

1 Wednesday, 12 May 2021

2 (10.00 am)

3 LADY SMITH: Good morning. Those of you who were alert
4 yesterday afternoon may remember Mr Brown indicated he
5 was intending to start today with having a statement
6 read in. The reason for that is it is logical in the
7 narrative of events that this read-in happens now, and
8 then we will move to our first live witness for today.

9 I think that is still what you are intending to do,
10 Mr Brown, is that right?

11 MR BROWN: It is, my Lady. We are running a little behind,
12 but we can catch up with the read-ins after the first
13 live witness, but I would invite Ms Bennie to start
14 today by reading in one witness.

15 LADY SMITH: Thank you.

16 MS BENNIE: My Lady, the statement to be read in bears the
17 document reference WIT-1-000000539. This witness wishes
18 to remain anonymous and has adopted the pseudonym of
19 Colin.

20 Witness Statement of "COLIN" (read)

21 MS BENNIE: "My name is Colin. My year of birth is 1968.

22 My contact details are known to the Inquiry."

23 My Lady, in paragraphs 2 and 3 of statement this
24 witness sets out his qualifications and his work
25 experience, including that he worked at Loretto School

1 during two separate periods of time, namely, 2002 to
2 2010 and 2014 to 2017. I therefore propose to resume
3 reading the statement at paragraph 4:

4 "I was effectively the [REDACTED]
5 department at Loretto School from September 2002
6 to September 2010. I taught [REDACTED] from primary four up to
7 fifth form, including GCSE, although the year groups
8 I was required to teach did vary somewhat over time.
9 I also taught [REDACTED] to some year groups from 2006
10 onwards and helped with games coaching throughout this
11 time. Games coaching including rugby, lacrosse,
12 athletics and football.

13 "In a second period of employment at Loretto School
14 I was housemaster of the junior boys' boarding house
15 where the youngest pupil was 11 and the eldest 16. Over
16 this time I also taught [REDACTED] from second to fifth
17 forms. I held similar games responsibilities during
18 this employment.

19 "When I was first recruited references were taken
20 up, and with I think an initial one year probationary
21 period. The post had been advertised. There was an
22 extensive and fairly rigorous interview procedure that
23 covered a couple of days and involved meetings with
24 several members of staff, headmaster and deputies.
25 General Teaching Council for Scotland, GTCS,

1 registration was not required at that stage.

2 "In the second period of employment, GTCS
3 registration had become necessary and so I sought and
4 gained registration during that time. References were
5 again taken up.

6 "The post of effectively the [REDACTED]
7 department answered directly to both head and deputy
8 head. The head was the ultimate line manager, but on
9 a day-to-day basis dealings were more frequently with
10 his deputies. Within the [REDACTED] department, the head of
11 [REDACTED] was my line manager. With regards to sport, the
12 director of sport.

13 "Informal meetings with head and deputies occurred
14 frequently but formal monitoring and appraisal took
15 place as part of the cycle. Liaison was likewise freely
16 available at an informal level with planned meetings
17 with head about twice per half-term. As houseparent,
18 the deputy head pastoral was immediately in line with
19 vicegerent involved as well.

20 "There was a new staff training programme at the
21 start of the first academic year, and in-service
22 training at the beginning of most terms. The school did
23 fund attendance at a Scottish Council of Independent
24 Schools training session for houseparents in 2015.

25 "I did not have responsible for policy in relation

1 to the care of children other than reading and observing
2 them, in common with all staff. My perception was that
3 policies were introduced and reworked to reflect the
4 changing technological, social and legal climate of the
5 day.

6 "I did not have responsibility for strategic
7 planning for the school. My recollection of the
8 school's strategic approach was there was a shift in
9 emphasis from "mind, body and spirit" to "a small
10 school, big on heart and big on opportunity."

11 "Strategy appeared to revolve around numbers.
12 Keeping going was an issue, as in there were genuine
13 financial concerns at the time, and also provision -
14 trying to make the best possible educational, academic
15 and sporting provision for the boys and girls.

16 "Initially I did not manage staff employed at the
17 school. Latterly the assistant houseparents in my
18 boarding house reported to me within the overall
19 structure. It was not much by way of standardised
20 appraisal as there were three different assistant
21 houseparents during the eight terms I was in post.

22 "As stated initially, I was not involved in the
23 recruitment of staff at the school at all. I was
24 involved in the appointments of assistant houseparents
25 within my boarding house in 2015 and 2016. The post was

1 advertised internally because it was seen as a logical,
2 clear progression for someone wanting to make boarding
3 provision more of a focus. There were full interviews
4 on both occasions with myself, the vicegerent, the
5 deputy head pastoral all present. It was a competitive
6 process.

7 "References in each case were from the internal line
8 managers. Vicegerent Nigel Bidgood will have discussed
9 these references with the head and then also with myself
10 and the deputy head pastoral. There was an element of
11 known quantity about all of the candidates as the
12 appointments were internal.

13 "I was not at all involved in the training or
14 personal development of the staff in the first instance.
15 Following the assistant houseparent appointments in 2015
16 and 2017, there was a practical "how do we run this
17 house together" element. Specific policies were still
18 produced and disseminated centrally. Loretto was always
19 reasonably keen to fund and assist in the finding of
20 relevant training and personal development programmes.

21 "There was never an issue with staff attending
22 subject specific training days. Specialist practitioner
23 qualification and Boarding Schools' Association training
24 programmes were required and encouraged for boarding
25 staff in later years, and quite possibly before,

1 although I do not know.

2 "The school funded part of my postgraduate
3 certificate in education, PGCE course at Buckingham, and
4 happily gave me time to attend it in 2007."

5 Moving on to paragraph 24, my Lady:

6 "Staff were appraised on a formal basis annually so
7 far as I remember. The exact nature of appraisal
8 varied, in fact developed over the years, and I suspect
9 with role undertaken as well. I think that appraisal
10 was a developing idea throughout that period. I may
11 well be wrong but it seemed more formal, the more
12 substantial the post or the aspect of the post under
13 consideration. For example, more rigorous around
14 academic roles than assisting coaching roles in sports.
15 That is how it appeared to me and not necessarily what
16 was actually policy or practice of the school.
17 Certainly appraisal contained elements of
18 self-reflection and analysis as well as formal
19 interviews and discussion of role under QSF's
20 SNR, and subsequently it appeared less formal but
21 nonetheless was taken seriously under Michael Mavor.

22 "From 2002 to 2009 I lived in a school-owned
23 property off-site. From 2006 to 2010 I lived at
24 Pinkie House, housemaster's flat. Pinkie House had
25 a connecting door through to a corridor that was

1 occupied by sixth form male pupils but which was
2 generally only used for fire safety purposes when we
3 lived there. The acting housemaster lived at the end of
4 that corridor in a self-contained flat. Our residence
5 had its own external entry point that was not shared.
6 From December 2014 to July 2017 I lived in another
7 housemaster's flat. This was separate accommodation
8 with its own entry, but it had two connecting doors to
9 residential corridors in the junior boys' boarding
10 house.

11 "Some staff lived in school-owned accommodation
12 off-site, some had school-owned accommodation on-site.
13 Housemasters, assistant housemasters and also some
14 matrons and residential tutors had to live in the school
15 accommodation due to house rules. House main entries
16 were all numbered keypad locks. In general there was
17 very little accommodation that had direct links to
18 pupils' residential areas that was not occupied by house
19 staff, the exception being Pinkie House which had the
20 head's accommodation within it as well as the flat we
21 lived in."

22 My Lady, moving to paragraph 28:

23 "Housemasters, assistant housemasters, any matrons
24 and cleaning staff as well as residential tutors and
25 visiting tutors who were performing boarding house

1 duties had access to the children's residential areas.
2 Other staff were allowed to visit boarding houses but
3 entered through house offices and accessed communal
4 areas and not residential areas. Site workers carried
5 out maintenance tasks during the working day when pupils
6 were in school. The school had a family feel to it,
7 there was a real sense in which people knew one another,
8 by name at least, and there was a broad camaraderie
9 amongst both the staff and pupils.

10 "There was a fairly disciplined academic environment
11 generally, but also an extensive co-curricular programme
12 to which everybody made some contribution and this meant
13 that children were encouraged as more than just academic
14 entities. I was aware of no rumour or evidence of
15 fagging during the time I was there.

16 "Discipline fell under the purview of the deputy
17 heads generally but there a responsibility of all.
18 Sanctions available consisted mainly of bookings, which
19 were kind of written public warnings. Sanctions also
20 included gatings which involved the restriction of
21 downtime privileges or of outside boarding house
22 activities with repeated verification required by
23 supervising staff.

24 "A further sanction was detention which took place
25 sometimes at lunchtime or after lessons, sometimes on

1 Saturday evenings. There were varying degrees
2 of exclusion. These punishments were given out by
3 teaching or house staff except for exclusions which
4 always involved the head.

5 "There was a sanctions policy for the school that
6 was periodically updated and distributed to all staff.
7 Pupils were kept abreast of rules via distribution of
8 written policies. A full record of more serious
9 sanctions would have been kept centrally, bookings
10 probably less so.

11 "As far as I was aware the responsibility of older
12 pupils with regards to discipline was to model good
13 behaviour. I don't recall them having authority to dish
14 out punishments per se although that has been the case
15 many years earlier, say in the 1960s.

16 "I was not involved in the day-to-day running of the
17 school. There was the head, two deputies and the
18 vicegerent as well as other promoted posts. They ran
19 the school on a day-to-day basis.

20 "The school had a clear whistle-blowing policy and
21 generally everybody seemed to know one another's
22 business. It was quite a small school. I would have
23 expected any abuse or ill-treatment to have come to
24 light quite rapidly. Apart from anything else, pupils
25 talked about everything with each other.

1 "I suppose somebody with power could always attempt
2 to persuade, threaten or cajole somebody without power
3 to comply with their demands. I was not aware of this
4 happening at Loretto.

5 "I was not aware of the school ever being the
6 subject of concern because of the way in which the
7 children and young people in the school were being
8 treated. Any complaint would have been taken seriously.

9 "If any child in the school or other person on their
10 behalf wished to make a complaint or report a concern
11 then there was a process in place. In the first place
12 the process was utilised through assistant housemasters,
13 the housemaster or designated pastoral leads. Almost
14 invariably house staff were involved due to proximity of
15 contact and because they were known to the pupils. If
16 the complaint had been taken about any of those people
17 then it would have been dealt with by the deputy head
18 pastoral or the head directly. For the most part the
19 process was necessarily confidential and so its use or
20 otherwise would not have been broadcast.

21 "Complaints would always have been taken seriously.
22 The Scottish boarding school community is small and word
23 does not have to get far before anybody has heard if
24 something is wrong. I think the financial difficulties
25 that led to the closures of Rannoch and St Margaret's

1 schools seemed to have done the rounds before the event.
2 There were also well publicised issues at Merchiston and
3 Edinburgh Academy whilst I was at Loretto. Complaints
4 would have been recorded centrally and kept on file by
5 the school secretarial staff I believe.

6 "There was always a school counsellor employed.
7 They were paid by the school, but had an external life
8 and could always have been visited and spoken to by
9 pupils at any point. They had weekly surgery sessions
10 as well as specific appointments. Any member of staff
11 could also be spoken with by any pupil who saw them as a
12 trusted individual.

13 "The expectation on the [REDACTED] in this regard was
14 firstly to be supportive of structures as they existed.
15 [REDACTED] issues had very much moved away from the
16 [REDACTED] and towards counsellors and housemasters or
17 housemistresses before I arrived. The [REDACTED] issues
18 which came to me were more questions of [REDACTED] rather
19 than issues of self-harm or bullying. The counselling
20 element was always there as far as I know. I don't know
21 the extent to which this confidential service was
22 however used.

23 "The school had a definition of abuse that it
24 applied in relation to the treatment of children at the
25 school during my employment. Anything of a sexual,

1 physical, verbal, social or psychological nature that
2 threatened the livelihood and wellbeing of the child
3 would constitute abuse of children in the eyes of the
4 school. The definition was communicated and explained
5 to staff working at the school through in-service
6 training on a frequent minimum annual basis and through
7 written documents, including a small card that was
8 carried by all staff and pupils or at least was given to
9 them. I do not know when the definition was introduced,
10 it would have changed to reflect law as that has
11 changed.

12 "All relevant Government documentation was
13 distributed either in full or in a digested format on
14 a regular basis and at least annually. More usefully,
15 updates would have been given by the safeguarding lead
16 to make people aware of new aspects of the law or trends
17 that might affect pupils at the school, for example
18 sexting. There was clear instruction on how to handle
19 and respond to reports of abuse or ill-treatment of
20 children by staff, other adults or fellow pupils. We
21 were instructed to listen without prejudice, take
22 seriously without presumption, record and pass on to the
23 safeguarding lead any report of abuse or ill-treatment
24 of a child.

25 "There was not much autonomy including discretion

1 given to staff, including managerial staff, in relation
2 to these matters. If the report was intended seriously
3 then it was expected to be taken seriously. The school
4 had child protection arrangements in place to reduce the
5 likelihood of abuse, ill-treatment or inappropriate
6 conduct by staff or other adults towards children at the
7 school. Childline was used and there was advertisement
8 of numbers pertaining to that. There was a clear
9 whistle-blowing policy. The overall nature of the
10 school meant that there was an ongoing level of contact
11 and communication between staff and children that
12 allowed for issues of concern to be raised, for example
13 to a tutor, a teacher, a house duty person, a member of
14 house staff team or to more senior members of staff.
15 There was clear training and instruction on what
16 signs to look out for, for example a child covering up
17 arms, signs of fear at certain indicators, and so on.

18 "The strong staff community meant that people looked
19 out for one another and stopped and warned against risky
20 behaviours. I felt as though there was a good
21 self-policing element to staff relationships.

22 "I am fairly sure the bulk of these child protection
23 arrangements were there throughout. Self-harm has
24 become more of an issue as the new century has advanced
25 and policies concerning that will have become clearer

1 and more obviously delineated as a result. Ditto cyber
2 bullying and other social media related issues, they
3 weren't really a thing initially but moved to the
4 forefront as usage developed. Policies tracked that.
5 I don't know for certain how these arrangements came
6 about but I assume that Government and Care Commission
7 policies will have informed and directed the creation of
8 many if not all of these arrangements. It felt to me as
9 though these child protection arrangements worked.

10 "I was aware of the inspectors visiting the school.
11 There was an inspection whilst I was there the first
12 time and certainly I was aware of the Care Commission
13 inspecting and monitoring the school during my second
14 spell of employment there. Inspectors spoke with
15 children individually and in a group. Children were
16 spoken to with and without staff present. The
17 inspectors spoke to me. They gave written feedback with
18 some obvious whole school elements, some boarding
19 elements and some house specific.

20 "Record-keeping. Initially record-keeping was
21 strong centrally, but became patchy as you moved out
22 from the centre. Mixed media, written and electronic,
23 as things developed and changed, won't have helped.
24 Latterly records were stored on to a central drive and
25 were accessible selectively by level on a need-to-know

1 basis. They were at that point better ordered. Many
2 staff kept good academic records but pastoral records
3 will have been more limited to incident-related
4 material.

5 "Anything leading to an allegation or complaint
6 would have been kept centrally. I can't say for certain
7 whether these will have been well maintained or not, as
8 I never had to access them.

9 "Records I was privy to at first were minimal.
10 In-house there was access to more or less a full range
11 of personal information via the network and I would
12 expect every view or use of that information to have
13 been logged centrally by IT records. I cannot say with
14 certainty whether it was forensically logged or not when
15 children reported what they considered to be abuse,
16 ill-treatment or inappropriate conduct. Much of that
17 information would have been held confidentially and
18 would not be freely available to staff.

19 "I was once involved in an investigation into
20 a complaint of inappropriate behaviour that involved me.
21 Otherwise I was not involved in any investigations on
22 behalf of the school into allegations of abuse or
23 ill-treatment of children at the school or into
24 inappropriate behaviour by staff or others towards
25 children. I have not been the subject of any other

1 complaint of which I am aware.

2 "I was not involved in the handling of reports to or
3 civil claims made against the school by former pupils
4 concerning historical abuse. I did not become aware of
5 police investigations into alleged abuse at the school.
6 I have not given a statement to the police or to the
7 Crown regarding alleged abuse of children cared for at
8 the school. I have not given evidence at a trial
9 concerning alleged abuse of children cared for at the
10 school. I do not know if any person who worked at the
11 school was convicted of the abuse of children or a child
12 at the school.

13 "I recall CRL [REDACTED]. My employment certainly
14 coincided with his between [REDACTED] and part of
15 [REDACTED] at least but I am not sure whether all of
16 it. It is a bit of a guess but I think he was probably
17 late 50s when I left in 2017. I think he was
18 a [REDACTED] teacher who taught either [REDACTED]
19 [REDACTED] or both. To me he was a colleague. I did not
20 have any educational, pastoral or academic cross over
21 with him. We would talk about [REDACTED] occasionally over
22 lunch. He was interested in most forms of [REDACTED] and
23 complimentary about my own [REDACTED]. He was amiable and
24 polite although with a slightly hesitant way of
25 communicating due to his English being a learned

1 language.

2 "I knew him well enough to say hello, stop and chat
3 briefly, but no more socially than that, and with almost
4 no academic overlap. I occasionally saw him with
5 children and he was reasonably businesslike with them.
6 Such contact was invariably in association with
7 [REDACTED]. I did not see him
8 discipline children and I did not see him abuse
9 children. I never heard of him abusing children.

10 "Martin. I recall Martin. He was employed by the
11 school throughout [REDACTED] and
12 also before and after that. He was probably about late
13 40s when I left in 2017. He was a teacher. I knew him
14 as a colleague. He produced some excellent work whilst
15 I was there. There were some talented pupils that he
16 really got the best out of. He was a good humoured chap
17 generally, he had some good friends, most notably Elaine
18 Logan who was later head of Glenalmond. I knew Martin
19 quite well. There wasn't that much crossover in our
20 working days but we did occasionally go out on the same
21 works drinks in Musselburgh. Acquaintance more than
22 friend really, but it was always possible to stop and
23 talk together.

24 "I did not see him in much with children in
25 a teaching or pastoral capacity. When I did see him in

1 passing he was always polite and courteous with pupils.
2 I did not see him discipline children and I did not see
3 him abuse children. I did not hearing of him abusing
4 children.

5 "The complaint against me was made by three female
6 pupils who were in a sports team that I was coaching at
7 the time. They complained in the first instance
8 I believe to their housemistress who would have been
9 Elaine Middlemass, later Logan. The first I knew of the
10 complaint came from the then head Michael Mavor who
11 called me into his office, I think on the same day he
12 received the complaint, and questioned me as to the
13 comments made. I think I recall that somebody else was
14 present but I cannot recall who it was.

15 "He detailed a number of foolish comments I had made
16 over the course of several weeks that, read together,
17 sounded even more foolish. Most of them were
18 innuendo-based jokes along the lines of 'Little Britain'
19 and 'I'm Sorry I Haven't a Clue' quotations. I accepted
20 I had sorely misjudged the situation and shouldn't have
21 used even fairly generic adult humour with pupils.

22 "I had also commented on their attire at one point.
23 I told one of them to put their bum back in their
24 trousers, their trackies were flying at half mast.
25 I accepted that was a crass statement to have made.

1 There was a claim that they had been touched in a manner
2 that was inappropriate to a PE lesson. I had patted
3 someone on the shoulder in mild congratulation and,
4 although to be honest I can't even be sure of this much,
5 might well have put a consoling arm on someone's
6 shoulder when they had been hit in the face by a ball or
7 been knocked by someone else's sports stick. This was
8 a sign of sympathy or exuberance and without any malign
9 intent. Either way, they felt such contact was
10 inappropriate, as they were fully entitled to do, and
11 they complained about it.

12 "I accepted that that was the case, and apologised.
13 I asked for my apology to be conveyed to the pupils
14 concerned whose names I did not know until this Inquiry.
15 Any physical contact that was made was made on the wide
16 open spaces of Newfield and in full view of other pupils
17 and staff. I say this to emphasise that nothing
18 sinister whatsoever was done or intended. I have been
19 asked whether I ever put my arms around pupils and
20 hugged them. I cannot remember having put my arms round
21 and hugged any of these three pupils, nor indeed anybody
22 in that team. I am though sure that I have hugged
23 pupils and/or been hugged by them after some celebratory
24 event, like end of year services, carol services,
25 Loretto Day or such like. Not a huge number and not

1 sought out, but the outcome of exuberance at
2 a celebratory occasion, in the presence of a large crowd
3 doing likewise, and usually when parents were there as
4 well.

5 "In relation to the comments made by me, I do not
6 now remember many of the comments made, however I have
7 no doubt I would cringe at the memory of the many stupid
8 comments I did make and respond quizzically at a few
9 I feel I did not. I have been asked whether I said
10 'Drinking from the furry cup'. I did use the
11 expression, I feel terrible for doing so, as I did when
12 the head read it out to me. It is a direct quote from
13 a line in 'Little Britain'. A pupil had asked me
14 whether a staff member was a lesbian. I said 'Are you
15 asking me whether she drinks from the furry cup? I have
16 no idea as it is none of your business. It is none of
17 my business nor of yours'. It was an awful expression
18 to use and Michael Mavor left me in no doubt he thought
19 so too. I am also appalled with myself that I didn't
20 really do anything to stop a colleague's name from being
21 bandied round and probably indulged it really. It has
22 haunted me sporadically from then and the memory of it
23 was brought shamefully back when reminded of it.

24 "I have been asked whether I told a pupil who did
25 languages that she must use a lot of tongue. I don't

1 remember saying this but it is quite possible I did. It
2 is typical of the sort of ill-thought through fly
3 comments I had made at the time because some people
4 found them funny. I have been asked whether I said
5 a pupil could make excuses for not having done their
6 prep because it was on a memory stick, 'but your father
7 is a sexual deviant and he used it in a game with your
8 mother'. I had forgotten about this statement until
9 this prompt. I recall the SNR being particularly
10 horrified by it and I also recall disputing it at the
11 time as it was not what I had actually said.

12 "It is clear it didn't come out of thin air though.
13 My sketchy recollection is that a lad had not done his
14 essay and had the lame excuse that it was on his memory
15 stick but that he couldn't let me see it. I asked him
16 whether that was because he or his parents had used it
17 to record dirty movies or something, not much better but
18 not quite as heinous.

19 "I do remember that when I bridled at one or two of
20 the comments that the SNR read out he made it clear
21 I was not there to discuss the statements, having
22 accepted that the majority were as spoken, but to be
23 informed of the disciplinary process. I decided not to
24 dispute the allegations nor to bring in a support
25 person, partly out of embarrassment and partly out of

1 fear that it would only escalate matters to a more
2 uncomfortable level than they already were. I regret
3 that choice now. The SNR did point out to me that
4 I could have a support person in the disciplinary
5 hearing if I wished.

6 "Having been advised by the SNR that I would
7 receive a verbal warning as to future conduct, I elected
8 not to embroil any other colleague or representative in
9 matters about which I was understandably embarrassed.
10 I attended the disciplinary meeting alone. I was then
11 quite surprised to be in receipt of a final written
12 warning as to future conduct. I would have taken
13 a supporting person with me had I foreseen that.

14 "The documentation was written down in full by the
15 SNR's personal assistant, Linda Ogilvie, who no longer
16 works at the school but didn't leave that long ago. The
17 complaint was investigated by the SNR personally with
18 reference to the girls and their housemistress. The
19 final outcome was a final written warning.

20 "I was distraught. I felt as if the complaint had
21 been taken very seriously indeed and that I had paid
22 quite a heavy price for essentially being a motor mouth.
23 After I had got over being horrified, I amended my
24 behaviour around pupils commensurately. I became very
25 aware that there is no such thing as off duty or

1 downtime in a school, and anything you say or do has to
2 be pretty much whiter than white most of the time.

3 "The SNR advised me to reflect on what had
4 happened, 'Go to your family and spend some time looking
5 after them and their needs'. I did this and found
6 plenty of peace as a result.

7 "I continued to work at Loretto for another three
8 years and had I think good professional relationships
9 with both staff and pupils thereafter. As far as I am
10 aware, there was no further comeback from either the
11 pupils concerned or their parents and they felt the
12 matter had been dealt with thoroughly and firmly.

13 "I first left the school in 2010 and then again in
14 2017. I don't know the content of references the school
15 gave to subsequent employers but I am aware that the
16 SNR, QSF, would have supplied my reference
17 in , and the head in 2016 and 2017, Graham Hawley,
18 will have supplied references in 2017.

19 "I think that the difficulty with a boarding school
20 situation is that you are together all of the time and
21 some of that time staff are off duty. But actually you
22 are never are. This probably needs to be made clearer
23 right from the start and provision of accommodation and
24 a social environment away from campus and pupil
25 accommodation should be better and more fully available,

1 otherwise boundaries between school life and social life
2 become blurred and that is where most misunderstanding
3 and inappropriate behaviour will develop.

4 "I have no objection to my witness statement being
5 published as part of the evidence to the Inquiry.
6 I believe the facts stated in this witness statement are
7 true."

8 My Lady, the statement has been signed by Colin and
9 is dated 26 November 2020.

10 LADY SMITH: Thank you very much, Ms Bennie.

11 Before me move on, can I mention the name
12 CRL was mentioned in that statement. His
13 identity is protected by my General Restriction Order so
14 he cannot be identified outside this room. Thank you.

15 Mr Brown.

16 MR BROWN: My Lady, I am obliged. The next witness is Jack.

17 LADY SMITH: Thank you. (Pause).

18 Good morning. Could we begin by you taking the
19 oath, please.

20 "JACK" (sworn)

21 LADY SMITH: Jack, please sit down and make yourself
22 comfortable. You will see that the red folder has got
23 a copy of your statement in it, Jack, and the parts of
24 it we are referring to will also come up on screen if
25 that is easier for you to use, as will any documents if

1 Mr Brown decides to show you any documents we need to
2 look at.

3 Otherwise there is nothing I want to say at this
4 stage. Unless there are any questions you have, I will
5 pass to Mr Brown. But please be assured that anything
6 you are worried about or want to query, you must feel
7 free to do so. It is very important that you feel
8 comfortable giving your evidence.

9 A. Thank you.

10 LADY SMITH: Mr Brown.

11 Questions from MR BROWN

12 MR BROWN: My Lady I am obliged.

13 Jack, good morning.

14 A. Good morning.

15 Q. You have your statement in front of you as you have been
16 told. It will appear in front of you on the screen have
17 which may or may not be easier for you to read. We see
18 at the end of the document, which runs to 25 pages,
19 a final numbered paragraph 82 which confirms that you
20 have no objection to your witness statement being
21 published as part of the evidence to the Inquiry, and
22 that you believe the facts stated in it are true. And
23 that is correct, you read through this?

24 A. That is correct.

25 Q. And that is presumably why you signed it on

1 21 September 2020 to confirm both those things?

2 A. Yes.

3 Q. You are 60 and you are now retired from education after
4 a career post university, is that correct?

5 A. Correct.

6 Q. Although I think retirement probably means you are still
7 involved in education in some ways?

8 A. It would appear to be a temporary job description, yes,
9 retirement.

10 Q. What are you proposing to progress on to?

11 A. As of yesterday, I am more than likely to be taking on
12 a role as an interim headteacher.

13 Q. All right. That would reflect your background which has
14 progressed as we see in paragraphs 2 and 3 from
15 university, doing your postgraduate certificate in
16 education, further degree and then teaching from really
17 that point on from the early 1980s up until now?

18 A. Yes.

19 Q. We see from paragraph 3 that your career has spanned
20 a wide variety of schools, is that fair to say? We have
21 heard about the private sector, which can be day and
22 boarding or both, and obviously the state sector, to use
23 that loose description. Your background seems to have
24 been primarily, certainly at the beginning, in the state
25 sector, is that fair?

1 A. That is right, yes.

2 Q. In a number of schools. But you then progressed in [REDACTED]
3 to become a headmaster, having gone through deputy head
4 roles at other schools, at [REDACTED] in Wales.
5 Was that a boarding school?

6 A. It was, yes.

7 Q. Purely boarding?

8 A. No. As is normal with a lot of schools now, it was
9 a mixture of the two. It was predominantly day in the
10 younger years and predominantly boarding in the older
11 years. A lot of children would transfer into boarding
12 the older they got.

13 Q. Was that your first experience of a boarding
14 environment?

15 A. No, I had been working at a boarding school in
16 Nottingham for six years prior to that, again a day and
17 boarding school, and I had some residential
18 responsibilities there even though I didn't live in, so
19 I would do a weekly boarding duty.

20 Q. Obviously we know you then left [REDACTED] and went to
21 Loretto as the head, we will come back to that. But I'm
22 just interested in the distinction between state and
23 private, particularly boarding, in terms of governance.
24 Is there greater governance in the boarding school
25 because of the wider range of things or is governance

1 constant across all schools?

2 A. Governance is a constant. I think the difference, and
3 I have had experience of being a governor in a state
4 school myself. The framework for governance is more
5 predetermined, in my experience, in the state sector.
6 So what I mean by that is as a state school governor
7 there will be quite clear and distinct restrictions with
8 regards to responsibility, and there is of course the
9 direct line into either the Local Authority or the
10 funding if it is an academy. So from those points of
11 view, as a state school governor, one is pretty sure
12 where the tramlines are as it were with responsibility.
13 Whereas with independent governance, there are clearly
14 very, very similar functions, but the roles within that
15 can be a little bit more flexible.

16 Q. Experience of governance at Nottingham and then

17 [REDACTED], having come from a state sector where, to
18 use your words, the tramlines were clearer, the lines
19 were clearer, were you surprised by your experience of
20 governance at those two private schools?

21 A. My engagement with governors in Nottingham was different
22 because I was head of department --

23 Q. As head then?

24 A. So I met the governors but I was less aware of their
25 responsibilities. But what I saw and my experience of

1 dealing with them there chimed with what I felt later
2 on when I was back in the independent sector.

3 Q. But did you ever have concerns about how governance
4 worked in the private sector?

5 A. No.

6 Q. No. All right. In terms of board make-up, for example?

7 A. The make-up was curious because whereas in the state
8 environment there would be, well, this governor has been
9 recruited because we needed someone with particular
10 skills in this area, so we needed a finance specialist
11 or we needed an HR specialist or such and such, I wasn't
12 so clear on that. Whereas there would be committees
13 within the independent sector where there would be,
14 for example, a finance committee or a marketing
15 committee or a health and safety committee.

16 The focus on a skills audit didn't seem at the time
17 to be as clear. I identified that becoming into sharper
18 focus as the years have gone by. So for example when
19 I became a headteacher in [REDACTED], the board of governors
20 seemed to be an amalgamation of ex-pupils and people who
21 were known to other members of the board who were then
22 allocated roles within that.

23 LADY SMITH: I suppose that might have varied from school to
24 school.

25 A. Indeed, yes.

1 LADY SMITH: I think there may have been independent schools
2 before [REDACTED] who had a skills matrix.

3 A. I am in no doubt about that.

4 LADY SMITH: That they sought to keep to for their
5 governors.

6 A. Yes. One of the constitutional issues when I was in
7 Wales, for example, was that a number of the board had
8 to be old boys of the school. The school had been owned
9 or given to the alumni in about 1945 and part of the
10 constitution was a certain proportion of them had to be
11 alumni, and that meant it was skewed, and a number of
12 the non-alumni governors were actually old boys as well,
13 so it meant there was quite a preponderance.

14 LADY SMITH: I was thinking, rather going back to your
15 comments about the flexibility within governance of the
16 independent schools, that I think I am right in saying
17 there were some who certainly had decided that they
18 would use a skills matrix, having recognised what they
19 required on their governing body and, all depending on
20 the constitution, were not necessarily constrained as to
21 who they had to have on that group.

22 A. I totally agree. The nature of the schools being
23 independent, I think that meant from school to school
24 one could expect to see different structures, different
25 make-ups within that body. Yes.

1 LADY SMITH: Thank you. Mr Brown.

2 MR BROWN: That is where I was going to come to. Is that
3 something you saw change from this in some schools, old
4 boys perhaps tap on the shoulder people they knew who
5 would replace them or fill empty chairs, to a much more
6 rigorous approach to governance in terms of the skills
7 audit that you have talked about.

8 A. I am certainly aware of that, particularly when I moved
9 to Loretto.

10 Q. That was what I was going to come to. You then moved
11 from Wales to Loretto. And as we see from your
12 statement at paragraph 6, your statement on page 2, your
13 line manager was the late Roy Martin QC who was chairman
14 of the board of governors at Loretto at that stage. [REDACTED]

15 [REDACTED]

16 A. [REDACTED] So whilst
17 he was on the panel that appointed me, [REDACTED]

18 [REDACTED]

19 Roy Martin as chairman.

20 Q. Had he been involved in your recruitment?

21 A. Yes.

22 Q. Obviously when a new head joins the school they
23 presumably go there (a) because the school is wanting
24 a particular type of head, perhaps to respond to
25 particular issues, and (b) they go to a school with

1 a vision of their own, presumably having spent some time
2 looking at the school to see what it is like but then
3 taking it forward to reflect their vision. Is that
4 correct?

5 A. Yes, I think that can be the case. And I just refer to
6 what I was saying about the nature of independence. It
7 depends from school to school. It was very much the
8 case when I went to Loretto that they wanted -- it was
9 a vision we should share. So this wouldn't be me coming
10 in with my ideas and trying to overlay them on the board
11 or vice versa. Certainly Roy Martin and I felt we
12 wanted to work together, me with the staff and him with
13 the board, with a view to make the school as good as it
14 could be.

15 Q. It was a team approach?

16 A. Absolutely. And an instance of that was Roy came to
17 visit me in Wales. Before I joined the school he wanted
18 to see me, wanted to get to know me, wanted to know how
19 we could work together and build a relationship, so when
20 I started it was seen we were all, as it were, on the
21 same page.

22 Q. Was that something that you were pleasantly surprised by
23 in terms of your previous experience? Was that progress
24 as you saw it?

25 A. I had -- I had had a similar experience in my previous

1 school in that the board and I would work together to
2 try and achieve our set aims, and when change was
3 required then the board would instruct me to do that.
4 It wasn't a case of me doing it and the board watching,
5 it was a case that we would make decisions and work
6 together.

7 An instance of that is that we made a strategic
8 change before I joined the staff. There were financial
9 problems in the school and we were going to go down one
10 path, which was the sale of assets, and then we decide
11 we wouldn't do that, we would endeavour to actually grow
12 the school, and manage our costs, rather than have to
13 take any decisions about losing any of the valuable
14 assets of the school.

15 Q. From what you have just said though, and you have been
16 engaging with the chair of the board prior to taking up
17 the post, was there a clear direction of travel that the
18 board felt was necessary which was essentially to save
19 some money?

20 A. Yes.

21 Q. And I think as you set out in your statement, when you
22 came in perhaps the feeling was that there were too many
23 staff, it was too expensive to run, there weren't enough
24 pupils. In other words, the sort of everyday anxieties
25 that a boarding school is likely to have, things go up,

1 things go down, and you have to respond accordingly?

2 A. Correct.

3 Q. Were you brought in, in a sense, it's a harsh
4 description, but as a bit of a hatchet man to go in hard
5 to try and address these issues?

6 A. I would agree it is a little harsh.

7 Q. What would you say?

8 A. The school needed to move and change to be ready for the
9 future. Many of the structures, the package for
10 remuneration, the way the school was managed, the split
11 between the finance being run by a committee and
12 a bursar and the pastoral being run by -- an academic
13 being run by the head was quite an old-fashioned model,
14 and within that modelling the school had been a bit
15 loose when it had come to cost control. It wasn't the
16 case that I was brought in with a remit to get rid.
17 In fact the board's initial plan was to actually get rid
18 of quite a bit of the estate and they published --
19 a glossy brochure was published for parents showing
20 where land could be sold, it had 85 acres, 65 buildings,
21 there was a possibility of losing those buildings.

22 I was very sad at the thought the school's solution
23 to a financial problem would be permanent. I had had
24 experience of raising revenue and trimming costs. And
25 so as a result, what we were really trying to do was

1 both. So it wasn't -- perhaps there was a degree of
2 cutting that was required, but to continue the more sort
3 of agricultural and farming metaphor of using a hatchet,
4 there was also a good deal of growth, so there was quite
5 a lot of planting as well as a degree of pruning.

6 Q. Thank you.

7 LADY SMITH: Of course skilful pruning can give rise to very
8 healthy growth.

9 A. The analogy of a garden can go quite a long way in this,
10 because we were overgrown in a number of areas, and that
11 was with facilities. We had let some patches of the
12 garden look a bit disreputable, and it was essential
13 that we, for the sake of the children, we could offer
14 the best of the facilities and the best quality teaching
15 and with teachers teaching an appropriate timetable.

16 So I take your point. The out-turn of having to
17 make quite a lot of redundancies does look like that.
18 But of course at the same time we recruited a lot of new
19 students. So within the first year we had a £1 million
20 swing, I think £600,000 taken out of the costs but
21 £400,000 brought in in new revenue, and it meant we
22 didn't have to sell any buildings.

23 LADY SMITH: Thank you.

24 MR BROWN: Presumably loss of employment would have impacted
25 morale?

1 A. Yes.

2 Q. Badly, adversely?

3 A. Of course. It was a very difficult time. And as
4 I allude to in my statement, for some staff they felt
5 this was too much too soon, and for other staff who
6 would say things to me like "We knew this was coming".
7 The teaching load for a typical teacher was below the
8 average for a similar school. The twice a year pay
9 increases were unusual. The fact that members of staff
10 who had done a job for a certain number of years could
11 then retain their salary even if they stepped down from
12 the post was incredibly unusual. The decision to hire
13 new members of staff, if there was a question over the
14 teaching of another member of staff, so their teaching
15 could go down and somebody new could come in and fill in
16 the gaps, felt like a short-term solution to me. So in
17 a number of areas, whilst there was discomfort, it felt
18 unsustainable.

19 Q. Reading from what you have just said was required --
20 I am interested though about the impact of morale and
21 perhaps the politics within a school. Politics, with
22 a small P presumably, is part and parcel of every
23 educational establishment, there will be those who go
24 along with you, those who are against you. In the
25 context of what we are concerned with, the abuse of

1 children, would you accept theoretically as a starting
2 point that the petty politics or not so petty politics
3 within a school can divert attention away from focus on
4 the children?

5 A. Not in my experience. I can understand the theorising
6 on that front but the -- if you can forgive me yet
7 another metaphor, sometimes the role of a headteacher or
8 a principal is to be someone a little bit like a theatre
9 manager. We have to get on with our job but we can't
10 interfere with the performance. We have to make sure
11 that we are totally focused on what we are there for,
12 and what we are there for is the children. So behind
13 the scenes in the wings we may have to do things that
14 actually are managerial and budgetary focused, but the
15 reality of what we are there for is the welfare of the
16 children.

17 So, yes, I would have lengthy meetings on budgetary
18 matters and recruitment and I would have a team of
19 people who would look into those things, and of course
20 there were morale issues with staff, but I would think
21 at no time that took precedence or priority over looking
22 after the children. And with the staff as well, I would
23 say it was not just from a strategic point of view.
24 I was fortunate enough to work with very, very many, not
25 all but very many highly professional staff who were

1 very pupil-focused.

2 Q. You talked about child protection. Obviously by the
3 time you get to Loretto you have been in the teaching
4 profession for 30 years roughly?

5 A. I think --

6 Q. Don't worry about it.

7 A. I was 39 when I became a head so ...

8 Q. I don't think we need to -- child protection presumably
9 is something you had seen grow in importance over that
10 time, and was it something that you had had in your
11 previous employment regular training and involvement
12 with?

13 A. Yes, having been a teacher at Trent College, which is
14 a large day and boarding school in Nottingham, prior to
15 my time being there that school had been the subject of
16 another -- a number of stories, and actually contributed
17 to Esther Rantzen's development of Childline. We were
18 very closely involved with a number of quite serious
19 cases, and as a result the school had taken quite early
20 days steps to train its staff and to make sure that we
21 had very, very strong rigorous child protection and
22 staff screening.

23 Q. In response to problems?

24 A. In response to problems, correct, yes.

25 Q. When you got to Loretto in [REDACTED], what was your

1 assessment of the pastoral and child protection side of
2 the school?

3 A. Old-fashioned and requiring renovation, reinvigoration
4 and modernisation.

5 Q. I think we see this at paragraphs 10 onwards on page 4.
6 You felt, for example, that discipline was too lax,
7 looking at the first paragraph:

8 "... instances of bullying going unchecked and
9 certain policies were either no longer fit for purpose
10 or were not being implemented."

11 A. This is what was told to me. From [REDACTED], with
12 the term starting five weeks thereafter, I had an open
13 door policy for parents, anybody, members of staff who
14 wanted to come and see me, and staff and parents came to
15 see me, and the points I made there are the ones they
16 said to me. So I wouldn't hope for one minute that as a
17 new head I could come in and somehow magically know what
18 was going wrong or what the issues were. One learns
19 through experience to pick up on things. But there was
20 a very strong feeling from families that they felt these
21 were issues.

22 Q. All right. What about the staff? Were they content
23 with what they had? Did they see any difficulties?

24 A. There was a feeling amongst some staff of inconsistency.
25 The houses were -- the boarding houses were split by

1 gender and by age, so we would have younger boys in one
2 house, younger girls in another house, and older boys
3 and then older girls, and there was a feeling perhaps
4 discipline wasn't standardised across those and
5 sanctioning was not standardised across the different
6 houses.

7 Q. Was that because individual houses were run by
8 housemasters and there was a degree of discretion for
9 them how they handled --

10 A. Correct. Yes.

11 Q. Okay. I think we see paragraph 13, you make the point:

12 "Staff appraisal was not detailed, searching or wide
13 enough scope to give me comfort when managing
14 performance properly."

15 And you therefore, with your newly appointed
16 vicegerent, reorganised and reinvigorated staff
17 training, modernised staff recruitment, boosted the
18 numbers of staff involved in and trained in child
19 protection, and it goes on. Did you feel that
20 the amount of training in child protection was lacking?

21 A. I felt there were definitely training sessions in the
22 archives that had the heading child protection against
23 them. But my feeling, looking at the amount -- the
24 awareness within the school -- whereas I don't doubt
25 child protection had been taking place in terms of

1 training, I didn't feel it was detailed or rigorous
2 enough. And also I didn't feel we were doing the other
3 side of it, in other words making sure that after the
4 training had happened we were making sure there was the
5 awareness and making sure the policies that were being
6 discussed and explained in training were being fully
7 implemented.

8 Q. Jumping to paragraph 15 at the bottom of the page 5, you
9 say:

10 "Listening to staff and looking at the policies at
11 the time of my appointment, I didn't have the certainty
12 that everything to do with safeguarding was as tight and
13 secure as it could be. My own training in safeguarding
14 led me to always consider the possibility of abuse
15 exists, and so be vigilant."

16 Was it just a little bit too comfortable?

17 A. That was my feeling at the time.

18 Q. Yes. If we go up the paragraph talking about
19 governance, this is all under the heading of,
20 paragraph 14, "Strategic Planning". You say four lines
21 down:

22 "At the time of my appointment, boarding staff
23 didn't seem to have clear and consistent policies from
24 one house to another. In comments I heard from some
25 staff, I felt they were not familiar with up-to-date

1 practice of child protection and the governors did not
2 have a safeguarding committee."

3 Did that surprise you?

4 A. Yes.

5 Q. I think though, again, as the new broom, to be cliched,
6 you made changes. And in relation to the safeguarding,
7 what were those changes?

8 A. At a school level we made sure a great deal more was
9 being done in terms of training and matters to do with
10 complaints were investigated more thoroughly. I have
11 detailed the policy changes we made. It wasn't for me
12 to make a decision to say to the board they needed to
13 produce a new committee. We did have a health and
14 safety committee and, to the best of my recollection,
15 any matters to do with safeguarding would go to that
16 committee, but there wasn't a distinct safeguarding or
17 child protection committee at that time.

18 Q. You have talked about Roy Martin obviously having
19 a desire to make progress. Was that something that
20 there was -- he supported?

21 A. Yes, absolutely. Any -- I would report any concerns
22 I had on child protection issues directly to him.

23 Q. And he was receptive?

24 A. Very, very receptive. [REDACTED]

25 [REDACTED] a father of three, very aware of these

1 issues, very alive and alert to doing everything
2 correctly and probably, and was -- I can't praise him
3 highly enough for his support for me and his
4 professionalism in doing the role.

5 Q. If we go to paragraph 22 which is on page 7, you say:

6 "After discussions with the board of governors,
7 a newly configured senior management team comprising the
8 headmaster, vicegerent, deputy head who dealt with
9 secondary staff matters. Head of junior school dealt
10 with academic and pastoral matters of primary children.
11 The bursar dealt with finance etc..."

12 Then:

13 "Head of compliance safeguarding (child protection)
14 liaison, and ensuring the school was fully compliant
15 with safeguarding."

16 Was that a new post --

17 A. I introduced that. We had had the rather quaint and
18 I think inappropriate title of senior mistress in the
19 school and it felt like a lady who looked after pastoral
20 things. I understand where the term came from --

21 LADY SMITH: It connotes an image of times gone by.

22 A. I know. I have this image of Hattie Jaques in my
23 mind, that is perhaps altogether inappropriate --

24 LADY SMITH: I was thinking of Margaret Rutherford.

25 A. But somehow the idea of a senior master who looks after

1 rugby and a senior mistress who looks after people who
2 are unhappy, it's a caricature. But the job description
3 for senior mistress was pretty decent, despite the title
4 being a bit strange and old-fashioned, so I changed it
5 to head of compliance and safeguarding. It was the
6 person who had been the senior mistress but we included
7 in that more details to do with liaison and compliance
8 with safeguarding policies.

9 At this time policies were changing so it was
10 important I had a member of staff who was on top of the
11 changes, who regularly attended training, and was the
12 go-to person when it came to matters of up-to-date
13 policies on safeguarding.

14 MR BROWN: You obviously described that that was the time
15 Elaine Middlemass, who became Logan and now Selley, the
16 same person, who had been senior mistress, you say she
17 was already experienced in child protection matters and
18 attended various additional training courses to keep her
19 knowledge up-to-date. Were you content that despite the
20 crinoline in her title, she knew what she was doing in
21 terms of child protection?

22 A. She was very knowledgeable on matters of child
23 protection policy.

24 Q. So you felt things were too comfortable in that regard
25 across the school perhaps?

1 A. I think for any -- for all -- I make a general and
2 specific point here. I think for any member of staff
3 who has come through a school and been internally
4 promoted to positions where they are responsible for
5 their peers, there are challenges.

6 Q. Which are?

7 A. One sometimes has to look more objectively at one's
8 colleagues than previously one had seen them in more of
9 a friendly role. I think that can be a challenge
10 specifically to Loretto and generally in all schools.
11 It was one of the reasons I felt it was important for
12 example to appoint an additional vicegerent when we had
13 to make redundancies, that is to say somebody who would
14 be able to look objectively at staff and make decisions
15 in the best interests of the children as to cuts, if
16 they had to be made, where they should be made.

17 I think the same applies to safeguarding issues. It
18 is very hard to come to terms with the fact somebody you
19 know may be doing something you don't approve of.
20 I think that is true for any teacher in any role.

21 Q. We might return to that in a little while.

22 You go on at page 8 to look at school recruitment
23 process. Obviously recruitment is an area that, would
24 you agree, has been taken more seriously over time,
25 because it is recognised that sometimes we have heard of

1 this in Loretto, people being allowed to leave Loretto
2 to resign and simply move away after difficulties. Did
3 you ever have experience of that in your educational
4 career? Someone who has transgressed just being allowed
5 to walk into the sunset?

6 A. I can only really speak from my time from 1995 onwards
7 when I became a deputy. Before that time, other than
8 recruiting members of staff into a particular
9 department, I didn't have HR responsibilities. So from
10 my time from 1995 onwards, I haven't had personal
11 experience of staff just being moved on. I have
12 certainly had conversations with people involved in
13 education who have said that used to happen. And
14 certainly when I was involved in a child protection
15 issue early on in my headship, my then chairman said to
16 me "Well, in the old days we would probably have just
17 moved them on, but we are not doing that now, are we?"

18 So that -- I think we have to recognise the fact
19 that they are in a time when sometimes the desire to
20 keep things quiet and not make a fuss and not shine
21 a light on a school may have distracted decision-makers
22 from perhaps dealing more adequately and more
23 appropriately with individuals.

24 Q. Put bluntly, is that because the balance between acting
25 properly and thinking of the interests of the schools

1 image has sometimes been imbalanced?

2 A. Correct.

3 Q. You talk about the Bichard Report of 2004. This is
4 Soham or pre-Soham?

5 A. Sorry, could you repeat?

6 Q. The Bichard Report and the importance of the impact that
7 had on recruitment?

8 A. Yes, certainly the Bichard Report with all of its
9 reference to bringing about CRB checks and more
10 appropriate interviewing and training for interviewing
11 and so on and so forth. We were certainly very mindful
12 of doing all those things. And also, being a member of
13 a number of professional associations of heads, we were
14 bound by the sort of professional standards when it
15 comes to recruitment.

16 It may be worth making reference to the fact that
17 the HMC, the Headmasters' and Headmistresses'
18 Conference, is not an association for schools, it is
19 an association where the head is a member rather than
20 the school, and as a result the head is expected to
21 adhere to all the standards as determined by the
22 organisation, and certainly HMC as a body whole was
23 committed to the Bichard Report and the higher standards
24 of recruitment by heads.

25 Q. You make reference as we see on screen to SCIS, Scottish

1 Council of Independent Schools, another body we know
2 provides guidance --

3 A. Indeed, yes. We would have -- as a head, in addition to
4 that, we would have regular contact with independent
5 schools lawyers. I think at that time we were using
6 Rickerbys or Veale Wasbrough, and we would regularly
7 consult if we had questions about HR or safeguarding.

8 Q. That was professional legal advice?

9 A. Yes.

10 Q. That is -- you say about safeguarding or HR. If you had
11 a safeguarding issue, would you go to the lawyers to ask
12 advice --

13 A. No, I am talking about in terms of recruitment. Making
14 sure we are doing everything right. Making sure our
15 decisions and our procedures were not only appropriate
16 with regard to standards of our professional
17 associations but also legally sound.

18 Q. Was that in place when you went to Loretto?

19 A. No.

20 Q. Was that something you introduced? You talk about
21 recruitment and references and the importance of asking
22 appropriate questions. You make reference obviously,
23 following up, paragraph 26, page 8:

24 "I introduced the policy of the current and most
25 recent employer being telephoned by a member of the

1 leadership team after we received the written reference.
2 Safeguarding and child protection were always raised in
3 these calls."

4 Was that because there was an apprehension that
5 references might not contain a full picture?

6 A. There isn't one specific reason, it just felt to me like
7 good practice. As well as having a form and
8 a statement, it felt like good practice to speak to
9 the person who had written the reference, not only just
10 to confirm on a base level that they actually had
11 written it, but also to have an opportunity to explore
12 anything within that if there were any concerns.

13 The reality of writing references is that sometimes
14 they can be quite bland, they can be quite stark, and if
15 there are any concerns at all I would like to have
16 raised them with that individual.

17 Q. Do you have ongoing concerns, since we are talking about
18 references, now?

19 A. Yes, I do.

20 Q. What are they?

21 A. I will give you one example. I did an interim headship
22 and the references from that institution, an academy,
23 simply stated where -- it was the policy of the
24 organisation to state the employee had worked there and
25 this was their job title. That was all they sent out.

1 Q. What was the rationale behind that?

2 A. It was a very large organisation, so I wasn't privy to
3 the motivation behind those decisions. But I know, if
4 this is appropriate, I know that a lot of people who
5 write references are concerned that they may say
6 something that may come back to bite them. There may be
7 action taken against them. Does the candidate have the
8 right to see the reference? If you write a reference
9 for somebody and you say something which means they
10 don't get the job, is that individual going to take
11 action against you? Are you going to appear in a legal
12 case? Are you going to be accused?

13 So in some cases it is perhaps easier for people to
14 say, well, I will complete the bare bones of the form,
15 I will be compliant and complete the reference, but not
16 say anything that may cause concern.

17 LADY SMITH: I think what you are talking about, Jack, is
18 whilst in the old days nobody thought you could sue
19 somebody for writing a reference that had
20 an unsatisfactory outcome for them, that changed. There
21 was litigation. The point was made, and it was
22 confirmed by the court, that it could, obviously
23 depending on the particular circumstances, but it could
24 as a matter of law be founded on in an action of
25 negligence.

1 MR BROWN: That, by the sounds of, is perilous.

2 A. Sorry?

3 Q. Perilous in terms of child protection?

4 A. Indeed.

5 Q. So is there a solution? Presumably if you have a child
6 protection concern you would share it?

7 A. Yes. Typically a reference request will have on it --
8 now will have on it -- will ask, and I write a great
9 many references for staff here in the UK still, whether
10 there have been any issues. You will be maybe familiar
11 with the standard forms, the ones which simply say: has
12 this member of staff been subject to any disciplinary
13 matter? Has this member of staff been subject to any
14 child protection enquiry? Do you know of any reason why
15 this person should not be allowed to have unsupervised
16 access to children? So that is better now certainly
17 than it was.

18 LADY SMITH: I suppose what that achieves is it can produce
19 an accurate reference to the extent that if those
20 important questions are not answered positively, the
21 person who is thinking about employing them would be
22 well justified in having concerns and deciding, well,
23 those are fundamental criteria for me and I'm not even
24 going to interview them, or whatever?

25 MR BROWN: By the sounds of it, with the defensive mentality

1 you have talked about, you are tentatively raising a red
2 flag but saying nothing perhaps of detail, you are
3 leaving the onus on the person reading a bland reference
4 to see the flag?

5 A. There were certainly times when I was reading
6 references, yes, when I would look at them and I would
7 think this is a bit grey, this reference. This is
8 a little bit light. What am I not seeing in this
9 reference? What am I not knowing? Why is more not
10 being said? But in my experience, in those sorts of
11 cases, we would probably stop at the reference stage and
12 not take the person any further.

13 Q. Presumably though if there is a child protection
14 concern, we have said this already, you would be clear
15 about it?

16 A. Absolutely.

17 Q. Saying that, I appreciate life is rarely black and
18 white, and there are all manner of shades of grey
19 in between. Presumably as a headmaster there is
20 a degree of discretion in answering the question: is
21 this person fit to work with children? There may be
22 things in the past that you think are in the past and
23 don't need to be mentioned, is that fair?

24 A. I think if the question is: is your judgment that this
25 person is a fit person to work with children? Then

1 it's a binary question, it is a yes or a no, and there
2 can't be a possibly. So one has -- but it is
3 an opinion. I know from my own experience as a head
4 when I have dealt with child protection matters, on some
5 occasions that has been the first time a person has
6 committed -- the first time we are aware that somebody
7 has committed an inappropriate act with a child, so up
8 to that moment their reference has been perfect, so ...

9 In my experience, all one can ever do is make
10 a judgment based on what one knows and one sees and
11 one's past experience.

12 Q. We see an example of that in your handling of a teacher
13 you inherited when you joined. We have heard about him,
14 he is going under the name Colin. If we could look
15 briefly at LOR-1-000000035 at page 16. I think, we
16 don't need to go into details of this, but this is
17 a final warning to Colin [REDACTED],
18 [REDACTED], and it sets out a number of areas which
19 we have already heard about this morning.

20 If we go to page 17, we see mid-way down the
21 statement:

22 "Let me put the final warning in context. I'm not
23 going to dismiss you for any minor lapse in the
24 guidelines I have given you. On the other hand, I can't
25 possibly have you repeating this pattern of behaviour

1 and I am sure you will not. If you do, however, I shall
2 have to dismiss you. You will remember that I suggested
3 something practical - "

4 And it goes on.

5 You came in and discovered that this final warning
6 was in existence. Was that something that was shared to
7 you -- was there a handover with your predecessor?

8 A. No.

9 Q. Did that surprise you, the lack of handover?

10 A. Yes.

11 Q. Would that normally take place?

12 A. It depends. I have given handovers to other heads.

13 I have been in situations where I have had a handover,
14 I have also had a situation where I haven't had
15 a handover, so ...

16 Q. No doubt it is down to the particular circumstances.

17 A. Yes.

18 Q. But would you have expected to be told by the school,
19 not necessarily your predecessor, that in terms of the
20 staff an individual was on a final warning and why?

21 A. Yes.

22 Q. Did that happen in this case?

23 A. No.

24 Q. How did you come to discover it?

25 A. Somebody, I can't remember who, mentioned to me in

1 passing this had happened, and so I then did some
2 investigations and I asked my assistant, who had been
3 personal assistant to my predecessor, to find any
4 documentation they could, and I instantly raised the
5 matter with the then senior management team of the
6 school. I didn't get details from the senior management
7 team.

8 Q. Did that trouble you?

9 A. Yes.

10 Q. What was your impression?

11 A. That they either didn't know enough, didn't know at all
12 or didn't want to tell me. I was stuck with those
13 three, and there seemed very little point in
14 interrogating everybody to find out which one it was,
15 because nobody really wanted to talk about it.
16 I don't -- it is very hard for me to call. It's
17 certainly one of those three things. So my response was
18 to find out as much as I could about it from the
19 documentation.

20 Q. I think if we go to paragraph 77 on page 23 where you
21 discuss what you did. Sorry ... (Pause). Foot of the
22 page:

23 "After reading the formal warning letter, I met with
24 the teacher to confirm this final written warning would
25 remain in place for the length of time stated by my

1 predecessor. As I recall matters, the period of warning
2 lasted for two years."

3 I think, having read the letter, there is not a time
4 period in, but did you understand that formal warnings
5 would lapse after two years?

6 A. One or two years. I think we had documentation at the
7 school that said final warnings would be for one or two
8 years. That is what I inherited.

9 Q. That was what you understand?

10 A. Yes -- sorry, if I can just say, I was not prepared to
11 let it lapse after one year, because that was my first
12 year.

13 Q. As you recall matters, the period of the warning lasted
14 for two years. It may not have said that, but that was
15 the clear period in your head. One year was not enough;
16 two?

17 A. As I say, I think I can recall the school discipline
18 policy at the time. I don't have it saying that it
19 would be -- a final written warning would lapse after
20 one or two years.

21 Q. You go on:

22 "I felt he was someone who I needed to keep an eye
23 on and based on his past conduct. I knew him as an
24 employee and saw him from time to time as a fellow
25 resident on the school campus. We did not meet

1 socially."

2 And so on. Then:

3 "None of the encounters I saw filled me with concern
4 and he behaved as one would expect a teacher to behave.
5 I did not see him discipline children and never saw him
6 or heard of him abusing children. I could not state as
7 fact anything I witnessed that would present an obstacle
8 to him being appointed elsewhere. When after the
9 written warning had expired ..."

10 Then there's talk about him wanting to move jobs.

11 "He asked me to write a reference in support of the
12 application and I was willing to do so."

13 If we can go back to LOR-1-000000035 at page 29 --
14 28, I think we see one of two references that had been
15 written. You say, third paragraph:

16 "I know of no reason why he should not continue to
17 have unsupervised access to children. As regards
18 pastoral issues, there are no concerns on his file or
19 pending. He is not the subject of any disciplinary
20 inquiry."

21 Obviously you were happy to write that in the
22 context of someone who has been on a final warning for
23 potentially a child protection issue. Why did you not
24 highlight the child protection issue?

25 A. That is a good question. Maybe I made an error of

1 judgment. I'm not sure that I did.

2 Scrutinising it now in this context, and looking at
3 it with today's eyes, you may well be right. My
4 judgment at the time was this was a man who showed
5 enormous contrition as a result -- after his actions.
6 I don't even think that Colin should have been allowed
7 to do the level of teaching he had been allowed to do
8 without sufficient training. He had come into the
9 school as a [REDACTED], and I don't think he had been
10 given the adequate supervision and guidance in his role
11 as a teacher.

12 Although it is abbreviated to a few lines in my
13 statement, I had many, many conversation with this
14 member of staff during this time. I consulted widely,
15 his teaching had been observed, I had had the vicegerent
16 sitting in his classes, we had taken soundings from
17 different parts of the school, and were satisfied that
18 here is somebody who had made a mistake in the classroom
19 and had learned from it.

20 Now, does that therefore -- I am without doubt that
21 if I had said that he had been the subject of an issue
22 which is now concluded he would not be recruited
23 anywhere else. So --

24 Q. That is what I am interested in.

25 A. In that act -- so we are therefore saying that the final

1 written warning is essentially the end of his teaching
2 career elsewhere, and in a strange way he is good enough
3 to teach with us but not good enough to go anywhere
4 else. So if he is good enough to be with us, and we are
5 satisfied that he is an adequate teacher to be on our
6 staff, but can't recommend him anywhere else, why are we
7 keeping him at our school? If I had received
8 a reference saying any more than I put here, I wouldn't
9 be recruiting him, so in fact it should have been
10 a dismissal.

11 I am very comfortable with the idea of if somebody
12 passes over the threshold of a dismissal to dismiss
13 them, but that wasn't the case. But in essence it is
14 extremely likely that what I would be doing would be
15 guaranteeing his teaching career had been concluded.
16 That wasn't the conclusion when my predecessor gave him
17 a final written warning and an opportunity to begin
18 again, so as a head I am left in a quandary.
19 A reference was pretty -- a reference stating that would
20 pretty well guarantee he won't be recruited anywhere.
21 A reference that doesn't say that exposes us to the
22 possibility he may do it again.

23 LADY SMITH: Jack, when you dealt with him, did you ask
24 yourself whether, in the circumstances, and there has
25 been a final written warning which I take it had already

1 run, what, about a year or so?

2 A. Sorry, could you repeat that?

3 LADY SMITH: When you dealt with him he was on a final
4 written warning. How long before you dealt with the
5 problem had that final written warning been issued?

6 A. I think it was March [REDACTED]. I first had my encounter
7 with him in September [REDACTED].

8 LADY SMITH: So it had been running for about six months by
9 then. And you were hearing from pupils about
10 a continuous --

11 A. This was March [REDACTED] he was given his warning.

12 LADY SMITH: Okay, March [REDACTED], and you dealt with him when?

13 A. When I arrived in [REDACTED].

14 LADY SMITH: [REDACTED], sorry. So that is about 18 months into
15 the period. Did I pick you up correctly that you were
16 hearing accounts of a continuing course of conduct that
17 had been taking place?

18 A. No.

19 LADY SMITH: No.

20 A. I had no, I had no cause -- I witnessed nothing during
21 my time when he was on the staff to give me causes for
22 concern.

23 LADY SMITH: Did some complaint come to you
24 in [REDACTED], or was it just the discovery that he
25 was --

1 A. It was the discovery. It was the discovery which
2 perhaps, going back to Mr Brown's point, perhaps
3 I should have been told, but I discovered it and hence
4 looked into it.

5 LADY SMITH: Okay. So did you ask yourself whether there
6 actually had to be a dismissal or not?

7 A. I couldn't see the grounds for a dismissal. When the
8 investigation had taken place, all the work had been
9 done on that, and the conclusion of my predecessor was
10 that it was a final written warning. I didn't see the
11 need to overturn that on my arrival.

12 LADY SMITH: Did you ask yourself whether, if you had been
13 in your predecessor's shoes you would have reacted
14 differently?

15 A. Yes.

16 LADY SMITH: And dismissed him?

17 A. I did ask myself what decision I would have taken, but
18 I wasn't privy to the interviews with -- I had scant --
19 I have seen some of the information that the court has
20 seen. All that was in my file was the letter, the final
21 written warning.

22 LADY SMITH: Mr Brown.

23 MR BROWN: In fairness to the witness, if we go to page 31
24 of the document we are looking at, we will see a letter
25 written by you to Colin on 19 February [REDACTED], which is

1 approaching the second anniversary of the warning
2 letter.

3 I think if we go to the third paragraph:

4 "Should you wish to use me, or any senior member of
5 staff, as a referee in the future, we must all be
6 circumspect and act appropriately. References must be
7 accurate and should not mislead an employer or potential
8 employer and it is worth remembering that it has been
9 established that liability may arise, not only in
10 relation to what is said in a reference, but also what
11 is not said. Added to this, under the Data
12 Protection Act, any employee is entitled to see his or
13 her reference by making a subject access request.
14 Hence, in the interest of all parties, the school needs
15 to be very sure that anything that is said in any
16 reference is accurate and a fair reflection of
17 the facts.

18 "Therefore the decision I face is whether or not
19 your actions as described in the documentation that
20 resulted in the final written warning has compromised
21 a child's safety or whether you pose a risk to anyone.
22 If this were the case, I would have to disclose it on
23 any reference. However, the fact that the school kept
24 you on as an employee working with children and did not
25 refer you or the matter to the Scottish Ministers again

1 suggests that the governors and headmaster did not
2 believe that you had either compromised a child's safety
3 or that you pose a risk to children. In short, I see no
4 reason why the contents of the warning, or the fact
5 there was a warning at all, should form part of any
6 reference in the future."

7 Putting that in front you, clearly tensions you were
8 talking about, what you would have done, what you could
9 do the teacher having not been dismissed, and clearly
10 therefore being seen as someone who was fit to continue
11 teaching, all of that seems to have gone through your
12 head, is that fair?

13 A. Yes.

14 Q. You have thought about it quite deeply?

15 A. Yes, yes.

16 Q. And you came to a decision?

17 A. Came to a decision, yes.

18 Q. I suppose two questions from that, one general and one
19 specific. That must be an issue for many headteachers.
20 Do you think it is reasonable for a headteacher who
21 knows in the past there has been some concern which has
22 led, for example, to a final warning, should ever not be
23 disclosed in a reference, as happened here?

24 A. I think part of the issue here that makes -- puts so
25 many of us in a quandary is that all the different

1 actions that a teacher could undertake are going under
2 the heading of a child protection matter, and what is
3 that -- the definition of that is a difficult one. In
4 this particular instance, we had a member of staff who
5 behaved in a particular way, showed very poor judgment,
6 judgment which could come about for many, many different
7 reasons. He did not -- I can think of a number of other
8 circumstances and examples where somebody else could
9 have behaved in a way that jeopardised child protection
10 but was very different indeed, and that would cause me
11 a different level of concern and a different type of
12 concern.

13 So I think to shunt everything that we are talking
14 about up against the term "a child protection issue"
15 puts me in a position of wanting to more closely define
16 what we mean by a child protection issue. So here we
17 have a member of staff who used very inappropriate
18 language in front of some students.

19 LADY SMITH: And was touching them, to a degree that they
20 didn't like it.

21 A. Indeed, and that must never be repeated. So if a member
22 of staff never repeats those actions, is that member of
23 staff an appropriate person to work with children? Or
24 are we saying that as a result of doing those actions
25 they should never be in the classroom again? Because

1 a reference alluding to those was very likely to
2 guarantee they won't receive employment.

3 LADY SMITH: I see that. But why is it not that, as head of
4 your school, whatever it is in this hypothetical
5 situation, your judgment is that, notwithstanding child
6 protection duties, it is appropriate to retain this
7 member of staff in employment? That is yours. But why
8 is it not that you have to accept another head in
9 another school might take the opposite view that this is
10 a risk they are not going to run, and what you are doing
11 in just giving them the hard facts of: the final written
12 warning was for this, is enabling them to make
13 an informed decision?

14 A. I agree.

15 LADY SMITH: So if that is the approach, then surely the
16 norm should be to tell the school that is asking for
17 a reference what is on the record so far as the
18 teacher's disciplinary record is concerned, particularly
19 if it involved the way he behaved towards children.

20 A. Which, for me, makes it all the more reassuring that in
21 my experience most, but not all, of the reference forms
22 I now complete say: has this member of staff ever been
23 subject to a disciplinary inquiry.

24 LADY SMITH: And if so, what, what was --

25 A. Then we are into a whole different way of doing things.

1 In my experience with this individual there were no more
2 problems at our school for the time. And it was after
3 the time I left but I think he returned to employment
4 there. And more recently, I think he is employed at
5 another independent school. So one would assume that
6 those schools have been satisfied that his performance
7 within the classroom and with the children has been such
8 that he didn't warrant a threat to those children.

9 I can't comment on any of the details of that, I am just
10 going on the sort of -- the basic sketch of
11 an individual in certain circumstances.

12 So are we dealing with somebody who has learned
13 their lesson, has been sanctioned, and has improved,
14 having made a mistake? Or is it something else? It's
15 very hard for me to call that.

16 LADY SMITH: Mr Brown, it's almost 11.30 am.

17 MR BROWN: That may be an appropriate time to break.

18 LADY SMITH: Jack, we normally have a break in the middle
19 of the morning. About now would suit me. Would it suit
20 you?

21 A. Sure.

22 LADY SMITH: Very well, let's do that.

23 (11.28 am)

24 (A short break)

25 (11.45 am)

1 LADY SMITH: Are you ready for us to carry on, Jack?

2 A. Of course.

3 LADY SMITH: Thank you. Mr Brown.

4 MR BROWN: My Lady, thank you.

5 We were talking about the theoreticals, I think in
6 a sense you may have answered the secondary question,
7 which I was coming to, which was what would you do now,
8 if it would be any different? I think from what you are
9 saying now, you would expect a question to be in a form
10 saying has this person ever been subject to
11 a disciplinary process, in which case you would have to
12 answer yes.

13 A. Of course.

14 Q. Is the point her Ladyship made, that really, to allow
15 any potential employer to be able to consider matters
16 properly, they have to know background to make their own
17 assessment?

18 A. I think now, yes. I'm not using the past as an excuse.
19 But I think knowing those circumstances at the time, and
20 knowing the fact that by putting that on Colin's form
21 I would be saying he is good enough to work here but not
22 good enough to work anywhere else, or, rather,
23 appropriate to work here and not appropriate to work
24 anywhere else, I would have found myself in a very, very
25 difficult situation.

1 Q. Your intention is by that stage he has been working,
2 under supervision, presumably, or under final warning,
3 which he has successfully completed?

4 A. Under supervision, working satisfactorily on all the
5 criteria I mentioned earlier. We had a very, very
6 rigorous appraisal system, an appraisal system that was
7 commended by sufficient schools for it to be adopted in
8 other schools for its rigour and effectiveness, and
9 which covered the entire individual, so their pastoral,
10 their academic, their extracurricular, all aspects of
11 their performance, taking soundings from parents, from
12 students, and we were satisfied here was a colleague who
13 had, I would like to think, turned a corner.

14 So if I go back to my point. If he was appropriate
15 to work with us, then deemed to be appropriate to work
16 elsewhere. If not appropriate, then we should have
17 dismissed him.

18 Q. But is that not the point? You make that point, that as
19 a prospective employer we think he is good enough, but
20 there is this in his background?

21 A. I accept that.

22 LADY SMITH: If you tell the prospective employer about
23 the background, surely that puts the prospective
24 employer in the position of being able to explore that
25 with the candidate at interview, and then, if they

1 decide to employ the candidate, know that they do need
2 to be vigilant, particularly in the early days, to
3 satisfy themselves that all is well given the past.

4 It is the interests of children that must come
5 first, isn't it, Jack, not the interests of the teacher?

6 A. The interests of the children, of course they come
7 first. But if we are satisfied that this individual is
8 working to a satisfactory standard ...

9 LADY SMITH: In your environment.

10 A. Yes, in our environment.

11 LADY SMITH: You can't judge for the other environment, can
12 you?

13 A. No, I agree with that. I agree there is a tension there
14 and it is exposed here. I would also say that whilst
15 I agree with and applaud the idea that another employer
16 should explore that with the individual, my experience
17 is they would not consider interviewing them. So whilst
18 ideally, and professionally, it makes sense that the --
19 they could say "That's on their record, let us take
20 a look at that and discuss it with them", I think they
21 would be rejected at that stage, at that time.

22 So the decision is not so much one saying "If I draw
23 attention to this I will give the employer, the
24 potential employer, an opportunity to explore it", in my
25 experience the reality would be that, by saying this,

1 I will be saying this person should not work here. And
2 the other employer, with other candidates available to
3 them, where perhaps that hasn't been said by the other
4 head teachers, would recruit them.

5 None of this is to undermine or diminish the value
6 of the children, of course it isn't. That -- the
7 children must have primacy. But if we are saying the
8 children having primacy means every time there is
9 a disciplinary matter, it has to be volunteered by the
10 school, then that is -- if it is on a form and everybody
11 is doing it, that is fantastic, and I applaud that
12 and I welcome that. If it is the case that some do and
13 some don't, then we could imagine the hypothetical
14 instance of the same candidate with the same
15 disciplinary record, or two identical candidates, one
16 head teacher draws attention to it and the other one
17 doesn't, the children in the school are being no more
18 adequately protected, it's just simply that one
19 reference is more appropriate than the other.

20 LADY SMITH: So, Jack, one morning you are writing three
21 references for the same person, same teacher, because
22 they have applied to three different schools. In two of
23 those cases the potential employer has sent you a form
24 asking for details of any previous disciplinary
25 occurrences and what it was for and what the outcome

1 was. You complete that form in each case, in two of
2 them. In the third one, there is a general request for
3 a reference and nothing else. Are you saying that in
4 that instance you would give the details to two of the
5 schools but not to the third school?

6 A. No, not at all. I wouldn't do the third reference.
7 I would never write a general reference. I would only
8 now do a reference if it is a form.

9 LADY SMITH: All right.

10 Mr Brown.

11 MR BROWN: I'm not sure we can take the matter very much
12 further, save that you talked a little earlier about
13 the anxiety of litigation because of a reference.
14 Presumably the greatest anxiety might be litigation
15 because you haven't shared something that is material
16 and, if it is in relation to child protection, the
17 potential damage is greater both to the child but also
18 I suppose to the school who gives an improper reference?

19 A. Circumstances now are much clearer. The whole business
20 to do with references is now, with everything being
21 forms -- as I say, it was certainly standard policy in
22 my experience around -- from this time onwards, only to
23 do references if they were forms, and that is certainly
24 the case now.

25 Going back to my point I made to Lady Smith, I

1 would not write a general essay about a teacher, I would
2 expect it to be a thorough form. I have my own template
3 with all the standard questions on if I was doing
4 a reference for somebody.

5 Q. Perhaps you might share that with us?

6 A. Sure.

7 Q. Thank you.

8 One of the issues that started that particular
9 chapter was the fact there wasn't a sharing of
10 information, and I think from your statement, one of
11 the things you talk about is that when you took up post
12 at Loretto you were unimpressed by the standard of
13 record-keeping, is that correct?

14 A. The administration seems -- I think I said, I referred
15 to the word "patchy". I could find some things, I
16 couldn't find others. Some things were on computers,
17 some things were not. Some things were paper only. Not
18 everything was centralised. Some things were in the
19 primary school that didn't -- not everything came from
20 the primary school into the secondary school.

21 Q. That is something you presumably tried to address?

22 A. I tried to address. I'd like to think we made
23 improvements in those areas, yes.

24 Q. We would understand from a different phase of
25 the Inquiry that now there is an understanding that as

1 much information needs to be collated and be visible and
2 accessible, so, for example, trends can be picked up?

3 A. Of course.

4 Q. That is something you recognise?

5 A. Of course, yes.

6 Q. You talk again, and we don't need to go into the detail
7 of how child protection was addressed in terms of taking
8 it forward under your headship, because you set out the
9 details. But one thing that has been of interest over
10 the last couple of days is the issue of children being
11 able to speak to, for example, a counsellor or a trusted
12 adult or -- confidentially. And I think we see at
13 paragraph 55, page 17 of your statement, or
14 paragraph 54, rather, onwards:

15 "During my tenure the following statement was within
16 the school policies: children must be able to share
17 concerns with staff. Problems may arise when a child
18 consults a member of staff about a problem and doesn't
19 want that information to be shared with parents. While
20 staff will try to encourage children to share the
21 information with parents where that is appropriate,
22 there may be circumstances in which any pressure to pass
23 the information on could result in the child keeping it
24 to him or herself or not sharing concerns in the
25 future."

1 So therefore a confidentiality statement for pupils
2 was introduced which was shared with the pupils, is that
3 correct?

4 A. We -- I don't think -- I can't recall whether there was
5 a formal confidentiality statement, but there would be
6 instances where a child would want to disclose something
7 to a member of staff but would be extremely anxious
8 about that being exposed to their parents.

9 Q. We see paragraph 55:

10 "If you have something important to talk to staff
11 about ..."

12 Presumably that was shared because --

13 A. Yes, of course.

14 Q. "If you are worried about things, if you need help or
15 you need to know how to seek help, staff are there to
16 listen and to help. They will try to do what they can.
17 If you have concerns about confidentiality, you are free
18 to talk to any member of staff. It does not have to be
19 a teacher, or indeed your housemaster or mistress. Tell
20 the staff, they will understand. They may be concerned
21 about your safety and may need to share this with others
22 but they would tell you first. If you are still unsure
23 about talking to a member of staff ..."

24 Then there is obviously the phone line.

25 "The call is free."

1 And that is Childline.

2 I think the point is, if we go back to 53 on the
3 previous page, the confidentiality policy was clear that
4 although matters would be treated in confidence, this
5 was subject to three qualifications: firstly,
6 information may need to be shared with a restricted
7 number of colleagues if the person you are sharing with
8 needs support and guidance from them; secondly, serious
9 concerns are raised about safety or welfare of a child;
10 and lastly, the school would pass on information when
11 legally obliged to do so.

12 Did you feel it was important or it was necessary to
13 clarify for your pupils what the position was?

14 A. Absolutely. If we just consider the case of an anxious
15 boarder who may be worried about something, or they may
16 have done something, or they may have -- or they want to
17 impart something, for a number of them they will be very
18 concerned as to who knows, who will find out about this.
19 So our challenge, as with anyone involved with children,
20 is to encourage the children to speak freely and not
21 have the initial stages of that blocked by them being
22 worried that everybody will know about it.

23 So what we wanted to do was make sure they would
24 speak and that their information would be treated
25 sensitively and appropriately.

1 Q. Returning to one item that you mentioned in passing, the
2 need for objectivity in dealing with one's fellow staff.
3 We would understand that (inaudible) Loretto was quite
4 a small school, and does a small school perhaps magnify
5 the problem potentially, that everyone knows everyone
6 else very well and therefore there may be a lack of
7 objectivity? Do you agree with that?

8 A. I'm not sure I do. I have worked in large schools and
9 small schools and I certainly -- I did run a larger
10 school in South East Asia than Loretto, and I'm not sure
11 it is simply the case that in small schools people are
12 known and in large schools they are not known. I think
13 everything depends on the structures, the staffing, the
14 procedures. Many larger schools feel like a small
15 school within a school. Some smaller schools are not
16 necessarily sufficiently resourced, so staff can be
17 spread very thin. You'll have the same member of staff
18 doing two or three jobs because the school is small.

19 So I would be reluctant to agree to the
20 generalisation that in all small schools children are
21 known better than in all large schools.

22 Q. But I think in relation to one particular teacher that
23 we have heard about, who we will call Martin, who was
24 a [REDACTED] teacher, and I think you are aware of the
25 teacher involved, this was a teacher who was in post

1 when you arrived?

2 A. Yes.

3 Q. And who was still in post when you left. You were
4 involved, I think, in [REDACTED] in your own
5 background?

6 A. I was, yes.

7 Q. We would understand the [REDACTED] teacher, Martin, was under
8 the wing of the [REDACTED] department. In the context of
9 the [REDACTED] department, was there, from what you saw,
10 a loyalty to Martin?

11 A. Very much so.

12 Q. How did that manifest itself?

13 A. Martin was resident on the campus, [REDACTED]
14 [REDACTED], and whilst none of the specifics were ever
15 shared with me, some of his close colleagues would say
16 Martin had a degree of sensitivity, he was somebody they
17 felt quite protective towards.

18 I can cite one example. Martin would give -- would
19 circulate an email to parents before a parents evening
20 to say that he suffered with [REDACTED], and so that when
21 it came to parents meetings he may not be particularly
22 forthcoming in his responses to parents and would submit
23 a written comment to parents at the parents meeting. So
24 there wasn't [REDACTED] at parents meetings with Martin
25 in some cases. I witnessed [REDACTED] in some cases with

1 parents and not with others.

2 In a number of schools, Loretto being one of them,
3 sometimes the [REDACTED] teacher -- the [REDACTED] teacher being
4 a bit flamboyant, a bit eccentric, a little bit
5 different, looking a bit different, can be something of
6 a caricature. Schools can fall into models. We can all
7 have an image -- if I were to say there was a rugby
8 coach at the school, we would all have a particular
9 image of what a rugby coach might look like. When we
10 talk about a [REDACTED] teacher, there tends to be an image
11 of somebody, and Martin would conform to the image of
12 a somewhat flamboyant, somewhat eccentric individual,
13 who produced a goodly number of good quality [REDACTED]
14 [REDACTED], spent a lot of time in the school [REDACTED],
15 and was a little bit distant from the staff as a result
16 of his subject and his activities.

17 Obviously as an extracurricular activity, [REDACTED] is
18 very time hungry, so he tended to be involved in that
19 and tended not to mix with staff in the more [REDACTED]
20 extracurricular activities. As you see, he wouldn't be
21 as visible on the sport pitches as other members of
22 staff.

23 So he was a little apart at all times, and I know
24 the [REDACTED] department, certainly in my conversations
25 with them, would want to resolve issues with Martin

1 within the department.

2 Q. Rather than through you?

3 A. I can cite an example of that when I attended my first

4 [REDACTED] in the school where I was surprised

5 at -- it was a recognised [REDACTED], [REDACTED] that is

6 done in a number of different schools, it was [REDACTED]

7 for school pupils as I recall, but the language was

8 probably more suitable for a 14-plus -- if it was

9 a [REDACTED] it would get a [REDACTED] of 14 or

10 above, let's say. This [REDACTED] was open to all students

11 and I was disappointed there hadn't been any kind of

12 warning. I have put on 16-plus [REDACTED] before now and

13 things and I have always made clear nobody can come and

14 [REDACTED] -- that they were aware of [REDACTED] and this

15 was more of an [REDACTED] or whatever.

16 So I then raised this issue, and very soon a member

17 of the department came to see me and said "We will sort

18 this out. We will make sure this doesn't happen again.

19 You can leave it to us".

20 Q. Who was that member of department, do you remember?

21 A. I don't, no.

22 So it was something that I didn't -- that matter was

23 then resolved. After that, every time, if there was

24 [REDACTED] where the language was going to be more adult,

25 then we made that clear to families.

1 Q. All right. But the [REDACTED] department's instinctive
2 response was "Leave it to us"?

3 A. Yes, that would be a curriculum and academic matter. So
4 the choice [REDACTED], that wouldn't -- I wasn't the kind
5 of head to say "I think this should be the [REDACTED]
6 for this year", or "This is what year nine should be
7 doing". I was happy to leave -- the [REDACTED]
8 within the curriculum is such that, just as an A level,
9 the teacher could choose the set books --

10 LADY SMITH: What was [REDACTED]?

11 A. Sorry?

12 LADY SMITH: What was [REDACTED]?

13 A. I cannot recall. But there are a great number of
14 juvenile [REDACTED] almost to order that can be [REDACTED]
15 in schools on [REDACTED] at particular times.

16 MR BROWN: Did Martin have any particular friends on the
17 staff?

18 A. To my appearances, I know he was friendly with members
19 of the [REDACTED] department, and Elaine who was the --
20 [REDACTED] department, who was senior mistress
21 and then head of compliance.

22 Q. Elaine Selley?

23 A. Yes.

24 Q. As now. Then Logan.

25 A. Elaine Middlemass, Logan and then Selley.

1 Q. How would you describe their level of friendship?

2 A. Well established and highly collegiate.

3 Q. Did you ever see that friendship impinge on the
4 objective test that you talked about wanting?

5 A. I can recall conversations about the matter that I just
6 referred to with her, with Elaine in her senior
7 position, and her saying this is something she would
8 raise with the [REDACTED] department and they would
9 resolve. I then said that what we will do from now on
10 is we will -- all [REDACTED] must be checked and we will
11 make sure that if there is any inappropriate -- I will
12 need to know if there is any language -- going to be
13 language issues in those [REDACTED].

14 LADY SMITH: Why would it have been for her to raise it with
15 the [REDACTED] department?

16 A. She was the senior manager and it made sense. And also
17 aware of her role, it made sense for me to ask her to --
18 I also spoke with -- I spoke with the head of [REDACTED]
19 about it, as I recall, and also the other member of
20 staff who did [REDACTED] the school and was a great
21 support for Malcolm.

22 MR BROWN: Martin.

23 A. Martin.

24 LADY SMITH: Thank you.

25 MR BROWN: Did you have any concerns about Martin?

1 A. The fact I am pausing suggests that I did. I didn't
2 have concerns that were -- I think any head has concerns
3 about members of staff on an ongoing basis. One always
4 has -- and I would argue that if one doesn't, one isn't
5 doing one's job properly. One is always making sure
6 things are okay.

7 There was nothing -- I had nothing tangible. I had
8 no evidence whatsoever. I have worked in [REDACTED]
9 departments that have [REDACTED] far more [REDACTED] than
10 the ones we have [REDACTED], more challenging [REDACTED],
11 taken them to [REDACTED] Edinburgh and all sorts
12 of things. So it wasn't the case that we were doing
13 such -- doing outrageous [REDACTED], I was just concerned
14 about the inappropriateness of the language. But in
15 terms of evidence, I have -- nothing was brought to my
16 attention and I saw nothing.

17 LADY SMITH: Are we talking about sexualised language?

18 A. We are talking about words which are normally not
19 appropriate in respectable company. The F-word,
20 for example, but not in a sexualised context.

21 LADY SMITH: Thank you.

22 A. There were no instances that I can recall of any [REDACTED]
23 [REDACTED] where that was the case. The language
24 could be used in an expletive sense, in a swearing
25 sense, rather than any other.

1 LADY SMITH: Thank you.

2 MR BROWN: I think we know that you moved Martin [REDACTED]

3 [REDACTED] out of a girls' house.

4 A. Yes.

5 Q. Why did you do that?

6 A. I needed the space, and also I inherited -- the
7 school -- going back a stage in our history. The school
8 had had more properties in and around the Musselburgh
9 area, a number of which had been sold off when school
10 finances were under threat. Also, it had a number of
11 members of staff who were living in, without necessarily
12 having a purpose. A houseparent would live in,
13 an assistant houseparent would live in, the head of the
14 junior school lived in, the deputy head lived in. But
15 having the [REDACTED] a particular subject living in didn't
16 really make -- wasn't really justified, and also felt to
17 me that it was unbalanced, because of course somebody
18 who is living in doesn't have accommodation costs.

19 So whatever their salary is, they suddenly have the
20 opportunity to live in a house and possibly rent another
21 house. Their commercial dealings are not mine to
22 discuss. But I wanted to move the staff into a position
23 where people's remuneration was balanced with their
24 obligations. So to have members of staff who just had
25 a free house didn't really feel fair if it was a matter

1 of history. Clearly, ejecting somebody from a property
2 isn't something one wants to do if one doesn't have to.
3 But I inherited -- there wasn't clarify as to why people
4 lived in and who lived where. Why did teacher X get
5 a property but teacher Y, who had a very similar role,
6 not get one, and then have a mortgage or pay rent and so
7 on and so forth.

8 My sense was that in time, and carefully, I would
9 manage the situation, ideally by natural movement. So
10 if somebody moved out of a property then I would put
11 somebody into that property who had a residential
12 responsibility, or we would use the property for
13 something else. In the case of this particular
14 property, as I recall, it was a curious business because
15 it was a three-bedroomed property [REDACTED]

16 [REDACTED]
17 [REDACTED] and boarding numbers
18 were increasing and I wanted to turn that house into
19 an all-girls new boarding house.

20 Q. So that meant moving Martin [REDACTED] out?

21 A. Yes, and making new space for the newly appointed
22 housemistress.

23 Q. So did that move only happen because of practical
24 concerns? In other words, the need for more space?

25 A. Sorry, could you repeat that?

1 Q. Was his removal from the property [REDACTED] only
2 because of that practical need for more space?

3 A. Yes.

4 Q. Concerns weren't -- other concerns --

5 A. I moved him [REDACTED] to a smaller property [REDACTED]
6 [REDACTED]

7 So it was -- that was the only available property. It
8 also makes -- it just makes more sense in a boarding
9 school if somebody is living in, to have a girls'
10 boarding house and a male teacher [REDACTED]
11 living in with no responsibilities makes little or no
12 sense to me.

13 Q. You have described him as eccentric and the archetypal
14 [REDACTED] teacher. Was that a fact, or were you in any way
15 concerned about his placement?

16 A. If I had had any evidence to -- then I would have
17 removed him. I would have followed our child protection
18 and disciplinary procedures. But going back to my
19 previous point, I had no evidence --

20 Q. I asked you, and can you just answer simply yes or no:
21 did you have any concerns, unsupported or otherwise,
22 when you moved him?

23 A. (Pause).

24 Q. Is the silence indicative of some unease on your part?

25 A. There is some unease, but I don't have any --

1 Q. (Overspeaking)

2 A. -- only because you said "unsupported or otherwise" --

3 LADY SMITH: Jack, please don't worry. Mr Brown is not
4 asking you to justify, by "act", any feeling you had.
5 I think I have got that right?

6 MR BROWN: That is exactly right.

7 LADY SMITH: What he is interested in is whether you felt
8 for some reason you ought to move Martin out of the
9 girls' house. You moved him to still school
10 accommodation in the boys' part of the campus.

11 A. That gave me more comfort.

12 LADY SMITH: Comfort about what?

13 A. Having a male member of staff on a boys' campus.

14 LADY SMITH: Was there anything about that particular male
15 member of staff that was making you feel uneasy, even
16 though you couldn't put your finger on the reason?

17 A. I think you are right, but I cannot put my finger on it.
18 And as his employer -- I know you asked for a yes or no,
19 but as his employer I have nothing. I am -- there is --
20 yes, there is a feeling, there is a concern. But is
21 that just me? Is that me being over-anxious? I am
22 always anxious over child protection issues. It has
23 been something that has been a part of my professional
24 career for so long I have to be circumspect about my own
25 feelings and I'm not seeing things that are not there.

1 MR BROWN: When you left, did have a handover with your
2 successor?

3 A. No, my successor was already on the staff so there was
4 no need for that. [REDACTED]

5 [REDACTED]

6 Q. I think you have talked about your experience of child
7 protection. Finally, on the last page, you talk about
8 lessons learned to protect children in boarding schools
9 now and in the future.

10 At paragraph 80 you talk about inspection and the
11 feeling that those doing the inspections perhaps didn't
12 quite understand boarding schools, and we have heard
13 something of that from the Care Inspectorate, now the
14 boarding schools team, which presumably may be what you
15 are touching on, you want people to understand the
16 sector they are inspecting.

17 A. If I can share one example it may help. In one of the
18 conversations I had with one of the Care Inspectorate
19 they said they were very surprised the children seemed
20 to like boarding. That is what they said. Everything
21 else is my inference and interpretation. There was
22 a feeling from my side that the assumption had been that
23 these children were somehow forced to board or had to
24 board, and they were squirrelled away in this boarding
25 school, and then the inspectors came in and they found

1 they actually quite liked it.

2 It was suggested to me that -- we were a school that
3 had a number of day students who migrated into boarding.
4 We had what is called a flexi boarding programme where
5 you can board three nights a week, so a number of
6 students would live locally and move into school
7 and then perhaps become a full boarder.

8 So I think -- whilst I have no criticism or concern
9 about any of the professional standards and
10 qualifications of any of the school care accommodation
11 service who visited us, I did feel they hadn't quite --
12 how can I put it -- got it when it came to kids who
13 quite liked boarding.

14 Q. Thank you. The other aspect is the need for governance,
15 and we touched on that.

16 The final one is a concern I think perhaps that PVG
17 checks, or PVS checks in England, you say:

18 "... don't seem to identify serious offenders, only
19 those staff who committed lesser and less relevant
20 offences and may well be reasonably employed. The
21 checks may act as a disincentive to some."

22 What would you do differently, given those
23 anxieties?

24 A. We know that -- the evidence that I have been given and
25 told at various training sessions is that the PVG -- the

1 fact that the school does these checks, and this was
2 back in the early 2000s, these may put off people who
3 would otherwise be inappropriate for schools. I think
4 now the PVG -- I am involved in a number of charities,
5 a number of charitable works. I think I have five of
6 these on the go at the moment for different things.
7 They feel like an administrative activity that we go
8 through.

9 I think I may well be tainted by my training and
10 experience working overseas where I know, for a fact,
11 that most of the people who are offenders don't appear
12 on PVG -- nothing has appeared -- the first time they
13 are caught is when it's serious. So in other words it
14 isn't the case that what comes across on the PVG form is
15 a warning that they might be inappropriate, something
16 terrible and shocking and awful happens, and then we
17 look back and people say "Well, we didn't see it coming,
18 and it wasn't on the any of the forms", and so on and so
19 forth.

20 So I would certainly -- they need to continue, but
21 I know that others refer to them as picking up the
22 low-hanging fruit when it comes to criminal activities.

23 MR BROWN: Thank you very much indeed. I have no other
24 questions.

25 LADY SMITH: Are there any outstanding applications for

1 questions of Jack? (Pause).

2 Jack, that does complete all the questions we have
3 for you. Thank you for engaging with us as helpfully as
4 you have done, both in terms of your written statement
5 and coming here today and facing all the questions we
6 had for you.

7 I do appreciate that sometimes it is challenging to
8 deal with the sort of questions we are having to ask
9 here, but I am sure you accept they are justified
10 because the whole reason for pressing you on certain
11 points is our mission to do everything we can for the
12 interests of children in care, including boarding
13 schools.

14 A. My Lady, irrespective of my own roles in this, if I can
15 even make a small contribution to this I am very happy
16 to do so. Because the more that can be done to protect
17 the children in our care, the better for them and the
18 better for all of us.

19 LADY SMITH: Indeed. Thank you very much for that. I am
20 now glad to say I can let you go.

21 A. Thank you.

22 (The witness withdrew)

23 LADY SMITH: Mr Brown.

24 MR BROWN: I now invite Ms Bennie to do two read-ins, which
25 hopefully will take us to lunchtime, and then the plan

1 would be to conclude the Loretto chapter with the
2 current headmaster and chair providing a panel approach,
3 ideally at 2 o'clock.

4 LADY SMITH: Thank you.

5 MR BROWN: I will depart at this stage, my Lady.

6 LADY SMITH: Please do.

7 Ms Bennie.

8 MS BENNIE: Thank you, my Lady. The first of the two
9 read-ins is the document which bears the reference
10 WIT-1-000000521. This witness wishes to remain
11 anonymous and she has adopted the pseudonym of Poppy.

12 Witness Statement of "POPPY" (read)

13 MS BENNIE: "My name is Poppy. My year of birth is 1944.

14 My contact details are known to the Inquiry.

15 "I qualified as a clinical psychologist in 1967.

16 I have worked in the National Health Service for the
17 most of the years following until I retired from the NHS
18 at 60 years of age.

19 "For most of my career I worked for the child and
20 family clinical psychology service in the Argyll and
21 Clyde Health Board. I lectured on the Glasgow
22 University clinical psychology course.

23 "I always worked part-time in the NHS in the Child
24 and Adolescent Mental Health teams, CAMHS. When you
25 work with children, you work with their families as

1 well. I also developed my own private practice working
2 with children and adults. I frequently became involved
3 in legal cases where children were involved.

4 "I didn't have any connection with Loretto apart
5 from various friends having sent their children there.
6 When my husband and I decided our oldest child had to
7 change schools, Loretto was one of the schools that we
8 went to visit. Loretto is a school that my husband,
9 myself and our son decided he would like to go to. Our
10 children all subsequently boarded at Loretto and were at
11 the school over a number of years.

12 "I think that any parent from time to time has
13 an occasional concern. When my husband and I did have
14 concerns we approached the school and they took
15 appropriate action. For example, two of my children
16 went to Loretto. At their request, they went to
17 different houses. One child phoned to say his
18 housemaster had said he could go into the housemaster's
19 study at any time to phone home and keep himself
20 comfortable. The other child phoned to say his
21 housemaster had said he couldn't phone home for three
22 weeks. To me that was a very old-fashioned view.
23 I didn't think it was sensible. My son had used the pay
24 phone in the common room to phone home.

25 "I got on to the headmaster and said this was

1 ridiculous, that the school had an inconsistent message.
2 It was tackled. The headmaster assured me he would
3 speak to all the housemasters and make sure there was
4 a common policy for new entrants to the school.
5 I didn't have any qualms about going to the top to alert
6 the school of a difficulty.

7 "Before I became a governor my involvement with the
8 school was solely as a parent. I wasn't ever on the
9 board when my children were at Loretto. I became a
10 governor around 1999 and served on the board for about
11 ten years. There were around 16 governors. I have kept
12 no record from my time as governor. I am vague about
13 some things because a lot of time has passed and I was
14 doing a huge amount of other things at the same time
15 I was a governor. Being a governor was a small part of
16 what I was doing at the time.

17 "When I was recruited as a governor, I was phoned
18 initially by the then chairman of the board,
19 Graeme Simmers. He asked if I would become a governor.
20 I then spoke to Lord Johnston who took over from
21 Graeme Simmers. Lord Johnston and I had a lot of mutual
22 friends. We weren't particularly friendly but we knew
23 who each other were. I knew various governors on the
24 board when I went on it and one in particular was
25 a close friend.

1 "At the time there was a policy that only
2 Old Lorettonians could be governors. They had some
3 women on the board, however the women Old Lorettonians
4 could only be young women because they had only started
5 having girls in the school about ten years earlier.
6 Lord Johnston had felt these younger women might be
7 intimidated by the older gentlemen who made up the
8 board.

9 "The governors wanted an experienced woman to come
10 on the board. They felt my professional experience
11 might be in value in potentially difficult problem
12 areas. I have no doubt I was asked in a major part
13 because of my career.

14 "Lord Johnston asked me to be as open or critical as
15 I felt necessary. He said not to be nervous about
16 challenging anybody and assured me of his complete
17 support. Lord Johnston said he would not always agree
18 with me but the board wanted me to be upfront about what
19 I was thinking.

20 "The past housemistress had also been a governor.
21 She had gone to a job in the south and I don't recall
22 her ever being at a meeting. Other than myself,
23 the former housemistress and briefly another woman, the
24 board members were all Old Lorettonians.

25 "I do not know whether references were sought or

1 other checks were made. I had not provided professional
2 advice to the board before I went on it. I assumed
3 I was responsible to the chairman and to the board as
4 a whole. I recall no training.

5 "The board of governors met three or four times
6 a year at the school. The board were informed about all
7 that was going on and what the issues were. When there
8 was a major decision to be made, the board would be
9 presented with the arguments for and against particular
10 courses of action that the school wanted to take.

11 "The governor's role was to take an interest and
12 provide an external input to the way the school was
13 operated from someone who was concerned about the
14 school. All of the governors had connections to Loretto
15 and had the school's wellbeing at heart. That is why
16 they were on the board. Governors had a range of
17 expertise to bring to the table and there were lawyers,
18 accountants and moneymen.

19 "On becoming a governor, I quickly became a member
20 of the smaller group of governors who formed the
21 management committee. There were about seven or eight
22 people on the committee. It was made up of the
23 headmaster, the clerk to the board of governors, the
24 chairman, the vice chairman and three or four governors.
25 The committee met on a monthly basis and were far more

1 involved in all the decision-making and the issues that
2 arose. Those meetings were at the new club in Edinburgh
3 or at the school.

4 "There were always a lot of discussions at the
5 committee meetings about finance, because the finances
6 of the school are extremely complicated and tricky.
7 There were emerging difficulties with funding at the
8 time I went on the board.

9 "A film director went to the papers with
10 descriptions of what had happened to him at Loretto and
11 that was discussed. I can't remember the director's
12 name or when that came to light. We discussed how the
13 school were going to cope with it. We discussed setting
14 up a golf academy, academic results and anything that
15 related to issues of school life.

16 "I was probably the first care and welfare governor.
17 I don't remember when the care and welfare part became
18 part of my role. I regarded my role as care and welfare
19 governor as part of my role as governor. I hoped to be
20 able to bring my professional experience into play when
21 considering child welfare within the school. It was up
22 to me to flag up welfare issues which may not have been
23 familiar to all the board members. I was not supervised
24 other than discussion with the chairman and the board
25 members. I am sure at the time I would have been shown

1 the school's paperwork about child welfare and
2 protection but I haven't kept any of that. I read
3 through what the school had in place but what the
4 content of that was now I would not be able to tell you.
5 The governors got a huge amount of written information
6 from the school, particularly before any board meeting.

7 "I had intermittent contact with some pupils,
8 parents and staff. On a number of occasions parents who
9 had concerns had discussions with me at their request.
10 I tried to help resolve any issues. I had little direct
11 contact with the pupils as a whole. I was working
12 full-time in the west of Scotland.

13 "By the time I was a governor I wasn't concerned
14 about the access staff and others had to the boarding
15 houses. I had been concerned as a parent about what
16 I thought at the time was an over relaxed attitude to
17 access. It wasn't anything to do with abuse, it was
18 more to do with boys and girls in their late teens
19 mingling with what I considered to be a lack of
20 supervision.

21 "By the time I became a governor that had changed
22 dramatically. There were far stricter rules about when
23 the boys could visit the girls' houses and which part of
24 the house the boys could go to. It was the same for the
25 girls visiting the boys' houses although they didn't do

1 that nearly as much I don't think. As time went on,
2 girls came into the school from the age of 13. All of
3 those requirements for supervision were tackled and were
4 very clear.

5 "Any concerns I had about the boarding houses
6 I expressed when necessary. There were no major
7 concerns that I recall. During the time I served there
8 was a widespread recognition of the need for child
9 protection. A counselling service existed and perhaps,
10 more importantly, the students spent much more time at
11 home at the weekends than they had done in the past.
12 The counsellors came on board when I was a governor.
13 A couple of counsellors came into the school. The
14 children could access the counselling service which was
15 confidential.

16 "I didn't introduce or review any such arrangements.
17 I didn't have any reason to think the counselling
18 service was not sufficient. I didn't propose any
19 changes to or monitor use of it. I wasn't in a position
20 to do that, I'm not sure whether there was a counselling
21 service or not when my children were at the school.

22 "There was a clinical psychologist who had also been
23 a parent who provided services. These were confidential
24 so I wasn't party to what their issues were. The amount
25 on offer to the children increased. The children could

1 also see the school doctor. I knew him very well. The
2 school doctor was an extremely nice man who also was a
3 parent. He was very approachable and very well liked by
4 all the pupils.

5 "I suggested each house have a nominated governor
6 who should take a particular interest in the goings on
7 in that house and report back what their finding were.
8 Some governors were more engaged with this than others.
9 It is difficult because all the governors are voluntary
10 contributors to the ethos of the school. The governors
11 were all working people, living all over the country and
12 coming together for board meetings three or four times
13 a year.

14 "I didn't feel I had to make any policy changes.
15 What was clear through the time I was on the board was
16 that there was a gradual evolution in how children were
17 treated and regarded. In the country as a whole, say in
18 terms of child abuse, there was a sea change in how
19 aware people had to be about abuse, and about the
20 essential requirement of how seriously any complaints
21 brought to the attention of any member of staff had to
22 be listened to. I do not recollect any formal
23 involvement with external agencies such as the
24 Care Inspectorate or the Care Commission.

25 "My role as governor of care and welfare did not

1 change in the period between 1999 and 2006. I gave up
2 the role when I felt I had become too old for it. You
3 lose touch with what is going on. When I first went on
4 to the board with my children having recently left the
5 school I had lots of contacts with other parents and my
6 children knew lots of other children. I didn't use that
7 to do any snooping but I had lots of avenues of hearing
8 officially and unofficially about what was going on in
9 the school. That was very useful. There was also
10 a huge amount of commitment in time, money and energy to
11 go once a month through to East Lothian.

12 "Being a governor is quite a frustrating role
13 because you can only act on information you are given.
14 You are aware that there may be other things going on
15 that you are not told about. The more distant I became
16 chronologically, from having internal ways of finding
17 out what was going on, the less effective one could
18 become.

19 "I'm not saying that there was a conspiracy to keep
20 the governors out of things, that is just the way of
21 an institution. There was never any hesitation in
22 providing information if you asked for more. I felt it
23 was useful to have another viewpoint from where you
24 heard what was going on.

25 "I was comfortable that the staff were moving in

1 a direction that was appropriate as times changed.
2 I felt that the attempt was being made to continue the
3 fundamental commitments that the school had always stood
4 for. Those virtues were to care for others,
5 unselfishness and the charitable aspect.

6 "The general policy of the school was to provide
7 a safe and happy environment where children could
8 develop. How this was delivered continued to evolve
9 through time. I recall no information about specific
10 training or recruiting. Issues of discipline were dealt
11 with by the headmaster who updated the board on
12 contentious matters. I don't recall having concerns on
13 how such matters were handled.

14 "The board as a whole bore responsibility for
15 strategic planning. The potential for abuse was
16 a reality the majority of the board were well aware of.
17 The governors were all sensible, intelligent people.
18 You would have to go around with your eyes tight shut if
19 you didn't realise that sexual abuse was prevalent in
20 our society. One thing I have emphasised at board
21 meetings was just how prevalent child sex abuse was in
22 all strata of society. In any situation where you
23 have groups of children and groups of adults in contact
24 with each other there is the possibility of abuse. If
25 you get a rotten apple in a situation where children are

1 resident, particularly away from home, then they are at
2 risk.

3 "The main thing I remember about the school's
4 strategic approach is that considerable consideration
5 was given to the reorganisation of the house system.
6 I don't remember anything else particularly. There were
7 two parts as to why the reorganisation was done.
8 Financially it made more sense in terms of having year
9 groups in houses rather than a wide range of ages.
10 There are two schools of thought in boarding schools as
11 to whether it's a good idea to have a house system with
12 youngsters and older children mixed together or whether
13 it is better to have year groups. The traditional
14 approach was to have young children and older going
15 through the school mixed together.

16 "As time wore on, it became more popular to do it in
17 a year group. For example, Merchiston had always had
18 year groups. Loretto made the decision to change. That
19 was around the latter time when I was a governor. All
20 changes were also affected by the financial position of
21 the school. In retrospect, I don't know if the
22 possibility of abuse of older and younger children was
23 considered. Clearly in the old house system there was
24 the possibility of bullying of younger children by the
25 older children. That would have been a factor in moving

1 for the change. I wasn't aware of any actual benefits
2 resulting from the change.

3 "The only time I was involved in staff appointments
4 was when I was involved in the selection and appointment
5 of a new headmaster, Mr Michael Mavor. Lord Johnston
6 asked me to be on the interviewing committee. That was
7 the only occasion I was on an interviewing committee at
8 the school."

9 My Lady, I move to paragraph 34:

10 "I was not involved in the training, supervision,
11 appraisal or evaluation of staff. I did not train staff
12 in arrangements to ensure children were heard, nor in
13 child protection matters. I may have known about staff
14 training at the time but I do not recall now.

15 "The Loretto culture stressed care and concern for
16 others, tolerance and courtesy, and the opportunity for
17 self-fulfilment. The practice of fagging did not exist,
18 not that I was aware of.

19 "Children were disciplined by members of staff, or
20 exceptionally by the headmaster. There was no corporal
21 punishment. There may have been a formal policy in
22 relation to discipline and punishment. I know nothing
23 further about that. Senior pupils had some limited
24 responsibility for management of younger pupils.

25 "I was not involved in the day-to-day running of the

1 school. I would never say abuse could not occur or go
2 undetected. However many policies of protection may be
3 in place, it is impossible to monitor what goes on
4 between two people in privacy in a school or anywhere
5 else. If two people can be in a room together, whether
6 one is old and one is young or whatever they are, there
7 is no way of knowing what is going on unless they tell
8 you. We want to make all situations, not just schools,
9 as safe as we possibly can for children. The bottom
10 line is we don't live in a perfect world and you can't
11 legislate for every possible contingency.

12 "I was not aware of the school ever being the
13 subject of concern as an ongoing problem in school or to
14 any external body or agency or any other person because
15 of the way in which the children and young people in the
16 school were treated. All the time I was a governor and
17 parent I never heard any whispers of concern about
18 sexual abuse. I had very long ears because it was part
19 and parcel of my working life to pick up minor
20 indications that perhaps something untoward was going
21 on. I was not aware of protection issues for the
22 children at the time I was a governor.

23 "One parent phoned me because he was concerned that
24 his son was being bullied. I spoke to the appropriate
25 people, either the headmaster or housemaster. I would

1 have gone through the housemaster first because
2 I thought that was the most appropriate way of dealing
3 with it. It was a major issue for the boy but it wasn't
4 horrendous bullying, like sadism or torture. The
5 bullying was the sort of thing that goes on in any
6 school and has to be taken control of.

7 "While I was a governor evidence of abuse some
8 decades earlier emerged. There was an article in one of
9 the newspapers about a film producer's time at the
10 school and how he had been abused by a master. The
11 school was open about this, and all potential victims
12 were contacted by the school immediately by writing to
13 all the producer's contemporaries. I saw the letter at
14 the time but I can't remember the content. The school
15 asked people to come forward and tell them. It was very
16 important to know what had happened. There was another
17 victim who said what had happened to him but he did not
18 want to be named.

19 "Anyone could make a complaint, however I am not
20 sure through which process. All complaints were taken
21 very seriously. I was approached by a handful of
22 parents over the time I was on the board with things
23 that worried them. I followed through on it and had to
24 talk to a couple of children whose parents were worried
25 about things going on at the school. I was there if

1 that sort of situation arose.

2 "I am sure as a governor I had knowledge of
3 the complaints procedure at the time but I haven't now.
4 The parent of the child who was being bullied contacted
5 me because he knew me, knew I was a governor and thought
6 I could be helpful in trying to get it sorted. I can't
7 recall whether the school gave every parent the
8 opportunity to approach me, I would think probably not.

9 "I don't remember having any knowledge of the
10 complaints procedure as a parent. Like myself, most of
11 the Lorettonian parents would be on the phone to the
12 housemaster or headmaster if they had a concern
13 straightaway. When my children started the school
14 I would have been sent a whole package of information.
15 Whether there was something in it about a complaints
16 procedure I now have no idea.

17 "There was a system for each pupil to have
18 a nominated member of staff to help them. I am not sure
19 how effective this was as those adults offering guidance
20 varied in how good they were or could be at this, and
21 whether they could make a decent relationship with the
22 child. The staff members who were nominated persons
23 were nominated by the management team at the school or
24 the headmaster. I didn't have any information about
25 whether the staff were trained to talk to the children.

1 I don't know whether the nominated person scheme went on
2 or whether the counsellors replaced that.

3 "During my time as a governor the school had
4 a definition of abuse that it applied in relation to
5 the treatment of children at the school. I do not
6 recall the detail of this now or how it was
7 communicated. I have no information in relation to the
8 way staff were given guidance and instruction on how
9 children in their care at the school should be treated,
10 cared for and protected against abuse, ill-treatment or
11 inappropriate behaviour towards them. I have no
12 information in relation to what guidance and instruction
13 was given to staff on how to handle and respond to
14 reports of abuse or ill-treatment of children by staff,
15 other adults or fellow pupils, nor do I have any
16 information about how much autonomy or discretion was
17 given to staff, including managerial staff, in relation
18 to those matters.

19 "I have no information in relation to what child
20 protection arrangements were in place to reduce the
21 likelihood of abuse, ill-treatment or inappropriate
22 conduct by staff or other adults towards children at the
23 school, nor whether I thought the arrangements worked.
24 Those matters fell within my remit as care and welfare
25 governor although I do not recall being given a remit as

1 to what the role concerned.

2 "A lot of information was given to me about all of
3 these areas but at this distance what specifically was
4 in what document and what was said and was not said
5 I really don't have any formal recollection of.

6 "At the time if I had been concerned about
7 inadequacies in definitions or whatever I would have had
8 no hesitation in raising concerns. In my professional
9 situation, child protection was integral to my role.
10 I took the view with my staff that all of my staff had
11 to understand the reality of child abuse, the prevalence
12 of child abuse and the implications of child abuse.
13 I couldn't possibly have been as involved as governor as
14 I was with members of my department who I saw on a daily
15 basis and for whom I was responsible. The running of
16 the school is primarily the business of the headmaster
17 in my view. I didn't have knowledge of child protection
18 arrangements from being a parent, I had knowledge of
19 these matters from my professional situation.

20 "I have no information concerning visits to the
21 school by inspectors or other officials. While I was
22 a governor I received copious written information
23 relating to every aspect of the school's operation. The
24 record keeping seemed to be extensive. I have not kept
25 copies of the documents I received and with the passage

1 of time I have no recollection of much of the detail.

2 "I was never involved in any investigation on behalf
3 of the school into allegations of abuse or ill-treatment
4 of children at the school or into inappropriate
5 behaviour by staff or others towards children. I did
6 not hear any whispers about any abuse during my time as
7 governor apart from the historic situation involving the
8 film producer. I was never aware of a suggestion that
9 children were sexually abused. I was aware there were
10 issues from time to time relating to bullying or
11 children being unhappy. There was nothing that raised
12 huge alarm for me.

13 "I was not aware of concerns about staff members
14 CRL [REDACTED] or BND [REDACTED] between 1999 and 2009.
15 I do not recall those names.

16 "I became aware of one historical abuse case
17 involving the school, that was the case involving the
18 film director. I was aware of some of what the other
19 victims had said. The school co-operated to the full
20 with all involved, and steps towards prosecution
21 occurred. I thought there was little doubt abuse had
22 occurred because the accounts were very clear and
23 consistent. I'm not saying there are never false claims
24 but it is much more likely than not that someone
25 claiming abuse had been victimised or abused.

1 "That historic event had happened 30 years earlier.
2 The present day school is a completely different place
3 to the school when that abuse had happened. A number of
4 board members were contemporaries of the film director
5 and knew the abuser. It was very interesting that so
6 many of them came back to be members of the board
7 because there had been some very unhappy, miserable
8 times at Loretto 30 or 40 years earlier.

9 "When my eldest child went to Loretto the children
10 came home two or three times a term but certainly not
11 every weekend. By the time I became governor, children
12 could go home at the weekend, any time they wanted, and
13 their parents could visit them at school any time they
14 wanted. The children were much less vulnerable in the
15 1980s than they had been in the 1960s and 1970s. They
16 were far less prisoners in the boarding school system.

17 "I was never aware of ongoing police investigations
18 into alleged abuse at the school either as a parent or
19 governor. I do not know of any person who worked at the
20 school was convicted of the abuse of a child or children
21 at the school during my time as a parent and as
22 a governor. I think in the historical abuse case the
23 alleged abuser died.

24 "Children are only safe anywhere where there is
25 a culture of openness and where they can trust that they

1 are heard. I would very much hope children at Loretto
2 trusted they were heard, and I didn't think that that
3 was not the case. As an adult or as a professional
4 person you can try and set up a situation where you feel
5 you have given children opportunities to be listened to
6 and heard. What is so difficult is to know when the
7 children themselves fully understand what is on offer.

8 "What goes on in people's heads is very complicated
9 and very private. Sometimes with the best will in the
10 world children can still feel they won't be believed or
11 be frightened, that they will be drawing attention to
12 themselves. There is no guarantee that the children for
13 whom the services on offer are designed will totally
14 understand that and feel confident enough to approach
15 it.

16 "Of course all adults working with children
17 particularly in a residential setting need to be
18 screened, but this will never provide a guarantee of
19 their safety.

20 "I have no objection to my statement being published
21 as part of the evidence to the Inquiry. I believe the
22 facts stated in this witness statement are true."

23 The statement is signed by Poppy and dated
24 19 November 2020.

25 LADY SMITH: Thank you very much.

1 MS BENNIE: My Lady, the next --

2 LADY SMITH: Before we turn to that, could I mention that

3 two names were mentioned in that statement:

4 CRL [REDACTED] and Mr BND [REDACTED]. They are both
5 protected by my General Restriction Order and they
6 cannot be identified outwith this room, so I would ask
7 people to remember that, please.

8 One more statement before lunchtime I think, is that
9 right?

10 MS BENNIE: Yes, my Lady.

11 LADY SMITH: Thank you.

12 MS BENNIE: The next statement bears the reference

13 WIT-1-000000548. It's the witness statement of
14 Mr Philip Meadows.

15 Witness Statement of Philip Meadows (read)

16 MS BENNIE: "My name is Philip Meadows. My year of birth is
17 1961. My contact details are known to the Inquiry."

18 My Lady, in paragraphs 2 to 4 the witness tells us
19 or sets out his qualifications and his work experience,
20 including that he worked at Loretto for two periods of
21 time. The first period of time was from September 1987
22 until August 1996, when he was the head of chemistry at
23 Loretto School, and the second period of time is
24 from April 2009 to June 2017, when he was the headmaster
25 at Loretto Junior School.

1 At paragraph 5, my Lady, the statement states:

2 "From September 1987 to August 1996 I was head of
3 chemistry and at the start was on probation for one
4 term. My line manager was Bill Parkhouse who was head
5 of science. We would liaise by having regular informal
6 meetings.

7 "I was the house tutor in Pinkie House, resident
8 1989 to 1991, and I was also the First XV rugby coach,
9 the Duke of Edinburgh awards co-ordinator and master in
10 charge of skiing. From 1 April 2009 until 30 June 2017
11 I was head of Loretto Junior School. My line manager
12 was the headmaster who I liaised with through regular
13 formal meetings with him, the bursar and the vicegerent.
14 During my eight years in that post I was appraised on
15 two separate occasions. By way of induction and
16 training I took part in continual professional
17 development through IAPS, Independent Association of
18 Prep Schools, and SCIS, as well as training at
19 Loretto School.

20 "As head of chemistry I had no responsibility for
21 policy in relation to the care of children although as
22 a senior teacher, house tutor and organiser of
23 residential trips and tours, both foreign and domestic,
24 I had significant responsibility for the care of
25 children in residential settings. Basic risk

1 assessments were required and written but apart from
2 that I was left very much to run things independently.

3 "I would have written basic risk assessments for any
4 residential trips and/or sports tours that I supervised
5 or organised in addition to the generic risk assessment
6 that any travel company might have provided. These
7 would have included details of all staff and
8 participants, itineraries, contact details, safety
9 precautions and similar information. However, I believe
10 that it was after the Lyme Bay kayaking tragedy in March
11 1993 that the whole regulation of trips and activities
12 in schools became the subject of much greater scrutiny.

13 "As head of the junior school I had overall
14 responsibility for all policies in relation to the care
15 of children in the junior school, staff recruitment,
16 child protection, staff appraisal, complaints,
17 discipline and allegations against staff. All necessary
18 policies were in place and subject to regular review.
19 Clear records in all areas were maintained and, where
20 appropriate, subject to review by governors. Safety
21 recruitment guidelines for new staff were followed
22 rigorously. All staff underwent regular child
23 protection training and, according to priorities
24 identified in their appraisals, also underwent further
25 training in key areas of need and interest.

1 "As head of chemistry I had no responsibility for
2 strategic planning. As head of the junior school I was
3 involved in many aspects of strategic planning for the
4 whole school, junior and senior. This involved junior
5 school senior management team meetings and whole staff
6 meetings, senior management team meetings for the whole
7 school, attendance at governor meetings and preparing
8 reports and papers for both the senior management team
9 and governor meetings.

10 "Key areas of the school's strategic planning
11 included provision of boarding in junior school and
12 senior school, finance, staffing, quality of education,
13 and inspection.

14 "As head of the junior school I was responsible for
15 all staff matters in the junior school. I had 20 to 25
16 staff who reported directly to me, from two or three
17 deputy heads, to the grounds, kitchen and cleaning
18 staff. The junior school senior management team
19 operated an open door policy, organised and ran all
20 training, dealt with any disciplinary matters, supported
21 career progression, and so were fully involved formally
22 and informally in all aspects of staff management.

23 "I was involved in all aspects of staff recruitment
24 in the junior school. Clearer, safer recruitment
25 policies were always followed. References, verbal and

1 written, were always obtained. No post was confirmed
2 until two acceptable references had been obtained and
3 this applied to all positions.

4 "As head of the junior school I organised the annual
5 training programme for junior school staff and every
6 year the programme include aspects of child protection.
7 Other training areas revolved around the stated or
8 perceived needs and requirements of individuals or
9 groups of staff. As head, I would observe each member
10 of teaching staff at least once annually and this along
11 with self-evaluation priorities informed individual
12 training programmes.

13 "As head of the junior school I was involved in all
14 aspects of staff appraisal and self-evaluation in line
15 with the requirements of the General Teaching Council
16 for Scotland regulations. I signed off all of their
17 annual GTCS updates when due. As a whole staff we spent
18 a considerable amount of time discussing these
19 initiatives and finding ways to make completing the
20 required paperwork as straightforward as possible.
21 I was not and am not registered with the GTCS. That
22 only became a requirement for staff in Scottish
23 independent schools in about 2017. However, all
24 teaching staff at Loretto Junior School were
25 GTCS-registered and as head I was responsible for

1 monitoring and signing off the regular professional
2 learning and updates, thus I received special
3 dispensation from GTCS to do so in about 2016."

4 My Lady, in paragraphs 21 to 23 of the statement the
5 witness details his living arrangements at Loretto, and
6 therefore I resume reading at paragraph 24:

7 "In the 1980s and 1990s most Loretto staff lived in
8 school accommodation on or near the site. By 2009, most
9 of this accommodation had been sold or converted, and
10 thus only senior or resident pastoral staff were given
11 school accommodation. Staff lived in their own
12 properties across Edinburgh and East Lothian. Access to
13 children's residential areas was limited to the pastoral
14 and welfare staff.

15 "Loretto was generally a happy and busy school,
16 predominantly boarding in the 1980s and 1990s. The
17 children enjoyed school and were well catered for
18 academically and pastorally. Senior pupils were given
19 a good deal of responsibility and entrusted to assist
20 the pastoral staff in the running of the boarding houses
21 but I did not see any fagging. The junior school was
22 latterly an equally happy and productive school.
23 Predominantly day pupils with very little boarding.
24 There was no fagging.

25 "During my tenure as head of Loretto Junior School

1 I always felt it was a happy, busy and productive
2 establishment. This was frequently reported to me by
3 parents, current and prospective, visitors, and even the
4 Inspectorate. Staff were generally happy and fulfilled,
5 pupils were motivated and working successfully. It is
6 difficult to define exactly why, but the relatively
7 small size of the school, low pupil/teacher ratio and
8 committed staff who knew the children very well, were
9 important factors.

10 "At Loretto Senior School there would have been
11 formal policies for discipline and punishment of
12 children although I cannot recall what they were.
13 Concerns would have been the responsibility of staff,
14 senior staff, housemasters and the headmaster. Pupils
15 and staff would have been kept aware through the normal
16 channels of communication. I'm not aware of how records
17 were kept.

18 "In the 1980s and 1990s senior pupils did have some
19 responsibility for disciplining junior pupils under the
20 supervision of the headmaster, housemasters and perhaps
21 even the head of school. At Loretto Junior School
22 children were routinely disciplined or punished by class
23 teachers, deputy heads or the headmaster as appropriate,
24 and according to clear policies and frameworks.
25 Children and staff were fully aware of the positive

1 discipline policy and clear comprehensive records were
2 kept. No senior pupils in the junior school were
3 allowed to discipline junior pupils.

4 "As head of the junior school I was fully involved
5 in all aspects of the day-to-day running of the junior
6 school as specified in my job description. I was
7 responsible to the governors and to parents for the
8 safety and security of the children whilst they were at
9 school. I honestly believe that if any child was being
10 abused or ill-treated at school or at home it would have
11 come to light. All staff were well trained in child
12 protection measures. Our policies were all compliant
13 with GIRFEC and HGIOS.

14 "Senior staff treated child welfare very seriously
15 and it was a standing item on the agenda for all senior
16 management team meetings. Also as head I had excellent
17 relations with local police, healthcare and social
18 services, so that sensitive information and concerns
19 could be shared effectively.

20 "I'm not aware of the junior school ever being the
21 subject of concern to any external body because of the
22 way in which the children were treated. I am not aware
23 as far as I can remember of any concerns by any external
24 body about either the junior school or senior school.

25 "I was a member of staff at Loretto when David Stock

1 raised complaints about bullying and the behaviour of
2 the headmaster. I was never a close acquaintance of
3 David, and apart from his one bizarre outburst in the
4 common room he never spoke to me in person about any of
5 his concerns.

6 "I believe that in a discussion with one of his
7 classes allegations might have been made about bullying
8 by prefects which the headmaster, Norman Drummond, did
9 not address. I do not know any more than that.

10 "I do not know what systems were in place in the
11 senior school. In the junior school there was a clear
12 and transparent complaints procedure. All complaints
13 were treated seriously and investigated thoroughly
14 whatever their gravity. Comprehensive chronological
15 records were kept and feedback always given to the
16 complainant with advice for further actions if not
17 satisfied.

18 "All records were regularly audited by a governor.
19 The junior school received a number of complaints from
20 the quality of food to bullying, the vast majority of
21 which I would classify as routine school issues.

22 "I seem to recall that there was an independent
23 listener introduced at some stage in the senior school
24 but I cannot remember exactly when or how this
25 initiative changed over time. I have no idea if

1 children raised concerns through this channel. I do not
2 recall ever having such a facility at the junior school.

3 "Definitions of abuse were disseminated through
4 regular child protection training. Over time the
5 definitions of abuse seemed to broaden slightly, but
6 through regular updates, consistent and compulsory
7 training, and additional voluntary sessions, which were
8 then cascaded to staff, everybody understood the term.
9 I think there was less emphasis 30 years ago, but in
10 recent times a significant proportion of annual staff
11 INSET revolved around the recognition of abuse in all
12 its forms.

13 "I think the accepted definitions of child abuse
14 have changed slightly over the years and school staff
15 have to be instructed to respond in different ways,
16 albeit with the same underlying -- (interruption in
17 feed) Now, working in an English independent school,
18 I have to undertake annual training to update my child
19 protection awareness.

20 "All staff received regular compulsory child
21 protection training. As a head, I also received
22 additional training through IAPS, Independent
23 Association of Prep Schools, and SCIS. Since the 1990s,
24 both the junior school and the senior school have had
25 designated child protection lead staff although over

1 time their titles have changed.

2 "Both organisations, IAPS in a national and even
3 international context, and SCIS in a Scottish context,
4 provide professional and personal support and training
5 for heads and staff in their member schools. I was
6 a member of both organisations from 2009 to 2017.

7 "As a head I was also designated child protection
8 co-ordinator for the junior school when working with
9 Elaine Logan who was the child protection co-ordinator
10 in the senior school, therefore staff received a great
11 deal of guidance and instruction on how to handle and
12 respond to any report of abuse in all its defined forms.
13 The importance of referrals, interviews, note taking and
14 confidentiality were discussed and explained thoroughly.
15 Whistle-blowing policies were in place and staff were
16 instructed how to deal with any suspicions of abuse by,
17 for example, management.

18 "Child protection training was delivered formally to
19 all staff. A register should have been kept at school
20 at least annually. Senior management would also engage
21 in further training and deliver updates to staff through
22 INSET and regular staff meetings. As head, in my weekly
23 staff briefings, and at the start and end of every term,
24 careful consideration would be given to any pupils
25 and/or families about whom we had concerns for any

1 reason.

2 "I never received any formal allegations about
3 the behaviour of any staff member from another staff
4 member and certainly no suspicions of abuse, although
5 all staff received adequate training to enable them to
6 know what to do if they had any concerns, including what
7 they should do if they had any child protection concerns
8 about me as head.

9 "Loretto was inspected as a whole school in 2014 and
10 in 1994/1995 during my periods of service there. There
11 may have been other visits too, I am not sure. Children
12 were spoken to, usually in groups without staff being
13 present. Other methods of feedback were used too,
14 including the opportunity to post anonymous comments.
15 I was spoken to as head of chemistry and head of junior
16 school and subsequently received feedback.

17 "After both inspections I received feedback
18 appropriate to my position at the time, head of
19 chemistry or head of the junior school. The feedback in
20 chemistry would have concentrated on academic matters,
21 the junior school feedback would have been more
22 wide-ranging but was, I recall, very positive,
23 concentrating on effective learners and good
24 professional practice.

25 "In recent years as head of the junior school

1 I tried to maintain accurate and comprehensive records
2 although the policy on record-keeping was always
3 a little vague. It was not always absolutely clear what
4 records should and should not be kept, thus the quality
5 of the records as a source of information was always
6 variable and historically increasingly sketchy.

7 "I did not see any records relating to the abuse of
8 children or allegations of abuse. Historic records were
9 very variable in quality, but once again there was
10 little evidence in the records that I saw of any reports
11 of abuse, ill-treatment or inappropriate conduct.

12 "I believe that I conducted one investigation on
13 behalf the school into an allegation of ill-treatment of
14 a child at the school by a member of staff. In 2009 or
15 2010 a member of the junior school and [REDACTED] was
16 alleged by a parent to have tackled his son in
17 a [REDACTED] too vigorously, thereby causing the
18 boy to sustain a painful back injury. I do not recall
19 the boy's name. I investigated the matter according to
20 the school protocols and in consultation with the
21 headmaster. The Scottish [REDACTED], Social Services
22 and the police were consulted, and ultimately it was
23 decided that the matter should not be formally reported
24 to social work. A verbal warning was given to the
25 member of staff.

1 "A verbal warning would have remained on the member
2 of staff's record for possibly two years but I believe
3 he left the school before the end of that period.

4 "I was never involved in the handling of any reports
5 or complaints against the school made by former pupils
6 concerning historical abuse. I am not aware of any
7 police investigations into alleged abuse at either
8 school. I have never had to give any statements to the
9 police or evidence at any trial. I do not know of any
10 person who worked at either school who was convicted of
11 the abuse of any child.

12 "I recall BND [REDACTED] and I believe we both worked
13 at Loretto between 2009 and 2016. He was in his 40s.
14 He [REDACTED] in the junior school and he taught
15 there. He was an enthusiastic schoolmaster. He was
16 a good man and I did see him with the children. He was
17 a kind and caring man who didn't discipline the
18 children. He certainly didn't abuse any of them and
19 I did not hear anything to suggest that he did.

20 "Martin. I remember Martin and we worked at the
21 same time at Loretto between 2009 and 2017. He was in
22 his 40s and was a teacher in the senior school. I had
23 no role in direct relation to him, although we got on
24 well and I would say that I knew him quite well
25 socially. I did see him with children and I would say

1 that he was relaxed and professional with them. He did
2 not discipline the children and certainly did not abuse
3 any of them. I heard nothing to suggest that he did.

4 "I remember CRL [REDACTED]. We both worked at
5 Loretto from about 2011 until 2017. He was in his 40s
6 and was a [REDACTED] teacher in the junior
7 school. My impression of him was that he was a good
8 [REDACTED] teacher, whom I didn't know all that well,
9 although he did seek my advice occasionally. I did see
10 him with the children and would just repeat that he was
11 a good [REDACTED] teacher for them. He did not discipline
12 the children and certainly did not abuse any of them.
13 I heard nothing to suggest that he did.

14 "I remember CRW [REDACTED]. We both worked together
15 at Loretto between 1987 and I think 1996. He was
16 between 40 and 50 and was SNR [REDACTED] and housemaster in
17 the junior school. I had no direct role in relation
18 to him. I did not know him very well but my impression
19 of him was that he was a traditional schoolmaster who
20 was stern with high standards. I did see him with the
21 children and I would say that he was stern with them,
22 quite formal and a bit scary. However, he never
23 disciplined the children and definitely did not abuse
24 any of them. I also heard nothing to suggest that he
25 did.

1 "I have no objection to my witness statement being
2 published as part of the evidence to the Inquiry.

3 I believe the facts stated in this statement are true."

4 My Lady, the statement is signed by Philip Meadows
5 and it is dated 1 December 2020.

6 LADY SMITH: Thank you very much. I will break now for the
7 lunch period and we will resume again at around
8 2 o'clock. If you just keep in touch and you will be
9 told when we are ready. Thank you.

10 (1.07 pm)

11 (The short adjournment)

12 (2.08 pm)

13 LADY SMITH: Mr Brown.

14 MR BROWN: My Lady, good afternoon. We now conclude the
15 evidence in relation to Loretto by rejoining the current
16 headmaster, Graham Hawley, and the chair of the board of
17 governors, Peter McCutcheon, just as we did in phase 1.
18 Peter McCutcheon is in the building this time, rather
19 than in the Borders on his own computer, and Graham
20 Hawley is ready to join us in the witness box.

21 LADY SMITH: Could we bring Mr Hawley in. (Pause).

22 Good afternoon and welcome back. Could we begin by you
23 taking the oath again.

24 MR GRAHAM HAWLEY (sworn)

25 LADY SMITH: Graham, if I may still call you Graham, do sit

1 down and make yourself comfortable. Peter is behind
2 you, breathing down your neck.

3 Peter, good afternoon. Can I check whether you can
4 hear and see me all right?

5 THE WITNESS: Yes, my Lady, coming through fine.

6 LADY SMITH: Good. Could I begin with you also of course by
7 welcoming you back, and asking you again to take the
8 oath.

9 MR PETER MCCUTCHEON (sworn)

10 (By video link)

11 LADY SMITH: Thank you. I think you are aware this isn't
12 a matter of us going back through your original
13 statements again. But we are now at the stage, having
14 heard, from witnesses both in person and through having
15 some statements read in, rather more about Loretto than
16 we had done when you came before. That is why Mr Brown
17 has again set up a panel of the two of you, but I think
18 the direction of his questioning will be a little
19 different than it was before.

20 Mr Brown, when you are ready.

21 Questions from MR BROWN

22 MR BROWN: Thank you, my Lady.

23 Gentlemen, good afternoon. I know that both of you
24 have been following the evidence of the Loretto
25 witnesses either in person, or I think on one day

1 remotely, for you, Peter, and you have been present
2 essentially throughout where possible. And, Peter,
3 today the reason you are not with us is purely because
4 of COVID regulations, otherwise you would be sitting
5 with us. I am sorry, it appears you are only a few days
6 short of release and return to normality. Such is life,
7 we can hear you.

8 Obviously you spoke to us about the current state of
9 Loretto some weeks ago, and in Peter's case, obviously
10 we read in your statement of your experience as a pupil
11 so we don't need to revisit those matters because they
12 are all up for consideration. But I think today there
13 are a number of areas I would like to touch on briefly,
14 the first of which is in the earlier hearings we really
15 didn't go into the part D responses other than
16 generality of acceptance that things had on occasion
17 gone wrong, and an acceptance that at times the systems
18 were not adequate.

19 Again Loretto has produced a considerable amount
20 of detail over the currency of the Inquiry's life, and
21 all of that can be read and considered, so we don't need
22 to laboriously go through that. But matters have
23 perhaps arisen during the course of the last
24 week and a half, and if I may, I will touch on that,
25 including some further documentation and commentary that

1 the school has provided which is of assistance to the
2 Inquiry.

3 Graham, if I can start with you, but Peter, please
4 understand, as before, if there is something you think
5 you can add, please do so. It's not trying to do one
6 and not the other.

7 Graham, one of the things that we closed with in
8 terms of the oral witness, one of your predecessors, was
9 the issue of what one would say in a reference, and
10 clearly there are potentially very real tensions if you
11 inherit a situation, as he did, where there is a final
12 warning, and there may be a child protection issue, but
13 obviously a final warning period has elapsed, and what
14 do you then say to a prospective employer about that.
15 Going back ten years, at that stage there was no
16 reference to the final warning. As I would understand
17 Jack's evidence today, he would expect there to be
18 a questionnaire as part of the process which would allow
19 him to say, yes, there has been.

20 What would your responses have been to the questions
21 he was being asked, when you listened to it this
22 morning, if you were in a similar position?

23 MR HAWLEY: I think it was a very interesting exchange and
24 highlighted the potential problems that exist with the
25 whole issue of writing references, and I would certainly

1 welcome perhaps as a recommendation some guidance about
2 that. I was reflecting over the lunch period about
3 a reference that I wrote, it was a questionnaire, the
4 member of staff had been disciplined, so I was able to
5 say, yes, there has been a disciplinary incident,
6 and then of course there is the opportunity to expand on
7 that, and indeed the gentleman secured employment at
8 I think another school. He may have been going on to
9 train as a PGC, I may need to check that. But I think
10 I have sympathy with Jack and the problems potentially
11 that arise.

12 I think instinctively I would want to share with
13 a head a concern and also be able to balance that if
14 necessary with an all round assessment of character.
15 But I do accept Jack's point that, all other things
16 being equal, and if as a head you have a strong field,
17 then clearly the black mark, if you like, of
18 a disciplinary incident, hearing, outcome, is going to
19 negatively impact on the applicant. One might say,
20 well, that is part and parcel of being in that position
21 but I do wonder. This whole business of time, and if
22 it's someone at the beginning of their career, should
23 that still stand 20/25 years later? I find that
24 a difficult one to answer.

25 But I think a lot of the issues would be resolved

1 partly with the questionnaire, I think Jack was
2 absolutely right there, but I think also a willingness
3 to be open and to share information. I suppose that was
4 another theme you may wish to come on to, in terms of
5 how the agencies work together. But transparency it
6 seems to me, with children being the primacy, needs to
7 be the right approach, and how we mould ourselves round
8 it I think will require further reflection, but I think
9 that is the direction references need to go.

10 Q. From what you said, you have written a reference
11 highlighting a disciplinary record, and yet that didn't
12 preclude that teacher's progression.

13 MR HAWLEY: That is correct.

14 Q. It may be if there is a culture of candour and openness
15 and the potential explanation, going back to your
16 example, of someone who has an issue at the outset of
17 their career, 25 years later it might be thought if
18 there have been 25 years of unblemished service after
19 one issue, the fact there was the issue may not be
20 determinative, would you agree with that?

21 MR HAWLEY: I would. I think that in this whole realm that
22 the Inquiry is looking at, transparency must be the way
23 ahead. I recall a book I read eight/nine years ago by
24 an author called Matthew Syed, the table tennis player
25 and occasional columnist, called "Black Box Thinking",

1 and his central thesis in that book was the difference
2 between the aviation industry and how they deal with
3 accidents and near misses, and he was comparing that
4 with the then health service.

5 It was a stark contrast that the aviation industry
6 in general terms is very open. If there is an accident
7 with an aircraft, that is shared immediately worldwide,
8 and the whole tenor is safety. Whereas he contrasted
9 that with the health service where his view, eight or
10 nine years ago, whenever it was, was that the culture
11 was much more about protecting individuals, protecting
12 reputations. I think the health service probably has
13 moved on, there's the Healthcare Safety Investigation
14 board, there is the duty of candour, it seems to me that
15 perhaps within education we are at that the crossroads
16 as well, and we need to embrace, with all the
17 difficulties and the nuances and litigation and
18 legislation, but fundamentally an aviation model of
19 transparency.

20 LADY SMITH: Put that way, something occurs to me about
21 development of the culture. Help me with this, would
22 you go as far as saying the culture should so develop
23 that individuals who are applying for jobs should get to
24 the stage that they volunteer what is in their past
25 that, on the face of it, might look like, as you put it,

1 a black mark, but after all could be an excellent
2 example of past learning from what has gone on? It's
3 typical to ask somebody, in the course of an appointment
4 process or at interview, to tell you what they have
5 learned from things that have gone wrong in the past.

6 MR HAWLEY: I agree. I think most of us learn more from our
7 mistakes than things perhaps that we get right first
8 time, and I think the opportunity for self-certification
9 if you like has merit. That is probably somewhere down
10 the line, but that degree of openness I think
11 demonstrates, would demonstrate, a level of reflection
12 and candour that would be hugely useful.

13 LADY SMITH: It could be impressive. Properly adopted it
14 could be a positive factor.

15 MR HAWLEY: I think it could be, and I think my sense is
16 that whatever way and in a sense whatever
17 recommendations come out, if there is that corporate, in
18 terms of agreement across the board that this is the way
19 we are going to go, then it could work.

20 I reflect that in this process as being part of this
21 Inquiry, the other schools alongside us, I think we
22 would all say, as heads, it has been a really useful
23 process in so many different ways, not least though the
24 bond of collegiality that has built up between us.
25 I would say that SCIS are heavily involved in that as

1 well. And there may just be an opportunity of timing to
2 say: let's be bold here. Let's, rather than necessarily
3 creep towards what we hope it might look in a few years,
4 try and be bold and make a step change.

5 I would, although obviously I can only speak for
6 myself, I would say that we, Loretto, and I believe
7 other schools within Scotland as well, would say we are
8 right behind the Inquiry's recommendations to be as bold
9 as possible.

10 LADY SMITH: Thank you for that. I suppose that if, and you
11 may not agree with me, but if you were to identify three
12 key features of how to live within society that you
13 might indeed recommend to young people, if you identify
14 them as authenticity, let's say, adopting and practising
15 a growth mindset, and being utterly uncompromising about
16 having a sound, strong moral compass, the sort of
17 culture we are talking about would meet all of those,
18 wouldn't it?

19 MR HAWLEY: Yes, it would. I think one of the joys and
20 challenges of working in and running schools is to aim
21 to have a microcosm of the society one wishes our young
22 to go into, and those are exactly the qualities that
23 would be desirable.

24 LADY SMITH: So teachers would only be walking the talk if
25 they practised that same culture over the sort of issues

1 we are talking about at the moment in relation
2 to references?

3 MR HAWLEY: I think, my Lady, that is right, and I think
4 teachers are at their most effective when they are
5 authentic. I think children have the most wonderfully
6 sensitive antennae to those who are genuinely for them
7 and those who are perhaps playing more of a game.
8 I never cease to be amazed -- I have worked with -- I am
9 slightly reminiscing here, but I do remember teaching
10 with a colleague two or three schools ago, who was not
11 a gifted communicator in the classroom but he was
12 a deeply respected teacher, and had a huge impact on
13 lives because he invested so much time in the children's
14 lives, he got things -- he learned things, he learned to
15 play the cello, he learned a foreign language, and
16 children respond to that.

17 LADY SMITH: Mr Brown.

18 MR BROWN: Thank you.

19 Peter, parts of that exchange you were nodding.

20 MR MCCUTCHEON: Yes.

21 Q. Is there anything you want to add to Graham's
22 observations?

23 MR MCCUTCHEON: No, I absolutely endorse everything Graham
24 has said. I think of this idea of collegiality as
25 a fundamental part of that being what I would call

1 a knowledge exchange, a hub whereby best practice and
2 information can be shared, obviously maintaining the
3 correct levels of confidentiality where required, but
4 the concept of a knowledge hub and exchange of
5 information is absolutely critical I think to going
6 forward.

7 The other point I want to pick up on is Lady Smith's
8 point about a moral compass. My background is
9 a military background and I spent some time at Royal
10 Military Academy, Sandhurst from the start, and one of
11 the phrases we pushed at cadets constantly was ensuring
12 you had a mindset which would optimise your chance of
13 doing the right thing on a bad day. And I think that
14 that is one of the precepts that has been reinforced as
15 I listened to the evidence over the Loretto phase, the
16 criticality of achieving a culture where one does the
17 right thing on a bad day.

18 Q. Thank you.

19 I touched on the fact that you have produced
20 a number of documents over the last few months I think
21 looking beyond obviously the Inquiry's dates up to 2014,
22 apparently updating of any things that have happened
23 since 2014, but also indicating the approach now taken
24 by Loretto in relation to a number of areas, both in
25 terms of ways forward, lessons learned, and we will come

1 back to touch on these individually. But obviously you
2 have both sat through and you have both listened to
3 read-ins, and document LOR-000000771, which is headed
4 "A note on a comparison of witnesses' observations and
5 recommendations as compared with Loretto of today", we
6 don't need to go through this, because I think it
7 reflects the witnesses we have heard and the statements
8 that were shared with you.

9 It is a precis -- we can conclude for ourselves what
10 the witnesses said, but I don't criticise, there has
11 been a process gone through summarising issues that were
12 complained about and setting out how matters have
13 changed and where they stand now with Loretto and how
14 perhaps the same circumstances would be dealt with
15 today, which is very useful.

16 One particular issue that came up, and I think in
17 terms of live witnesses, carrying on from where we have
18 just been talking about references, one of the issues
19 that has been exposed in the past, thinking of
20 Guy Ray-Hills, who was essentially allowed to leave the
21 school, and there are questions about references that
22 were given to him which allowed him to carry on
23 teaching. And I think there are a number of other
24 teachers for whom we have issues about references,
25 for example, CRD [REDACTED]. And then on the flipside,

1 the approach taken to David Stock, which was perhaps
2 trying to push someone out, harshly perhaps it might be
3 thought.

4 In all those cases, can you assure us the approach
5 taken now would be fundamentally different?

6 MR HAWLEY: Yes, I think absolutely I can. I cannot think
7 that we would ever provide a positive reference for
8 someone who has child protection concerns or has been
9 through a disciplinary hearing. I suppose it's
10 a semantic point, that we might be asked for
11 a reference, but that reference, if it was provided,
12 would be very clear of the offences, the disciplinary
13 hearing and outcome that had taken place.

14 LADY SMITH: Graham, you have seen what was written by way
15 of reference for Guy Ray-Hills, for example. One has to
16 appreciate that there was a challenge there, because
17 there was no doubt he was an excellent teacher of French
18 if one is purely looking at whether he inspired
19 knowledge, understanding, and a high level of competence
20 amongst children in the French language in a way that
21 they enjoyed.

22 MR HAWLEY: Yes.

23 LADY SMITH: Top marks for all of that. But there were
24 other real problems if he was ever to work with children
25 again. If you had to write a reference like that now,

1 what would you do?

2 MR HAWLEY: I would be saying, if I wrote it, that my strong
3 advice would be that Guy Ray-Hills has no contact with
4 children whatsoever. It would be as black and white as
5 that. I think we accept absolutely a gifted teacher,
6 but the damage, and I think this is one of the strongest
7 take-aways for me from this case study, is the lasting
8 damage for decades. No amount of brilliant teaching
9 ever can compensate for the safety angle.

10 LADY SMITH: It's far too high a price to pay. Maybe one
11 could be honest about teaching skills, but don't ever
12 have him use them again with children.

13 MR HAWLEY: I think that is the point, and I think that
14 there are areas, my Lady, where he could be effective.
15 He could be an examiner where he has no contact with
16 children at all. He could lead tours to France with
17 adults. So I don't think one is necessarily condemning
18 them to a life of no employment, but I think one has to
19 be absolutely clear that they have no contact with
20 children.

21 LADY SMITH: Mr Brown.

22 MR BROWN: Peter, I think this is taking forward perhaps
23 something you said in phase 1, and also your comment
24 about the approach at Sandhurst to bad days, presumably
25 the very idea that a school would have the gushing and

1 flowery valedictory remarks about Ray-Hills could never
2 be contemplated?

3 MR MCCUTCHEON: Absolutely. It's linked also to the -- my
4 statement that we do not at Loretto sign non-disclosure
5 agreements, settlement agreements, in relation to this
6 sort of thing. We just will not do it. Because if we
7 were to do that, it would be possible that we could be
8 seen as hiding something, and if we are hiding something
9 we have got something wrong, and that wrong needs to be
10 righted. So absolutely a fairly clear line in the sand,
11 absolutely, yes.

12 Q. Thank you.

13 The other case that we heard perhaps in more detail
14 about than others about -- and this is the flipside --
15 was getting rid of a teacher who was causing issues and
16 the use of a governor essentially to drive someone out.
17 Peter, what would your comments be on what we heard
18 about that?

19 MR MCCUTCHEON: I can't speak to the specifics of it because
20 clearly I wasn't involved. But what I can say
21 absolutely and categorically is that under the current
22 policies, procedures and culture at Loretto that process
23 simply couldn't happen. If I could perhaps explain why
24 I am of that view?

25 Q. Please do.

1 MR MCCUTCHEON: Loretto has now got a very well established,
2 well published, well signposted, well understood, well
3 briefed set of policies. Those policies are not hidden
4 away. As I say, they are well signposted, and they are
5 accessible to all members of the Loretto community at
6 an appropriate level. So a parent can access them,
7 teachers themselves can access them, governors can
8 access them. Nothing is hidden. Therefore, the
9 opportunity, the idea that there could be some
10 conspiracy or action to force a teacher out would not
11 happen because the teacher, their colleagues, other
12 governors, it is all there, and such a course of action
13 would be challenged because of our open culture. It
14 would now be challenged, and in that challenge would
15 come a response, and it would be an open, fair and
16 balanced response. So unilateral action could not
17 happen.

18 Q. Would you agree that what you are talking about is
19 objectivity?

20 MR MCCUTCHEON: It is certainly about objectivity, yes. But
21 it is also about fairness, it is about consistency, it's
22 about openness. There has -- there are many legs to
23 this piece and they all have to come together. So it's
24 wider than just objectivity, it is actually about
25 a culture.

1 Q. Thank you. The reason I touched on objectivity,
2 obviously, is because over the last few days it has been
3 raised as a potential issue, the idea that if you have
4 staff who are dealing with other staff and who are very
5 friendly, connected, one may have a lack of objectivity.
6 Clearly what I am touching on is the issue of Martin,
7 which has a number of legs so far as you, Graham, are
8 concerned, and you, Peter, are concerned, Graham in 2014
9 and then [REDACTED], Peter in [REDACTED].

10 That is an area where I think the school has
11 reflected, would it be fair to say, quite deeply,
12 because obviously discoveries were made during the
13 currency of the Inquiry's lifetime which were unknown
14 and presumably shocked when they were discovered.

15 MR HAWLEY: I think for my part the whole Martin episode
16 continues to trouble me. Were there things that
17 I missed? Should I have spotted more in 2014? Was that
18 a red flag that, whilst I dealt with it, were there
19 other signs?

20 I think when the former pupil came forward in [REDACTED],
21 and I think she showed great courage in doing that, and
22 I don't believe perhaps she would have done if it hadn't
23 been for the Inquiry, I think one of my early thought
24 was December 2014, did I miss something? I don't know,
25 I think it will be a -- there will be more reflection on

1 that. I'm not sure that I will ever draw, in one sense,
2 a satisfactory conclusion, but I think it is something
3 that is probably now more than ever will be at the
4 forefront of one's mind, that one is looking at any sort
5 of behaviour through a slightly different lens. That is
6 inevitable.

7 Q. If we go to another document you provided, which is
8 appendix A, LOR-000000758. This is headed "Note on
9 handling of incident coming to light after period under
10 consideration ..." This is obviously talking about
11 Martin, and it sets out a timeline of the history
12 starting obviously with 2014.

13 The focus in the paperwork which we have seen and
14 you will have read, starts off by focusing, if I can put
15 it in order, on drunkenness and inappropriate behaviour.
16 Would you agree that perhaps, albeit inappropriate
17 behaviour can be caused by drunkenness, perhaps the more
18 important focus with hindsight was the inappropriate
19 behaviour, and those are the red flags that might have
20 been noticed more?

21 MR HAWLEY: I think I would partially accept that. I think
22 the reason for -- I don't disagree at all with the
23 notion that the inappropriate behaviour was the most
24 significant element. My partial agreement is more
25 I suppose to do with the process in terms of the

1 investigation of that event and where I believed the red
2 flags were, which were with the inappropriate behaviour.
3 I think one element of my reflection has been to go back
4 over that paperwork, and I don't disagree that it looks
5 as though the drunkenness is the -- more of the driving
6 force.

7 I think, as I reflect upon that event, there were
8 a couple of salient points for me. When it was reported
9 that Martin had been drunk and had allegedly made these
10 comments and had physical contact with the girls, it
11 seemed to me that the drunkenness, if that was the only
12 important part, I would have dealt with by the
13 vicegerent who said he saw Martin being helped up on to
14 the bus. That would have been corroborated by the
15 member of staff who was assisting Martin into his seat.
16 So if drunkenness was the only element, for me there
17 would have been an easier way of, if you like,
18 prosecuting that offence. But it wasn't for me, it was
19 the inappropriate behaviour. So in 2014 I appointed the
20 child protection co-ordinator as the investigating
21 officer because I felt that it warranted that level of
22 seriousness. The investigation report that was
23 produced, it was all about the girls' testimonies.

24 So I appreciate with the benefit of hindsight it
25 looks from my outcome letter that perhaps the

1 drunkenness was the most important factor, but I believe
2 at the time it was the inappropriate behaviour.

3 And there was one other element that fell out or
4 needed to be considered in 2014, and that was the issue
5 of Martin in the new calendar year, so the event was [REDACTED]
6 [REDACTED] on or around [REDACTED], perhaps it was
7 a week earlier than that. He was going to be returning,
8 as we all would, for the [REDACTED] in [REDACTED] and the
9 question was: was he safe enough in the school's view to
10 retain his weekly duties in a girls' boarding house?

11 Those were the areas, and that is why I wanted the
12 child protection officer as the investigation officer,
13 because I believed that element as well as the behaviour
14 on the [REDACTED] were most significant from a child
15 protection angle.

16 Q. You had been in post for how long when this ...

17 MR HAWLEY: That was [REDACTED] so that would
18 have been around about [REDACTED] in.

19 Q. Obviously as a new head there was a great deal of
20 listening and looking to be done in your first term. We
21 have heard the suggestion that the very person you
22 appointed, quite logically, was, I think has been
23 described by certainly one witness, a close friend of
24 Martin.

25 First of all, can you -- what is your comment about

1 their level of friendship, thinking back both then but
2 also what you saw over the following year?

3 MR HAWLEY: There was nothing from my angle, my lens, then,
4 or indeed up until the time when Elaine moved to
5 Glenalmond, that made me feel there was a close
6 friendship. That is not to say there wasn't a close
7 friendship, but I didn't see evidence of that. [REDACTED]
8 taught [REDACTED], they had been at the
9 school for a long time, but my suspicions, if you like,
10 about objectivity because of a close friendship, didn't
11 strike me at the time, and even with hindsight I'm not
12 sure that it would.

13 LADY SMITH: What about the fact that Martin was [REDACTED]
14 [REDACTED]?

15 MR HAWLEY: I think that is relevant although it is not
16 something that I considered at the time and I accept
17 that that may have been a misjudgment. I think my
18 reasons for saying that are that Elaine was acting head
19 for a year, so [REDACTED] would
20 have had [REDACTED] in terms of
21 overall authority he would defer to her as the acting
22 head.

23 LADY SMITH: When we heard from her she seemed quite clear
24 that he was [REDACTED] and yet she was being
25 asked to investigate.

1 MR HAWLEY: I can see from my own position where --

2 particularly not so much at Loretto but at previous

3 schools where I have been [REDACTED]

4 [REDACTED], although I am the headmaster,

5 absolutely I make it clear that on matters of

6 [REDACTED] policy, [REDACTED] is [REDACTED]

7 [REDACTED] and I am wearing a different hat.

8 I think for something like a disciplinary incident,

9 it is outwith the bailiwick of the [REDACTED]. But

10 I accept I was unaware, maybe still am unaware, of how

11 that dynamic may have worked. I think in 2014 I took

12 the view that Elaine has the authority, not only as the

13 child protection officer but as the deputy head and

14 formally acting head, and that line of authority was

15 probably strong.

16 LADY SMITH: I can't remember, Graham, was your child

17 protection officer in your senior leadership team at

18 that time?

19 MR HAWLEY: Yes.

20 LADY SMITH: So that the different hat approach would then

21 apply.

22 MR HAWLEY: That is certainly what I thought at the time,

23 my Lady, and obviously if I -- the hypothetical question

24 of what I would do knowing what I know now, I suppose in

25 one sense, knowing what I know now, 2014 wouldn't have

1 happened, because the events leading to his dismissal
2 pre-dated 2014. But if I was transported back in time
3 to 2014, I'm not entirely sure, with the information
4 that I had available, that I would have made a very
5 different decision.

6 LADY SMITH: Thank you.

7 Mr Brown.

8 MR BROWN: Very briefly then, there are obviously different
9 hats to be worn on different occasions. But do you see
10 any inherent difficulty with objectivity where you are
11 having someone [REDACTED] I suppose
12 examining the conduct of someone [REDACTED] who
13 may or may not be friendly, it should be someone
14 distinct who is carrying out that sort of investigation,
15 if only for appearance?

16 MR HAWLEY: Possibly that is right, and I can understand the
17 logic behind that. I think in small schools everyone
18 wears lots of different hats, and therefore one might be
19 in a position where you have a situation where
20 you haven't got your [REDACTED] involved and
21 a possible conflict there, but you have also got another
22 hat as a member of house staff with responsibility and
23 hierarchies there, or even within a co-curricular
24 coaching set up. So I think there are always
25 potentially going to be difficulties to unravel or see

1 a way through. I am not convinced at the moment that
2 there is a fail-safe way, particularly in small schools,
3 to circumvent that.

4 I wonder also -- well, I was going to say, but I'm
5 not sure this is hugely relevant, but sometimes -- one
6 of the other witnesses I think alluded to it -- when
7 there is promotion from within the ranks up into
8 a senior position, and friendships have been existing
9 for a long time, it make those sorts of issues and
10 objectivity arguably harder. I don't think that is
11 necessarily a reason not to go down that route, but
12 I think there is an added level of -- "risk" is probably
13 too strong a word, but there is a ... it may be more
14 difficult to demonstrate objectivity.

15 Q. That is something to think about at least.

16 [REDACTED]
17 [REDACTED] because obviously Elaine became the interim
18 head [REDACTED], talking about the lack of
19 handover. Did you have a handover when you started with
20 Elaine who highlighted areas or people she might invite
21 you to keep a particular eye on?

22 MR HAWLEY: No. There was quite a degree of conversation
23 and discussion about various school matters. I don't
24 recall there being any specific points about individual
25 members of staff and perhaps letters, outcome letters of

1 disciplinary hearings on file.

2 Perhaps to be fair to Elaine, or maybe looking
3 critically at myself, there wasn't that knowledge that
4 Elaine would be going the following week, I always knew
5 she would be there, so I think often in a classic
6 handover sense, and this happened in my previous school
7 I had an intensive period, three or four days, where
8 we went through files, discussed members of staff,
9 talked about various different issues. With Elaine it
10 was different because she was going to be at the school
11 for the foreseeable future and therefore a resource to
12 draw on in terms of her knowledge and school knowledge
13 on an ongoing basis.

14 Q. All right. You heard Jack say, without any evidence to
15 support it, he felt an unease about Martin. Did you
16 ever have the same feeling?

17 MR HAWLEY: I didn't, and that in turn slightly troubles me,
18 in the sense of were my antennae not sufficiently well
19 tuned? But I -- I didn't get that sense, no.

20 Q. Was he being reported about positively by people?

21 MR HAWLEY: I think the elements of the witness statements,
22 I think it was Jack again this morning, that chimed
23 a little with me was Martin's hanging back a little bit,
24 so -- but I qualify that because he was on the common
25 room committee, the common room being the body of

1 teaching staff, so he had some involvement in day-to-day
2 matters. [REDACTED] and
3 that naturally gave me opportunities to speak with
4 Martin on occasion [REDACTED]
5 [REDACTED].

6 It is perhaps easy to look back, as of course I have
7 done, and again try and think of were there signs that
8 I have missed, but I don't recall any, and as I say that
9 just makes me just question my own antennae somewhat.

10 Q. I think in relation to Martin, the other issues that
11 were perhaps raised by the different forms of evidence
12 are that he was perhaps someone who was perceived to be
13 cool by pupils, he was someone who attracted attention
14 from pupils by the manner of his dress, by his attitude
15 or eccentricity, and who was obviously, because of the
16 nature of his teaching, someone who might be one-to-one
17 with pupils.

18 Do any of those factors ring true, thinking back, of
19 your view? Did you, for example, have concerns that
20 girls might have crushes on him, to use perhaps
21 old-fashioned language?

22 MR HAWLEY: I didn't notice that at all. Perhaps the
23 Inquiry will draw the conclusion that I am very
24 unobservant, but I didn't notice that. I wouldn't even
25 have described his dress as particularly flamboyant, so

1 that is another thing that didn't jump out at me.

2 Yes, he [REDACTED] I wasn't at school at the
3 time that Jack was describing the inappropriate [REDACTED].
4 He tended to [REDACTED], certainly in my time, that
5 had a relatively small [REDACTED], so they weren't the big
6 [REDACTED], they were [REDACTED] that
7 might be, in hindsight, described as a little edgy, not
8 in terms of the language that was used, and Jack clearly
9 had sorted that particular matter, but they weren't in
10 a sense mainstream [REDACTED]. But I can't say that that
11 raised any alarms with me. The [REDACTED] that [REDACTED] in
12 these [REDACTED] enjoyed [REDACTED], and again, as I say,
13 there were no signals that I picked up.

14 Q. Obviously then matters progress on to [REDACTED] and I think
15 if we go to page 10 of the document we have on screen,
16 this is dated 3 November 2020, and this is essentially
17 the lessons learned process that was undertaken by the
18 school, and is signed off by you, Peter.

19 MR MCCUTCHEON: Indeed.

20 Q. Who thought of having a lessons learned process?

21 MR MCCUTCHEON: It was a joint decision.

22 Q. Between you and Graham?

23 MR MCCUTCHEON: Yes. No, actually, to be more accurate, it
24 was a sort of a joint decision between governance and
25 management.

1 Q. We see there were meetings in January 2019, follow up
2 7 November 2019, and then further meetings I think in
3 2020, and most recently this year?

4 MR MCCUTCHEON: Yes.

5 Q. So the process has been ongoing, and we see the aim of
6 this follow up notice is to capture progress made
7 against those actions and recommendations in order to
8 provide a record of process to date and to identify any
9 outstanding actions and determine if any further actions
10 are required.

11 This is obviously looking at a number of areas which
12 we can read through. One of them, Peter, is one of the
13 things you have been talking about, which is page 12,
14 number 11:

15 "The school approach on permitting resignation
16 rather than moving to dismissal."

17 Because you raised the issue: does the school ever
18 offer the opportunity to resign rather than moving to
19 dismissal? It does not.

20 And it goes on:

21 "It was agreed that if found accepting of the
22 allegations or if they were proven, dismissal would be
23 the appropriate step."

24 So in other words there is not, going back to your
25 earlier comment, some form of compromise agreement or

1 settlement. It is clear.

2 MR MCCUTCHEON: Yes.

3 Q. At the time the document was sent to us further action
4 was required, looking at the bold conclusion. What
5 further action has been taken?

6 MR MCCUTCHEON: That is now briefed, the school HR policy.
7 Well, it will be, post-COVID.

8 Q. Okay. One of the issues I think that arose in Martin's
9 case was he was in school accommodation, and we see at
10 12 the school policy on requiring staff to vacate the
11 school property in the event of suspension. Was there
12 a degree of uncertainty as to what to do, putting it
13 short?

14 MR MCCUTCHEON: I think there was a determination to make
15 sure we did the right thing taking the circumstances
16 into account.

17 Q. All right.

18 MR MCCUTCHEON: One of the issues being where that
19 accommodation was and how it would impact upon the
20 pupils.

21 Q. So there's a wider issue to be considered?

22 MR MCCUTCHEON: Yes.

23 Q. Okay. If we go on to page 4 and numbered paragraph 15,
24 this is headed -- sorry, I do beg your pardon, page 13.
25 You see paragraph 15, "Degree of pushback from some

1 senior members of the common room":

2 "The meeting was briefed that there had been
3 a degree of pushback from some senior staff when a staff
4 code of conduct was introduced in May 2015. There was
5 no suggestion that others engaged in the pushback were
6 doing so for the same reasons as Martin. There was
7 a clear need to make the signing of the staff code of
8 conduct a core requirement of employment."

9 And it is confirmed that he did sign the staff code
10 of conduct before completing routine child protection
11 training in [REDACTED] 2017.

12 "It should be noted that Martin has expressed
13 reservations about a section of the code that he deemed
14 incompatible with his family's wish to entertain pupils
15 in school accommodation."

16 It's more a question for Graham, but do you remember
17 that pushback?

18 MR HAWLEY: Yes, I do. It seemed to me a very
19 straightforward code of conduct to sign. I didn't think
20 that there was anything that was unreasonable in it.
21 But there were a small number of fairly well-established
22 colleagues who felt, as it was characterised to me, that
23 this would change the way in which they had previously
24 operated. [REDACTED]
25 [REDACTED]

1 [REDACTED] There was a sense that that
2 wouldn't be allowed in the code of conduct. So we got
3 over that, but I was surprised that it was any sort of
4 issue at all.

5 LADY SMITH: Mr Brown, it's 3.05 pm. I think we have
6 a little way to go?

7 MR BROWN: We have a little way to go, yes.

8 LADY SMITH: I think we will take the mid-afternoon break
9 just now. Graham, Peter, a short break just now. You
10 know what we do. We will be back and meet again.
11 Thank you.

12 (3.05 pm)

13 (A short break)

14 (3.24 pm)

15 LADY SMITH: Graham, Peter, are you ready for us to carry
16 on?

17 MR HAWLEY: Yes, my Lady.

18 LADY SMITH: Mr Brown.

19 MR BROWN: Thank you, my Lady.

20 We are coming to the end of the lessons learned in
21 relation to Martin, but if we go to page 14 of the
22 document on the screen at paragraph 18, which is the
23 summary of events, it says:

24 "This update shows that a considerable number of
25 lessons learned and subsequent work strands required

1 have been addressed. Some are of discrete actions that
2 have been proposed, others relate to the requirement to
3 update existing documents. Although some of that work
4 has been completed, there is still some work to do in
5 the formal capture of policy relating to the use of
6 email."

7 And it goes on.

8 Obviously COVID is a factor, but it concludes:

9 "Combining the various strands into an updated
10 policy must be our focus going forward. Progress will
11 be reviewed by ..."

12 You, Peter, in January 2021.

13 Is there anything you want to add?

14 MR MCCUTCHEON: If I may. First of all, I think I would
15 just like to state for the record that the action
16 relating to staff training on improving email
17 communications, which appears in the preceding
18 paragraph, while we have not been able to do that as
19 a formal policy, as an interim measure that is now
20 briefed formally as part of the induction process and is
21 written into staff induction, so there is a section on
22 that, and that is a holding action pending the
23 introduction of policy.

24 I think the second thing I would like to say is that
25 the document is not closed, and I think it is important

1 to perhaps highlight the fact that it will not be closed
2 for quite some time because it's a living document, and
3 we felt it's important that we capture the lessons that
4 have come out of the Inquiry. That is an ongoing
5 process.

6 Another example of that would be that we have, as
7 a result of what we have heard in relation to Martin, we
8 have picked up on the fact that we should perhaps be
9 considering the requirement for a formal capture of
10 one-on-one encounters to make it an absolute requirement
11 that it is entered either with the head of department or
12 on our pastoral welfare IT system. We are not sure how
13 to do it but we are pretty sure it should be done.

14 So that is an example of the sort of ongoing live
15 process that this lessons learned process represents for
16 us.

17 LADY SMITH: Peter, when you say "one-on-one encounters",
18 what are you referring to?

19 MR MCCUTCHEON: I am referring to the idea that a teacher, a
20 member of staff, may find themselves in a situation
21 where there is a requirement to have a one-to-one
22 conversation without others present.

23 LADY SMITH: Is that one-to-one with a pupil?

24 MR MCCUTCHEON: Of course, my Lady. I'm sorry, I should
25 have been clearer.

1 Now, 99 times out of 100 that will be within
2 a properly controlled environment and involve properly
3 trained and properly appointed people holding
4 appropriate appointments to allow that it happen. I am
5 talking about housemasters, for instance,
6 housemistresses. Music lessons, we have heard about
7 ██████████. While that would be highly unusual and
8 probably would not happen going forward, what we are
9 trying to do here is think of possibilities where it
10 might happen and ensure that we have a procedure
11 in place to cover that really aimed at making sure that
12 somebody other than the member of staff engaged in that
13 is aware that it has happened or is happening.

14 LADY SMITH: Are there also practical steps that need to be
15 taken or checked, such as windows in doors, doors being
16 left open if at all possible, et cetera?

17 MR MCCUTCHEON: That is happening now, my Lady. The music
18 rehearsal rooms, for instance, have glass walls, glass
19 door, a combination. But, yes, let's just check again,
20 because it is worth checking again, if it involves
21 making sure that we avoid an incident.

22 LADY SMITH: Thank you.

23 Mr Brown.

24 MR BROWN: Again you have heard me asking people to provide
25 information as it has developed. Again, if we could

1 have updates on that, that would be most useful.

2 MR MCCUTCHEON: Absolutely.

3 Q. I am grateful.

4 We have been talking obviously, in terms of Martin,
5 of teacher and pupil. Another area that we have heard
6 about is peer-on-peer, and in particular the issue of
7 bullying in Loretto over the decades. One of the themes
8 that seems to have come out is in relation to the
9 houses. There were, certainly in the past, periods
10 where there was little supervision. The supervision
11 would be on the senior boys who, on some of the
12 evidence, appeared to have taken advantage of the
13 situation negatively. There has been talk in the
14 documentation about increasing tutors so there is
15 greater -- the staff/student ratio is not as heavy on
16 individuals.

17 Can you tell us what the current state of play
18 within the houses is in terms of adult supervision,
19 having heard the accounts of hierarchical bullying that
20 could go on?

21 MR HAWLEY: Yes. Each house, probably as it has for many
22 years, has a resident housemaster or housemistress,
23 a resident assistant, usually also a resident tutor.
24 There will be a housekeeper, also a matron figure, and
25 those are the core of the house team.

1 Then there will be every evening, certainly mid-week
2 evening, members of the academic staff who come in as
3 tutors during essentially homework prep time and they
4 play a role in adding to the supervision there.

5 Q. The reason I ask is obviously appendix B, this is
6 document LOR-000000767, is "Note on handling of
7 incidents of bullying and inappropriate behaviour of
8 form 2 boys in 2018, 2019", which the school helpfully
9 provided.

10 If we go to the second page, the overview:

11 "There was a pattern of persistent poor behaviour
12 amongst a group of second form boys aged 12 to 13. It
13 manifested itself in verbal put-downs, some pushing and
14 shoving and general unkindness. Because few of the
15 incidents took place while under supervision or were
16 reported, it permitted a tone of unpleasantness to
17 become normalised when it created a negative environment
18 which impacted a number of children and, by default, the
19 wider year group. In a number of cases, the impacts as
20 were communicated to the school by concerned parents who
21 were noticing an effect on their own children."

22 Can I be clear, was this in a classroom scenario or
23 was this in a house, given it's described as being
24 unsupervised?

25 MR HAWLEY: This particular group of second form boys, as

1 they were then, were in the day house, so they are not
2 boarders.

3 Q. Not boarders.

4 MR HAWLEY: They are not in classroom, but they have their
5 separate -- essentially a day house. And I think the
6 level of supervision at break time and lunchtime,
7 and I should perhaps just paint picture that whilst
8 boarding houses are typically around the 40 or 50
9 children population density pre-COVID, and we've changed
10 this now, the population density within the school house
11 buildings were more like 180.

12 I think the problems that arose with this
13 peer-on-peer bullying was in part due to the geography,
14 and just the sheer number of children. So we have
15 addressed that post-COVID, we have got smaller units of
16 children which makes them easier to be known, which
17 I think is a really key part in establishing a positive
18 culture, but that is the situation as it was as recorded
19 there. They are day children.

20 Q. The document helpfully sets out a timeline between
21 November 2018 and October 2019 which details the
22 immediate response I think in the first week of getting
23 emails, intervention, and then ultimately board
24 involvement at a full board meeting I think
25 in October 2019.

1 Can I take it that there will have been discussion,
2 given that we know that the pair of you speak regularly?
3 Is this something that, Peter, you would have been made
4 aware of fairly soon after the complaints?

5 MR MCCUTCHEON: Yes, I was made aware of it, and also my
6 head of pastoral welfare was made aware of it, and she
7 is also head of the safeguarding committee, so the right
8 governors were brought in as soon as it was made known
9 and we were briefed on the proposed way forward.

10 Q. Yes. I think if we return to the first page where there
11 is a summary of the approach taken, explaining to
12 parents and children of the whole year group the nature
13 of the issues and how the school would deal with them,
14 listening to parents and children to establish any other
15 relevant information to ensure clarity of approach,
16 ongoing communication with parents and children and
17 relevant school staff throughout, keeping the governors
18 on board and being persistent and consistent to achieve
19 the desired outcome.

20 And ultimately:

21 "Do not assume the issue will disappear when
22 improvements are seen."

23 A lot of that is about communication and the detail
24 is clear. You, Graham, were talking to the year group
25 as a whole, you were talking to parents, you were

1 talking to the individual boys, those complaining and
2 those allegedly bullying. And obviously, as we have
3 heard and seen in the document, there was ongoing
4 communication with governors.

5 I am interested, though, in:

6 "Do not assume the issue will disappear when
7 improvements are seen."

8 Is that just going back to what you told us about in
9 the first set of hearings, you can never assume that bad
10 things are not happening?

11 MR HAWLEY: I think that is absolutely right, and it touches
12 upon that whole issue of wishing to avoid any
13 complacency, and I think in this particular issue we
14 have largely resolved the problem, which at its heart
15 I think was one of culture. I think occasionally --
16 I would say this is only the second time in my teaching
17 career where we had a mix of boys who just didn't seem
18 to gel well together. Individually each one of them was
19 pretty much fine and delightful, with their own
20 strengths and interests, but it was just that the way
21 that they interacted was at its heart I think unkind,
22 and I think if that is not checked that is when it can
23 become normalised and, in my view, normalised unkind
24 behaviour then becomes the root of the hierarchical
25 bullying problematic behaviour.

1 So for us the issue was taking in a sense the long
2 view. We may not sort this out in two weeks because
3 it's not a question simply of watching every one item of
4 behaviour and coming down on it like a ton of bricks, to
5 use a common parlance. It was, I think, and I believe
6 we have been successful, a longer term strategy of
7 changing the culture and the way the boys interacted
8 with each other to become more positive, and that
9 involves the buy-in of parents, the children need to
10 know where the boundaries are, but I think most
11 importantly there needs to be a culture of positivity.

12 I am of the view that remove bad behaviour, you
13 don't end up automatically with good behaviour, you have
14 to have good role models. I think sometimes you have to
15 teach children how to behave well. For many it
16 becomes -- it comes naturally, but just occasionally, as
17 I say, twice in 25 years, it needs a greater
18 intervention. But I think if you manage that, if you
19 achieve that, and you keep an eye on things, and rarely
20 is the progress linear, and there will be bumps along
21 the way, but if you are successful I think you break
22 a potential cycle of almost institutionalised
23 unkindness, hierarchy, that can be problematical.

24 And I suppose revisiting this document in the light
25 of what we have heard over the last week and a half has

1 almost helped me to firm up in my head that that is the
2 right approach, that absence of bad behaviour doesn't
3 mean good behaviour. Having role models, prefects who
4 do the right thing, establishing a school culture is at
5 the heart of it, and ultimately that is what we were
6 trying to do.

7 Q. One thing that struck me, other than this seemed to be
8 in a sense an echo of some of the things we were
9 hearing, albeit we now discover it is in day house and
10 the numbers may be a factor, is the information was
11 coming to the school from parents as opposed to the boys
12 themselves. Did that trouble you, that they clearly,
13 despite all the systems that are in place for children
14 to share, that they weren't sharing? Is there anything
15 you learned from that?

16 MR HAWLEY: I think there was quite a lot of information
17 flowing from the children, so it wasn't exclusively
18 parents. I think it reached my radar more from the
19 parents. I think there was a sense that the
20 interventions that were taking place with day house
21 staff and tutors was still not quite breaking through
22 and, therefore, the parental frustration,
23 dissatisfaction, came to me from them.

24 One of the things I do each morning is be on the
25 school gate, and that affords a really good opportunity

1 for day parents, those of obviously the children who
2 arrive through the gate in the morning, to be able to
3 have a word with me without it necessarily seeming
4 overly formal or having to make an appointment. It was
5 just these different pieces of information ultimately
6 helping me draw the conclusion that the normal pattern
7 of establishing good order in this particular cohort of
8 boys didn't seem to be working. But I think it would be
9 inaccurate to say that the children themselves weren't
10 providing some information about dissatisfaction.

11 Q. It was simply the timeline begins with the parental
12 input. From what you are saying there might have been
13 a sense from the boys but not a fuller understanding.

14 MR HAWLEY: Yes, I think that is probably fair.

15 Q. You also produced, and this is document LOR-000000770,
16 an appendix E, which is examples of the current handling
17 of parental complaints at Loretto. There are three
18 examples, we can obviously read them, but I think the
19 first one is instructive. Again this is 2017 and
20 a concern about alleged bullying. I suppose it shows
21 that parents are, from your experience, Graham, as
22 an educator, more willing to complain now than they were
23 in the past?

24 MR HAWLEY: Yes, I think so, and I think in part that is
25 because positively they are more involved with their

1 children's education. So it is rare that the model of
2 dropping the children off at the beginning of term and
3 not seeing them for a number of months, that doesn't
4 really happen so much. So I think parents are that much
5 more aware which is a good thing.

6 Q. What is striking about this one, if I may, is obviously
7 the parents came to you first, weren't happy with what
8 you had done, and then went to Peter because that
9 process was open to them. So the chair, as we see,
10 reviewed along with the board your decision-making, so
11 that his active involvement at governor level?

12 MR HAWLEY: Absolutely, and I am entirely comfortable with
13 that process.

14 Q. Obviously, Peter, we read of the investigation you
15 carried out and the actions then taken forward.

16 MR MCCUTCHEON: Yes.

17 Q. I think what is interesting on page 3 is the final line:

18 "The school were to conduct a review of the incident
19 and the headmaster was invited to consider using this
20 complaint as a case study to brief and educate the
21 prefectorial body."

22 It would appear learning lessons are there
23 everywhere, if you like, and it's the desire to share
24 lessons learned that comes across from the document. Is
25 that a correct description on my part?

1 MR MCCUTCHEON: I think that is a correct reading of the
2 document. I think the important aspect is that for many
3 parents, it's important that they feel able to raise the
4 issues. Several times a parent would get in touch with
5 me, and the first question I ask is "Have you actually
6 discussed this with the head of year or the house tutor
7 or the housemaster?" and often they haven't. That is
8 really a product of the fact that they know they can get
9 to me, and I think that is an encouraging thing rather
10 than an irritating thing. I would rather that than the
11 other.

12 The second thing I would say is that many parents,
13 when they make a complaint, stress the fact that one of
14 the catalysts for making the complaint is a desire that
15 it doesn't happen again to somebody else.

16 I think that is why we weave the lessons learned
17 process into this and use it as a positive, and then use
18 it to improve performance. I think the example of
19 weaving it into prefectorial training, it's important
20 that we do that, and apply the (inaudible) to that if
21 required, but it is an example of our willingness and
22 our openness and our readiness to learn.

23 LADY SMITH: Peter, and perhaps Graham also, just thinking
24 aloud, is it possible that by demonstrating to a parent,
25 where it is the parent that complains about their child

1 being bullied, demonstrating to them that you deal with
2 it appropriately, efficiently, take it seriously and
3 produce the best outcome that is possible in the
4 circumstances, you are showing the child that you take
5 a complaint, which after all emanates from them,
6 seriously, and do your best to put the child in a better
7 position at the end of it?

8 As has been commented, parents are I think much more
9 in touch with their children's education, and children
10 can be more in touch with their parents, so you must
11 assume the child will know if not the detail then the
12 tone of the exchanges that are going on between their
13 parents and the school, and whether their parents are
14 happy with the way the school is dealing with it or not?

15 MR MCCUTCHEON: Indeed, my Lady. And I should perhaps say
16 that every complaint that reaches me, the key product is
17 an outcome letter which is sent to parents with my
18 signature in which is a record of the meetings we have
19 had, the decisions we have made, and the outcomes that
20 we are seeking as a result. So it's a formal record.

21 LADY SMITH: Because it surely must help to reassure the
22 child that at any future date, if there is something
23 they are worried about, they can take it that they will
24 be listened to by the school, and the school will do its
25 best to do the best for them in whatever the

1 circumstances are, if they have seen that that is how
2 their parents are treated and how the school treats
3 a complaint that comes from the parent.

4 MR HAWLEY: I certainly hope so, my Lady. I think by
5 definition schools are learning institutions, and
6 everything that we do needs to bear that out in some
7 respect. Children will be aware most of the time of
8 what is going on and how the school is dealing with
9 things. They don't always perhaps get the answer or the
10 outcome that they want, but I think it's important that
11 they see that there is a process, that their complaints,
12 whatever they relate to, are investigated and treated
13 seriously, and that there is a degree of dignity in the
14 approach.

15 LADY SMITH: That must be essential, must it not?

16 MR HAWLEY: Yes.

17 LADY SMITH: And that a child knows not only they have
18 a voice, they are listened to, they are treated with
19 respect --

20 MR HAWLEY: Absolutely.

21 LADY SMITH: -- and taken seriously, and that the school
22 genuinely wants to help in any way it can.

23 MR HAWLEY: Indeed.

24 LADY SMITH: Mr Brown.

25 MR BROWN: Thank you, my Lady.

1 When you were here some weeks ago for phase 1 we
2 talked about the need to share information appropriately
3 with statutory bodies, and the desire that that could be
4 progressed and better understood. You talked at the
5 beginning of today's evidence about improving
6 communications. Has there been ongoing discussion as
7 between -- and this is going back to, Graham, your point
8 about the collegiality of the schools who are involved,
9 has there been discussing amongst the schools since you
10 first appeared?

11 MR HAWLEY: There has been some. I think that there will be
12 probably an exponential increase as we all move through
13 this process, but we do have our own COVID WhatsApp
14 group, and SCIS are part of that, and I think there is
15 a good degree of sharing and I think that will carry on.

16 Q. One of your anxieties obviously was making sure you
17 contacted the right people quickly and efficiently, and
18 I know, because obviously you alerted the Inquiry to
19 this, and I don't know whether it's because of the
20 Inquiry and the publicity, but a further complaint has
21 been received which you instructed your solicitors to
22 share with the Inquiry?

23 MR HAWLEY: That is right.

24 Q. You alerted the Inquiry having received, we understand,
25 first notice at 4.55 on 5 May of a potential issue, and

1 I think, as we would understand, you were briefed
2 presumably having come back from here?

3 MR HAWLEY: Yes.

4 Q. Having spent a day listening to evidence about Loretto,
5 and were told, which must have made your day, that there
6 was a further allegation. You were briefed at quarter
7 to six, and we would understand the Care Inspectorate
8 were advised at 6.20 and the police at 6.45?

9 MR HAWLEY: That is correct.

10 Q. Peter, I think you were then briefed the following
11 morning?

12 MR MCCUTCHEON: That is correct.

13 Q. It would appear that information-sharing is certainly
14 efficient.

15 MR HAWLEY: Yes, I would agree with that. And I think, as
16 you point out, in the light of phase 1, the process
17 personally for me was so much more efficient and quick
18 because all the different organisations were at the
19 forefront of my mind. An ongoing reflection, and I hope
20 perhaps this is something that the Inquiry might
21 consider by way of recommendation, is still to have
22 a single point of contact. It still feels not exactly
23 clunky, but perhaps everyone understanding what the
24 different roles are in a process, and I know in phase 1
25 discussion about the Local Area Designated Office, LADO,

1 it would seem to me that that model has merits.

2 Q. In relation to the complaint that was made, what period,
3 if you can, are we dealing with?

4 MR HAWLEY: We are dealing with around about 2013.

5 Q. Right. Presumably inquiries are underway --

6 MR HAWLEY: Yes.

7 Q. -- with the various bodies you have mentioned, and
8 I take it in due course you might be happy to share --

9 MR HAWLEY: Of course.

10 Q. -- as necessary, and in particular lessons learned, lest
11 they illuminate further issues the Inquiry might
12 consider.

13 Obviously you have reflected on matters since the
14 first phase, you have no doubt been reflecting as you
15 have been listening to the evidence daily.

16 Peter, perhaps starting with you, is there anything
17 you would wish to add at this stage from your
18 perspective?

19 MR MCCUTCHEON: Yes. And thank you, Lady Smith, for
20 offering me the opportunity to make a few remarks at
21 this juncture. I am grateful.

22 I think my first duty must be to thank the witnesses
23 who gave evidence in respect of Loretto over the course
24 of the last few days. Those witnesses who are
25 survivors, I have listened carefully and I have formed

1 the most immense respect for the courage that the
2 survivors have displayed for their determination to be
3 heard. It couldn't have been easy but it is very
4 important and I respect that courage.

5 Secondly, I would like to thank all of the other
6 witnesses who gave evidence because their insights,
7 their views, their expertise, their advice and their
8 comments can only help shape us as we drive forward into
9 the future.

10 I said I had listened carefully, and I think
11 listening is something -- a couple of words about
12 listening. I have been struck over the last few days
13 that a failure to listen has woven through much of the
14 evidence. Not only a failure to listen but a failure to
15 look, a failure to see, and that has had severe
16 consequences, to my regret.

17 I would like to assure the Inquiry that we have
18 listened and we have seen and we are reflecting, and
19 that reflection is a continuous work. But listening
20 just isn't enough. There is no point in listening if we
21 are not willing to act and review and audit. I hope
22 that we have been able to indicate to survivors that the
23 current board and senior management team are
24 an integrated organisation that does listen and does see
25 and does learn because it is only through that process

1 that we can engender the trust that we require to
2 optimise our safeguarding, and if we lose that trust, we
3 lose our ability to safeguard as well as we possibly
4 can.

5 I would also like, finally, to turn to the apology
6 we made in our opening submission. It was a heartfelt
7 and unreserved apology. Nobody should have suffered the
8 abuse that you suffered, and the fact that you did is
9 a matter of huge regret to Loretto.

10 My promise to the survivors is a simple one: my
11 promise is that I will continue, as chair, to drive
12 safeguarding forward in as optimal a manner as I can,
13 and I thank you for your courage.

14 Thank you, Lady Smith.

15 LADY SMITH: Peter, thank you very much for that.

16 MR BROWN: Graham, do you have anything to add?

17 MR HAWLEY: Just a couple of point, if I may.

18 Thank you for the opportunity to be involved. We do
19 know that some of the survivors were prompted to come
20 forward because of the Inquiry. That's good for the
21 school, and my hope is that it is going to make
22 a difference to their lives.

23 We deeply regret the impact the abuse has had on
24 them, but I hope the fact that they have been brave
25 enough, and we admire their courage, means that perhaps

1 they can move forward. So being involved is hugely
2 significant to us, and thank you.

3 Thank you to the Inquiry team who have been just so
4 helpful. A particular thanks to the stenographers, not
5 least because my hope is that there may be people who
6 read the transcript, people who have suffered abuse in
7 the past, who are now prompted to come forward, perhaps
8 they weren't initially, and having a transcript of these
9 proceedings perhaps will just tip them over that point
10 and, in turn, that they may be helped to deal with the
11 hugely negative impact that the abuse has had on them.

12 As part of our methodology, we decided we wouldn't
13 be in touch with those who came forward. We felt that
14 that might just compromise the evidence they gave. But
15 we are very keen to reach out, do what we can for those
16 people who have suffered. It is one thing to have on
17 record an apology, but there is something very powerful
18 about human to human contact, and I was fortunate enough
19 to have that with one of the witnesses last week.

20 So for the witnesses, for those who perhaps are
21 still seeking to come forward, we want to do what we can
22 to make amends for the dreadful abuse you have suffered
23 and for which we are profoundly sorry.

24 LADY SMITH: Graham, my thanks also to you for your remarks.
25 They are, if I may say, entirely professional but

1 genuine obviously in the circumstances. Thank you.

2 Mr Brown.

3 MR BROWN: My Lady, I have said enough. I have no further
4 questions.

5 LADY SMITH: Are there any outstanding questions? (Pause).

6 Graham, Peter, thank you for coming along again
7 today, but thank you also for paying close attention, as
8 I know you have, to this part of our case study
9 hearings. It helps me enormously to know that you have
10 heard directly from the witnesses and you are not solely
11 dependent on second-hand information about that.

12 Thank you also for your appreciation of the
13 production of a transcript. It gives me an opportunity
14 to say it. I am sorry it is not always ready the night
15 after the hearing is finished, but I am sure you
16 appreciate certain work has to be done, not least of
17 which is checking redactions that need to be made before
18 they are put on to the website, but we do get them on to
19 the website just as soon as we possibly can in all the
20 circumstance. There are a lot of people behind the
21 scenes who work on that.

22 So thank you both very much, I'm now able to let you
23 go.

24 (The witnesses withdrew)

25 LADY SMITH: It's just after 4 o'clock, Mr Brown.

1 MR BROWN: My Lady, yes. That concludes the evidence we are
2 hearing in this phase for Loretto. Tomorrow we shall
3 begin with evidence from Morrison's. As your Ladyship
4 knows from the list, with Morrison's, for a variety of
5 reasons, there will be fewer live witnesses and
6 I'm afraid more read-ins. That may shorten the days but
7 we will hopefully have a fair amount of material to
8 contend with for the remainder of this week and next.

9 LADY SMITH: Thank you very much.

10 I will rise now until 10 o'clock as usual tomorrow
11 morning. Thank you all.

12 (4.03 pm)

13 (The Inquiry adjourned until 10.00 am on Thursday,

14 13 May 2021)

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