

1

Thursday, 18 March 2021

2

(10.00 am)

3

LADY SMITH: Good morning everybody, and welcome to the  
third day of this phase of the boarding schools case  
study.

4

5

6

You promised me some witnesses yesterday, Mr Brown.

7

Are you about to make good on that promise?

8

MR BROWN: My Lady, yes. For the morning we have

9

Catherine Agnew, who is the Chief Inspector in relation

10

to children for the Care Inspectorate, whose evidence

11

will take up certainly part of this morning, I don't

12

anticipate it will take the whole morning. And in the

13

afternoon we hope to then go on to two witnesses to

14

speak to the SSSC.

15

LADY SMITH: Thank you very much.

16

Good morning. Could we begin, please, by you taking

17

the oath.

18

MS CATHERINE AGNEW (sworn)

19

LADY SMITH: Please sit down and make yourself comfortable.

20

As Mr Brown will explain, there is a red folder already

21

in front of you, and I see you have brought a lot of

22

your own documents with you. You may find you don't

23

need to look at your own because the ones we want to

24

discuss with you will come up on screen, but if for

25

example you have your own notes on them or whatever, do

1           feel free to dig in. Whatever helps you, helps us. All  
2           right?

3           A. Thank you.

4           LADY SMITH: Mr Brown, when you are ready.

5                               Questions from MR BROWN

6           MR BROWN: My Lady, I am obliged.

7                       Catherine -- are you happy to be called Catherine?

8           A. Yes.

9           Q. Thank you. Obviously we know that you are the  
10           Chief Inspector (Children) from the Care Inspectorate.  
11           Can you tell us first of all a little bit about your  
12           professional career and background that led you to your  
13           current position? First of all, how long have you been  
14           the Chief Inspector for Children?

15          A. I think I have been the Chief Inspector for Children  
16          about four years.

17          Q. Right. And that is obviously with the Care Inspectorate  
18          as it is now. As we will hear shortly, we know it has  
19          had different names. It began life as the  
20          Care Commission, to put matters shortly. Were you  
21          working with the Care Commission from its beginnings?

22          A. Yes, I joined the Care Commission in 2002 from Local  
23          Authority.

24          Q. So you have been with the Care Inspectorate in one form  
25          or another for the last twenty years, broadly?

1 A. Yes.

2 Q. What sort of roles have you held with that organisation?

3 A. I have had several roles within the Care Commission and  
4 Care Inspectorate. I have been a locality manager,  
5 I have been a team manager, I have been a registration  
6 manager, I have been head of inspection, and then  
7 Chief Inspector.

8 Q. All right. So it's a range of roles across the whole  
9 spectrum of the Care Inspectorate, as we now call it.  
10 Have you ever worked specifically with boarding schools,  
11 which is obviously our function to look into?

12 A. Several of the jobs that I have had have been managing  
13 the teams who have regulated boarding schools, but  
14 I have never been an inspector of boarding schools.

15 Q. When you were an inspector you were inspecting other  
16 types of organisation?

17 A. I have never been an inspector --

18 Q. You have never --

19 A. -- as such, no. I have a professional background.

20 Q. Prior to 2002 when you joined the then Care Commission,  
21 what had you done prior to that? Had you ever been  
22 a provider of services?

23 A. I have been a manager of services, so a provider through  
24 the Local Authority, and I have been an external manager  
25 of schools in early learning childcare centres within

1 the Local Authority, so a provider from the manager's  
2 perspective and from the external manager in  
3 an Authority.

4 LADY SMITH: Catherine, what is your professional background?

5 You mentioned you had a professional background.

6 A. My Lady, I started working in nurseries and children's  
7 centres way back.

8 LADY SMITH: Thank you.

9 MR BROWN: Thank you, my Lady.

10 As her Ladyship has said, you have a red folder,  
11 and that will contain, as you will discover, your report  
12 to the Inquiry. We are very grateful for the report  
13 which is really set into two parts: one looking at the  
14 background to the Care Inspectorate and its development  
15 and how things have changed over the last, we'll say,  
16 20 years, and then a more focused look at how  
17 inspections work, and what they involve. And we will  
18 follow that approach in taking your evidence.

19 As her Ladyship says, you have your own material if  
20 you wish to use it. This is going to be a general  
21 discussion of the background and the way the  
22 Care Inspectorate works and such documents as I have  
23 selected will appear on the screen in front of you, so  
24 it may be you won't have to use your folders but please  
25 do if you wish to.

1           We heard yesterday from Education Scotland, perhaps  
2 more colloquially known as Her Majesty's Inspectorate,  
3 who we know in the last century, almost to the end, were  
4 focused on education, educational assessment, but 1996  
5 also began to look at accommodation services for  
6 boarding schools. Obviously that responsibility didn't  
7 last particularly long, because obviously, as we know,  
8 and your report makes clear, the enactment of the  
9 Regulation of Care (Scotland) Act 2001 introduced  
10 regulation of care service, including, amongst many  
11 other things, school accommodation. Do you know why  
12 that took place? Why was it felt necessary to set up  
13 a separate organisation?

14       A. Particularly for boarding schools?

15       Q. No, for -- why was there a need for a Care Inspectorate?

16       A. Prior to the Care Commission in 2002, there were  
17 a number of different bodies that regulated a range of  
18 care services. Some were undertaken by Health, some  
19 were local authorities, and even within local  
20 authorities, some could have been within Social Work,  
21 and some could have been within Education. Alongside  
22 that, local authorities services themselves didn't fall  
23 into legislation, although some local authorities did  
24 partially undertake some type of inspection.

25           So there was a White Paper developed by Government,

1 and that White Paper then suggested that there should be  
2 one body who regulates not only the private and  
3 voluntary sector but also the local authority sector and  
4 be a service that stands at arm's length from other  
5 bodies. So that is why the Care Commission was brought  
6 into being in 2002.

7 Q. Thank you. That I think formerly was the Scottish  
8 Commission for the Regulation of Care but it was known  
9 as the Care Commission.

10 A. That is right.

11 Q. Obviously we are focusing on boarding schools in this  
12 phase of the Inquiry, and I think if we could have up on  
13 screen before you a copy of your report, which is  
14 CIS-000000349, at page 5. That is obviously page 1. If  
15 we jump to page 5, you will see paragraph 3 talks about  
16 "the registration of boarding schools (school care  
17 accommodation services)", because it is that aspect that  
18 we're interested in or you're interested in. And  
19 commencement of the regulation was phased,  
20 we understand, once that came into force, because  
21 presumably there was a plethora of organisations and  
22 they couldn't all be done at once. And I think  
23 we understand from 1 April 2005, school care  
24 accommodation services were "deemed to be", so it was  
25 just introduced?

1 A. Yes.

2 Q. But registration and the formal process of registration  
3 followed over the next year and I think currently  
4 regulates 22 boarding schools, is that correct?

5 A. That is correct.

6 Q. And was it 22, the same 22, or were there more?

7 A. I can't recall. I do know there was one boarding school  
8 that voluntarily cancelled the registration quite soon  
9 after 2006.

10 Q. Was that perhaps Morrison's?

11 A. That was Morrison's.

12 Q. It stopped boarding?

13 A. Yes.

14 Q. Thank you. In terms of the process of registration --  
15 going to paragraph 3.2 further down the page --  
16 I mentioned the fact that in 1996, HMIE had been  
17 responsible for a school accommodation review. And at  
18 the beginning, the Care Commission being set up relied,  
19 is it fair to say, on HMIE's experience and there was  
20 a joint effort at the very beginning?

21 A. Yes, there was a joint effort and a transitional period  
22 when both organisations were involved in an inspection  
23 which contributed to the registration of boarding  
24 schools.

25 Q. Okay. So put short, was the knowledge that HMIE had

1           gained taken on board by the Care Commission or relied  
2           upon by the Care Commission?

3           A. Yes, I would expect so.

4           Q. But you personally weren't involved --

5           A. I personally wasn't involved in that.

6           Q. All right. If we move to page 6, there is mention in  
7           the third paragraph -- there is little direct evidence,  
8           we've agreed, that indicates a negative response from  
9           the services to registering with the Care Commission:

10                    "One school head in 2007 formally raised some  
11                    questions about the frequency of inspections and felt  
12                    that two inspections in a 12-month period was  
13                    excessive."

14                    And we will talk about the frequency of inspections  
15                    in due course.

16                    Had it been accepted that there would be some  
17                    difficulty from boarding schools?

18           A. I don't know, I wasn't involved in discussions prior to  
19           the registration of them, but I would imagine there  
20           would be discussion about moving from one organisation,  
21           one scrutiny body to another scrutiny body that had  
22           different roles and responsibilities, and needing to  
23           explain, as we would do at registration for any  
24           applicant, to make sure they understood the priorities  
25           of the organisation, the responsibilities of the



1           organisation.

2           Q. Again, presumably, in your experience generally, when  
3           there is change, whether "resistance" is the right word,  
4           there is a degree of nervousness because suddenly the  
5           world is going to be slightly different?

6           A. Yes. I think anyone that is undertaking the  
7           registration process, there is always that learning  
8           about what it means to provide a care service,  
9           particularly when we have other duties, not just in  
10          relation to inspection but also complaints and potential  
11          enforcement.

12          Q. I think, to quote from your report:

13                 "Inspectors involved at the time [this is early]  
14                 report that services' support for the registration  
15                 process and early inspections varied. There was no  
16                 overt resistance and certain services were very content  
17                 that the services be registered with the  
18                 Care Commission. The inspectors' general view was that,  
19                 rather than being resistant, some services were nervous  
20                 and consequently questioning of the new expectations and  
21                 regulatory interventions."

22                 And that, presumably, was common across the world  
23                 you operated in and you saw the same sort of thing?

24          A. Yes.

25          Q. Does that nervousness persist? Because we know the

1 work of the Care Commission and then the  
2 Care Inspectorate is constantly evolving, is that fair?

3 A. Yes, that is fair. It's a learning organisation, we are  
4 always evolving and changing processes and procedures.

5 Q. So when there are new processes and procedures,  
6 presumably there is fresh anxiety until they bed in?

7 A. I think there is always about that communication and  
8 whether -- those questions that people want to ask their  
9 inspector for clarification, so it does take a period  
10 for things to bed in.

11 Q. And you have mentioned perhaps the key word,  
12 "communication", so that people understand what is going  
13 on. You need to tell them, you need to work with them.  
14 Is that fair?

15 A. That is fair.

16 Q. I think the final words of chapter 3:

17 "Case holding inspectors confirmed that over the  
18 subsequent period of regulation, working relationships  
19 developed positively."

20 A. Yes, this was part of -- part of compiling this report  
21 was we spoke with inspectors, and this was how they  
22 felt, that the period of time from regulating boarding  
23 schools to now, that relationships have developed.

24 Q. Yes. Thank you.

25 The report then looks at the chronology of

1 inspection processes, and we have obviously heard one of  
2 the anxieties was the frequency, because initially,  
3 am I right in saying, it was anticipated there would be  
4 two inspections a year, and at least one head thought  
5 that was too much?

6 A. Yes.

7 Q. What did the Care Commission think in terms of frequency  
8 as time evolved?

9 A. Originally the frequency of inspections were in  
10 legislation, so therefore it was at least two  
11 inspections in a 12-month period, one of which would be  
12 unannounced. But over that period of time of the  
13 Care Commission, there was then a change in legislation,  
14 that there were only certain service types that were in  
15 statute for statutory inspections, and for other care  
16 services, including boarding schools, they were part of  
17 an annual inspection plan that went to ministers for  
18 agreement.

19 Q. So there was transition away. Why do you think that  
20 took place? Was it simply found to be unnecessary to  
21 have that degree of oversight?

22 A. I think over the period of initially the Care Commission  
23 there was a lot of data collected, and there was  
24 evidence in relation to quality of care services and  
25 risk profiles, and some services would seem to be that

1           they could move into a different frequency. And that is  
2           when we got to the -- some of the care homes for adults  
3           were also at one point moving out of that frequency, but  
4           there was a national move back to that. So it was  
5           a slight change in legislation again, because there had  
6           been a case and ministers decided they wanted those  
7           services back in the statutory inspections.

8           Q. All right. Just looking at the start of page 8 of your  
9           report, and this is just touching on how inspection  
10          worked at that stage. Obviously inspections would take  
11          place and then inspectors could do a number of things.  
12          If you look -- it's the top of the page, please. There  
13          could be recommendations which would set out a suggested  
14          action based on good practice and professional judgment  
15          that should be taken by the service provider but which  
16          would not be subject to enforcement actions not taken to  
17          meet the recommendation. And then a requirement to set  
18          out an enforceable action, so it's perhaps "should" and  
19          "must", is that --

20          A. That is correct.

21          Q. The decision about that, was that something that would  
22          simply be taken subjectively by the inspectors on the  
23          ground?

24          A. No, not necessarily, because a requirement was set out,  
25          it was in relation to a regulation, and therefore it was

1 enforceable. Whereas a recommendation might have been  
2 something that was in the set of the national care  
3 standards.

4 Q. I see. So at that stage there are national care  
5 standards which provide the guidance for inspectors?

6 A. That is right.

7 Q. And they presumably had been in place from the very  
8 beginning?

9 A. Yes.

10 Q. All right. But we see looking down to paragraph 4.1.3,  
11 that 2008-2009 and 2011-2012 there was a new approach to  
12 inspection which moves to a Quality Assessment  
13 Framework.

14 A. Uh-huh.

15 Q. Is that Quality Assessment Framework approach still  
16 followed today?

17 A. No, we now have a new approach for boarding schools,  
18 it's a Quality Framework which is based on a set of  
19 quality indicators.

20 Q. I just wondered what the difference between a Quality  
21 Framework and a Quality Assessment Framework was?

22 A. The Quality Assessment Framework had four key areas. It  
23 was about the quality of care and support, the quality  
24 of environment, the quality of staffing and the quality  
25 of management and leadership. And underneath those --

1 each of those quality teams, it had a list of quality  
2 statements, and those quality statements linked to the  
3 National Care Standards.

4 The new Quality Framework is based on a set of  
5 quality indicators which broadly follows much of the  
6 same -- it is not quality of environment, it is quality  
7 of setting, but it does cover five key questions. And  
8 underneath each quality indicator it has a descriptor,  
9 and it also has a description of what a "very good"  
10 would look like and what a "weak" would look like, an  
11 evaluation of "too weak" would look like, to help  
12 settings. It is primarily a self-evaluation tool that  
13 settings can use to evaluate the quality of their  
14 service, so it has more detail and more information in  
15 it than the original Quality Framework.

16 Q. Two things from that. Obviously things have evolved or  
17 developed, is that fair, and is that because of the  
18 learning that has gone on since 2008/9? As things have  
19 played out in practice, it has been decided that things  
20 should evolve, should be changed?

21 A. Yes, it has definitely evolved because of, you know,  
22 things that we know. But also in 2017 the new Health  
23 and Social Care Standards were issued, and they were  
24 implemented in 2018, and around that time we had decided  
25 that we would look at our inspection approaches, and we

1 started with care homes for older people, and we worked  
2 through different service types, now to have Quality  
3 Frameworks.

4 Q. We will come back to the Quality Framework for boarding  
5 schools in a little while when we come to the second  
6 part of your evidence.

7 In terms of the Quality Assessment Framework which  
8 was introduced in 2008-2009, I think grading evaluations  
9 were introduced which ran from "excellent", which is 6,  
10 down to "unsatisfactory", which is 1, which we see in  
11 the third last paragraph. Is that assessment still  
12 used? Is it still those six?

13 A. Yes, we still have those six evaluations.

14 Q. So that has been consistent?

15 A. That has been consistent, yes.

16 Q. You talked about "self-evaluation". I think at this  
17 stage you are talking about self-assessments?

18 A. Yes.

19 Q. Was that the language used?

20 A. Yes, that was the language we used at that point.

21 Q. So self-assessments have become self-evaluations?

22 A. Yes.

23 Q. When you have been talking, there is obviously  
24 a language of the Care Inspectorate as it is now, the  
25 Care Commission as it then was, is that fair? There is

1 a language special to your world, just as there are  
2 languages, for example, in medicine and law, we all have  
3 different understandings?

4 A. I think the self-evaluation approach is wider than just  
5 care services. I think it also sits with education and  
6 other self-evaluation approaches. But, yes, I think  
7 some of the language we would use in relation to our  
8 scrutiny work would be specific to that work.

9 Q. All right. Is that something, and again we will come  
10 back to this, because you obviously have to engage with  
11 providers, your own staff, but in due course,  
12 particularly with boarding schools, you have to engage  
13 with parents and pupils in producing reports. Is there  
14 an element of translation when reports are prepared for  
15 their consumption?

16 A. We try to use plain English in our public reports so  
17 that the people can understand. When we look at the  
18 questionnaires that -- or the information we ask people,  
19 we try to ask them in a format that people would  
20 understand. But that has been something that has been  
21 developed through both organisations as well. It has  
22 changed.

23 Q. Why has it been necessary to develop that?

24 A. I think, for example, when you look at the very early  
25 questionnaires undertaken by the Care Commission, and



1           you look at that and you look at the kind of  
2           questionnaires, the things we actually want to ask  
3           people, it became apparent over the time there could be  
4           improvements, so things have changed and moved on.  
5           Obviously we take account and we listen to people and we  
6           will ask them their views.

7           As well as the inspection process, there is also  
8           a sampling that will ask people who have participated in  
9           the inspection anonymously: can you tell us what you  
10          thought of the inspection details and what you thought  
11          of the process? So that also gives us some indications  
12          what people think about the paperwork et cetera that we  
13          use.

14         Q. Were people complaining about the sort of language that  
15          was being used as unhelpful or not very easily  
16          understood?

17         A. Not necessarily in those -- that way, but to say that  
18          they couldn't give the information they wanted because  
19          the question wasn't what they wanted to be asked.

20         Q. I see. In terms of inspectors, and again we will come  
21          back to qualifications of inspectors in a moment, at the  
22          top of page 9 of your report you make reference to the  
23          fact that lay assessors, now termed inspection  
24          volunteers, were also recruited to be involved in some  
25          inspections:

1           " Lay assessors were volunteers who had used care  
2 services or had helped care for someone who had used  
3 care services."

4           A number of questions from that. Had lay assessors  
5 been involved from the outset, when it was the  
6 Care Commission?

7       A. I think it took a couple of years before we started to  
8 recruit lay assessors into the Care Commission. I don't  
9 think they were there in 2002.

10       Q. In terms of boarding schools, again we don't need to go  
11 into the detail of this, but having read one inspection  
12 summary of Gordonstoun School there is reference to  
13 a lay inspector taking part in a Care Commission  
14 Inspectorate inspection. What sort of background would  
15 be required for a lay inspector inspecting boarding  
16 school accommodation?

17       A. I know that we have got inspection volunteers who are  
18 young people who have experienced care, but I don't know  
19 if we have got young people who have experienced  
20 boarding care, and that is maybe something that has to  
21 be looked at.

22       Q. I am just curious, because in terms of the number of  
23 inspectors, and again we will come back to that, we  
24 would understand that would vary according to -- or the  
25 nature of the inspection would vary according to what

1           you are inspecting. A large school may require a larger  
2           number of inspectors, it may take longer. But in terms  
3           of the inspection volunteers, as they are now called,  
4           are they a small proportion of an inspection team, or  
5           can they be perhaps 50% if it's only two?

6           A. No, they are in addition to the inspectors.

7           Q. Right.

8           A. Their role is slightly different. Their role is to  
9           engage with people who use services, and they would give  
10          a small report back to the inspector who would include  
11          that within the inspection report. They wouldn't be  
12          using them as inspectors.

13          Q. So their function -- perhaps this is important -- is to  
14          speak to the users. So in the context of, say,  
15          a boarding school, the pupils?

16          A. Yes.

17          Q. Right.

18          LADY SMITH: Catherine, you mentioned care-experienced young  
19          people as being one type of person who feature amongst  
20          your lay assessors. What other types of people are  
21          there?

22          A. My Lady, there are people who have had relatives who  
23          have used care homes for adults or older people, some  
24          are parents who have used early learning and childcare  
25          services, but those people tend -- they would be usually

1           involved in the inspections of the type of service that  
2           they have become familiar with.

3       LADY SMITH: I see. So is there a rule of thumb that you  
4           are looking for people who have either directly  
5           experienced or had a relative who has directly  
6           experienced the type of care that is being inspected?

7       A. Yes, my Lady.

8       LADY SMITH: Thank you.

9       MR BROWN: We have been talking up until now about the  
10          Care Commission. One other factor about the  
11          Care Commission that I think is different from now is  
12          that it was regionally based, it was a regional  
13          structure. So from your perspective, having worked with  
14          the Care Commission, did you work in a particular  
15          region?

16       A. I worked over two regions in two different posts.

17       Q. How did the regional system work?

18       A. There was a regional manager, and then locality managers  
19          or team managers depending on where we were and what  
20          part of the organisation we had come from -- we had  
21          moved and changed the structure at one point -- and that  
22          region had responsibility for all of the care services  
23          within that region.

24       Q. How many regions were there in Scotland?

25       A. There were five.

1 Q. And the two regions you worked in were?

2 A. Central West and South West.

3 Q. All right. Change occurred in terms of the  
4 Care Commission and that regional approach with the  
5 introduction of Social Care and Social Work Improvement  
6 Scotland (Care Inspectorate) coming into being I think  
7 on 1 April 2011. And from now on, we are talking about  
8 the Care Inspectorate rather than the Care Commission.

9 One of the things that changed, as we see on page 9  
10 of your report, is that the Care Commission's  
11 "regionally-based, graphically-led, organisational  
12 hierarchy became a function-based structure", to use the  
13 words of your report. Is that a longer way of saying it  
14 was centralised?

15 A. It went through a process. In 2011 we had registration,  
16 national registration and national complaints teams, and  
17 then what we had were inspection programme managers who  
18 managed areas of inspection, but that still covered all  
19 the inspection within that area. In 2013 we further  
20 enhanced that, and we actually then moved into  
21 inspection teams where there were functions. So there  
22 was a children and young people's team, adults teams,  
23 and early learning childcare teams.

24 Q. I see. Just to be clear, we would understand there  
25 would be regional teams under the Care Commission, but

1           then there are, under the Care Inspectorate, there are  
2           national teams but with specialities?

3           A. That's correct.

4           Q. Was there concern amongst people working within the  
5           Care Commission as it transitioned to the  
6           Care Inspectorate that loss of regional involvement was  
7           a good thing or a bad thing?

8           A. I think that varied. I think there were a lot of people  
9           that wanted the specialist teams, but there was a bit  
10          of a loss from that regional identity when people went  
11          into maybe national teams, but we have worked hard to  
12          develop that. So I think there were some people who  
13          felt the loss of the region from the more social aspect  
14          of that area, belonging to a whole area, whereas some  
15          people felt they were getting -- there was more  
16          development opportunities, there was more discussion  
17          with people regulating the same type of care services,  
18          so therefore there were gains there. But, yes, some  
19          people did feel a loss in that regional identity.

20          Q. Was there concern that local knowledge might be lost?

21          A. Not necessarily, because we -- inspectors who inspected  
22          in one area still tended to inspect within that area.  
23          However, over a period of time, if you have not been  
24          able to recruit inspectors in one particular area, you  
25          have to then have inspectors travel, but you are having

1 people travelling with the knowledge of that sector  
2 type, as opposed to maybe somebody in that area who  
3 wasn't as knowledgeable.

4 Q. And that is the point of the specialist teams, who will  
5 presumably engage with different resources in the  
6 context of boarding schools all over Scotland, that they  
7 have the knowledge about boarding schools.

8 A. Yes.

9 Q. Okay. Thank you.

10 LADY SMITH: Catherine, I am just putting myself in the  
11 shoes of an individual inspector and trying to work out  
12 what difference this might have made. If, before the  
13 reorganisation, I had been an inspector for the  
14 North-East of Scotland, are you telling me I would have  
15 inspected boarding schools, care homes, the full list of  
16 organisations that you were responsible for the  
17 inspection of? Is that what I would have been doing?

18 A. No, not necessarily. You may have been an inspector of  
19 boarding schools and other children and young people  
20 services, but you would have been in a team where you  
21 had -- the other inspectors in that team may have been  
22 inspectors that were inspecting care homes for adults or  
23 care homes for older people or early learning. So  
24 during the team meetings, yes, there would not  
25 necessarily be somebody who was regulating the same

1 types of service as yourself.

2 LADY SMITH: All right. But I would be inspecting more than  
3 one type of organisation, would I?

4 A. That would depend, my Lady, what area you were working  
5 in.

6 LADY SMITH: So the North-East maybe is not the best  
7 example. In the West of Scotland I might have been just  
8 doing one type of organisation?

9 A. Yes, my Lady, you would be doing one type of sector.

10 LADY SMITH: And would I have been fee-paid or full-time  
11 employed? Your inspectors, are they full-time employees  
12 or are they fee-paid, as in they just will be instructed  
13 to do an inspection, they get paid for that, and they  
14 wait for the next instruction?

15 A. No, my Lady, most of our employees are fee-paid. We do  
16 have some locum inspectors, and most of them are people  
17 who are retired former inspectors --

18 LADY SMITH: I'm sorry, I am not sure if you are following  
19 me. Let me use the words "part-time" and "full-time".  
20 Are your inspectors generally full-time, or are they  
21 people who you can call on as and when you need them,  
22 part-time?

23 A. They are generally full-time.

24 LADY SMITH: But do you have others who are available as and  
25 when you need to call on them?



1 A. We have a very small pool of what we call locum  
2 inspectors that we can call on.

3 LADY SMITH: Just going back to my West of Scotland example.  
4 After the restructuring, how would my working life, if  
5 I was an inspector, have changed?

6 A. You would -- my Lady, you would be in a team of  
7 inspectors who were all inspecting the same sector that  
8 you were inspecting. So, for example, if you were  
9 inspecting children and young people services, you would  
10 be in a children and young people's team.

11 LADY SMITH: And boarding schools are covered by the  
12 children and young people's team, are they?

13 A. Yes, my Lady.

14 LADY SMITH: In the West of Scotland, not much of my work  
15 would have been boarding school work.

16 A. No, my Lady.

17 LADY SMITH: Thank you. Mr Brown.

18 MR BROWN: My Lady, if it may assist, in due course at  
19 a later stage in the Inquiry we will have a number of  
20 inspectors who we can perhaps take first-hand evidence  
21 of. There is further development to cover which may  
22 focus matters --

23 LADY SMITH: Thank you very much. I am just keen to get the  
24 feel of what the job is like on the ground. It is very  
25 important, I think, that I do that.

1 MR BROWN: Absolutely.

2 So presumably, just to take her Ladyship's analogy,  
3 if you were working in perhaps one of the remoter  
4 regions of Scotland, and I don't say that pejoratively,  
5 say in the North, for example, my sense from what you  
6 are saying -- please tell me if I am wrong -- is you  
7 might not be doing a speciality that someone in the West  
8 of Scotland would be doing; you would be doing many more  
9 inspections, potentially, of different types of users?

10 A. Not since the Care Inspectorate. Prior to that the  
11 Care Commission, the regional-based, that may well have  
12 been the case.

13 Q. But once the Care Inspectorate came in, at that point  
14 such an inspector, who had been a general inspector, if  
15 you like, would have been allocated to a special team?

16 A. Yes.

17 Q. And would have focused on one ...

18 A. One sector.

19 Q. One sector, okay.

20 If we go to the penultimate paragraph of page 9, you  
21 will see it says:

22 "In 2016, the Quality Assessment Framework (QAF)  
23 methodology and inspection procedures were further  
24 developed to increase the emphasis on measuring outcomes  
25 from people experiencing care and to also improve the

1           targetting and proportionality of inspections."

2           Again, going back to language, what does that mean?

3       A. That means that at that point in time we looked at where  
4       people were making requirements and making  
5       recommendations. So what you could have had at that  
6       point in time where people were making what we would  
7       have called a technical requirement, so they could have  
8       been making a requirement about a complaints procedure  
9       that didn't have, say, for example, how many days the  
10      complaint should be responded to, instead of whether or  
11      not that complaints procedure -- it could have had every  
12      element that is required by the regulations, but whether  
13      or not people were able to access that or they knew  
14      about that.

15                So it was about the impact of people to move away  
16      from being technically-based into areas that actually  
17      affected the quality of the experience, of the  
18      individual experiencing the care.

19      Q. I see. Moving on to page 10, I think there was further  
20      evolution which is from May 2018 to 2019.

21      A. Uh-huh.

22      Q. The launch, and I think you mentioned this, of the  
23      Scottish Government's Health and Social Care Standards,  
24      HSCS, in June 2017:

25                "... facilitated a major development in inspection

1 methodology. The new standards replaced the differing  
2 set of National Care Standards and led to the  
3 development of Inspection and Quality Frameworks that  
4 centred more on the experiences and outcomes for people  
5 experiencing care."

6 Okay, moving down to the third paragraph:

7 "Following consultation and testing, the Quality  
8 Framework for mainstream boarding schools and school  
9 hostels was launched in December 2019. The Framework is  
10 based on the approach used by the European Foundation  
11 for Quality Management, especially the EFQM excellence  
12 model that is specifically and exclusively for boarding  
13 schools and school hostel settings. Health and Social  
14 Care Standards were used to illustrate the quality  
15 expected and the Framework also contains details of  
16 a range of key improvement resources."

17 So there is in fact, as we come up to the present  
18 day, even more, if you like, specialisation in approach,  
19 there is a recognition that there are mainstream  
20 boarding services. And I think, for practical purposes,  
21 that is boarding schools and also the hostel  
22 accommodation provided for island schools, pupils  
23 travelling and living near the school during term time.

24 Is that right?

25 A. That is correct.

1 Q. Is that what you would understand to be mainstream  
2 services?

3 A. Yes.

4 Q. So by 2019 there are specific models for that sector?

5 A. Yes.

6 Q. Was that something that the Care Inspectorate and those  
7 who worked in mainstream education were pushing for?

8 A. We already had the boarding schools methodology that  
9 developed, particularly when we put together the  
10 boarding schools team -- 2013 to 2015, we had been  
11 involved in methodologies, but certainly when we  
12 developed this Quality Framework we involved people from  
13 boarding schools, so it was always the intention to have  
14 a separate Quality Framework for boarding schools and  
15 hostels.

16 Q. So although it has come to fruition perhaps most  
17 recently in a very focused way, that has always been the  
18 direction and intent?

19 A. Yes, the Quality Assessment Framework did have  
20 a boarding schools Quality Assessment Framework as well.

21 Q. Because it is recognised that is a particular area which  
22 requires, presumably, particular assessment?

23 A. Yes, I think from the early learning of the  
24 Care Commission when we were regulating boarding schools  
25 from 2006, some of the processes we used were very

1 linked to those for children and young people's  
2 residential services, and over that initial period of  
3 time it was identified they were not the same types of  
4 services.

5 Q. Okay. So there was a general approach to begin with,  
6 but a recognition as time passed, and certainly in the  
7 present day, that there are specialities which have to  
8 be reflected in your work?

9 A. Yes.

10 Q. And -- I think we will come on to this -- specialist  
11 teams who only work for mainstream education and  
12 boarding schools in particular?

13 A. Yes.

14 Q. Paragraph 4.2 at the bottom of page 10 talks about  
15 inspection focus areas, and we will come back to that  
16 perhaps in terms of what actually happens now. That  
17 might be the best way of doing so.

18 Paragraph 4.3 is touching on something we mentioned  
19 beforehand, which was inspection frequency, and as you  
20 told us at the beginning, the statute required two  
21 inspections per year, but -- over the page on page 11,  
22 paragraph 4.3.2 -- by 2009-2011 there is an amendment  
23 made to the 2001 Act, and school care accommodation, as  
24 we see, should be:

25 "... at least twice in the period of 24 months which

1 immediately follows registration, and at least twice in  
2 each subsequent period of 48 months ..."

3 And at that point all inspections were unannounced?

4 A. Yes, that was the intention.

5 Q. Okay. So once a school has registered, in the following  
6 two years it is inspected at least twice. And that  
7 period having passed, the following four years it is  
8 once every two years on average?

9 A. Yes.

10 Q. Again, why was that felt to be appropriate? Thinking of  
11 people -- in terms of the inspectors, that would be  
12 accepted, I imagine, by the inspectors, if not led by  
13 them, saying "We don't need to inspect as often as twice  
14 yearly"?

15 A. What happened at that point was there had been a review  
16 of the data that we held for individual care services  
17 and the information we had in relation to risk profile  
18 and it was moved to that frequency period, as agreed by  
19 Scottish Ministers, but that was proposed by managers  
20 within the Care Commission at that time.

21 Q. All right. May I be blunt: are inspections very  
22 expensive?

23 A. I am sure our head of finance would say, yes,  
24 inspections are expensive, because they do use resource,  
25 but from that, it is about the quality and assessment of

1            assessing the outcomes for people. This decision wasn't  
2            made on a financial basis, it was based on what we knew  
3            about the services in relation to risk and intelligence.

4            Q. So it wasn't to save money, it was just because it  
5            wasn't necessary?

6            A. It was felt it wasn't necessary at that time that we  
7            could reduce the scrutiny.

8            Q. Yes. Thank you. I think as we see from 4.3.4, between  
9            2011 and 2018 there has been further change, and looking  
10           to the paragraph that begins:

11                    "For all the service types, including boarding  
12                    schools, the Care Inspectorate was required to submit  
13                    annual planned scrutiny [which we have talked about  
14                    already] to ministers for agreement. One outcome was  
15                    a more proportionate and risk-based approach to  
16                    inspection frequency. This proportionate response  
17                    identified frequency for services that were performing  
18                    well ..."

19                    And you talked about the six levels of grade:

20                    "... grade of 5 or above."

21                    Is that "very good" and "excellent"?

22            A. Uh-huh.

23            Q. "... and low risk and those services that had poorer  
24            grades and a higher risk assessment, and in 2011 the  
25            frequency for boarding schools and hostels was,



1           therefore, changed to the following ..."

2           So put short, if a school was being assessed well,  
3           risk was lower, and therefore the feeling was they  
4           didn't have to be inspected as often?

5           A. Yes. For boarding schools, they had to be grade 5 or  
6           more, so "very good" or "excellent", not to be pulled  
7           into the frequency of an annual inspection. For other  
8           service types that were deemed to be in a lower risk,  
9           their frequency changed if their evaluation of their  
10          grades were "good" or above. So in recognition of these  
11          being 24-hour services, it was "very good" or  
12          "excellent".

13          Q. Yes. I think if we go down to that table, looking to  
14          the lowest level mainstream school care accommodation,  
15          this is after the two-year period, post-registration one  
16          inspection every three years for the better  
17          performing --

18          A. Yes.

19          Q. For the frequencies for those who aren't doing as well,  
20          presumably 1 to 4 on the list, it was one inspection  
21          every year?

22          A. Yes, at least one inspection in any year. If there were  
23          concerns identified then there could have been more  
24          inspections.

25          Q. Yes. I think we are aware, obviously, if a school is

1 under concern or, as happened on one occasion, put on  
2 conditions by Scottish Ministers, then there will be  
3 regular inspection and joined with the Schools  
4 Inspectorate?

5 A. Yes, I think the service point you are referring to,  
6 there was a joint inspection, and then there were  
7 subsequently four inspections in a 17-month period, two  
8 of which were jointly with Education Scotland and two  
9 which were the Care Inspectorate on their own.

10 Q. We heard yesterday that obviously the Inspectorate, in  
11 terms of the Schools Inspectorate, inspect I think less  
12 frequently, but there is a drive -- obviously if you are  
13 inspecting they join with you, presumably because that  
14 is a more efficient way to do it?

15 A. Yes, we work on an annual inspection plan about March  
16 each year with Education Scotland to look at what  
17 schools they are intending to inspect that year and we  
18 are inspecting, and we can then do a joint inspection  
19 together.

20 Q. Over the page on page 12, paragraph 4.3.5, it has  
21 changed slightly. We were talking about you had to be  
22 grade 5 "very good" or 6 "excellent" to benefit from the  
23 less regular, but that has been changed. If you are  
24 "good", you now fall into the less -- at least  
25 potentially less inspected category?

1 A. Yes, only if you are "good" for the quality of  
2 environment, and that was in recognition that some of  
3 the boarding schools had longer-term nature of premises,  
4 developments and refurbishments that were required, but  
5 it still had to be at a level of "good".

6 Q. And inspections -- it goes on -- continued to be  
7 unannounced?

8 A. Yes.

9 Q. I think at the very beginning, on behalf of the  
10 Care Inspectorate, submissions were made making that  
11 point, that they are, in ordinary course, unannounced.  
12 Is that correct?

13 A. They are in ordinary course, but we have reflected on  
14 the inspections that have taken place since 2009 and we  
15 found there were nine inspections that were announced  
16 that should have been, within our procedures,  
17 unannounced, and two of those inspections were in  
18 relation to two of the boarding schools that are of  
19 interest to the Inquiry.

20 Q. Was that because of particular circumstances? I think  
21 you mentioned them already. One school was under  
22 particular scrutiny and there were known inspections, if  
23 I can put it that way, as part of that process of  
24 recovery?

25 A. Those are separate inspections that we count as joint

1 inspections because there is an announced element in  
2 those. These were nine, I think. The only thing we can  
3 put them down to were errors from changing from one  
4 inspection announced and one inspection unannounced to  
5 simply unannounced.

6 LADY SMITH: Catherine, over what period did you say that  
7 occurred nine times?

8 A. That was in the -- I think there were two -- four in  
9 2009/10 and five in 2010/11, but since 2011 within the  
10 Care Inspectorate all inspections, unless they have been  
11 undertaken with a joint approach with  
12 Education Scotland, have been unannounced, my Lady.

13 LADY SMITH: Thank you.

14 MR BROWN: If we can move on now, please, to the issue of  
15 notifications which is paragraph 4.5. When a user  
16 registers with the Care Inspectorate, as it now is,  
17 there are requirements placed on users to notify in  
18 certain circumstances, is that correct?

19 A. That is correct.

20 Q. From the boarding school side of things, or the  
21 mainstream schooling as perhaps you would think of it,  
22 what requirement is there on a boarding school to  
23 notify? What sort of things do they have to notify the  
24 Care Inspectorate about?

25 A. They have to notify us on any protection issues, any

1 accidents or incidents, change of manager, absence of  
2 manager, those kinds of things.

3 Q. Again perhaps we don't need to go into the detail of  
4 this, but the Care Inspectorate has provided the Inquiry  
5 with appendices summarising what had happened with the  
6 various schools that the Inquiry is interested in. One  
7 of the elements about that was the number of  
8 notifications received from a given school. The numbers  
9 varied, if I can put it that way. Most schools seemed  
10 to have two figures' worth of notifications, perhaps in  
11 the teens. One school had over 200. But did that  
12 reflect that school's particular approach to  
13 notification, in the sense it was notifying of sporting  
14 injuries and other things that one might assume other  
15 schools might not have bothered the Care Inspectorate  
16 with?

17 A. I don't have the in-depth knowledge in my head at this  
18 point in time in relation to the notifications, but,  
19 yes, it would be dependent on what people were notifying  
20 us. And I know from speaking with inspectors, some of  
21 the notifications that we received from some schools  
22 were of a higher degree because of particular sports and  
23 activities that young people took part in.

24 Q. I think rugby, as we know, is a sport that is contact  
25 and can lead to injuries?

1 A. Yes.

2 Q. So a school that plays a lot of rugby might be expected  
3 to have greater notification of injury?

4 A. Yes.

5 Q. Is there a degree of leeway in the Care Inspectorate's  
6 mind? Are there a number of notifications that come in  
7 and, to be colloquial, the inspector will shrug his  
8 shoulders and say they are being over-cautious?

9 A. No, more likely to look at services that aren't  
10 submitting, if there is a comparison in relation to  
11 the same type of service in different notifications, to  
12 make sure during inspection they triangulate, so that if  
13 there have been incidences when we should have been  
14 notified, that that is brought to the attention.  
15 I think very much in the early days of regulation of the  
16 boarding schools, that was a case that inspectors found,  
17 that there wasn't clarity from the schools on what they  
18 were required to notify about.

19 Q. Was that because it hadn't been explained adequately to  
20 them what they were required to do, do you think, or was  
21 it reticence on their part to notify?

22 A. I think it is probably more of it being quite  
23 overwhelming to start being regulated and to be involved  
24 in a new process, and that would be something we would  
25 do really for any new regulated service, to make sure at

1 the inspection they are understanding what it is they  
2 are required to notify about.

3 Q. So is this another example of new systems taking time to  
4 bed down?

5 A. Yes. And we also, from time to time, will update the  
6 notification processes. For example, during the  
7 pandemic, we have changed some of the notifications that  
8 services are required to submit, for example, suspected  
9 or confirmed cases of COVID. So from that point of  
10 view, that is where we would re-issue guidance to  
11 services.

12 Q. So is there a recognition on your part, the  
13 Care Inspectorate's part, that when new requirements are  
14 put in place, there has to be explanation, and is there  
15 a reality that it may take a little while for that to  
16 work as well as you would like it to?

17 A. I think that is the reality, yes.

18 Q. Because we see from paragraph 4.5.2, if we can go down  
19 to that:

20 "Inspectors reported that there has been  
21 a significant improvement in the sector's proactive  
22 reporting of concerns and episodes of abuse over the  
23 period of time it has been regulated. The development  
24 of a shared understanding of expectations has also  
25 enabled schools to feel more comfortable seeking

1           advice on emerging incidents with case-holding  
2           inspectors. The ongoing quality and appropriateness of  
3           notification reporting is assessed through the ongoing  
4           scrutiny and the monitoring of received notifications."

5           So it's a two-way exchange: the Inspectorate will be  
6           giving advice, presumably, and requesting positively  
7           information where it is lacking, as you said, by  
8           inspections, but the schools themselves, reading that  
9           short, over time have grown used to the requirements?

10          A. Yes.

11         LADY SMITH: Catherine, as regards a school seeking advice  
12           on what you refer to as emerging incidents with the  
13           case-holding inspectors, is there a telephone line for  
14           that? Is there a particular email address to use? How  
15           does it work?

16          A. We do have a contact centre that people can -- services  
17           can contact. They will then message the inspector in  
18           order to make contact with that service for any  
19           inquiries, but also --

20         LADY SMITH: You say "message". I am trying to find out, if  
21           I am the person in the school who wants to tell you  
22           about what you refer to as an "emerging incident", how  
23           do I do it?

24          A. There are different ways, my Lady, in which you could  
25           notify us. Obviously there is a notification,



1 an electronic notification that would be submitted and  
2 you would find that the inspector would contact you to  
3 discuss that. But sometimes people phone for advice and  
4 many people will have their inspectors direct mobile  
5 number. We also have a contact centre that if people --  
6 for example, if an inspector is on annual leave, if they  
7 go to the contact centre, that will be re-directed to a  
8 manager who would make contact and follow that call up.

9 LADY SMITH: Are the details of how to contact you on the  
10 website, or is this dependent rather on specific  
11 arrangements having been set up, such as the phone  
12 number of the inspector or the like?

13 A. No, people are advised to use the contact centre. That  
14 is on our website.

15 LADY SMITH: That is on the website. Thank you.

16 MR BROWN: Is that a centralised contact centre for the  
17 entire Care Inspectorate?

18 A. Yes.

19 Q. Presumably with a boarding school team, if you like,  
20 there will be regular contacts with headmasters and  
21 presumably the same inspector who will be involved in  
22 a number of inspections. There is a continuity of  
23 contact?

24 A. Uh-huh.

25 Q. Presumably if they are wanting an answer quickly

1 a school can just go to the inspector?

2 A. Absolutely, the school can contact their inspector  
3 directly. But there is that safety net there if the  
4 inspector is not available and they want to speak with  
5 someone immediately or urgently, then the contact centre  
6 can direct that inquiry to the right manager.

7 Q. So it is not just a case that the boarding school team  
8 of the Inspectorate have a single number? You can't  
9 just contact them directly?

10 A. You can contact your individual inspector. Or if you  
11 can't manage to contact them, you can go through the  
12 contact centre and they will direct it to the manager,  
13 usually, of that inspector.

14 LADY SMITH: Would circumstances of the type we are  
15 referring to here, an incident, an emerging incident,  
16 ever be such as to cause the inspector to go to the  
17 school immediately to see what is going on?

18 A. My Lady, yes, that could be the case.

19 LADY SMITH: Are you aware of it ever having been the case?

20 A. I am aware of it having been the case when it was  
21 a service where there was an initial concern. It was  
22 the death of a young person, and it was to support  
23 immediately, the next day, to support with care planning  
24 to make sure that for other young people things were  
25 in place appropriately.

1 LADY SMITH: Thank you.

2 MR BROWN: We have touched there on the boarding schools  
3 team. It might be apt to consider that at the moment.  
4 How long has there been a boarding school-specific team  
5 in place?

6 A. Since 2015.

7 Q. Whose idea was that to focus so specifically on-boarding  
8 schools?

9 A. It was when the children and young people's specialist  
10 team came in in 2013. There are a number of different  
11 aspects within that, for example, there is adoption and  
12 fostering and there is boarding schools. And because of  
13 that consistency of approach and that national team  
14 approach -- so those that are in the boarding schools  
15 team, they were brought together at that point in time  
16 to further enhance and develop that scrutiny of those  
17 services for more consistency.

18 Q. We have heard from the Education Inspectorate side that  
19 boarding schools will have what is described as a link  
20 inspector who works with a given boarding school. Does  
21 the same thing happen with Care Inspectorate?

22 A. We have a case-holding inspector.

23 Q. Who is allocated to a given school?

24 A. That is right.

25 Q. Or a number of schools? One or more?

1 A. There will be more than one, yes.

2 Q. But they -- to go back to what we were talking about  
3 a moment ago -- would be the first point of contact  
4 ordinarily, say, for example, they are on leave or away  
5 doing something else, at which point you use the generic  
6 number --

7 A. Yes.

8 Q. -- and speak to a manager?

9 A. Yes, you would get the manager.

10 Q. Again over time -- and you have talked about  
11 the improvement over time of notification reporting --  
12 can you say with these specific inspectors, is there  
13 a greater use of their skills by headmasters at boarding  
14 schools? In other words, are boarding school  
15 headmasters being more proactive in contacting those  
16 inspectors to seek guidance?

17 A. That is what the inspectors -- and we discuss that with  
18 them -- that's what they have reflected on, they feel  
19 there is more confidence. Whereas there might have been  
20 something that they found out about at an inspection,  
21 but they are finding now that they are more proactive.  
22 You know, the headmaster will come to discuss, or the  
23 manager of the boarding school will come to discuss  
24 a particular issue.

25 Q. And that transition, that greater openness

1 and willingness to engage positively with the  
2 Care Inspectorate, can you identify over what period  
3 that has taken place?

4 A. I would say it has probably taken place since we had the  
5 specialist teams, going back to 2013 but further  
6 enhanced with a particular boarding school team. And  
7 then the contact and the work that the Care Inspectorate  
8 have done with the Scottish Council of Independent  
9 Schools.

10 Q. I was going to come back to them in due course.  
11 Thank you.

12 We have talked about notification to you by schools.  
13 What about complaints by others about schools? Who can  
14 complain to the Care Inspectorate?

15 A. Anyone can complain to the Care Inspectorate.

16 Q. So an individual can do so?

17 A. Yes.

18 Q. They can be anonymous, presumably?

19 A. They can.

20 Q. Would I be right in saying, looking to page 15 of your  
21 report, which is paragraph 5.1.2, "Complaints against  
22 boarding schools, 2005 to the present", looking to the  
23 penultimate paragraph:

24 "Between 2005 and 2019, 36 complaints have been  
25 received against services ... were initially logged by

1 the Care Commission and Care Inspectorate. Of those,  
2 eight were investigated and six were either partially or  
3 fully upheld. The most common category of complaint  
4 allegation logged for boarding schools related to pupils  
5 being bullied by other pupils and the Service's alleged  
6 inadequate response to this ..."

7 Which was 11 of the 36.

8 LADY SMITH: I take it from these figures, which indicate  
9 you start with 36 complaints over the 14-year period you  
10 refer to, and then eight of them being investigated and  
11 six upheld or partially upheld, that that indicates you  
12 have got a sifting process whereby, of those 36  
13 complaints, 28 must have been sifted out as not  
14 requiring investigation, would that be right.

15 A. Yes, my Lady, there could be a number of reasons why  
16 they are sifted out. Sometimes they could be of  
17 an anonymous nature that it is not possible to actually  
18 investigate. Sometimes people, once you start to talk  
19 to them about it, it is actually that they just want  
20 some advice, and sometimes they are happy to go back to  
21 the source of the complaint and have it investigated  
22 there.

23 LADY SMITH: Might the complaint be frivolous? Obviously  
24 frivolous?

25 A. I think it could be, on initial look you could think it

1 is frivolous, but that is why we always contact  
2 complainants with the details to discuss those  
3 complaints with them because sometimes there is  
4 something more underlying.

5 LADY SMITH: I am just thinking of other complaints  
6 processes where a complaint may fail at the first stage  
7 because those who look at it decide it's frivolous or  
8 it's malicious or it's obviously wholly without merit,  
9 something like that?

10 A. My Lady, we would always contact if we have details of  
11 the complainant, because sometimes, yes, it can look  
12 like that at the first instance, but when you have that  
13 discussion with someone there is more to it than just  
14 the initial thing that is there.

15 LADY SMITH: So you will find out at first stage whether it  
16 needs to be taken further or not?

17 A. Yes, as long as we have the contact details of the  
18 complainant, my Lady.

19 LADY SMITH: Thank you.

20 MR BROWN: To follow up on that, are you aware whether  
21 complaints have been frivolous in the past?

22 A. I couldn't say today in relation to the complaints.  
23 I could go back and look at the withdrawn complaints and  
24 provide the Inquiry with a report, if that would be  
25 helpful?

1 Q. If you could.

2 I think if we could look briefly at SGV-000064787.  
3 Again, it doesn't matter which school it is, although we  
4 can see which one it was. This was an email which has  
5 been removed, the details have been removed, but I can  
6 tell you this is from one of your care inspectors who  
7 deals with that school and who we will be hearing from  
8 in due course. It says:

9 "Hello. I can confirm our complaint team has sent  
10 a letter to the school letting them know they will not  
11 investigate the anonymous complaint."

12 It details the content as follow, and then sets out  
13 a number of the details which go to five parts.

14 Perhaps the important part is the next paragraph:

15 "We would ask that you consider this complaint and  
16 respond in writing to the Care Inspectorate by  
17 9 December 2016 detailing how this has been  
18 investigated. If you consider the allegations to be in  
19 any way substantiated, then please detail what action  
20 you will take to resolve the situation. We will update  
21 once we have a response from them."

22 In other words, the Care Inspectorate is going back  
23 to the school saying: we have received this. Could you  
24 investigate and let us know what you found out and we  
25 will then decide what to do at that point.



1           So the onus is put back on the school on occasion to  
2           investigate?

3           A. Yes, on occasion it can go back. It would go back where  
4           we had -- where we felt we had confidence in the  
5           provider to investigate, but that doesn't mean we  
6           wouldn't take further action depending on what has come  
7           back from that.

8           Q. No. Just on the point that her Ladyship was making  
9           about is there a sifting process; another aspect of that  
10          sifting process is, rather than the Care Inspectorate  
11          getting involved at the outset, there can be situations  
12          where you will say to the school: we've got this, can  
13          you tell us what it's about. And then you make  
14          a decision based on the response. And as you have just  
15          said, that is because you have confidence in the  
16          provider doing it properly?

17          A. Yes.

18          Q. Okay.

19          LADY SMITH: Would you ever investigate a complaint that was  
20          an anonymous one?

21          A. Yes, if we have the detail that would allow us, yes,  
22          my Lady, we certainly would.

23          LADY SMITH: Thank you.

24          MR BROWN: Although presumably there might be the same  
25          process we have here, where there is an anonymous

1 complaint which goes into quite a lot of specific  
2 detail, but it is felt the best people to deal with it  
3 would be the school in the first instance?

4 A. Yes, that is possible.

5 Q. All right.

6 Obviously one of the areas that this Inquiry is very  
7 concerned about is child protection, so if we could move  
8 to page 17 of your report and paragraph 6. This is  
9 going back, reading from it:

10 "In the first series of joint inspections with HMIE  
11 and subsequent singleton Care Commission  
12 inspections ..."

13 So in other words, this is the outset of the  
14 Care Commission being set out.

15 "... a range of main points of action, joint  
16 inspection terminology, recommendations and requirements  
17 were made relating to child protection. The inspectors  
18 who were involved in these inspections reported that  
19 services possessed child protection policies, but staff  
20 training and awareness of implementation varied. Four  
21 key themes are reported by inspectors as having emerged  
22 over the period of regulation from 2005 to the present.  
23 At the point of registration many services largely  
24 expressed their performance in educational terms and  
25 viewed this as the predominant focus of their service."

1           And that presumably reflects the traditional view of  
2 schools as about education:

3           "The importance of care practice and culture within  
4 boarding as an important function in itself for the safe  
5 care and development of young people has been  
6 increasingly recognised and developed."

7           Is this in line with what you were telling us  
8 earlier on this morning about the greater  
9 co-operation --

10          A. Yes, I think the greater knowledge about pastoral care.

11          Q. And that is what you say in the next point:

12                 "There has been an ongoing and developing trend  
13 towards pastoral and nurturing care."

14                 In other words, the boarding schools are recognising  
15 perhaps a much greater part of what they do than they  
16 did previously?

17          A. Yes. I think also the National Care Standards and now  
18 the Health and Social Care Standards and the Quality  
19 Assessment Framework and Quality Framework has helped  
20 them in that way.

21          Q. Next bullet point:

22                 "At the time of initial registration of these  
23 services, they tended to be more insular and isolated  
24 from each other and, more importantly, external public  
25 agencies. Closer and more trusting professional working

1 relationships with local child protection and support  
2 agencies and regulators has improved openness and safe  
3 practice."

4 So one has an image at the outset of boarding  
5 schools being insular organisations which really looked  
6 at themselves but not more widely, and that is something  
7 that has changed. Is that, from what you have told us,  
8 reflected in their engagement with you, and this might  
9 be a useful point to touch upon, engagement with other  
10 bodies both by you and by the schools, because we have  
11 heard obviously you work with HMIE as it was, now  
12 Education Scotland, and there is presumably a great deal  
13 of information-sharing as much as it is allowed between  
14 your two organisations, is that correct?

15 A. Yes, that is correct.

16 Q. Do you have a memorandum of understanding with  
17 Education Scotland?

18 A. Yes, we have a memorandum of understanding, and we also  
19 shared inspection guidance.

20 Q. Yes. So boarding school inspectors from one  
21 organisation presumably talk a great deal with boarding  
22 school inspectors from your organisation?

23 A. Yes.

24 Q. What about other bodies? You will engage, presumably,  
25 as necessary with the Registrar of Independent Schools.

1           How much engagement is there with him?

2           A. There is a lot of engagement with the Registrar, and  
3           there is a team manager who has a lead liaison link role  
4           with the Registrar of Boarding Schools, and that is  
5           the same person who supports the eight inspectors from  
6           boarding schools, to have that kind of continuity and  
7           consistency.

8           Q. How long has that contact been in place?

9           A. There has been in place -- that there has been  
10          a changeover of team manager, I think it was about 2015  
11          or so, but prior to that there was a link. But I think  
12          the relationship has certainly developed over the years.

13          Q. You have mentioned the Scottish Council of Independent  
14          Schools, you make particular reference to them at  
15          paragraph 8. It's a registered charity -- what you say  
16          about them:

17                 "It represents and promotes the interests of over  
18          70 schools across Scotland. The working relationship  
19          between SCIS and the Care Inspectorate has developed  
20          positively over the period that its members have been  
21          regulated. Since inspecting year 2017-2018 annual  
22          development events for managers and senior staff and  
23          services have been co-hosted between SCIS and the  
24          Care Inspectorate. These meetings provide a valuable  
25          forum outside formal inspection for collaborative

1           working, where expectations and concerns can be shared,  
2           explored and understood. The consultation and the new  
3           Care Inspectorate Quality Framework for boarding schools  
4           and hostels was also extensive."

5           So you obviously view SCIS positively?

6           A. Yes, we found SCIS helpful in order to actually  
7           understand some of the positions and have a forum for  
8           discussion about boarding schools, but also being able  
9           to support some of the work of the organisation and  
10          share some of that message of the Care Inspectorate with  
11          boarding schools.

12          Q. The crucial thing might be seen to be collaborative  
13          working. Are they a vehicle to ensure communication and  
14          a joined up approach both from you and the schools to  
15          each other?

16          A. Yes, we have definitely developed that collaborative  
17          approach with SCIS since 2017.

18          Q. Who led that approach, was it SCIS or the  
19          Care Inspectorate?

20          A. I can remember the discussion with the team managers in  
21          relation to that and we felt that this was  
22          an opportunity. So I think the first contact that was  
23          made was from the team managers to SCIS.

24          Q. But whoever started it, obviously would you consider  
25          this a very good thing?

1 A. Yes, and it's something we would like to develop more in  
2 the future.

3 Q. All right. What about other bodies? One other body  
4 that we will be hearing from is the General Teaching  
5 Council for Scotland. Is that an organisation you have  
6 any involvement with?

7 A. We have some involvement with the GTC, but it would  
8 normally be in relation to if we had made any referrals  
9 to the GTC or if we had any concerns about someone's  
10 registration status.

11 Q. At what stage does that usually happen in the process in  
12 terms of anxiety from the Care Inspectorate about  
13 a particular institution or, as you just said,  
14 a teacher?

15 A. When it became apparent of a concern, that is when we  
16 would make that referral and initiate that contact.  
17 Sometimes we are also then asked -- or usually asked by  
18 the Council to provide them with a report when they are  
19 looking into the specific circumstances.

20 Q. So is that something that already exists, so far as you  
21 are concerned, that you are proactive in alerting them?

22 A. Yes.

23 Q. You say that they ask you for information. Do they ask  
24 at an appropriate stage?

25 A. We put in the initial referral. They would then ask us

1 to -- they would then ask us in relation to, when they  
2 got to the stage of them investigating or potentially  
3 hearings, they would ask for witness statements and  
4 sometimes for witnesses.

5 Q. Are you content with the level of engagement that you  
6 have currently with the GTCS or would you like more?

7 A. Our engagement with GTCS is probably a lot less frequent  
8 due to that engagement that we have with Scottish Social  
9 Services Council, because of the greater number of staff  
10 registered that are working in care services with the  
11 Scottish Social Services Council.

12 Q. We will be hearing from Scottish Social Services Council  
13 this afternoon. But from your perspective, they are the  
14 body that you have greater contact with because of the  
15 number of people who are working for them, or their  
16 registered workers rather than teachers themselves?

17 A. Yes, the GTCS tends to be more of the exception, I would  
18 say, but we have made referrals.

19 Q. Again, can you quantify how many referrals you have made  
20 and in what circumstances, speaking generally?

21 A. I can think about a recent referral, it wasn't  
22 a boarding school but it was a school care accommodation  
23 service that happened in the last couple of years, and  
24 that was because we had concerns about child protection  
25 understanding and procedures and what had occurred in



1 a service.

2 Q. Is that a risk-based assessment as to whether or not you  
3 should refer or is it just a matter of routine?

4 A. It is a matter of routine.

5 Q. So are you content with how things operate currently so  
6 far as GTCS is concerned or could there be more?

7 A. I obviously -- I don't work in GTCS so I do not know how  
8 their processes work. From our perspective, it can seem  
9 that some of the referrals we make take a long time  
10 actually to come to fruition and come to the point of  
11 where a decision is being made.

12 Q. Is that because obviously, in terms of registration,  
13 a stage has to be reached before one can trigger the  
14 process of perhaps fitness to teach, for example?

15 A. Yes.

16 Q. At the early stages that is perhaps a little premature?

17 A. Yes. But as I say, I don't know how their processes  
18 actually work internally.

19 Q. All right, thank you very much.

20 Going back, please, to page 17 and the final bullet  
21 point in terms of child protection:

22 "Child protection leadership, knowledge and  
23 confidence requires constant and continued focus and  
24 renewal for good practice and safe outcomes to be  
25 sustained. The quality of outcomes can be significantly

1           impacted if the child protection practice and the safe  
2           care of young people is viewed as a static point that  
3           has been or can be achieved."

4           Again looking to how the boarding schools have been  
5           behaving, would I be right in saying that it is not  
6           viewed as something that is static?

7           A. Yes, that would be the case. We have seen progress and  
8           updates over the years and that increased confidence,  
9           but there is always that point when there is a potential  
10          new manager or new staff turnover, but that is why that  
11          is always what we would call a core assurance of every  
12          inspection, that child protection would always be looked  
13          at.

14         Q. Finally perhaps for this section, you will see below  
15          paragraph 7 "Guardianship arrangements". Guardianship  
16          I think is particular to the Care Inspectorate. What  
17          should we understand guardianship means in your world?

18         A. So there are -- guardians are people who look after  
19          children who are boarding outwith the normal school  
20          time, so it could be weekends or it could be holidays,  
21          but sometimes -- so there is that kind of guardian, and  
22          guardians can either be arranged by a parent  
23          individually or they can be arranged via the school.

24         Q. And what is your interest in both those areas?

25         A. Our interest, if a guardian is arranged by a parent, and

1           that is for reward, therefore the guardian receives  
2           payment more than expenses, then they require to be  
3           registered as a childminder under the legislation. So  
4           therefore we have an interest in that, and therefore we  
5           would have to register those guardians as childminders.

6           If the guardians are arranged by the school, our  
7           interest in that is in relation to their part of the  
8           school and seen to be part of that. And we have  
9           recently updated our inspection guidance to ensure we  
10          actually include those guardians arranged by the school  
11          as part of our inspection process.

12         LADY SMITH: Sorry, I don't follow that. You said if  
13           guardians are arranged by the school, your interest is  
14           in relation to their part of the school and seen to be  
15           part of that. I don't understand what you are saying.

16         A. They are seen -- they are under -- part of the  
17           provision, so it's part of that residential provision  
18           for that young person. So therefore the school is  
19           responsible for that guardian and making sure that they  
20           have fit premises, that they are fit people that are in  
21           that home.

22         LADY SMITH: Does that mean your inspectors would not  
23           actually inspect the guardian's home?

24         A. My Lady, we have only started to include guardians in  
25           our inspections that are part of the school, that was

1 an omission previously. So, yes, from now on guardians  
2 are part of that procedure.

3 LADY SMITH: Because of course a child who, for example,  
4 comes from abroad and is boarding in this country may  
5 spend some quite significant periods staying at the  
6 guardian's home, isn't that right?

7 A. That is right, correct.

8 LADY SMITH: But you are telling me that up until now, the  
9 inspectors would only enquire as to whether the school  
10 had made proper arrangements, whether the school had  
11 seen the home and had some ongoing contact with the  
12 guardians and was satisfying themselves about it?

13 A. Yes, that was --

14 LADY SMITH: You would take on trust what the school was  
15 telling you.

16 A. That is what we did. That is not what our procedures  
17 are now.

18 LADY SMITH: Mr Brown, I am probably jumping ahead of you  
19 again.

20 MR BROWN: No, my Lady. It may assist, because some of  
21 those answers perhaps slightly puzzle me.

22 Could we look at CIS-000000408. This, Catherine, is  
23 a document obviously provided by the Care Inspectorate,  
24 "Guidance for regulation of guardianship arrangements in  
25 boarding schools". This edition was published in

1 March 2013, although I think, as we will see going down  
2 the page, it was reviewed in March 2016. It's the first  
3 version. If we go over the page, it says:

4 "The purpose of this document is to set out the  
5 approach to regulating the arrangements."

6 You have just talked about what a guardian is.

7 The first paragraph is "Arrangements made by the  
8 school":

9 "In some cases, schools will make arrangements for  
10 boarders to stay with host families. If the school has  
11 made arrangements for a pupil to spend weekends or  
12 holidays in someone's home, this is treated by law as  
13 being part of the service provided by the school and we  
14 will regulate the arrangement as part of the school's  
15 registration as a school care accommodation service."

16 So it's treated as an extension of the school  
17 accommodation service?

18 A. That is correct.

19 Q. "The individual who is guardian does not have to be  
20 registered as well."

21 Because they are under the umbrella of the school's  
22 registration?

23 A. That is correct.

24 Q. "When schools make these arrangements, they must be able  
25 to satisfy themselves and the Care Inspectorate that the

1 school has appropriate procedures to ensure  
2 that: disclosure checks are carried out on everyone over  
3 16 in the household; a home visit is carried out to  
4 ensure the accommodation is appropriate; there is  
5 a system in place for pupils to raise concerns about  
6 the guardianship arrangement with their parents and the  
7 schools; and it is clear how concerns reported to the  
8 school are recorded and dealt with. Contact will be  
9 maintained in school between the guardians, the pupil  
10 and the pupil's parents, and appropriate procedures  
11 adopted by the school are also adopted by the guardian,  
12 for example, child protection."

13 That was what was originally in place and the onus  
14 is on the school to satisfy you?

15 A. Yes.

16 Q. The Care Inspectorate does not become involved hands on,  
17 presumably, unless it has concerns?

18 A. We have changed our -- we have changed --

19 Q. I am coming to that in a moment, but that is what was?

20 A. That is what was.

21 Q. And one of the things specifically mentioned is a home  
22 visit is carried out, albeit by the school, so that they  
23 can satisfy you that everything is in place?

24 A. Yes.

25 Q. All right. If we can look now at CIS-000000407. This is

1 the new one you have been talking about, publication  
2 date 8 August 2019. If we go over the page to  
3 paragraph 1, "Arrangements made by the school". Again  
4 it's a little further down the page, please. The  
5 wording has been changed:

6 "In some cases, schools will make arrangements for  
7 boarders ..."

8 And reference is made to it is being treated by law  
9 and the 2010 Public Services Reform Act stating that:

10 "Where such arrangements are made, this is regarded  
11 as being part of the school care accommodation service  
12 itself. In these instances, we will regulate the  
13 arrangements as part of the school's registration as  
14 a school care accommodation service. The individual who  
15 is the guardian does not have to be registered as well."

16 Again, the same because they are under the umbrella.

17 But then these specific bullet points:

18 "The schools make these arrangements. They must be  
19 able to satisfy themselves and the Care Inspectorate  
20 that the school has appropriate procedures to ensure  
21 that ..."

22 Again, it is relying on the school to satisfy you.

23 "... (i) the guardian is a member of the PVG scheme  
24 and checks have been undertaken by the school ..."

25 So the focus is on the guardian, not everyone over

1 16.

2 A. Uh-huh.

3 Q. So it seems to be less --

4 A. No, the Disclosure Scotland checks are carried out on  
5 everyone over 16 --

6 Q. I am coming on to that. PVG is specific to the guardian  
7 but disclosure checks on everyone over 16.

8 And then:

9 "... the guardian's accommodation is safe,  
10 appropriate and continues to be so for the duration of  
11 the young person's stay."

12 Carry on, please, to the next page:

13 "There is a system in place for pupils to raise  
14 concerns about the guardianship arrangement with their  
15 parents and the school and it is clear how concerns  
16 reported to the school are recorded and dealt with.  
17 Contact will be maintained between the school, the  
18 guardians, the pupil and the pupil's parents.  
19 Appropriate procedures adopted by the school are also  
20 adopted by the guardian. For example, child protection,  
21 behaviour management and medication. Training for  
22 guardians to meet these expectations is also the  
23 school's responsibility."

24 So there is an extension there about training and  
25 the number of things they have to be concerned with over



1 and above child protection.

2 One thing (inaudible) because her Ladyship focused  
3 on visiting, this removes the requirement for the school  
4 to physically go and check. All you have to have now is  
5 an assurance that the accommodation is safe,  
6 appropriate, and continues to be so for the duration,  
7 which is a subtly different approach and perhaps, on one  
8 view, less onerous?

9 A. That wasn't the intention. The intention was to  
10 strengthen it, so there wasn't just a visit before, at  
11 the beginning of the guardianship, that there was  
12 ongoing assessment of the premises making sure they  
13 continued to be fit.

14 Q. Do you think the removal of the words about an actual  
15 visit to the premises was helpful, looking at it?

16 A. On reflection, we could re-include the word to ensure  
17 that there are ongoing visits or ongoing monitoring of  
18 the premises, yes, I would agree with that.

19 Q. I suppose the danger might be the school will say: can  
20 you assure us they will put the onus on to whoever the  
21 guardian is and will just go on an assurance that  
22 everything is fine?

23 A. I take that on board. I think that is something that  
24 could be reflected on.

25 MR BROWN: Thank you very much indeed.

1           My Lady, that might be an appropriate point to  
2           break. Then we can move on to the details, which  
3           I think we will pick up speed on, about the inspections.

4       LADY SMITH: Let's do that.

5           Catherine, I usually take a break in the middle of  
6           the morning for 15 minutes or so, and it seems this  
7           would be a convenient stage for us to do that, if that  
8           would work for you, would it?

9       A. That is fine, yes.

10      LADY SMITH: We will break now.

11      (11.26 am)

12                               (A short break)

13      (11.46 am)

14      LADY SMITH: Catherine, I hope the break was a help. If you  
15           are ready, we will now carry on. Is that all right?

16      A. Yes. Thank you, my Lady.

17      LADY SMITH: Mr Brown.

18      MR BROWN: Catherine, two very quick points from this  
19           morning. As always there are things I should have asked  
20           but didn't.

21           One thing you said about notification being required  
22           to you from a school, and one of the words is  
23           notification of "misconduct". From your perspective,  
24           what does misconduct mean?

25      A. From that perspective, it is misconduct normally of

1 a staff member.

2 Q. And a staff member in terms, as you said, of  
3 accommodation services, might more primarily be with  
4 a member of the SSSC as opposed to teaching staff?

5 A. Yes.

6 Q. That will be determined by circumstances?

7 A. It will depend on the individual body that the person is  
8 registered with. It could be the Nursing and Midwifery  
9 Council also.

10 Q. Yes. But in the context of boarding schools, it is  
11 either GTCs or, in perhaps greater likelihood, SSSC?

12 A. Yes.

13 Q. What sort of conduct are you thinking of by way of  
14 example?

15 A. The whole range, it's a wide range. So probably the  
16 best way to look at it is depending on the codes of  
17 conduct that that person's body -- that that person is  
18 registered with, it is non-compliance with those codes.

19 Q. So from the Care Inspectorate's point of view, are you  
20 aware of the codes of conduct of other professional  
21 bodies?

22 A. Yes.

23 Q. Thank you. The other thing was in relation to  
24 guardians, and I obviously touched on the fact that  
25 the only person who is required to have PVG membership

1 is the guardian themselves. I think that is -- just to  
2 make it clear, is that because they are the only person  
3 who is involved in regulated work? Disclosure Scotland  
4 is for the rest who are not covered by that label?

5 A. Yes, that is correct.

6 Q. Thank you.

7 LADY SMITH: Does that mean that if there is another adult  
8 living in the household, they do not need to be  
9 PVG-registered?

10 A. No, but they have to undertake a Disclosure Scotland  
11 check.

12 LADY SMITH: Right.

13 MR BROWN: Would that be basic or ...

14 A. I can't -- I think it is enhanced but I could confirm  
15 that.

16 Q. If you could, thank you.

17 Sorry, with that diversion, which was my fault,  
18 could we move to the second part of your report which is  
19 looking at how inspections work, and obviously this is  
20 looking at how inspections work now, primarily, because  
21 we've talked about development.

22 If we can start on something we have touched on  
23 already, which is training, and this is page 23 of your  
24 report, halfway down. This is looking at the  
25 requirements for inspectors, what they need to do. As

1           you have been telling us, since 2015 I think there is  
2           a small core group of inspectors within the children and  
3           young persons team who focus on boarding schools?

4           A. Uh-huh.

5           Q. Broadly, before we refocus on that team, you set out  
6           that people who want to become inspectors must have:

7                     "... a minimum of three years' management  
8           supervisory experience in a relevant service and possess  
9           a relevant practice qualification."

10           For the purposes of the Inspectorate generally, what  
11           is "relevant service"?

12           A. It would be that relevant -- more relevant service or  
13           sector that they are going to be employed to regulate.  
14           So for children and young people, it would be experience  
15           and a relevant qualification, and experience of working  
16           in that sector.

17           Q. So if you are going to be a member -- let's focus in on  
18           the boarding school team, is some background in  
19           accommodation services for schools, or, I suppose,  
20           teaching, a required relevant service?

21           A. It is not required, it is preferable. But, you know,  
22           the staff that regulate boarding schools will also  
23           regulate some other children and young people's  
24           services, so it is about having the knowledge of  
25           children and young people.

1 Q. So it is not so much boarding, it is children and young  
2 people experience?

3 A. Yes.

4 Q. And an appropriate qualification in that area?

5 A. Yes.

6 Q. So what you don't get is someone who has never worked  
7 with children coming into the Inspectorate for that  
8 particular role?

9 A. No, no.

10 Q. All right. You set out at considerable length, so we  
11 don't need to go into the body of it, about level of  
12 training, the qualifications. But you say:

13 "Within six months of starting their employment,  
14 inspectors are required to register with the SSSC."

15 A. That is correct.

16 Q. How is that checked, that they have done so? Is that  
17 just you are provided information or do you ask SSSC to  
18 confirm?

19 A. We sign off the application forms for SSSC as  
20 a signatory so that we know that every member of  
21 staff -- we also have to include things from HR, from  
22 their PVG numbers, et cetera. So we know who is  
23 registered, we monitor that. We would expect somebody  
24 not to wait six months to be registered but to do it as  
25 soon as they took up their employment.

1 Q. You mentioned PVG again. That is part and parcel, is  
2 it, of SSSC registration?

3 A. Yes, it's part of our recruitment and then part of SSSC  
4 registration.

5 Q. So it's covered by both bodies, you and SSSC, that they  
6 will be confirmed as registered on the scheme?

7 A. Yes.

8 Q. Thank you.

9 LADY SMITH: Why do you allow six months?

10 A. We don't encourage six months --

11 LADY SMITH: I am not suggesting you encourage it, but that  
12 seems to be the period within which the individual must  
13 have registered.

14 A. Sorry --

15 LADY SMITH: By as much as six months.

16 A. -- my Lady, that is not our timescale, that is the SSSC  
17 timescale, that someone who goes into a new employment  
18 has to submit their application within six months.

19 LADY SMITH: So does that mean that somebody could start  
20 working with you, work for six months, and only submit  
21 their application for registration at the end of that  
22 six months with SSSC, then wait for SSSC to consider  
23 their application, and then for some good reason SSSC  
24 turn it down but, in the meantime, they have been  
25 carrying out inspections? Is that right?

1 A. That shouldn't be the case, my Lady, because we also  
2 undertake -- we undertake the PVG checks prior to  
3 employment, we look at the qualifications in relation  
4 to registration with the SSSC, so that shouldn't happen,  
5 but --

6 LADY SMITH: We can see it shouldn't happen, but under this  
7 structure it looks as though it would be possible if  
8 SSSC discovered something that made them refuse the  
9 application, but for months on end the person would have  
10 been working as an inspector.

11 A. Yes, my Lady, it is possible.

12 LADY SMITH: All right. Mr Brown.

13 MR BROWN: Thank you, my Lady.

14 That is why I was highlighting that you also,  
15 certainly I think you just repeated, before employment  
16 starts with Care Inspectorate, membership of the PVG  
17 scheme, and that will have been carried out by you, and  
18 obviously presumably assessment, as you say, of  
19 qualifications, but then there is the period afterwards  
20 where there seems to be potentially a gap?

21 A. Yes.

22 Q. Okay. Thank you.

23 Looking at the foot of page 24, you talk about  
24 the core group of inspectors for boarding schools  
25 meeting as a specialist team, penultimate paragraph:



1            "... on two to three occasions each year."

2            I think, as is revealed over the page, looking at  
3            the totality of the children and young persons team,  
4            there is currently 24 full-time employees and, of those,  
5            eight are the Boarding Schools Inspectorate.

6            A. Yes.

7            Q. For your purposes?

8            A. For our purposes, yes.

9            Q. Yes. And obviously that is covering I think 22 boarding  
10           schools as we clarified earlier this morning?

11           A. Uh-huh.

12           Q. In terms of inspections, you tell us that currently  
13           a minimum two inspectors are allocated to a boarding  
14           school inspection with up to five allocated to a large  
15           service. Just from a practical point of view, what sort  
16           of school are you thinking of when you say a large  
17           service? Are you thinking of some of the schools we are  
18           looking at?

19           A. Yes, some of the schools -- some of them have about 600  
20           pupils.

21           Q. So once we are that the level of numbers you would have  
22           a five-person team?

23           A. Yes, that is -- we also might have more in a smaller  
24           service if we are concerned about particular risk or  
25           particular matters we want to look at.

1 Q. I was coming on to that. But it will of course be  
2 guided by perhaps the expectation of what is required?

3 A. Yes.

4 Q. In that regard, in terms of the grading system we have  
5 heard about of 1 to 6, 6 being "excellent", 5 "very  
6 good", 4 "good", et cetera, down to "weak" and  
7 "unsatisfactory", from your perspective, and just to  
8 help us, if schools are getting a continuous indicator,  
9 say, of "excellent", would that impact on how you look  
10 at the school? Clearly it will in terms of how often it  
11 is visited. But from the Care Inspectorate's point of  
12 view, if a school consistently getting 5 to 6, is it  
13 viewed as doing well and therefore something to be less  
14 concerned about?

15 A. The intensity of the inspection could be less, it would  
16 be less, because of the past performance from the  
17 school.

18 Q. What I suppose I am asking: is it an indicator of the  
19 state of the school?

20 A. It is an indicator, from our perspective, of the  
21 accommodation part of the school and what is being  
22 provided to the boarders.

23 Q. So would you be surprised against a background of  
24 consistency if there is then a sudden plummet? Would  
25 that come as a surprise to the Inspectorate?

1       A. Not necessarily a surprise if something has occurred and  
2       we have intelligence that indicates something, or we get  
3       information from young people. So if we are going to do  
4       what we would have said a lower intensity inspection, if  
5       at any point throughout that process there is something  
6       that indicates we should include more in that  
7       inspection, then the inspection team have the ability to  
8       do so.

9       Q. I think perhaps that is the point I was making: if there  
10      is nothing untoward you have learned by way of  
11      intelligence, which I imagine can be from a number of  
12      sources, other regulatory bodies, anonymous complaints,  
13      the press even, you would presumably not up the numbers  
14      because previous indicators suggest that the school is  
15      functioning otherwise well?

16     A. It is not necessarily about the numbers of inspectors,  
17     it is potentially about what we find out when we are  
18     there in settings, because sometimes when you are  
19     speaking to children and young people they may disclose  
20     something or may issue a concern. At any point in the  
21     inspection, inspection intensity can be increased.

22     Q. That is what I was coming to: if something arises, can  
23     other inspectors come in?

24     A. Yes.

25     Q. As necessary?

1 A. Yes.

2 Q. Does that happen?

3 A. Yes, it sometimes happens, and sometimes it is even  
4 a manager that joins the inspection, or a senior  
5 inspector.

6 Q. Again looking at the core group of eight inspectors for  
7 boarding schools, is there a senior manager in that  
8 eight or are they on top of the eight?

9 A. On top of the eight.

10 Q. All right. Looking to the mechanics of the inspection  
11 process, we would understand that there is contact --  
12 they are unannounced inspections but there is conduct  
13 before the inspection in terms of contacting parents, is  
14 that correct?

15 A. Parents and children who use the service.

16 Q. All right. To that extent, does the unannounced nature  
17 of it -- is that something of a misnomer, because it  
18 will be apparent an inspection is about to happen  
19 because electronic communications are being made to  
20 parents, parents' associations and pupils?

21 A. We try not to do -- we do the pre-inspection planning as  
22 much as three months in advance and sometimes we have --  
23 we have had a period of time that we feel the  
24 questionnaires could be out-of-date, so therefore we may  
25 do some more questionnaires or some more contact after

1 the inspection.

2 Q. Indeed. So my point is because of having to make  
3 contact with parents and pupils in advance, they are  
4 unannounced inspections, but is the reality that schools  
5 have a sense one is coming?

6 A. Yes, that is something we are currently considering.

7 Q. In what way are you trying to consider that?

8 A. We are trying to consider whether there is a way to have  
9 a more -- to have people able to submit comments and  
10 information about services as an ongoing basis, not just  
11 part of an inspection, so that we will have gathered  
12 more intelligence without that period. But we would  
13 still want to, as part of that inspection process,  
14 gather some information in relation to how people were  
15 at that time. That could maybe happen as part of the  
16 on-site inspection or during the on-site inspection.

17 Q. I think at page 26 you go on to consider what matters  
18 are considered during an inspection, and you make  
19 reference to the number of sources: speaking with staff,  
20 speaking with pupils and parents, guardians, observation  
21 of children's experiences, and just simple interaction  
22 with staff, presumably, is what it looks like, as well  
23 as, presumably, a paper exercise of reviewing policies  
24 to see what they say they are doing and, presumably,  
25 whether they work in practice?

1 A. Yes.

2 Q. All right. You make the point that for boarding schools  
3 each individual house, if there are a number of boarding  
4 houses, are inspected at every inspection. So it's not  
5 just partial selected, it's the whole thing?

6 A. It's the whole thing, uh-huh.

7 Q. In terms of who inspectors would ideally want to speak  
8 to, you say they would want to speak to young people.  
9 And I suppose the real question is how does that work in  
10 practice? How do you select young people?

11 A. We would ask the school for a list of the people using  
12 the service, and we would select groups of young people  
13 that we wanted to meet with, maybe informally in focus  
14 groups, but there are also some individuals as we move  
15 around the service.

16 Q. Presumably, and we heard this from the Chief Inspector  
17 of Education, children are becoming more confident in  
18 speaking out, but obviously you have children who are  
19 very willing to speak and children who perhaps are less  
20 willing to speak. That is perhaps the nature of  
21 children. What effort is made to speak to those who are  
22 not perhaps pushing forward to say something?

23 A. We always select a sample of different children so  
24 for example we might sample a group of young children  
25 depending on if the service cares for young children,

1 but we would also meet with individuals at everyone  
2 inspection on an individual basis to make sure that  
3 there are opportunities to speak without having to be in  
4 that larger group and with some maybe potential peer  
5 pressure.

6 Q. And the selection process for that is achieved how?

7 A. The inspectors would choose those individuals, but they  
8 also might meet those individuals, either as part of  
9 a focus group and ask to speak with them outwith that,  
10 or they might meet them when they are observing some of  
11 the activities, or even at the meal time. An inspector  
12 always has a meal with children and young people as part  
13 of the inspection.

14 LADY SMITH: Catherine, what if there are children at the  
15 school for whom English is not their first language, what  
16 do you do about that?

17 A. We can use translators, my Lady.

18 LADY SMITH: Do you try to find out in advance if there are  
19 other languages that you are going to need help with?

20 A. That is something that I don't know, my Lady. I don't  
21 think that is something that we do.

22 LADY SMITH: You would need to if it is going to work,  
23 wouldn't you?

24 A. I think -- I understand that the schools use English.

25 LADY SMITH: Yes. But that is not my point. You may have

1 a child who is being helped to learn English,  
2 for example, with the TESL scheme that you may be  
3 familiar with, but they are not good enough at speaking  
4 English to explain something that might be quite  
5 difficult to explain about a concern. So you are going  
6 to need an interpreter.

7 A. Yes, my Lady, we can ...

8 LADY SMITH: Or should you be thinking of an approach  
9 whereby if there are children for whom English is not  
10 their first language, you should be seeking to include  
11 such a child or children in your group, your sample to  
12 whom you will speak?

13 A. That is something that inspectors do look at as part of  
14 that, if children have come -- are in particular groups.

15 LADY SMITH: Yes. Thank you.

16 MR BROWN: I am obliged, my Lady.

17 That might be something that you could perhaps think  
18 about and report back. I think the point that is being  
19 made, a number of the schools certainly have -- and  
20 I think we may hear this is an increasing factor, will  
21 be introducing one school in particular that for example  
22 we know is positively -- has positively been seeking  
23 Chinese children, for example.

24 A. Yes.

25 Q. Or Russian, where parents can afford to send them to



1 British boarding schools or Scottish boarding schools.  
2 So it would be instructive if you could come back to us  
3 on that, thank you. You also obviously speak to  
4 parents?

5 A. Uh-huh.

6 Q. Again, the same consideration might apply. Obviously  
7 you have just acknowledged that guardians are spoken to,  
8 but again with foreign parents, is there engagement with  
9 parents who live abroad?

10 A. There is emails that go to all parents via the school.

11 Q. But presumably -- well, you tell me, do inspectors  
12 follow up only on the ones that engage or do they  
13 positively seek out those who don't?

14 A. At this point in time, they only engage with those who  
15 respond.

16 Q. Right.

17 LADY SMITH: There may be a language challenge as well with  
18 foreign parents that you have to think about.

19 A. I appreciate that, my Lady.

20 LADY SMITH: Emailing them in English may not be  
21 an effective communication.

22 MR BROWN: Thank you. Obviously as part and parcel of the  
23 inspection there will be great consideration of records  
24 and, as I said, policies.

25 One thing particularly about policies, there has

1           been constant evolution, as we discussed this morning,  
2           the way you operate, the documents you rely on, there is  
3           constant development or change and that presumably  
4           impacts on the schools. Have you heard the phrase  
5           "policy fatigue"?

6           A. I haven't heard it but I've experienced it.

7           Q. Is that something -- if you experienced it, is that  
8           something that schools can experience, do you think?

9           A. I think the issue in relation to the policies is that we  
10          don't just change the expectations, it is because  
11          national guidance has potentially changed. And if you  
12          are providing a care service you have to keep up  
13          with your policies and make sure they are relevant and  
14          that your staff are up-to-date.

15                 So I understand it can feel sometimes, you know,  
16          that we have to -- policies should have a review date on  
17          them anyway in relation to enabling to keep them  
18          up-to-date, and that is one of the things inspectors  
19          would look at, not just the policy, we would look at  
20          when it has been last reviewed.

21          Q. You have talked about not knowing the phrase but  
22          experiencing policy fatigue. Can there be too much  
23          change?

24          A. I think when you say there is too much change, I think  
25          it is not that we are making change for change sake, it

1 is about where there are things to make improvements for  
2 people that are using care services. And I think this  
3 sector we work in, I think we always have to be looking  
4 to ensure that we are doing the best for people that are  
5 experiencing the care.

6 Q. But from the practical point of view of the inspector,  
7 let alone the school, can the constant review, whether  
8 for good reasons or not, be a limiting factor, because  
9 their focus is diverted to understand the change rather  
10 than perhaps performing the principal purpose of  
11 inspection?

12 A. Sorry, I am not quite understanding.

13 Q. If there is constant change and inspectors are having to  
14 focus and keep up, is there a risk that that may divert  
15 them from their principal purpose? And the same for the  
16 schools, if they are constantly having to revise  
17 policies ...

18 A. We are not talking about constantly in relation to every  
19 week or every month, it is when there is a significant  
20 change.

21 Q. All right. If we could have page 28, please, up on  
22 screen and paragraph 9. If we go down:

23 "In terms of child protection or safeguarding what  
24 is the inspector looking at and for?"

25 And the report says:

1           "Inspectors will be assessing against the outcomes  
2 contained in the relevant quality illustrations of the  
3 Quality Assessment Framework for boarding schools.  
4 For example, the quality illustrations state that ..."

5           Then there are eight paragraphs of outcomes which  
6 are set out. You are familiar with this language,  
7 reading the first one:

8           "Children and young people experience a high level  
9 of respect from everyone involved in their care. This  
10 principle is at the heart of the service's culture and  
11 framework of practice. The service is proactive in  
12 safeguarding their privacy and confidentiality and  
13 demonstrates genuine regard for their dignity."

14           And reading on:

15           "Children and young people are fully engaged in  
16 their care and support, with participation embedded in  
17 the service's ethos and practice. They have a variety  
18 of ways of voicing their opinions. They know that their  
19 feedback is taken seriously and strongly influences the  
20 way they are cared for. They benefit from staff who  
21 advocate passionately and effectively on their behalf."

22           That language is quite convoluted. Who is it aimed  
23 at?

24           A. That is part of the illustrations in relation to Quality  
25 Framework. So it's aimed at the services to

1 self-evaluate themselves in relation to that, to see  
2 what practice that they implement that looks at these  
3 outcomes for children and young people.

4 Q. So this is really for the schools to understand as part  
5 of their self-evaluation, and which is part of the  
6 process of your inspection?

7 A. Yes.

8 Q. Your inspectors assess the self-evaluation, just as  
9 happens with inspection for the educational side?

10 A. There is not a formal requirement for them to have this  
11 self-evaluation. The document is being developed for  
12 that purpose, but we would encourage that and we would  
13 also look at the development plan as part of that  
14 inspection.

15 Q. So this is something that schools should have regard  
16 to --

17 A. Yes.

18 Q. -- in assisting them carrying out their function, which  
19 you will then come along and inspect and confirm that it  
20 is operating?

21 A. Yes, and these outcomes were part of the consultation  
22 with the sector when we were developing the Framework.

23 Q. Again, and it is a point I have touched on this morning,  
24 you are used to working in this environment and this  
25 sort of language. You made reference to plain English.

1           Would you consider this to be plain English?

2           A. I would consider this to be the language that the  
3           schools felt also that reflected how young people should  
4           experience their provision within the boarding school  
5           because --

6           LADY SMITH: Who wrote this?

7           A. We drafted it but we consulted with -- and it was  
8           interesting, because some of the consultation people  
9           thought that some of our aspirations were very good were  
10          not very good, and we should actually be stronger in  
11          that. So there was a development process. Also, once  
12          this has been implemented for a period of time, we will  
13          review it as part of an ongoing --

14          LADY SMITH: So, Catherine, do you think it is plain  
15          English?

16          A. It could be plainer English, my Lady.

17          LADY SMITH: It could, couldn't it?

18          A. Yes, it could.

19          MR BROWN: The quality indicators you are talking about --  
20          sorry, I said to the operator that we would just be  
21          looking at the report. I am sorry, there is one other  
22          document. CIS-000000373. This is the current edition of  
23          the Quality Framework for mainstream boarding schools  
24          and school hostels, with a picture of Fettes on the  
25          front, is that right?

1 A. Yes.

2 Q. Thank you. It sets out obviously the background, and at  
3 page 8 -- the background to your operational approach,  
4 and the quality indicator framework and the five key  
5 questions: "How well do we support children and young  
6 people's wellbeing?" "How good is our leadership?"  
7 "How good is our staff team?" "How good is our  
8 setting?" "How well is our care and support planned?"

9 That is perhaps more straightforward English. But  
10 looking down, and there is one I am particularly  
11 interested in, because obviously we can look at the  
12 details, and that is "How good is your staff team?" and  
13 3.1 "staff are recruited well". Recruitment of staff is  
14 something that the Inquiry may have an interest in.

15 If we turn to page 52, and obviously this, as you  
16 have said, is for the schools to look at and consider.

17 "Key areas include the extent to which the service  
18 implements safer recruitment principles and practice,  
19 recruitment and induction to reflect the needs of  
20 children and young people. The induction is tailored to  
21 the needs, roles and responsibilities of individual  
22 staff members."

23 Then the quality illustrations. A very good  
24 scenario is:

25 "Recruitment and selection is informed by national

1 guidance and best practice. There is strong emphasis on  
2 values-based recruitment, high quality recruitment  
3 information ..."

4 Et cetera, et cetera. The language again is quite  
5 convoluted.

6 LADY SMITH: What is "values-based" recruitment?

7 A. So most services, my Lady, will have a set of values,  
8 core values, that they work with. So it is to ensure  
9 that, when they recruit, they consider the values that  
10 they -- their service, that the people will be -- the  
11 successful candidates will comply with those values.

12 LADY SMITH: Can you give me an example of the sort of  
13 values that, if I was the recruiter, I would need to  
14 have in mind when recruiting?

15 A. That would be in relation, my Lady, to your individual  
16 service. So, for example, when the Care Inspectorate  
17 recruits, we have values such as fairness, openness  
18 and we would ask a candidate to demonstrate those values  
19 and how they demonstrate those in their day-to-day work.

20 LADY SMITH: But if I was a boarding school? Can you give  
21 me an example of what you would expect them to be  
22 relying on as a relevant value when recruiting?

23 A. For example, my Lady, it might be people-centred,  
24 person-centred.

25 LADY SMITH: All right. Mr Brown.



1 MR BROWN: Going down to the bottom you see a paragraph that  
2 begins:

3 "Children and young people and their families have  
4 opportunities and the necessary support to be actively  
5 involved in recruitment and selection. This is done in  
6 a meaningful and appropriate way that takes their views  
7 into account."

8 What meaningful input can children and their  
9 families have in job selection?

10 A. That is something that has probably been around since  
11 the Care Commission in 2008 when the Quality Assessment  
12 Framework was developed and that has been something that  
13 has been encouraged, and it is not necessarily about  
14 being involved in the interview panel, it may be being  
15 involved in a focus group, it may be a group of young  
16 people meet a prospective candidate and it is something  
17 we have found that has actually been quite successful.

18 Q. So from the inspector's point of view, what will he or  
19 she be looking for in this regard about staff  
20 recruitment when they inspect?

21 A. That would be to -- have they considered all of the  
22 opportunities to involve young people? Has there  
23 been -- if it is a post, has there been discussion with  
24 young people about how that post will meet their needs?  
25 What is it that young people would necessarily need and,

1 if there has been a focus group or there has been  
2 discussion with prospective candidates, has the young  
3 person -- the young people's voices and their opinions  
4 been taken into account?

5 Q. And more generally about recruitment?

6 A. More generally about recruitment, if they have complied  
7 with the national guidance in relation to safer and  
8 better recruitment.

9 Q. Would they check, for example, thinking of national  
10 guidance about safer recruitment, have references been  
11 sought, have they been taken up, have they spoken to  
12 referees and former employers?

13 A. Yes, they would start from: has there been  
14 an application form received. Because sometimes  
15 recruitment could be done without the application and,  
16 yes, definitely references and checks and PVG checks.

17 Q. With the greatest respect, is that not the essence of  
18 recruitment as opposed to the sort of general principles  
19 that are espoused there?

20 A. Yes, that is -- and there will be reference to the  
21 national guidance as one of the documents that has been  
22 referred to further down.

23 Q. Might it be better perhaps just to be rather more direct  
24 and talk about things that are fundamental to  
25 recruitment rather than broad principles?

1 A. These are the broad principles. These are the outcomes.  
2 But, yes, that is why we refer to the national guidance  
3 beneath --

4 Q. Indeed, but there may be a concern that just passing  
5 reference to national guidance doesn't really highlight  
6 what might be considered the really relevant part of  
7 recruitment and ensuring that you are getting people who  
8 are fit to work in the accommodation service?

9 A. This is meant to -- I understand what you are saying.  
10 Should we just say -- because there is a table that says  
11 have people been -- have people given references for the  
12 application, but there is also that assessment about  
13 them being the right fit for the post as well, as  
14 opposed to just having a set of qualifications and  
15 having references. It is also about the assessment of  
16 how that person will fit and meet that service.

17 Q. Thank you. Going back to your report, one of  
18 the questions you were asked, and I am very grateful  
19 I have to say, because the report considers an awful lot  
20 of questions and gives answers, so in that sense it has  
21 been very useful from our perspective so thank you to  
22 you and all those who prepared this.

23 How long does a usual inspection take? Is there  
24 a time restriction? And I think the answer broadly is  
25 it should take five days at a maximum, but presumably it

1 can extend as necessary?

2 A. Yes, that is the case, yes.

3 Q. Are you worried that there is insufficient time to carry  
4 out inspections?

5 A. No, because we wouldn't restrict that if there is a need  
6 to continue with an inspection.

7 Q. Okay. So to that extent there is no pressure of time?

8 A. No pressure, no.

9 Q. Thank you. I think obviously there is then -- we have  
10 heard about this already -- a period where a draft is  
11 produced and shared with the school?

12 A. Yes.

13 Q. And there is scope for them to come back within a time  
14 period to say if they take issue with factual matters.  
15 What about matters of emphasis, is that something that  
16 can be the subject of discussion or challenge?

17 A. Yes, we will discuss with providers any aspect that they  
18 would wish, but when we do the feedback session -- and  
19 that is the point where if people want to produce  
20 further evidence they have the opportunity to do so. We  
21 wouldn't be re-opening the inspection, it is part of,  
22 but we will respond to comments that are not factual  
23 accuracies that providers make within the --

24 Q. Do you ever have this now, that a lead inspector, having  
25 produced his draft, comes with a 4, for example, and the

1 school comes back and argues it should be a 5?

2 A. That is quite a frequent position for inspectors, but  
3 that is when we would respond to that error response and  
4 say: thank you for your comments. We have looked at the  
5 evidence and we are satisfied that the evaluation  
6 provided to the service was good.

7 Q. They can ask all they like but ultimately it's the  
8 inspector's conclusion?

9 A. If there is evidence to support that. So if -- when  
10 an inspector receives an error response they can look at  
11 that error response and, if they are happy to accept  
12 changes within that, they are able to do so. If,  
13 however, they feel they have the evidence to support the  
14 evaluations, then a manager would look over that  
15 evidence with them, and that is when we would respond in  
16 writing to the provider and say: we agree we will change  
17 this aspect, but this will maintain because this is the  
18 evidence that we saw during the inspection.

19 Q. Once that is finalised, the inspection report is made  
20 public?

21 A. Yes.

22 Q. And is available on the website for anyone who wants to  
23 read it?

24 A. Yes, it is.

25 Q. Obviously that will then continue the process, determine

1 the likely time period before the next inspection?

2 A. Yes, and anything that comes in between.

3 Q. Yes. Okay. Just as you have described.

4 A. Yes.

5 Q. You have described obviously over the course of the  
6 morning a complex system that has developed over time,  
7 and we are grateful for that. We have obviously touched  
8 on certain things that you have noted down and will be  
9 updated on but perhaps contemplate potential revision.

10 This is your world, not ours. What other factors,  
11 because I know you have been reflecting on it, how it  
12 works in the context of boarding schools, are there  
13 other things that you think could usefully change,  
14 remembering this is a collaborative approach, to try and  
15 make things better?

16 A. Yes, this has actually been quite a reflective process,  
17 preparing for the Inquiry, and we obviously expect the  
18 Inquiry will make recommendations which will also  
19 reflect how we potentially scrutinise services as we  
20 move forward. But there are some things that we have  
21 identified. So, for example, the electronic  
22 questionnaires, when we have looked at those and we have  
23 looked at some of the questions that we ask, we ask,  
24 for example, bullying: are you satisfied that bullying  
25 will be addressed by the school? But we don't -- there

1 is potential there to look at that questionnaire and  
2 update it and ask more questions in relation to their  
3 own experience along that matter. So we think it's  
4 about time for us to review that questionnaire.

5 We have also been looking -- I have a list in the  
6 office, it's hard to remember them all. We have also  
7 been looking at things like, for those complaints we  
8 receive, that we don't -- that we use as intelligence or  
9 that we don't progress: is there a way of sharing that  
10 information with services? And we are looking at that  
11 as an organisation just now. But you need to be careful  
12 about what detail you would share because it could be  
13 about themes. So we could share -- for example, someone  
14 has a concern and we haven't had the evidence, is  
15 a theme we could share with them and then we could  
16 quality assure that as part of the inspection process.  
17 So that kind of thing. So there is --

18 Q. If I can just pause there. If there is an issue with  
19 a service which you have a sense of from whatever  
20 source, is that not, as a matter of routine, something  
21 that is discussed between you and the service already?

22 A. It is not -- no, we don't necessarily share the  
23 information that doesn't go ahead for investigation or  
24 is sent back for -- there might be some things there  
25 that would be worth -- and we are looking at how we

1           could best do that.

2           Q. Again going back to that exchange where we looked at the  
3           document, where one of your inspectors had written to  
4           the school saying: here is the list of complaints, could  
5           you look at them and come back to us and then we will  
6           decide what to do. So, to that extent, there was  
7           clearly a great deal of sharing of detail of what the  
8           allegation, anonymous allegation, was. That obviously  
9           doesn't happen in every case?

10          A. No.

11          Q. Is there anything to preclude you, given the amount of  
12          detail we saw in that issue --

13          A. No, not -- we continue with that sort of issue where we  
14          have clear -- we are looking at where there might be  
15          a kind of theme coming through. So that is what we are  
16          looking at, how potentially we can share some more  
17          information.

18          Q. Again -- sorry, it is my fault, obviously -- but if you  
19          are getting a sense of a theme, that is presumably  
20          because of a number of complaints that specifically were  
21          suggesting something was going wrong in a particular  
22          area?

23          A. It is not necessarily that there is something going  
24          wrong. There could be something that is coming through,  
25          whether it be from a complaint or whether it be through



1           some intelligence, and we would want them to be able to  
2           look at a theme so that we can then inspect against that  
3           as opposed to specific allegations.

4           Q. All right. What sort of themes, if you can give  
5           an example, are you thinking of?

6           A. We are looking at what we have to see what we can be  
7           doing with it.

8           Q. Okay.

9           A. The national complaints team just now are reviewing the  
10          complaints approach and the policy and how we take  
11          forward complaints in the future, and this is part of  
12          what we are looking at.

13          Q. Is that in relation to the Inspectorate as a whole --

14          A. As a whole, and part of that will be boarding schools.

15          Q. When is it that work is likely to be finished?

16          A. I don't know when it will be finished. It has just  
17          started.

18          Q. Roughly?

19          A. I can't recall. I can let you know, because I do have  
20          the terms and conditions of the review, I can let you  
21          know that.

22          Q. Again, perhaps that is something you can give us  
23          an indication of, if there are conclusions that can be  
24          shared.

25          A. Yes.

1 Q. What other areas?

2 A. Can I look at my notes?

3 LADY SMITH: Please do, if it helps you.

4 MR BROWN: It is not a memory test.

5 A. One of the things, now that I have my paper up I am  
6 recalling, is when we look at the Quality Framework, and  
7 obviously we will be reviewing the Quality Framework in  
8 due course, but also in relation to -- it makes  
9 reference to young people having access to an individual  
10 outside the school, and I think there is a piece of work  
11 to be done there, potentially, with SCIS, in relation  
12 to what that means particularly for boarding schools and  
13 how can children have that access to that individual.

14 MR BROWN: Are we talking guardians?

15 A. No, something -- because when you look at -- I think it  
16 is 2.2, in relation to that it says children should have  
17 access to an individual, and I think there is a bit of  
18 work there that we could be doing with SCIS in relation  
19 to --

20 LADY SMITH: Sorry, can you give me the reference again?

21 A. It's in our report as well, the last bit of our report  
22 that you had looked at in relation to child protection.

23 LADY SMITH: Yes. Paragraph 9?

24 A. Paragraph ... (Pause).

25 LADY SMITH: Is it:

1           "Children always having access to responsible adults  
2           outside --"

3           A. Yes. We think there is a piece of work that needs to be  
4           done.

5           LADY SMITH: "... who consistently act in their best  
6           interests and provide additional support and  
7           safeguards."

8           A. Yes.

9           LADY SMITH: So there is more work to do there.

10          A. We think there is more work to be done there, and we  
11          would like to do something in collaboration with SCIS in  
12          relation to this.

13          LADY SMITH: Help me with this, Catherine. We have talked  
14          about occasions when, possibly because the complaint is  
15          anonymous, you don't take it any further, and I was just  
16          thinking about an anonymous complaint that contained an  
17          allegation of misconduct of some sort about somebody  
18          having miscondacted themselves, but your inspectors,  
19          your sifting team, decide we can't take this any  
20          further.

21                 It may go to the school, if it looks as though it is  
22                 something that the school could respond to, but I think  
23                 from what you have said broadly a lot will depend on how  
24                 much you know or are being told about the complaint. Do  
25                 you, in those circumstances, pass on the information or

1           any of it to the police?

2           A. Yes, we have what we call a Child Protection 1 referral.  
3           If there is any concern in relation to child protection,  
4           that is passed on to the relevant body. So, yes, we  
5           would. Likewise, if it was staff misconduct, we would  
6           pass that on to the relevant body.

7           LADY SMITH: Can I take it that you appreciate, with your  
8           skills in your organisation, you yourselves cannot  
9           assess whether that person is still a risk to children  
10          and you ask the police to do that?

11          A. Yes, that is the case.

12          LADY SMITH: Thank you.

13                        Mr Brown.

14          MR BROWN: Are there more items on your list?

15          A. Not on this list. Not in this folder.

16          MR BROWN: Thank you very much indeed. Obviously you have  
17          been making notes and, as you said, you will update if  
18          other issues occur, and the Inquiry I am sure will be  
19          very grateful to hear about them, as well as the updates  
20          and your reflections on what we discussed to day.

21          A. Okay.

22          MR BROWN: Thank you. Unless there is anything else,  
23          your Ladyship? Again there were some questions from  
24          GTCS which I hope have been reflected in the questions  
25          I have asked.

1 LADY SMITH: Thank you very much.

2 Unless I am told by somebody to the contrary --  
3 Catherine, you may think I am speaking to the air, I am  
4 speaking to people who are connected remotely to this  
5 hearing. Unless I am told there is anything that  
6 anybody else wants to raise with me, to ask a question  
7 to Catherine, I will assume there are none. (Pause).  
8 Silence.

9 Catherine, it just remains for me to thank you very  
10 much for all the work that you and your team have put in  
11 here. I am very conscious of the fact we have pressed  
12 you on some things, but I think we all have a common  
13 goal, which is to do all we can to do our best for the  
14 children that are at the heart of this Inquiry and that  
15 are at the heart of the work you do, and you have taken  
16 it in that spirit.

17 A. Thank you, my Lady. We are very happy to support the  
18 work of the Inquiry going forward.

19 LADY SMITH: Thank you very much. I am now able to let you  
20 go.

21 A. Thank you.

22 (The witness withdrew)

23 LADY SMITH: Mr Brown.

24 MR BROWN: My Lady, if we can rise now and recommence at  
25 2 o'clock when we will continue the evidence as it

1 relates to the SSSC.

2 LADY SMITH: Thank you very much, we will do that.

3 (12.34 pm)

4 (The short adjournment)

5 (2.00 pm)

6 LADY SMITH: Good afternoon. Now we turn to the SSSC  
7 witnesses, is that right?

8 MR BROWN: We do, my Lady. There are two witnesses,  
9 Lorraine Gray, who is the Chief Executive of SSSC, and  
10 Maree Allison, who is the Fitness to Practise Manager.  
11 Because of COVID restrictions, Maree Allison is going to  
12 be in person, but Lorraine Gray is going to be appearing  
13 on the screen behind via WebEx. The connection has been  
14 tested and works. So hopefully we will seamlessly be  
15 able to take evidence from both.

16 LADY SMITH: Who do you want to introduce first?

17 MR BROWN: I would invite you to call both and perhaps, if  
18 they can both sit in panel form and then I will  
19 question -- I think the hope would be to have both  
20 present.

21 LADY SMITH: Very well.

22 MR BROWN: Then it will be one and then another, but just in  
23 case there are elements that would be better answered by  
24 one rather than the other.

25 LADY SMITH: Since I see Lorraine on screen. I am sorry, is

1           it all right if I call you Lorraine?

2           THE WITNESS: Yes, of course.

3           LADY SMITH: I am Lady Smith, as you may have guessed. I am  
4           chairing the Child Abuse Inquiry here in Edinburgh.  
5           Before we begin your evidence, I would like you to  
6           swear. I think you would like to affirm, is that  
7           correct?

8           THE WITNESS: That is correct.

9                               MS LORRAINE GRAY (affirmed)

10                              (Via video link)

11          LADY SMITH: Thank you. Lorraine, before we bring in Maree  
12          to join you, can I just assure you I am getting a very  
13          good picture at the moment, good sound. I hope it is  
14          the same for you. If you are concerned in any way about  
15          the link, please speak up sooner rather than later. Or  
16          indeed, if you have any other questions about anything,  
17          don't hesitate to ask. Because what really matters to  
18          me is that you are as comfortable as you can be so that  
19          you can give the best evidence I can get from you.

20                 Now I will invite Maree to be brought in. (Pause).

21                 Thank you. Good afternoon. Could we begin please  
22          by you taking an oath.

23                              MS MAREE ALLISON (sworn)

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

25                 I am rather assuming that you are comfortable with me

1           calling you Maree, but I could use "Ms Allison" if you  
2           prefer?

3           MS ALLISON: Maree is fine.

4           LADY SMITH: Maree, you may realise we do have Lorraine on  
5           screen. She is just behind you. As you will  
6           appreciate, we couldn't, because of COVID restrictions,  
7           have you both in the space we have available at the same  
8           time. But before I hand over to Mr Brown, you have your  
9           red file with the report in front of you that you have  
10          prepared for us, which is really helpful. Mr Brown will  
11          refer you to that. You may not need the hard copy  
12          because we will bring up on screen particular elements  
13          of documents that we may want to look at. Otherwise,  
14          please do say if you have any questions. It matters  
15          that you are as comfortable as you can be giving your  
16          evidence. All right?

17                   Mr Brown, over to you.

18                                   Questions from MR BROWN

19          MR BROWN: My Lady, thank you. Good afternoon, Lorraine.

20                   Good afternoon, Maree. Obviously you are both here and  
21                   effectively it's a panel scenario. That said, I know  
22                   that you both are really here to speak to particular  
23                   parts of the report that the SSSC has produced, for  
24                   which the Inquiry is very grateful.

25                                   Lorraine, you will be, as Chief Executive, speaking



1 to the establishment and the remit of SSSC; how  
2 statutory functions are carried out, how registration of  
3 staff in boarding schools is undertaken, qualifications,  
4 framework and relationships with other stakeholders.  
5 Maree, as Director of Regulation, you will be talking  
6 about the responsibility for the operation of  
7 registration and fitness to practise, including the  
8 framework that is used, referrals, decision-makings and,  
9 importantly from our perspective, information-sharing  
10 with other organisations.

11 All of that said, having just split you up, if there  
12 are areas that I am asking one of you about that you  
13 think the other is perhaps better qualified, please feel  
14 free to say that and we can do that.

15 You obviously both have copies of the report and  
16 I can assure you that that is the document that I will  
17 be referring to.

18 If I can start with Lorraine then. Just by way of  
19 background, you are obviously now the Chief Executive of  
20 SSSC and I would understand that you have held that post  
21 for the last three years later this year, but that you  
22 have in fact worked for the SSSC since its inception, is  
23 that correct?

24 MS GRAY: Yes, that is correct.

25 Q. But am I right in saying that you began

1 as a communications manager, which reflects your  
2 previous career outwith the public sector when you were  
3 communications manager with an organisation called  
4 Children 1st. How long did you work for Children 1st?

5 MS GRAY: I worked for Children 1st for about six years.

6 Q. But you have been with the SSSC since it started?

7 MS GRAY: Yes.

8 Q. And you have progressed through various managerial  
9 positions until now you hold the chief executive?

10 MS GRAY: That is correct.

11 Q. If we could begin with your report, which is document  
12 SSC-000000004. I think at page 3 you briefly set out the  
13 history and establishment of the SSSC, explaining that  
14 it was created under the Regulation of Care  
15 (Scotland) Act 2001 by the then Scottish Executive,  
16 which was following publication of a paper called "The  
17 Way Forward for Care Policy" and, as you have explained:

18 "The SSSC was established to protect people who use  
19 services, raise standards of practice and strengthen  
20 and support the professionalism of the workforce."

21 And that is looking at social service workers in  
22 Scotland. The register first opened in April 2003 but,  
23 given the numbers of people who you cover, it was  
24 a staged approach to registration beginning with  
25 social workers as the first group, presumably because

1 a decision had been taken to prioritise them and then  
2 work through the rest as time permitted?

3 MS GRAY: That is correct.

4 Q. Thank you. From our perspective obviously residential  
5 school care accommodation services are part of the  
6 register that is of particular interest to this Inquiry  
7 and we would understand that registration of those  
8 workers began in 2009.

9 MS GRAY: Yes.

10 Q. As you very candidly set out, whilst there are over  
11 167,000 workers on the SSSC register, the part that we  
12 are, I suppose, interested in, which is residential  
13 school care accommodation workers, is only 391, or was  
14 at the time of the writing of this report, which is  
15 under half a per cent of the whole. You also make the  
16 point that:

17 "The scope of the SSSC's role in protecting and  
18 safeguarding children in Scotland widened in 2017 due to  
19 its statutory appointment as a corporate parent under  
20 the Children and Young People (Scotland) Act 2014."

21 What is meant by "corporate parent", please?

22 MS GRAY: So this was in response to looked after children,  
23 children who have been in care or looked after by the  
24 State. So all public bodies were given this  
25 responsibility because they are -- in effect, these are

1           our children, and I am sure that is how the  
2           First Minister described it. So we have a number of  
3           duties that we think about, how, for example, we could  
4           offer them placements. So if you think about a parent  
5           of a teenager, they will often at school have an  
6           opportunity to go and do a work placement and that is  
7           often through contacts with parents, we would carry out  
8           that role. It is also to consider their needs in all of  
9           the policy and practice that we develop, and it is also  
10          to consult with them around particular areas of our  
11          work. So it is to carry out that role as a parent for  
12          these children and young people who are looked after by  
13          the State. I hope that is clear.

14        Q. It is. So from the point of view of boarding school  
15          accommodation workers really that has no bearing?

16        A. No, no.

17        Q. No. Thank you for clarifying that. Again, we will come  
18          back to this with Maree, but obviously fitness to  
19          practise is part of your remit for the workers on the  
20          register. I think, as you say, fitness to practise  
21          happens if they:

22                 "... meet the standards of character, conduct and  
23                 competence necessary for them to do their job safely and  
24                 effectively."

25                 Is that it in a nutshell, Lorraine?

1 MS GRAY: Yes, sorry. Yes, it is that character and  
2 competence that they are able to do that, and I can  
3 explain how we do that?

4 Q. Yes, if you can. Or is that something that Maree can  
5 explain more fully?

6 MS GRAY: Yes, probably Maree is better to do it. Thank  
7 you.

8 Q. All right. We will come back to that. You then set out  
9 in your report the key provisions of the 2001 Act, which  
10 obviously we can read clearly. Looking at page 5 of the  
11 report, you make the point that:

12 "Section 58 outlines the functions of the  
13 Scottish Ministers which are currently delegated to the  
14 SSSC."

15 And that includes:

16 "... ascertaining what numbers of social work and  
17 social service workers are required within Scotland,  
18 ascertaining what education or training is required by  
19 persons who are or wish to become social service workers  
20 and ascertaining what financial and other assistance is  
21 required for promoting such training and encouraging the  
22 provision of such assistance."

23 So education and training is a key, should we  
24 understand, for the employment -- or for registration on  
25 the SSSC register?

1 MS GRAY: Yes, that is correct. Our register is  
2 a qualification-based register and that was one of the  
3 decisions that was made just before we were set up. So  
4 it means that anybody who registers with the SSSC they  
5 must have or be working towards a relevant  
6 qualification. A big part of our role when we were  
7 first setting up the different registers was  
8 establishing what was the relevant qualification for  
9 each group, and we spent quite a bit of time. Before we  
10 would open the register part for different groups, as  
11 you mentioned, it was phased in, we would consult with  
12 the sector, we would consult with people within  
13 education, we would consult with other people that had  
14 knowledge about what is the right qualification.

15 Then once we have consulted with the sector, then we  
16 would set the qualification. They broadly are Scottish  
17 vocational qualifications for this group, which means  
18 that it is assessed practice; it is not about sitting  
19 exams, it is about your practice being assessed as  
20 appropriate against various standards. The SVQs are  
21 based on national occupational standards which  
22 ourselves, along with the sector, develop.

23 Again, maybe going into too much detail, but we also  
24 separate the different levels of the workforce and that  
25 will have an impact on what qualification, and if they

1 will have management responsibility, we require them to  
2 have a management qualification. So this is a really  
3 significant part of our work; is getting that qualified  
4 workforce with the right qualifications.

5 Q. Okay, thank you. Thinking of the boarding school  
6 sector, obviously it was a sequential introduction, as  
7 we have discussed, starting with social workers. With  
8 each group, thinking not just of boarding school  
9 accommodation and service workers, presumably all bodies  
10 who were newly required to register, there would be  
11 consultation and discussion, as you have just talked  
12 about, about what was relevant in terms of  
13 qualifications, but also of more practical things, like  
14 the cost of registration. These were the sort of things  
15 you would be discussing with each group. Is it fair to  
16 say, just having looked at pages 8, 9 and 10 of your  
17 report -- sorry, we don't need to go into it, this is  
18 just a general observation that, along with many other  
19 groups there was what might be politely described as  
20 "reticence" in engaging with SSSC, because for many  
21 people it was new and also there were presumably issues  
22 of whether qualifications were needed, whether it was  
23 too much money to pay for registration, et cetera. Is  
24 that fair as a generality?

25 MS GRAY: Yes. So every group that we registered we would

1 have those consultations and there was always -- it was  
2 a mixture of people really supportive, some concerned  
3 and some people actively not supportive. I think  
4 boarding schools were slightly different in initially  
5 they couldn't really understand why the SSSC would have  
6 any role or remit, and very helpfully Maree spoke to the  
7 Registrar who was around at the time who did a lot of  
8 this work, and what she described is they saw themselves  
9 as providing care -- or as being caring educational  
10 establishments, but did not see themselves as providing  
11 care and requiring to be accountable for that. So  
12 I think there was -- boarding schools was probably the  
13 only one that really didn't understand why they were  
14 part of this sector.

15 I think that has changed and I think we have moved  
16 on. Then, as you will see from our paper and  
17 the different consultations, we did get a response, we  
18 did set up special events to discuss with them and where  
19 we are now is it's an accepted requirement that their  
20 staff register with us.

21 Q. All right. So again words we have used already, there  
22 was a period of "bedding down"?

23 MS GRAY: Yes.

24 Q. Because it was new. I think, as you say --

25 MS GRAY: Yes.



1 Q. -- we have heard in terms of school accommodation there  
2 is what is described as "mainstream" school  
3 accommodation, which is boarding, and also the hostel  
4 accommodation for island schools. I think there you  
5 were getting 100% responses from the hostels but the  
6 boarding schools were less responsive, certainly  
7 initially?

8 MS GRAY: That is correct.

9 Q. Did you get assistance from any other bodies in engaging  
10 with the boarding schools?

11 MS GRAY: It was a relatively small number, so what we did  
12 was we just engaged directly with the boarding schools.  
13 What was interesting is Gordonstoun stands out as  
14 actually being quite advanced in their thinking. But  
15 what is interesting is one of our council members was  
16 a member of their board and he was actually a professor  
17 of social work, so I think it was about  
18 the understanding of the importance of the welfare and  
19 wellbeing of the children. So we would engage directly  
20 but where it did work well is often where we already had  
21 existing contacts.

22 Q. Yes. Thank you. And, as you have already said, that  
23 period is well past and is the position now in 2021 that  
24 it is just accepted as part and parcel of the school  
25 accommodation service requirements?

1 MS GRAY: Yes, that is correct.

2 Q. In terms of the designations, and this is relevant to  
3 qualifications, am I right in saying that the register,  
4 so far as you are concerned, for boarding schools has  
5 three levels of registration: as a manager, as  
6 a supervisor and a worker, and that will determine what  
7 level of qualification is required for the position?

8 MS GRAY: Yes, that is correct.

9 Q. Thank you. Just going back then to registration, and we  
10 heard about this oddly enough this morning when hearing  
11 a witness from the Care Inspectorate, if you go to  
12 page 6 of your report, and paragraph 3.2 --

13 MS GRAY: Yes.

14 Q. Sorry, I should also say that you have also made the  
15 point:

16 "A person who is registered with or is a member of  
17 one of a number of other specified regulatory bodies is  
18 excluded from registration with SSSC."

19 That is correct?

20 MS GRAY: That is correct, yes.

21 Q. So again, in terms of teaching, if you are registered  
22 with GTCS, General Teaching Council for Scotland, you  
23 can't register as well with SSSC? It is one or the  
24 other?

25 MS GRAY: Yes, and that was to avoid that duplication of

1 registration, and quite a lot of discussion happened  
2 with this group and other groups. So lots of nurses  
3 working in care homes. But it was so we didn't have  
4 over-regulation.

5 Q. Thank you. But returning to the registration when it is  
6 with SSSC, we read:

7 "The Registration of Social Workers and Social  
8 Service Workers in Care Services (Scotland) Regulations  
9 2013 provide that once the date for mandatory  
10 registration is passed, social service workers may only  
11 work in a care service if they are registered with  
12 SSSC."

13 It goes on:

14 "There is a grace period of six months from starting  
15 in a role to achieve registration."

16 First of all, why the grace period?

17 MS GRAY: With the majority of this workforce it is  
18 a function-based register, so they can't get registered  
19 until they are in the job. The only group that doesn't  
20 apply to is social workers. So what happens is they get  
21 into post and then they have that period in which to get  
22 registered. Now, we encourage that registration happens  
23 very quickly but I would like to say that this --  
24 although there may be a small amount of risk there,  
25 there is a duty on the employers to make sure they

1 employ safe and competent people. And we developed safe  
2 recruitment practices, along with the Care Inspectorate,  
3 and it is also in our codes of practice for employers,  
4 which sets out what you must do in your recruitment and  
5 that is about PVG checks, it's about references, it is  
6 about ensuring the person is who they say they are.

7 So there is a process for ensuring the right people  
8 are employed, and then they have that six-month period.

9 We are beginning to look at whether we should reduce  
10 this, because, as you have set out, only last year did  
11 we complete registering 160,000 workers. So now we are  
12 turning around applications in about four weeks, and  
13 part of the six months was just the volume of people  
14 coming on to the register. So we may reduce that  
15 six-month period, but that is how it works just now.

16 Q. Thank you. You have mentioned your code of practice.  
17 Obviously that is a code, there is no sanction for  
18 non-compliance, is there?

19 MS GRAY: Yes, so the code of practice for social service  
20 workers is what we use in our fitness to practise cases,  
21 and Maree will be able to speak to that. So the code of  
22 practice for employers of social service workers is the  
23 Care Inspectorate will ensure compliance with that. So  
24 when we developed our codes of practice, we are the only  
25 regulator that has put them together, because we

1 realised that, for the worker to comply with their  
2 codes of practice, it requires a commitment from the  
3 employer. Maree could probably talk in a bit more  
4 detail about how that is in practice. But, yes,  
5 the codes of practice are what we use in our fitness to  
6 practise cases.

7 Q. You mentioned the PVG scheme?

8 MS GRAY: Yes.

9 Q. What role does SSSC play in confirming that there is  
10 compliance with the requirement to register with the  
11 scheme? Or does it just fall on the employer?

12 MS GRAY: I may ask Maree to speak to the detail of that.  
13 But everybody who is registered with the SSSC must be in  
14 the PVG scheme. But Maree could probably say a bit more  
15 about that.

16 Q. All right. We will ask Maree about that. Thank you.  
17 In terms of qualifications then, which is the next  
18 heading, we see that section 46 of the 2001 Act gives  
19 the SSSC:

20 "... the power to grant applications for  
21 registration unconditionally or subject to such  
22 conditions as it thinks fit. Workers applying to the  
23 register who don't hold the right qualification may, if  
24 they meet all of the other eligibility criteria for  
25 registration, be granted registration subject to the

1 condition that they achieve the required qualifications  
2 within the specified period, normally their initial  
3 period of registration."

4 In terms of the period that people have to gain  
5 their qualification, what length of period are we  
6 talking of?

7 MS GRAY: So it is five years.

8 Q. All right. That seems quite a long time in which to get  
9 the required qualification.

10 MS GRAY: Yes, it is. And, again, it is to go back to us  
11 being set up. So when we were established, it was  
12 assessed about 20% of this workforce had relevant  
13 qualifications and you need to remember this was  
14 an existing workforce, it wasn't a new workforce. So it  
15 was about how did we get all of these people on the  
16 register, get them all qualified. And the other thing  
17 is quite a lot of people who we were registering had  
18 been working in their posts for 10 or 20 years, so they  
19 were already carrying out the role. So it was about  
20 looking about how did we first get people registered,  
21 because obviously registration alone does give some  
22 protection to people who use services because of PVG  
23 checks, because of employer's reference, that type of  
24 thing. But then we required them to get the  
25 qualification.

1           Again because of volume, so if you look at people  
2 working in adult social care, there are 30,000 workers  
3 in that sector, the majority of them didn't have  
4 qualifications. So it is about giving people time to do  
5 that.

6           We are beginning to look at it again, now that we  
7 have got everybody on the register, do we begin to  
8 reduce that? And it is something we keep a really close  
9 eye on, about people getting their qualification. If  
10 they don't get it within the five-year period they can  
11 be removed from the register. Obviously if there are  
12 particular circumstances, we will look at it.

13           So that is why it is such a long period; it is the  
14 number of people that have had to get qualifications.  
15 All of these qualifications need to be paid for.  
16 Employers need to think about: how do I backfill posts  
17 while my staff are taking time to do their  
18 qualifications. So one of the things we did with the  
19 Care Inspectorate at the beginning of some of the big  
20 groups we were registering was work with employers, so  
21 they set out the plan for getting their staff qualified.  
22 So we were clear that they were thinking about it. This  
23 is how we will do it. This is how many people we will  
24 take through the qualification. To do an SVQ takes  
25 about 18 months while working. So it is for all of

1           those reasons that it is a five-year period, but we are  
2           looking at should we reduce that.

3           Q. Two questions arising from that. One general question  
4           about the register. Is the register updated if there is  
5           a change of employer?

6           MS GRAY: Yes. So there is a requirement on registrant to  
7           notify us of any changes in circumstances; employer,  
8           address, so we can keep in touch with them, anything  
9           that can call into question their registration. And it  
10          is all now online, so it is really quite straightforward  
11          for them to do it. But when people move to new  
12          employers there is a duty on the employer as well to  
13          check their references, that type of thing. And it is  
14          about, if they are working in the same profession, it is  
15          about how we move them on the register as well. So  
16          again that is quite a technical area that Maree probably  
17          can speak to better about.

18          Q. So there is a duty on the employer?

19          MS GRAY: Yes.

20                               (Interruption due to technical problem)

21          LADY SMITH: I am told the stenographers are content the  
22          system is working properly again. Let's carry on, if we  
23          can retrieve Lorraine.

24          MS GRAY: Yes, I am here. Can you hear me okay?

25          LADY SMITH: That is great. The sight of you on screen is



1           only activated when you speak. We can see you now and  
2           hear you. Thank you.

3           Mr Brown.

4   MR BROWN: My Lady, thank you.

5           Lorraine, I think I was asking you, obviously there  
6           are obligations on an employer to advise of any change  
7           of circumstances, as you were telling us. Sorry, it's  
8           my fault, but just to be clear, is there an obligation  
9           on the employee who moves on if they remain on the  
10          register?

11   MS GRAY: Sorry, I obviously wasn't clear. The obligation  
12          is on the registrant, the employee, it's their  
13          registration.

14   Q. That is if they remain on the register, presumably. If  
15          they leave such a job, is there any obligation on them  
16          to do anything?

17   MS GRAY: I think Maree would be better to speak. My  
18          understanding is they would have to apply for  
19          re-registration, but I may be -- I am not 100% sure that  
20          is the answer, so Maree would be better to talk about  
21          the technical aspect of registration.

22   Q. I will do. Thank you. The concern I suppose might be  
23          if you have five years to do your qualification, you  
24          wait until four and a half and then leave, and then the  
25          question would be: can you then restart and have another

1 four and a half/five years?

2 MS GRAY: No, so I can answer that. It is from the date you  
3 register. So although you move to another employer, it  
4 is not a new registration.

5 Q. That is what I was concerned about. If you leave a job  
6 that requires registration and you fall off the  
7 register, would you then start from day one again and  
8 have another five years?

9 MS GRAY: No, that is not what would happen.

10 Q. I can see Maree shaking her head too, so we will clarify  
11 that with her. Thank you very much indeed.

12 I think the final thing from you, Lorraine, is on  
13 page 14, and this is continuing the theme about  
14 qualification. The report says:

15 "Since 2015, the number of applications requiring  
16 qualification conditions has decreased and that the  
17 workforce is increasingly skilled. The data also  
18 indicates a greater number of residential school care  
19 accommodation workers applying for registration. This  
20 is consistent with residential school care accommodation  
21 workers making up a large proportion of the residential  
22 school care accommodation workforce."

23 That would seem logical, that those who work in that  
24 area do the job. I wasn't entirely clear about what  
25 that was meant to mean.

1 MS GRAY: Yes, that is the case, and it is similar for other  
2 parts of the register, is the worker is the biggest  
3 group. There will be less managers than there will be  
4 workers, so that is the explanation.

5 Q. I am obliged. There aren't that many chiefs.  
6 Thank you. Thank you very much, Lorraine. Obviously  
7 you have deferred to Maree for a number of areas and if  
8 I may now come to Maree.

9 Maree, again to go through the same process,  
10 am I right in saying that you are a solicitor?

11 MS ALLISON: Yes.

12 Q. You worked in private practice originally but then  
13 became employed by the SSSC in 2010?

14 MS ALLISON: Yes, that is right.

15 Q. You are now obviously the Director of Regulation. Is  
16 that the position you had in 2010 or has there been  
17 progression within SSSC?

18 MS ALLISON: No, I took up this position in 2015.

19 Q. And before between 2010 and 2015?

20 MS ALLISON: Yes, a number of roles progressing.

21 Q. Were they all in relation to regulatory work?

22 MS ALLISON: Yes.

23 Q. A number of aspects have been touched on in terms of  
24 registration. If we could start with PVG and placement  
25 on the scheme. From your perspective, can you set out

1           how PVG scheme features in registration of the SSSC?

2           MS ALLISON: Yes. So as Lorraine stated, an individual has  
3           to be in employment as a social -- in order to be  
4           classified as a social service worker under the  
5           legislation and it is only at that point they can apply  
6           for registration with us. However, the employer is  
7           expected to ensure that the individual is a PVG scheme  
8           member at the point that they employ them, so when it  
9           comes to them applying for registration with us, the  
10          expectation is they are already a member at that point.

11          When they apply for registration with us, they are  
12          required in the application form to provide us with  
13          their PVG scheme membership number. The application for  
14          registration form, which in the vast majority of cases  
15          is an online process, also has to be endorsed by the  
16          employer. Each care service has a certain number of  
17          what we call endorsers who are entitled under our system  
18          to check the application and endorse that what the  
19          individual has stated on the application is correct, and  
20          part of that endorsement includes endorsing that the PVG  
21          scheme membership number is correct, and also that  
22          the individual has provided us with the correct  
23          information from the scheme record which the employer  
24          will have actually seen in person.

25          So the employer has that responsibility to check

1 information that is on the record, which may be  
2 conviction information, has been correctly replicated on  
3 our application form by the individual when they apply  
4 for registration with us.

5 Q. So you are relying on the employer to endorse?

6 MS ALLISON: Yes.

7 Q. Is there any separate auditing or checking by SSSC  
8 itself?

9 MS ALLISON: No, there isn't a process of matching with  
10 Disclosure Scotland at present, although I know  
11 Disclosure Scotland are moving hopefully towards a more  
12 digital online system, and I think the hope is that  
13 there will be able to be an easier process around that,  
14 but that isn't the position at the moment. The  
15 assurance that we rely upon is from the  
16 Care Inspectorate. Their processes that they have in  
17 inspections includes checking the arrangements around  
18 recruitment and ensuring that people are PVG scheme  
19 members as part of that process.

20 Q. All right. So as things stand, there's reliance both on  
21 the employer but also, separately, the Care Inspectorate  
22 as part of their inspection procedure?

23 MS ALLISON: Yes.

24 Q. Looking at page 15 of your report, obviously you set  
25 out -- this is paragraph 4 on fitness to practise, and

1 we are coming back to:

2 "The SSSC can grant registration if satisfied as to  
3 a worker's good character, conduct and competence."

4 But obviously there is the six-month grace period.  
5 Has that ever been a source of concern from the  
6 regulatory side?

7 MS ALLISON: Yes, I think there were two aspects to this.  
8 One is that I do recall when a very large part of the  
9 register was coming online, being staff that work in  
10 care homes, so there are I think approximately 30,000 of  
11 them. So at the point they had to register with us, we  
12 were dealing with a very, very high number of  
13 applications, and the ability to progress all of those  
14 applications to conclusion within the six-month period  
15 was a challenge for us, particularly if the application  
16 contains perhaps criminal conviction information,  
17 something that requires us to carry out  
18 an investigation.

19 At that point we had a lot of queries and concerns  
20 coming from employers who were worried that they would  
21 have to either dismiss staff or not allow them to be  
22 working directly with service users once the six months  
23 had passed, and the impact that that would then have on  
24 their ability to deliver services.

25 So at that point we worked with the

1 Care Inspectorate and developed guidance for services to  
2 help them deal with situations where there were  
3 individuals who were working past the six-month period,  
4 and the request on employers is that they work with  
5 their individual inspector, to look at whatever the  
6 particular situation is that is causing the delay in  
7 registration, and carry out a risk assessment process to  
8 ascertain whether it is still safe for an individual to  
9 carry on working with the service user group, carry out  
10 their role, until we have concluded our process.

11 Part of the rationale for that is that the vast  
12 majority of the referrals we receive and investigate as  
13 a fitness to practise matter end up without us taking  
14 any action. So at that point the concern was really  
15 about the six-month rule causing an issue with services  
16 being able to deliver and support their service users  
17 effectively.

18 We do also see people who have applied for  
19 registration later than they should do in accordance  
20 with the legislation. What is missing from this is that  
21 the 2013 regulations do say that people should be  
22 applying as soon as reasonably practicable after they  
23 have started employment.

24 LADY SMITH: Maree, could I ask you just to slow down  
25 a little, please. I do appreciate this is information

1           that is very well known to you, but some of the people  
2           listening will be listening to new information, and  
3           there is so much in it I am sure they would probably  
4           appreciate it being a little slower to take it on board,  
5           and for the stenographers.

6           MS ALLISON: So we have seen situations where individuals  
7           have applied for registration later than they should  
8           have. When that happens that may be considered as  
9           a fitness to practise matter, where we look at  
10          that individual's fitness to practise purely on the  
11          basis they have applied late. And we also do on  
12          occasion refer the employer, the service, to the  
13          Care Inspectorate when we are concerned about the delay  
14          in applying to us. And in fact you can see towards the  
15          end of our submission where we have given a summary of  
16          some of the fitness to practise investigations relating  
17          to boarding schools, one was about that very point,  
18          somebody applying late.

19          MR BROWN: Thank you. We will come back to that.

20                    In terms of the fitness to practise approach, that  
21                    began in 2016?

22          MS ALLISON: Yes.

23          Q. And the focus as your report says is on whether the  
24          worker's fitness to practise is currently impaired. And  
25          under the rules as they now stand, a social worker is



1 fit to practise if they meet the standards of character,  
2 conduct and competence necessary -- that phrase again --  
3 for them to do their job safely and effectively with  
4 regard to SSSC Codes of Practice.

5 "A worker's fitness to practise may be impaired by  
6 one or more of the following: misconduct, deficient  
7 professional practice, a health issue, a decision about  
8 them by another specified regulatory body or a criminal  
9 conviction."

10 First of all, what does misconduct mean?

11 MS ALLISON: Misconduct is if the behaviour has fallen below  
12 the conduct you would expect of somebody carrying out  
13 that particular role. And I know there is a large array  
14 of jurisprudence around regulatory bodies and fitness to  
15 practise processes and the definition of misconduct  
16 within that jurisprudence, but it has quite a normal  
17 meaning, for us, about it falling below the standard you  
18 would expect of somebody's conduct who is registered to  
19 be working with vulnerable people.

20 Q. That decision would be for a fitness to practise panel?

21 MS ALLISON: Yes, although we do -- the SSSC has powers for  
22 staff within the Fitness to Practise Department, to make  
23 decisions on that if the individual worker consents to  
24 that decision.

25 Q. I see. Deficient professional practice could mean many

1 things. Should we understand that that is not -- I'm  
2 thinking of abusive behaviour, would that fall under  
3 misconduct?

4 MS ALLISON: Yes.

5 Q. Or potentially criminal matters?

6 MS ALLISON: Yes, that is correct. Deficient professional  
7 practice is much more about an individual's competence  
8 to do the job.

9 Q. Reference to a decision by other specified regulatory  
10 body. Which regulatory bodies are you thinking of?

11 MS GRAY: As has been touched on previously during  
12 Lorraine's evidence, we do have people who are working  
13 in our sector who are registered with other regulatory  
14 bodies and sometimes people do move between them. So  
15 an individual who is registered with the Nursing and  
16 Midwifery Council working perhaps as a nurse in a care  
17 home, may come off the Nursing and Midwifery Council  
18 register and come on to our register.

19 So it is really looking at other regulatory bodies,  
20 professional regulatory bodies, in the health and social  
21 care and indeed teaching sphere where there may be that  
22 movement.

23 Q. So to learn about a decision about them by another  
24 regulatory body, which perhaps in the boarding school  
25 context would more obviously be, for example, the GTCS

1 teaching body, is there communication between you and  
2 them?

3 MS ALLISON: Yes, we have a memorandum of understanding with  
4 the General Teaching Council for Scotland. But the  
5 important way that we check if an individual coming on  
6 to our register has had a decision against them by  
7 another regulatory body is that we -- first of all, the  
8 individual has a requirement in the application form to  
9 make a declaration to that effect, and we would then  
10 check the particular professional body's register to see  
11 if there were any adverse findings. But also if they  
12 declare a qualification which relates to another  
13 regulatory body, then we will also -- but haven't  
14 declared they have been registered with them, we will  
15 also go and check the other professional regulatory  
16 body's website.

17 Q. All right. Do you see any barriers as between the  
18 different regulatory bodies?

19 MS ALLISON: No. Generally, all the professional regulators  
20 that we may see people moving on to our register from  
21 have clear information on their websites, showing  
22 individuals who have been removed from the register, so  
23 any adverse findings are publicly available across all  
24 of the key professional regulators.

25 Q. Is that something that you would positively share or

1 expect to be shared with you by other regulators?

2 MS ALLISON: We do have arrangements with the other social  
3 service regulators in other parts of the United Kingdom  
4 to proactively share information based on the possible  
5 movability of our workforces throughout the  
6 United Kingdom. We don't have arrangements to  
7 proactively share removal or sanction decisions widely  
8 across other regulatory bodies.

9 Q. But if there is a removal, as you just said it is  
10 publicised so it can be found?

11 MS ALLISON: Yes.

12 Q. How long does that information remain in the public  
13 domain?

14 MS ALLISON: My understanding is regulators will approach  
15 this slightly differently. So in our case it is  
16 displayed in two different places, one is on our public  
17 register, where the individual's name and registration  
18 status is recorded, and if an individual is removed due  
19 to a fitness to practise decision, then it remains there  
20 indefinitely as an individual has been removed due to  
21 a fitness to practise issue.

22 We also then have a separate part of the website  
23 that contains the actual detailed decision, and the  
24 removal decision would stay there for five years. My  
25 understanding is that regulatory bodies approach that

1 slightly differently but the general concept I think is  
2 similar across them.

3 Q. All right. So the details go after five years, but the  
4 fact there has been a fitness to practise and the  
5 result, without further explanation, remains extant?

6 MS ALLISON: Yes.

7 Q. Does it ever come off?

8 MS ALLISON: We do have a process that we have yet to  
9 require to put into place because of our youth as  
10 an organisation, but there is obviously a period of time  
11 in which you would expect somebody to no longer be  
12 perhaps working, or indeed have died, and at that point  
13 a decision would come off.

14 Q. Thank you. Lorraine made reference to codes of practice  
15 for social service workers and employers, and this is  
16 contained in page 16 to 18 of your report. And you have  
17 very helpfully set out the codes of practice for social  
18 service employers, for social service workers and also  
19 guidance for workers.

20 Looking first at the codes of practice for social  
21 service employers. Code 4.2:

22 "Employers must have procedures in place for social  
23 service workers to report when a colleague's fitness to  
24 practise may be impaired, exploitation or any dangerous,  
25 discriminatory or abusive behaviour or practice, and

1           when care has caused or may have caused physical,  
2           emotional, financial, material harm or loss."

3           Code 4.3 then deals with reports and allegations  
4           from social service workers made openly.

5           Is there any sanction for non-compliance with these  
6           codes?

7       MS ALLISON: As Lorraine mentioned, the employer's code is  
8           something that the Care Inspectorate, as I understand,  
9           under their legislation, have responsibility to consider  
10          and take into account, how employers are implementing  
11          that. So if we through our work identify something we  
12          think is a concern about an employer not adhering to  
13          their part of the code of practice, then we make  
14          a referral to the Care Inspectorate so that they can  
15          consider it as part of their processes.

16       Q. I think you mentioned there was a memorandum of  
17          understanding with the Care Inspectorate also?

18       MS ALLISON: Yes.

19       Q. Again, should we understand the communication both to  
20          them and from them is routine?

21       MS GRAY: Yes, absolutely.

22       Q. Do you have any concerns with communication in that  
23          regard?

24       MS ALLISON: No. We have an operational group which  
25          oversees the sharing of information between both

1 organisations in this area. That group reports on  
2 a quarterly basis to our executive management team, and  
3 the details of the referrals that have been made are  
4 recorded in the report and reviewed by the executive  
5 management team, so I have no concerns.

6 Q. Thank you.

7 Moving on then, page 18, to the codes of practice  
8 for social service workers. Code 3.2:

9 "Use established processes and procedures to report  
10 allegations of harm and challenge exploitation."

11 And then:

12 "Any dangerous, abusive or discriminatory behaviour  
13 or practice."

14 And 3.5:

15 "Tell my employer or an appropriate authority when a  
16 colleague's fitness to practice may be impaired."

17 I appreciate that may be slightly different.

18 I suppose the simple question is: do social service  
19 workers comply with that code?

20 MS ALLISON: Yes, although obviously there are situations  
21 where we do receive referrals that come from the  
22 employer or another agency rather than the individual,  
23 but we do see situations where the individual refers  
24 directly to us. And often if a situation has arisen, it  
25 will come during the course of an individual's

1 employment, and often you can see there has been that  
2 conversation between the individual worker and their  
3 employer about the need to refer to the SSSC and which  
4 one of them is going to do it.

5 So not all our referrals come directly from  
6 individuals, the majority do come from employers, but  
7 I don't think that is on the basis that individuals  
8 don't understand or feel they shouldn't refer to us or  
9 are trying to hide it, it is more about the process that  
10 takes place in the situation that has arisen with the  
11 employer.

12 Q. Thank you. Presumably, as time passes, if that were to  
13 be a problem, it would become more apparent?

14 MS ALLISON: Yes.

15 Q. And it hasn't done so?

16 MS ALLISON: No.

17 Q. Finally, "Guidance for employers":

18 "Employers must make a referral in the following  
19 circumstances where they suspend, dismiss or demote a  
20 social service worker, where a social service worker has  
21 resigned during disciplinary investigation when employer  
22 would have considered dismissal. Anything which could  
23 be referred to Disclosure Scotland, charge or conviction  
24 of a criminal offence."

25 And then the fitness to practise aspect:



1           "The referral must be made immediately if the  
2           behaviour is serious. Worker is suspended. Worker  
3           resigns. Dismissal is a likely outcome. Worker is  
4           charged with a criminal offence."

5           Again, that is the guidance. Having had this system  
6           in place now for some years, is it your impression that  
7           is working?

8       MS ALLISON: I think generally it does work, and one of the  
9           questions actually is more about whether it is almost  
10          working too well. We receive approximately 300  
11          referrals a month, the majority of which do come from  
12          employers, but the actual number of cases that conclude  
13          with a formal sanction is much lower. It is currently  
14          around 10%. So we certainly are seeing high levels of  
15          compliance with that, but there is a question whether we  
16          are actually receiving referrals which actually are not  
17          really matters that would lead to a fitness to practise  
18          concern and a regulatory intervention being required.

19       LADY SMITH: Can you give me some examples of referrals you  
20          are receiving which aren't leading to any further  
21          action, and perhaps some of what it would have to be to  
22          lead to further action?

23       MS ALLISON: Examples are where there may be more  
24          employer-related issues. So you may have somebody using  
25          their mobile phone at work or is being a bit tardy in

1 turning up. Those are matters which generally we would  
2 expect are unlikely to lead to a regulatory sanction.  
3 Whereas obviously the more serious behaviour relating to  
4 abuse or dishonesty are the ones that will end up in our  
5 regulatory sanction.

6 LADY SMITH: Thank you.

7 MR BROWN: Two things about that. The point is also made  
8 that if a worker is no longer employed, a referral  
9 should still be made even if the employer thinks the  
10 worker may not look for other work in social services.  
11 So there is a check even in those circumstances.

12 You have just talked about dishonesty. If we go to  
13 page 19, at list A:

14 "Behaviours that are likely to call into question  
15 a worker's fitness to practise. The employer should  
16 refer to us regardless of the outcome of any  
17 disciplinary performance or criminal process."

18 I am just interested. Dishonesty, fraud, abuse of  
19 trust, just instinctively, or exploitation of  
20 a vulnerable person, sexual misconduct or indecency,  
21 including child pornography, those are matters which  
22 might equally well fall under behaviour that is serious  
23 and must be reported immediately. Is there a tension as  
24 between the two?

25 MS ALLISON: Yes, I think when you highlight it in that way,

1 I can see that maybe there is a tension there.  
2 Certainly the intention behind our guidance is that if  
3 there are serious matters they should be referred  
4 immediately to us. And the guidance, the list A  
5 guidance is to help people understand the types of  
6 serious matters that would call into question somebody's  
7 fitness to practise.

8 Q. The difficulty is it includes the word "should".

9 MS ALLISON: Yes.

10 Q. It is not mandatory. And just as a matter of  
11 observation, reckless or deliberately harmful acts,  
12 child pornography, dishonesty and exploitation might all  
13 be seen as something that ought to be dealt with  
14 immediately. Is that perhaps something that you might  
15 reflect upon?

16 MS ALLISON: Yes, absolutely.

17 Q. I can see Lorraine nodding too. Thank you.

18 Obviously then you detail what may happen. There  
19 would be temporary suspensions, temporary conditions,  
20 final sanctions, removal, suspension, warning,  
21 conditions, et cetera.

22 We then move on to investigation and decision. The  
23 question I suppose is, firstly, who refers? It can be  
24 a variety of sources, I would imagine?

25 MS ALLISON: Yes. Anyone can make a referral to us, but as

1 I mentioned, the majority of our referrals do come  
2 directly from employers.

3 Q. There is then a sifting process, it would appear, where  
4 a solicitor in the Fitness to Practise Department  
5 assesses whether we are dealing with something that is  
6 high risk?

7 MS ALLISON: We have a sector team staffed by people who  
8 have worked within the sector in Social Work and Social  
9 Services who are part of that initial sift, and if the  
10 behaviour is of that concerning high-risk nature then  
11 a solicitor is involved, looking at all of the  
12 surrounding circumstances, including the evidence and  
13 whether we meet the evidential tests for referral.

14 Q. Thank you. Then, as necessary, there will be fitness to  
15 practise panel hearings which you have set out, and  
16 obviously they speak for themselves. 4.5, we're back to  
17 information-sharing with the Care Inspectorate, and we  
18 have talked about the memorandum of understanding and  
19 the fact you are content as between information exchange  
20 in both directions.

21 4.6, referrals from Disclosure Scotland and  
22 Police Scotland:

23 "All registered workers are a member of the PVG  
24 scheme established under the 2007 Act. The SSSC is  
25 regulated as an interested party in the individual's

1 membership. If Disclosure Scotland receive information  
2 indicating that it may be appropriate for the individual  
3 to be listed and prevented from carrying out regulated  
4 work with children or vulnerable adults, they give  
5 notice to the SSSC that the worker is under  
6 consideration for listing."

7 MS ALLISON: Yes.

8 Q. Does that work, from your perspective?

9 A. Yes, generally I would say that it does. The majority  
10 of our cases we receive directly from the employer  
11 before we receive notification from Disclosure Scotland.  
12 So it's rare for us to be in a situation where the first  
13 indication we have of a concern is directly from  
14 Disclosure Scotland due to them informing us that  
15 an individual is under consideration for listing.  
16 However, if that was the route that we received the  
17 referral from, we would then -- because the document  
18 that notes the consideration for listing does not  
19 contain any details as to the reasons for that  
20 consideration. But we would then go to the individual  
21 worker and their employer, if they have one, to find out  
22 what it is that has led to this consideration for  
23 listing. If it was not possible to obtain the  
24 information directly from them, we would consider the  
25 registered worker's failure to provide us with that

1 information in and of itself to be a breach of the code  
2 of practice and misconduct and would take fitness to  
3 practise proceedings on those grounds.

4 So I do appreciate that Disclosure Scotland are  
5 hampered in some respects and their legislation  
6 prohibits them providing detailed information in all  
7 circumstances about the reasons someone is under  
8 consideration for listing, but certainly the way that  
9 our process works, that has not hindered us from being  
10 able to take fitness to practise action.

11 Q. Again, sorry, you may have said this already, what about  
12 contact from you to Disclosure Scotland?

13 MS ALLISON: Yes, we make referrals to Disclosure Scotland,  
14 if a case we are looking at meets Disclosure Scotland's  
15 referral requirements. Again it is I think not that  
16 usual for us to have to take that action, because  
17 normally through the employer, the Care Inspectorate,  
18 Social Work, police, other agencies that are likely to  
19 have been involved slightly before us, that referral  
20 would likely have already been made. But it is  
21 something that is part of our process to check if it has  
22 been made and, if it has not, then we will do it.

23 Q. And you have just mentioned the police, because you then  
24 go on to say that Police Scotland make referrals  
25 directly on occasion.

1 MS ALLISON: Yes.

2 Q. How often?

3 MS ALLISON: Not often. But on occasion we have had direct  
4 contact from them where they have been very concerned  
5 about an individual that they were aware is working in  
6 a care service and registered with us and have informed  
7 us directly. But my understanding normally is that the  
8 police will inform Disclosure Scotland who then inform  
9 us as the regulatory body.

10 Q. We have a documentation involving one of the schools  
11 where the police indicate that they would feel they  
12 could tell anyone if there was imminent risk. Is that  
13 what you would understand the position to be with you?

14 MS ALLISON: Yes, certainly. Thinking of one case that they  
15 contacted us about, they were very concerned about the  
16 imminent risk.

17 Q. All right. That was the phrase they used?

18 MS ALLISON: Yes.

19 Q. Okay. What about you contacting the police if you are  
20 concerned that it's sufficiently grave that the police  
21 should be involved? Does that happen?

22 MS ALLISON: Yes, we have a process. So if a referral we  
23 have received indicates that there is a concern, then we  
24 will take the appropriate steps to inform the agencies  
25 that may require to be informed. So we do on occasion

1 contact the police directly if, again, we are concerned  
2 that there is an imminent risk. Also we contact Social  
3 Work if we are concerned that there is a safeguarding  
4 issue, which perhaps is not in the imminent risk  
5 category.

6 Again, I would say that it is not something that we  
7 have to do that regularly, because normally those steps  
8 have already been taken by the time a referral comes  
9 into us.

10 Q. By the sounds of it, it is something you are alive to?

11 MS ALLISON: Yes.

12 Q. If it is not happening, then you would act?

13 MS ALLISON: Yes.

14 Q. You have talked about a great deal of communication  
15 between a number of other bodies. Do you have concerns  
16 about the levels of communication with any of them or,  
17 from your perspective, is it working well?

18 MS ALLISON: I think on the whole it works well, and I've  
19 seen in the time I have been at the SSSC there has been  
20 I think big improvements in how the agencies all work  
21 together and are conscious that we are all looking at  
22 protecting vulnerable people. There is, I understand,  
23 a reference from other organisations. There are  
24 challenges at the moment in obtaining information from  
25 Police Scotland due to a very specific situation and



1           interpretation of the law, and that is a challenge,  
2           but --

3           Q. Tell us about that challenge, please.

4           MS ALLISON: We sometimes have situations where the police  
5           will have concluded their investigation and either not  
6           reported to the Fiscal, or they may have reported and  
7           then the case has concluded without there being  
8           a conviction. In that situation, because we operate to  
9           the civil standard of proof, it may be a matter that we  
10          look to progress through our fitness to practise process  
11          and, in order to do that, we need to investigate and  
12          obtain the relevant evidence which is often held by the  
13          police in that situation.

14                 We recently -- going back to 2018 -- experienced  
15          challenge in obtaining information in such a case, and  
16          it led to us raising court proceedings under the  
17          Administration of Justice Act to obtain the documents.  
18          And I know that -- I have seen the submission from  
19          Police Scotland who referenced the particular case where  
20          we raised the action.

21                 To summarise, not going into too much detail,  
22          Police Scotland's position as we now understand it is  
23          that on advice from the Information Commissioner, they  
24          are prohibited from providing us with that information  
25          unless there is a court order. So we do have

1 a mechanism through raising proceedings in the  
2 Sheriff Court to obtain those documents. We have raised  
3 six cases so far. Police Scotland don't defend the  
4 court actions, so the order so far has been granted,  
5 enabling us to obtain the documents.

6 So there is a process that works to protect  
7 vulnerable people, however that is certainly not the  
8 ideal way that we would seek to obtain information.

9 Q. I think obviously you are referring to the submission of  
10 the GTCS?

11 MS ALLISON: Yes.

12 Q. Who have raised issues about information-sharing, and  
13 that may be the subject of evidence tomorrow. But it's  
14 interesting that you have had this experience, although  
15 there is no resistance from the police but, as things  
16 stand, you are compelled to raise a court action to get  
17 the information you clearly feel you need?

18 MS ALLISON: Yes.

19 Q. Okay. Thank you.

20 The rest of your report touches on the specifics of  
21 boarding school accommodation. If we can just briefly  
22 look at that, because we have been talking in general.  
23 As we can see from the table on page 21, the numbers  
24 involved, as we agreed at the outset, are small. In  
25 terms of September 2020, the last date, 13 managers, 22

1 supervisors and 352 workers across -- and I think this  
2 is what we should understand. This is across the whole  
3 of mainstream boarding, so this isn't just boarding  
4 schools, this will also include the hostel side as well?

5 MS ALLISON: Yes.

6 Q. There have been, as we see on page 22, investigations  
7 both against applicants on registration and registrant  
8 investigations. And in terms of the residential school  
9 accommodation service, there have been 22 applicant  
10 investigations. What sort of matters are being raised  
11 by applicants, or in relation to applicants?

12 MS ALLISON: Most cases relating to applicants are people  
13 who, in applying for registration, disclose that they  
14 have a criminal conviction at some point in their past,  
15 and in the vast majority of cases these are minor,  
16 historic, and don't require any action to be taken. But  
17 that is the most likely reason why an application will  
18 be considered by the Fitness to Practise Department.

19 Q. Looking at the table, 5% of applicant investigations are  
20 concluded with a sanction. What sort of scenarios are  
21 we dealing with there?

22 MS ALLISON: That is more likely to be ones where there is  
23 a more significant conviction, or occasionally we may  
24 also hold information about a previous disciplinary. So  
25 under the primary legislation, care services have the

1 responsibility to refer to us when they dismiss somebody  
2 irrespective of whether an individual is on the  
3 register. If the individual is not on the register, we  
4 hold that information. And then, if they subsequently  
5 apply for registration, we then have that information  
6 about that previous disciplinary.

7 So occasionally we do also have situations where  
8 there has been something serious dealt with by  
9 a previous employer that we look at, at the point the  
10 individual applies to us, and that may lead to  
11 registration with a sanction.

12 Q. In terms of the registrant investigations, a smaller  
13 percentage conclude with a sanction. So as these are  
14 people on the register, what are we talking about?

15 MS ALLISON: Yes, often if an individual is removed from the  
16 register, then it is much more in the more serious areas  
17 that we have already spoken about, around dishonesty and  
18 abusive behaviour. People also receive sanctions such  
19 as warning and conditions, and that might be more likely  
20 to be due to a practice-related issue, or perhaps the  
21 way that somebody has dealt with an individual service  
22 user, they haven't perhaps used the best language.  
23 Something that is capable of being remedied.

24 Q. Thank you. Then finally we look at the various schools  
25 that are the subject of the Inquiry's interest, and you

1 have detailed, fascinatingly, the job titles and numbers  
2 of residential school care accommodation workers. The  
3 job titles are, in a sense, irrelevant obviously,  
4 because it is the fact that they are residential school  
5 care accommodation workers that lead them to the SSSC  
6 registration. But as we see, that can include pipe  
7 majors and Highland dancing instructors who obviously do  
8 many things.

9 MS ALLISON: Yes.

10 Q. What is also striking is a couple of schools have  
11 considerably more SSSC members. I suppose that may  
12 reflect a number of things, both the size of the school  
13 but also the number of teachers, as in GTCs teachers,  
14 who are also involved in accommodation?

15 MS ALLISON: Yes.

16 Q. Is that a correct assessment?

17 MS ALLISON: Yes, absolutely. And indeed I did look at the  
18 fact that we don't have any managers registered for any  
19 of these schools, but all of the registered managers are  
20 teachers, so that explains why that is ...

21 Q. Yes. And finally, on page 25 you have details of the  
22 fitness to practise investigations. Simply the one that  
23 caught my eye was the first one which relates, if we  
24 look at the allegation, related to a teacher-student  
25 relationship. The fact you have made reference to

1 a teacher, that must obviously relate to a SSSC fitness  
2 to practise?

3 MS ALLISON: Yes. My understanding is that it was  
4 a teacher, but a teacher that was not registered with  
5 the GTCS, and therefore fell within the statutory  
6 definition of a residential school care accommodation  
7 worker.

8 Q. And had that teacher been registered with SSSC?

9 MS ALLISON: Yes, they were registered.

10 Q. We know obviously, and we will hear more tomorrow, that  
11 GTCS registration for independent boarding  
12 schoolteachers is required for existing teachers as of  
13 1 June?

14 MS ALLISON: Yes.

15 Q. So there have been teachers, and this is the point that  
16 is being made, there have been teachers who, as of  
17 1st June, had they still remained as a teacher, would  
18 have been required to register with GTCS, and have been,  
19 since 2009, required to register with SSSC?

20 MS ALLISON: Yes, if the role they are fulfilling at the  
21 school --

22 Q. Involved --

23 MS ALLISON: -- triggers the --

24 Q. Can you assist: how many such teachers, if you know,  
25 have been SSSC-registered but have then left the

1 register to move across to GTCS?

2 MS ALLISON: I'm afraid I don't know that, no.

3 Q. But this is an example of one?

4 MS ALLISON: Yes.

5 Q. All right. Thank you.

6 We have talked obviously about one area of tension  
7 between "should" and "must", and that is something that  
8 you will reflect on, I am sure, and if you do reflect  
9 further, I think the Inquiry would be obliged if you  
10 could update us, and in relation to any other matters.  
11 But are there other areas that in advance of today's  
12 hearing you have thought about which might be of  
13 assistance to her Ladyship in terms of things that could  
14 be improved?

15 MS ALLISON: I think, just touching on the situation with  
16 Police Scotland, certainly one of the challenges that we  
17 have as a regulator is that we do not have the strength  
18 of statutory power to compel recovery of documents or  
19 witnesses in the same way that some other regulators  
20 have, and certainly that is an area that our sponsor  
21 team at Scottish Government are looking at around if  
22 strengthening that would assist us, not just with that  
23 specific issue with Police Scotland but more generally.

24 Q. You are saying your powers aren't as strong as other  
25 regulators. Who are you thinking of?

1 MS ALLISON: The General Medical Council do have stronger  
2 powers, albeit I understand that for Police Scotland,  
3 they still consider they are insufficient for their  
4 purposes.

5 Q. All right. But that is something that is being taken  
6 forward within Scottish Government?

7 MS ALLISON: Yes, that is right.

8 Q. Again, with any sense of when there might be an outcome?

9 MS ALLISON: No.

10 Q. And Lorraine shakes her head.

11 Lorraine, anything from your perspective that you  
12 would wish to --

13 MS GRAY: Just exactly the same issue that Maree has raised.

14 Obviously Maree comes at this from being a solicitor,  
15 but I think the fact that it is so difficult for us to  
16 receive information from the police, which is about  
17 protecting vulnerable people, I just think a member of  
18 the public would be quite surprised by that. And  
19 although Maree and her team have found a way around that  
20 and we raised court actions, these are not cheap to do.  
21 It takes resource away from our solicitors dealing with  
22 what we should be dealing with, which is protecting  
23 vulnerable people through our fitness to practise cases.

24 So that would be the first thing.

25 The second thing I think is a challenge for us is



1           that our inability to compel employers to give us  
2           evidence in a certain period of time. So quite often  
3           our cases can take a long time to conclude, and that is  
4           because we ask employers for information. It does seem  
5           to take quite a while to get back, we often have to keep  
6           asking. So it's those types of things. It is  
7           additional powers that allow us to do our business more  
8           effectively.

9           Q. Do other regulators in your knowledge have such powers?

10          MS GRAY: I will ask Maree to ...

11          MS ALLISON: Yes, I think -- well, we do have the statutory  
12           power to require employers to provide us with  
13           information, there are some limitations in the wording  
14           of the legislation, and indeed we can refer to the  
15           Care Inspectorate if an employer is not co-operating,  
16           and that is normally very successful, and then oiling  
17           the wheels to provide us with the information that we  
18           need. But I think generally across the regulatory  
19           bodies there is a lack of consistency around the  
20           different powers that they have and how they are  
21           articulated and then how they are interpreted. So it is  
22           certainly an area that is of concern amongst many  
23           professional regulators, how they have the teeth to do  
24           what they need to do.

25          Q. Again for my benefit, regulatory bodies, who are you

1 speaking of?

2 MS ALLISON: My apologies. The other health and social care  
3 professional regulators, and the General Teaching  
4 Council for Scotland.

5 Q. Inspectorates?

6 MS ALLISON: No, I tend not to speak about  
7 the Care Inspectorate. They are a service regulator  
8 and I understand have probably different issues and  
9 powers relating to being a service regulator. The  
10 professional regulators who will carry out a similar  
11 fitness to practise function all tend to have different  
12 ways that their legislation is articulated.

13 Q. So from our perspective, GTCS?

14 MS ALLISON: Yes.

15 Q. In terms of schools?

16 MS ALLISON: Yes.

17 Q. Sorry, Lorraine?

18 MS GRAY: I was just going to come in. So it's bodies like  
19 the General Medical Council for doctors, the Nursing and  
20 Midwifery Council for nurses, the General Dental Council  
21 for dentists, so that is the other regulatory bodies.

22 Q. Thank you.

23 The last question I think to Maree from me: talking  
24 about the police specifically, is this a problem that  
25 has been extant throughout your time working with SSSC

1           or is it a problem that has developed more recently in  
2           terms of receiving information from the police?

3           MS ALLISON: It is a problem that has developed more  
4           recently, and I do understand from the statement that  
5           Police Scotland provided to this phase of the Inquiry  
6           that they have now articulated that it relates to the  
7           recent changes to data protection legislation.

8           Q. Okay. But on a practical level until that happened,  
9           this was not a problem you -- was it a problem at all?

10          MS ALLISON: No.

11          MR BROWN: My Lady, unless there is anything else you would  
12          wish me to raise, that concludes my questions.

13          LADY SMITH: I have no other questions.

14                 Am I to take it that those joining through the WebEx  
15                 link have no other questions that they want me to allow  
16                 them to ask? (Pause). I think that is right.

17                 Maree and Lorraine, thank you very much for coming  
18                 along to help us this afternoon but also for the work  
19                 that has gone into your very clear report. That is  
20                 going to be very useful in informing our work as we go  
21                 forward. And thank you also for your thoughts about  
22                 where you would like to go next, for example in relation  
23                 to the powers you don't have that you feel would make  
24                 your life easier.

25                 As a young organisation, I wish you well in your

1 continuing work and in the development of your knowledge  
2 and understanding and experience, all for, of course,  
3 the benefit of the children whose interests lie at the  
4 heart of this Inquiry and, in many respects, lie at the  
5 heart of a quite significant aspect of your work. So  
6 thank you for that, and I'm now able to let you go.

7 (The witnesses withdrew)

8 LADY SMITH: Mr Brown.

9 MR BROWN: My Lady, that concludes today's evidence. It  
10 ended quite neatly.

11 We will start tomorrow with Jennifer MacDonald,  
12 Director of Regulation and Legal of the GTCS, who will  
13 expand no doubt on what we have started to hear today,  
14 followed by John Edward of SCIS in the afternoon.

15 LADY SMITH: Thank you very much indeed. I will rise now  
16 until tomorrow morning. See you then, thank you.

17 (3.25 pm)

18 (The Inquiry adjourned until 10.00 am on Friday,

19 19 March 2021)

20

21

22

23

24

25

INDEX

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS CATHERINE AGNEW (sworn) .....1  
Questions from MR BROWN .....2  
MS LORRAINE GRAY (affirmed) .....103  
MS MAREE ALLISON (sworn) .....103  
Questions from MR BROWN .....104

1

2

3

4

5