17 December 2014. The majority of applicants who
15 gave evidence of abuse spoke to events which occurred in
16 the 1950s until the 1980s. There is, however,
17 a substantial body of information before the Inquiry
18 which provides a very clear and disturbing indication of
19 the abuse which prevailed from the 1930s onwards. In
20 the 1930s and 1940s a regime existed in which shocking
21 physical and emotional abuse was commonplace within the
22 organisation. It is in our submission noteworthy that
23 the abuse which has been described in these early
24 decades bears a remarkable similarity to the nature and
25 extent of the abuse of which applicants have spoken in

1 more recent years.

2 One can begin with the evidence of Anne, who was the
3 very first witness in this case study, who gave evidence
4 of an account of life in Quarriers between 1933 and 1942
5 which was given to her by her mother, Irene, shortly
6 before she died to assist with her feelings that "she
7 felt that she didn't have anybody".

8 Summarising Anne's evidence, she recalled that Irene
9 said she was treated cruelly without any affection, that
10 she was never cuddled and she was told that she was
11 worthless, that her own mother didn't want her, that if
12 she failed in the performance of a mundane task, she was
13 "shrouded in black", which led her to walk to church in
14 clothes different from those worn by others. She termed
15 it "a walk of shame". While unable to recollect the
16 names of her houseparents, she was able to recall that
17 the housemother could be kind to her but the housefather
18 was "awful". To complain would be deemed ungrateful and
19 would incur punishment. She knew that she and others
20 were not to speak about anything that went on in
21 the cottage.

22 She was physically punished, recalling in particular
23 that she had forgotten to have a hankie protruding from
24 her pinafore, as a result of which she was belted. She
25 was aware that others were put in isolation, in

1 particular in cellars at the back of the cottage and
2 that children lived in fear of being locked in there.
3 She was frequently slapped around her head, particularly
4 when she failed to call the housemother "mummy". She
5 was quite proud of her defiance in refusing to do that.

6 She related to Anne that bed-wetters had to wear the
7 wet sheet around their head and that on one occasion,
8 when suffering from gastroenteritis, she had to wash her
9 soiled sheets in an outside sink while naked. Underwear
10 was inspected and, if soiled, the child was shamed in
11 front of others. She was separated from her
12 half-brother. Attempts by her aunt to gain access to
13 her for a holiday when Irene was 18 were refused,
14 apparently as a matter of policy. Attempts by family
15 members to see her on days which were not appointed
16 visiting days were also refused. A letter to her from
17 her grandfather was apparently intercepted and read by
18 the superintendent. Disclosure of the relevant
19 correspondence caused Irene to be angry in that she had
20 been of the view that nobody cared about her.

21 Interestingly, the impact on Irene of being in care
22 in Quarriers had an impact on Anne, her daughter. She,
23 Anne, concluded that:

24 "The legacy of things that happen in care go beyond
25 the children who have suffered the abuse."

1 I think that was the reference Mr Peoples made this
2 morning.

3 We consider it useful to have summarised this
4 evidence in some detail given that, compressed into the
5 evidence of a single witness, were recorded instances of
6 abuse which feature consistently in the evidence of
7 applicants speaking of their experiences over the
8 following decades: the absence of affection; the
9 denigration of the child and her family; the separation
10 of siblings; the deliberate isolation of the child from
11 other family members and the misleading impression that
12 family members were uncaring; the regular infliction of
13 physical violence; the humiliation of those who wet the
14 bed and the inconsistency between the conduct of
15 houseparents within the same cottage.

16 The extent and nature of the abuse spoken by Irene
17 through Anne find parallels in what is recorded
18 by Jan McQueenie in her manuscript which contains what
19 she describes as individual narratives from a few of the
20 children who suffered at the hands of "couldn't care
21 less individuals". Based on her own experience as
22 a resident she states that:

23 "We, the foundlings, orphans, children of neglect
24 and deprivation, all we expected was shelter, enough
25 food and warmth to survive and, if it was not asking for

1 too much, an occasional gentle word of comfort and
2 reassurance, perhaps even a cuddle or other sign of
3 affection."

4 In that manuscript she records the experiences of
5 23 residents identified by their Christian names as
6 related to her. She entrusted the manuscript to
7 David Whelan in February 2005 and it is right that he
8 brings this document to the attention of the Inquiry.

9 The accounts are there to be read but we would
10 mention in particular the account of Maureen, who was in
11 a "good cottage", which was across the drive from
12 a cottage where the housemother was someone of whom she
13 was terrified. But even the good housemother did lose
14 her temper through "pressure brought to bear by the
15 responsibility of looking after so many children".
16 Perhaps unsaid was a recognition by Maureen that the
17 housemother was simply ill-equipped to deal with the
18 scale and nature of the task with which she was charged.

19 That has obviously been a matter that my Lady has
20 discussed with Mr Peoples this morning.

21 "The Quarriers Story" by Anna Magnusson, the revised
22 edition is 2006, contains some interesting observations
23 concerning the immediate pre- and post-war years. She
24 refers to Jan McQueenie's manuscript, wherein she is
25 referred to as Jan Gordon, as reading like something

1 from Oliver Twist and describes passages in
2 the manuscript as "harrowing". In particular those
3 relating to the force-feeding of Jan's sister which she
4 says would be almost impossible to believe if they were
5 not duplicated by another child who was in the same
6 cottage at the same time.

7 Ms Magnusson notes the reference to the standing
8 orders to "the objectionable habits of children who are
9 bed-wetters" and that "treatment took the form of
10 immersion in a cold bath". Significantly she observes:

11 "The worse thing was that there was little help if
12 a child happened to be in a bad cottage. For children
13 under the thumb of a cruel housemother or father
14 complaining was out of the question. They would
15 probably be punished for that too. They were powerless.
16 Besides, the children had virtually no contact with the
17 higher authorities in the homes and each cottage could
18 function quite independently inside its four walls.
19 A child could be cruelly mistreated and few outside the
20 cottage would know about it."

21 My Lady, we commend those observations.

22 For obvious reasons, QOD is not a man we
23 commend to the Inquiry as an honest witness on
24 contentious matters, but it is telling that his
25 experience as a child in Quarriers from 1933 until he

1 left aged 15 coincides with much of the information
2 already referred to. Children were denied love and
3 affection. They were punished through the use of a belt
4 or by being slapped. Children who were will and who did
5 not eat were belted if they complained. Bed-wetters
6 were treated "terribly". Children would not complain to
7 the office, otherwise it would be worse for them. Even
8 if a child did complain to the office, he or she would
9 be disbelieved.

10 QOD observed that the then superintendent,
11 Hector Munro, was "quite a passive man" who apparently
12 was aware of acts of cruelty and would not have done
13 them himself. The then chairman, Dr Kelly, dismissed
14 children who complained with "away home, we're not
15 interested". QOD also indicated that he
16 experienced a situation where the housemother was
17 "wicked" and the housefather, notwithstanding that he
18 administered the belt, was "quite a gentle man".

19 My Lady, we submit that it is apparent from these
20 sources of information that Quarriers was, at the
21 commencement of the period with which the Inquiry is
22 concerned and up to the period of which the applicants
23 have given evidence, a place where a regime of brutality
24 towards children in care existed and that the abusive
25 conduct of those carers was very likely known to those

1 in a position of authority within the organisation, and
2 we would invite your Ladyship to make a finding of fact.

3 We also say that for far too long the "ah but"
4 mentality deployed by supporters of the organisation who
5 point to the thousands of children who went through
6 Quarriers with positive experiences has prevailed. This
7 is apparent in Ms Magnusson's book where she said:

8 "It would be wrong to end an account of cottage life
9 in the homes in the first half of the 20th century with
10 stories of cruelty and beatings because they do not
11 represent the true spirit and quality of life for the
12 great majority of the children."

13 In her statement Ms Harper observes that the
14 majority of allegations of abuse of which the
15 organisation is aware date from the 1950s to the 1980s
16 but that it was aware of the letter from the chairman to
17 housefathers dated 22 September 1937 in which there was
18 acknowledgment that boys had been "thrashed" and that
19 Quarriers had discovered that a housefather had been
20 dismissed in 1938 for the physical abuse of a boy.
21 Contrary to the inference that might be taken from these
22 limited references and for the reasons given in
23 the preceding paragraphs, it is our submission that it
24 is reasonable to conclude that Quarriers is now and has
25 been for decades aware of the nature and extent of abuse

1 which occurred in the period before 1950 and we would
2 invite your Ladyship to so conclude.

3 We then go on, my Lady, to make some general
4 observations which are applicable to all periods under
5 consideration.

6 Rather like Aberlour orphanage, Quarriers village
7 was a concept which originated in Victorian times and
8 which was centred in a relatively remote rural location.
9 Essential to its working was the village setting
10 comprising large Victorian houses run by either a single
11 houseparent or by couples of usually married
12 houseparents. The superintendent in overall charge of
13 the village had various duties and responsibilities,
14 ranging from recruitment to discipline to pastoral care.
15 They were quite simply too extensive and onerous for
16 a single person to carry out.

17 The observations made by Ms Harper in her statement
18 at paragraphs 194 to 199 are, in our view, both
19 perceptive and accurate and, having heard and considered
20 the relevant evidence, we would not gainsay anything
21 said by her on the matter.

22 The autonomous nature of individual cottages has
23 created a problem which has been highlighted by
24 a number of witnesses. It is abundantly clear that,
25 throughout the relevant period, the governance of

1 certain cottages by the houseparent or parents led to
2 them being regarded as good cottages, whereas others
3 were considered bad cottages. Children indicated that
4 this was something of which they were aware, and some
5 witnesses indicated that, in being transferred from one
6 cottage to another, they experienced appreciably
7 different standards of care.

8 Given that children were aware of this, it is almost
9 inconceivable that those in positions of authority
10 within the village were unaware of this. For children
11 who found themselves in bad cottages, and by this we
12 mean not simply cottages in which the regime was strict
13 but where abuse took place, it would inevitably increase
14 their sense of isolation and would create a sense of
15 unfairness when they compared their lives to those of
16 other residents.

17 In our opening submission to this case study we
18 noted that the response documents presented by Quarriers
19 had identified only 14 instances of recorded complaints
20 of abuse. Over the period under consideration, that was
21 and remains a disturbingly low number and in evidence
22 applicants spoke to threats or actual physical abuse
23 which operated to deter children from complaining.

24 Those who did complain were dismissed or
25 disbelieved, and there is evidence that some complainers

1 were moved from the village. It is disappointing that
2 in her statement Ms Harper continued to assert that she
3 believed that, in the time of Joe Mortimer's period as
4 superintendent, he operated "an open door policy".
5 Children did not in fact find the process of complaining
6 to those in authority an option that was open to them.
7 They were deterred from so doing by those who abused
8 them and by the knowledge that, if they did complain,
9 they would likely be disbelieved. Again, my Lady, we
10 would invite a finding in fact along those lines.

11 There has been clear evidence that many of those who
12 were houseparents during the period in question were
13 simply ill-equipped for the admittedly difficult task of
14 caring for a large number of children who represented
15 a range of difficulties of their own. The apparent
16 prerequisite that a carer, particularly a houseparent,
17 should come from a Christian background was simply
18 insufficient to secure a person who had an aptitude to
19 care for children and an empathy for children who may
20 well have come from troubled circumstances.

21 There also appeared to be a level of informality in
22 making appointments, with posts often being given to
23 persons who were known to others who were already
24 employed in the organisation. The extent to which
25 houseparents were supervised by those in charge was

1 wholly deficient and inconsistent, almost to a point
2 where it appears that those in charge accepted with
3 a shrug wholly unacceptable practices because that was
4 the way that that particular houseparent had conducted
5 their cottages for years.

6 This reflects the concern that we have over the
7 perceived benefit of autonomy. It assumed that the
8 rights and duties that came with that autonomy would be
9 exercised properly, and that clearly was not the case.

10 Importantly, my Lady, we accept that many
11 houseparents acted in a way that those he or she cared
12 for experienced a nurturing environment. One only had
13 to listen to the evidence of Carol McBay to appreciate
14 that. As a consequence, we appreciate the unfairness
15 that such good parents who, over many years, have
16 provided exceptional care and indeed the children who
17 experienced such care will feel when it is necessary to
18 concentrate on the deficiencies of others.

19 All that said, the nature and level of abuse that
20 has been disclosed in this case study indicates that
21 some of the houseparents who were abusive were not just
22 persons who were out of their depth in caring for
23 children; given the depravity of the abuse that we have
24 heard of, the characterisation of some houseparents and
25 carers as "evil" has to be said, and we note that in

1 their submission Quarriers do characterise certain of
2 the physical abuse as "cruel and sadistic".

3 On reviewing the evidence, we were struck by the
4 evidence of Doris Walker whose statement was read in and
5 who, as a teenager, took up a summer job at Quarriers in
6 1964. It should be noted that this was shortly before
7 the inspection in January 1965 which led to the highly
8 critical 1965 report. She said she had no happy or good
9 memories. She enjoyed her time with the children but in
10 the cottage and in the holiday home everyone was:

11 "... too up tight, we were too scared that we would
12 upset or offend her ..."

13 That being the housemother:

14 "... to relax."

15 It was not a nurturing environment. It was quite
16 a damaging environment, and that the lack of love and
17 care really distressed her. When she indicated her
18 decision to leave, my Lady will remember she went to
19 human resources to say she was quitting, the
20 human resources lady said:

21 "What should I expect, this was a grandmother doing
22 a mother's job."

23 The fact that such an insight was formed by a young
24 woman following a brief exposure to the organisation
25 goes, we say, a long way to negate the suggestion that

1 management were ignorant of what was happening.

2 We would also observe, my Lady, the absence of any
3 apparent updating of documentation concerning the
4 guidance to be given to staff. Reference has been made
5 by Quarriers to their standing orders and the staff
6 handbook, documents which date respectively from 1944
7 and 1965.

8 There appears to have been nothing which compares
9 for example to the regular issuing of circulars by
10 Barnardo's during the 1940s, 50s and 60s, particularly
11 those that were in response to changes in the regulatory
12 regime. They were issued regularly by Barnardo's but,
13 for reasons that are unclear, Quarriers maintained
14 documents throughout the period until really the 1980s
15 and 1990s from 1944 and 1965.

16 A final comment, my Lady, we would make concerns the
17 absence of any punishment books. This is acknowledged
18 to be the position by Quarriers. Standing order 7.6
19 provided:

20 "Every punishment must be immediately entered in the
21 punishment box."

22 And the records shall show the date, name, age,
23 nature of the offence, person administering the
24 punishment and the nature of the punishment itself. It
25 has been made clear by a number of witnesses that such

1 punishment books existed and were used. Notwithstanding
2 their apparent significance, not a single book has been
3 discovered and we entirely accept that the current
4 management have done all that they can to investigate
5 the matter. There is no record of any instruction that
6 they should be destroyed. Such books, if they were used
7 as required by the standing orders, would likely have
8 contained records of punishments over the years which
9 would seem excessive to an observer in this century.
10 William Dunbar had knowledge of the records of Quarriers
11 gained during his long employment. He was an unofficial
12 archivist at and around the time that the police began
13 investigations into abuse at Quarriers. He was, we
14 regret to say, an unsatisfactory witness whose interests
15 lay largely in protecting the reputation of the
16 institution of which he had been a senior employee and
17 indeed his own reputation. He was, and remains, a close
18 friend of John Porteous and it is clear that both he and
19 his wife continue to support Mr Porteous.

20 Philip Robinson was clearly uncomfortable that
21 William Dunbar had unfettered access to the records when
22 he clearly had a potential conflict of interest. It is
23 our submission that, on a balance of probabilities,
24 William Dunbar had an involvement in the destruction
25 and/or disappearance of the punishment books.

1 My Lady, I am conscious now of the time. I do have
2 a number of pages still to go. I don't wish my Lady ...

3 LADY SMITH: It is really a matter for you, Mr Gale.

4 I could go on to between five and ten past, if that
5 enabled you to finish. Can I check so far as that last
6 observation that, on a balance of probabilities,
7 William Dunbar had an involvement in the destruction or
8 disappearance of the punishment books. There is
9 of course no evidence that he deliberately set about to
10 get rid of them.

11 MR GALE: No.

12 LADY SMITH: But against that we do have a picture painted
13 of an enormous number of records and documents which he,
14 certainly for a period, had sole control over. It is
15 possible, I suppose you are saying, that through some
16 mismanagement of some sort, books got destroyed or were
17 put away when he was in control of them.

18 MR GALE: Yes. My Lady, I think that submission to
19 your Ladyship is slightly reinforced by the evidence of
20 Mr Robinson. My recollection was that he was, I would
21 say, particularly uncomfortable about Mr Dunbar's
22 position at that time, and it seems such an unlikely
23 situation that no such books are available. The only
24 thing I think we have is a record containing a page in
25 which -- and it is incomplete, it is a sample --

1 containing a page of where punishments would be
2 recorded. But given the extent to which witnesses made
3 clear that these were people who were houseparents and
4 others, were aware of these documents, that there should
5 be no documents -- given the extent of the documentation
6 that Quarriers has got and has obviously provided to the
7 Inquiry, it is, we do say, an omission that does give
8 rise to suspicion. I put it that way.

9 LADY SMITH: Yes.

10 MR GALE: My Lady, I am aware of my Lady's invitation, but
11 I think given --

12 LADY SMITH: I don't want to put you under pressure. This
13 may be a sensible place to break.

14 MR GALE: It would be sensible, if that is acceptable.

15 LADY SMITH: Very well. So far as that final matter is
16 concerned, I can take it that you are inviting me to go
17 as far as saying one is left with an unfortunate sense
18 of suspicion about these matters, given the friendship
19 that put Mr Dunbar in a position to be motivated to
20 protect at least the person you have already referred
21 to.

22 MR GALE: Yes, my Lady. That is it precisely.

23 LADY SMITH: Thank you very much. I will rise now until
24 tomorrow morning at 10 o'clock. Thank you.

25 (12.58 pm)

1 (The hearing adjourned until 10.00 am on Tuesday,
2 12 February 2019)
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Closing statement by MR PEOPLES1

Closing statement by MR GALE73

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