

Wednesday, 30 August 2023

1

2 (10.00 am)

3 LADY SMITH: Good morning and welcome to the final day of  
4 our set of hearings looking into provision for children  
5 at Edinburgh Academy. Today we move to the closing  
6 submissions of those who have had leave to appear in  
7 this section of our boarding schools case study.

8 I am going to begin by inviting counsel to the  
9 Inquiry, Mr Brown, to address me, and then I will move  
10 through the others who have closing submissions to  
11 present as the day progresses.

12 Mr Brown.

13 Closing submissions by Mr Brown

14 MR BROWN: My Lady, good morning.

15 This eighth hearing of the Child Abuse Inquiry's  
16 boarding school case study came about, as your Ladyship  
17 said at the outset, because so many applicants and other  
18 witnesses came forward to provide evidence of the  
19 experience of boarders at the Edinburgh Academy over  
20 several decades that senior counsel and I agreed that  
21 evidence about the provision of residential care for  
22 boarders at the school needed to be explored as soon as  
23 possible.

24 It is right to recognise why that has happened, and  
25 to acknowledge the input of both Alex Renton and

1 Nicky Campbell in particular in highlighting boarding  
2 school abuse at Edinburgh Academy, which led to so many  
3 coming forward for this chapter. The burden carried by  
4 Nicky Campbell in doing that was obvious.

5 LADY SMITH: Yes.

6 MR BROWN: We have, of course, now come full circle, because  
7 much of the material referencing Fettes and  
8 Edinburgh Academy in the Dark Corners broadcast, which  
9 Nicky Campbell heard and which triggered his responses,  
10 came from our sixth hearing into Iain Wares's time at  
11 Fettes, and also Edinburgh Academy. But the combination  
12 of our efforts and theirs means we have now heard a much  
13 fuller and wider picture of abusive practice at the  
14 Edinburgh Academy than was previously understood, and  
15 that is a very good thing.

16 We have now heard evidence from 41 applicants, 25  
17 giving in-person evidence and 16 by way of statements  
18 being read in part or in full. In addition, we have  
19 also heard from 17 other witnesses, including the  
20 current rector, Barry Welsh, nine by way of live  
21 evidence and eight by way of statements being read in.  
22 We have therefore heard applicant evidence covering the  
23 period from 1955 to the mid-1990s, and we have heard  
24 evidence overall from the 1950s to the present day.

25 The Inquiry's work will not stop simply because

1       hearings are now finishing. The process of taking  
2       a further seven statements is underway throughout  
3       September, and a further 14 are anticipated thereafter.  
4       They are already in the pipeline.

5   LADY SMITH: And of course in the usual way the evidence in  
6       these statements will be carefully considered and  
7       analysed and fed into the overall considerations in  
8       relation to the Edinburgh Academy.

9   MR BROWN: Absolutely. All will be considered, just as the  
10       existing statements and documentation, and there are  
11       hundreds of documents in the bundle, will be reviewed  
12       and reconsidered in part of the process to provide the  
13       findings that your Ladyship will produce in due course.

14       With so much evidence, and recognising that findings  
15       are a matter for you, I would simply make some broad  
16       observations on the evidence we have heard thus far,  
17       many of which echo the themes already heard in relation  
18       to the other boarding schools we have taken evidence of.  
19       The submissions of other parties, which obviously I have  
20       seen, will focus more pointedly on particular matters.

21       In one respect it has to be acknowledged that  
22       Edinburgh Academy was different, because it was a day  
23       school with boarding, as opposed to a boarding school  
24       with a day element, which is what the previous schools  
25       reflected.

1 LADY SMITH: Of course, when the Edinburgh Academy was  
2 founded in 1824 it was founded as a day school.

3 MR BROWN: Indeed so.

4 LADY SMITH: I think it was well into the 19th century, late  
5 19th century, before it became also a boarding school  
6 when they recognised how many pupils they had that were  
7 travelling from far afield to go to the school.

8 MR BROWN: Indeed, and I think at its height boarders  
9 represented perhaps a quarter of the entire roll. But,  
10 as we know, it consistently declined in the last decades  
11 prior to stopping in 2008. But the set up of boarding  
12 at the Edinburgh Academy made it perhaps arguably less  
13 overseen than the other schools, simply because school  
14 management and the majority of staff in the day school  
15 had no contact with boarding as a distinct element.  
16 And, as we have heard, it was in any event physically  
17 separate from both the senior and the junior school. So  
18 it was out of sight and to an extent out of mind for  
19 many.

20 Despite that, it is very clear from both boarders  
21 and day pupils that the culture and practices of all  
22 parts of the Edinburgh Academy, just as in the other  
23 schools, was lacking for decades, and that allows me to  
24 make two fundamental comments.

25 First, your Ladyship will be entitled to find that

1 children were dreadfully abused when pupils at the  
2 Edinburgh Academy, involving physical, sexual and  
3 psychological abuse by teaching staff. Three stand out  
4 in particular because of the scale and degree of the  
5 abuse, and I will make brief comments about  
6 John Brownlee, Iain Wares and Hamish Dawson. Violence  
7 by other teachers, everyday classroom violence, throwing  
8 dusters, using rulers to whack children, excessive  
9 corporal punishment, both in terms of what would be  
10 simple common assault given the force used, but also  
11 inappropriate punishment, for example for academic  
12 failure, have been heard of. Again, just as we heard in  
13 relation to the other seven schools.

14 LADY SMITH: Of course two of those three were also for  
15 significant periods housemasters in the boarding house.

16 MR BROWN: Exactly, yes, exactly so.

17 The same is true, also, of some teachers who touched  
18 inappropriately. It is a common theme.

19 In addition, and this is the second obvious comment,  
20 it is clear that boys were also subject to abuse from  
21 other boys, which was principally physical and  
22 psychological in nature. That reflected the unkind and  
23 brutal culture that appears to have been part and parcel  
24 of the Edinburgh Academy life for so many.

25 LADY SMITH: Yes.

1 MR BROWN: In both elements, staff and pupil abuse, there  
2 was a remarkable similarity in the experience of day  
3 pupils and boarders in the witness accounts we heard,  
4 which were separated often by decades. Little changed.  
5 Repeatedly we heard that abuse was normalised, and that  
6 successive generations of children had to find ways in  
7 which to survive it. There was a consistent culture of  
8 silence and a clear understanding that clyping was not  
9 welcome, either by pupils or even staff. To clype would  
10 only lead to further trouble, and that was a given.

11 Disturbingly we also heard of generations of adults  
12 who consciously or unconsciously turned a blind eye to  
13 abuse which was there to be seen. Just as with previous  
14 hearings about other schools, it can be said good people  
15 should notice, have to notice, and to act in order to  
16 prevent abuse. All too often it seems that just didn't  
17 happen at the Edinburgh Academy, in part at least due to  
18 the ethos of the school. From the staff perspective  
19 there seems to have been a culture, even amongst those  
20 remembered warmly by applicants as good teachers, where  
21 only issues which affected their own worlds were taken  
22 on board or responded to. Individual rector dictated  
23 the mood of the school until the 1990s, without the  
24 support or guidance now so common from senior management  
25 teams. It was very much an individual fiefdom at a very

1 grand level.

2 As a result, teachers assumed the rector or junior  
3 school headmaster would deal with issues, and they  
4 didn't have to. David Standley, for example,  
5 acknowledged that the rector was the keystone of the  
6 school and that up to 1987 it was the rector who would  
7 have decided what happened.

8 The Academy also made matters much worse by its  
9 approach to employment. Recruitment processes were  
10 extremely informal, to use David Standley's words, and  
11 until 1992 it appears to have been a case of Buggins'  
12 turn, the system by which appointments or rewards were  
13 made by seniority and time of service rather than merit.  
14 That had particularly profound impact on the boarding  
15 houses, where two of the most unsuited men imaginable,  
16 Brownlee and Dawson, were appointed to look after  
17 younger boys without any consideration, it seems, as to  
18 their fitness to carry out such tasks.

19 In combination with the complete absence of  
20 oversight, reporting, appraisal and the culture of  
21 silence, they were simply allowed free reign to abuse  
22 sadistically in one case or sexually in another. Even  
23 when a tutor reported his concerns about Brownlee's over  
24 use of discipline, nothing was said or done by those he  
25 told. That reflected the absence until the early 1990s

1 of no understood care standards, poor regulation and  
2 oversight of staff, particularly of housemasters, and  
3 an absence of any systems to allow pupils to complain.  
4 Pupils could not easily disclose issues should they  
5 actually ever have been minded to do so.

6 Pastoral care was assumed, and there were no  
7 policies or systems in place to ensure pastoral care  
8 operated meaningfully. Teachers would know their own  
9 classes or departments but have little or no idea how  
10 others behaved. That insular mentality was perhaps best  
11 exemplified with a different world approach between the  
12 senior and junior schools. At times it seems to have  
13 been clearly understood, and was the cause of some  
14 concern in the senior school, that a number of teachers  
15 in the junior school were disciplined. Yet nothing was  
16 done. They wouldn't have raised it, it was a different  
17 world.

18 The psychological and physical distance between the  
19 two meant they might as well have been different  
20 establishments.

21 It is only in the 1990s -- just as with the other  
22 seven schools -- that the penny seems to have dropped  
23 that pastoral care needed to be addressed more  
24 meaningfully and policies began to appear.

25 The Edinburgh Academy model of success which focused



1 on academic and sporting triumph, particularly rugby,  
2 also didn't help.

3 First of all, children who fitted the mould thrived,  
4 but for others there was a clear sense of being left to  
5 the side, for some with the experience of getting poorer  
6 quality teachers, as a result.

7 Second, and perhaps more importantly, the failure to  
8 notice and failure to act when abuse was going on was  
9 repeatedly demonstrated in the evidence of applicants  
10 whose academic abilities dropped or fell off a cliff.  
11 They were only a few accounts of enquiries being made as  
12 to what had happened to the child to explain that drop.

13 Assumption was, just as in the other schools,  
14 a norm. Reinforced by complacency, bred by the many  
15 staff members who had spent much if not all of their  
16 careers at Edinburgh Academy. It is striking that there  
17 is a period, perhaps particularly associated with the  
18 rectorships of ICH and Ellis, where staff are there  
19 for decades. We heard evidence that that was because it  
20 was a good place to work, but it is striking that the  
21 absence of new blood had perhaps a negative impact in  
22 the way the school looked at itself.

23 It was assumed that once a teacher, you were a good  
24 person and able not only to teach but to look after  
25 children in your care. Including in the boarding

1 houses. ICH [REDACTED], as David Standley remembered, was  
2 of the view that if I have appointed you to the staff  
3 you are capable of doing all jobs. That was the  
4 assumption.

5 LADY SMITH: That is quite an assumption, if you are talking  
6 about the full range of jobs in a school that has both  
7 day and boarding, a wide range of academic subjects and  
8 a range of sports.

9 MR BROWN: Indeed so.

10 Thinking back to ICH [REDACTED], it would appear that  
11 the acid test was whether you liked hillwalking.

12 LADY SMITH: Yes.

13 MR BROWN: Tony Cook agreed that to an extent the ethos of  
14 the school was one of assumption, albeit he thought it  
15 common to all schools at the time. And that is  
16 certainly confirmed by the evidence we have heard.

17 However, it does appear that Edinburgh Academy,  
18 looking comparatively, was a school that was very slow,  
19 and slower than the others, to change or look  
20 meaningfully at itself.

21 Tony Cook, who had been a former pupil of the  
22 Edinburgh Academy and became a teacher in 1975, said he  
23 got a sense that the school was operating just as it had  
24 when he had been a pupil. And that the change was  
25 a very gradual process. He talked of starting as

1 a teacher in 1975, and remarking that the old guard were  
2 still there. Although he did make the point that  
3 gradually, but only gradually, new staff came in with  
4 slightly different expectations. The one change he did  
5 remember, which ICH [REDACTED] to be fair to him did  
6 introduce, was a reduction in the use of corporal  
7 punishment, although as we know from the SCIS documents  
8 the Edinburgh Academy was one of the last schools to  
9 retain it, albeit its use may have been more theoretical  
10 than actual.

11 But there certainly was no external challenge or  
12 thought of external challenge. Again, David Standley  
13 post the ICH [REDACTED]'s era talked of the Ellis era [REDACTED]  
14 [REDACTED] as a period of complacency. Ellis would  
15 only talk of good news, when in fact everyone knew the  
16 news was very far from good. But there was no appetite  
17 for change, certainly not from senior management and the  
18 court of directors it would appear.

19 It can be said therefore that from the 1950s to the  
20 early 1990s these were decades where classrooms and  
21 boarding houses could easily become individual fiefdoms  
22 where abuse could easily occur undetected.

23 The conclusion of that is Edinburgh Academy  
24 systematically failed the children and the parents who  
25 entrusted their children to its care, there were simply

1 no systems in place as we would understand them now, and  
2 which should have been reflected upon much sooner than  
3 they were. It was not simply a case of individuals  
4 acting beyond the scope of their powers, although I now  
5 turn to look at the three individuals, because their  
6 individual contributions are remarkable.

7 I would join two together, and that is Brownlee and  
8 Dawson, because the evidence against them is clear and  
9 overwhelming. Once again, the similarity in the  
10 accounts in many regards is striking. They had long  
11 careers at the Academy and their entire career from  
12 junior to senior posts is marked by ongoing abuse, which  
13 was consistent. It did not change. They are, and were,  
14 prolific abusers of children at the Edinburgh Academy,  
15 who should have been spotted and should have been  
16 stopped.

17 As far as John Brownlee is concerned, it is clear  
18 that he physically and psychologically abused young  
19 children in the junior school. And that in many ways,  
20 particularly thinking of the violence he meted out, is  
21 particularly troubling given we were dealing with  
22 primary school children. Some children were unable to  
23 escape his abuse, because of course as your Ladyship  
24 observed at times he was both their teacher and the  
25 person in charge of their care in the boarding house.

1 LADY SMITH: What is really striking, I have already  
2 mentioned 1824, is that in his book, *The Clacken and the*  
3 *Slate*, Magnus Magnusson records that the founders of the  
4 Academy in 1824, three men, were all agreed that  
5 corporal punishment should only be administered for  
6 serious acts of misbehaviour, and never for scholastic  
7 backwardness, and apparently in that era many an academy  
8 teacher was called to account for striking teachers, and  
9 as Magnus Magnusson also observes, this was at a time  
10 when appallingly brutal floggings at English public  
11 schools were accepted with a shrug as a way of life.  
12 What went wrong? One wonders. Was it that this was  
13 an era where having decided upon a principle it didn't  
14 get translated into policy? Forgetfulness? Assumption  
15 that having decided on a principle everybody would stick  
16 by it? Failures to notice?

17 MR BROWN: In the period, the living memory period, I think  
18 the evidence suggests it is all of those things, given  
19 your Ladyship refers to 1824.

20 LADY SMITH: And I think through a good chunk of the 19th  
21 century.

22 MR BROWN: Well, you do wonder whether, and this is somewhat  
23 speculative, whether the Victorian era hardened up,  
24 because your Ladyship will recall the evidence of  
25 David Standley that I think there was a teacher who was

1 removed from post, I think in the 1870s, who was clearly  
2 a Greek scholar and did not beat and there was an outcry  
3 because he didn't do so, not only from staff but from  
4 parents. So no doubt there would have been a social  
5 change as well. However, by the time we are looking at,  
6 post the second war, one really would have thought that  
7 there would have been some understanding, and  
8 particularly with Brownlee, whose beatings were well  
9 known.

10 LADY SMITH: Oh yes.

11 MR BROWN: Could be heard by other teachers.

12 LADY SMITH: Yes.

13 MR BROWN: It was all there to be stopped, but wasn't.

14 LADY SMITH: Yes.

15 MR BROWN: Of course his beatings, we have heard about how  
16 he would put a child up on the window so he would be  
17 seen by the entire class, it wasn't just beating, it was  
18 humiliation. Neil Russell I think provided the most  
19 graphic account of this behaviour, saying that he  
20 remembers being put on the shelf and being clackened in  
21 front of the whole school and it was humiliating you in  
22 front of your cohort. And he was 11. As he went on to  
23 say, it was just because he was gratifying himself in  
24 some malicious way. Abuse, yet again, in plain sight.

25 The position is the same with Hamish Dawson, another

1 class teacher, another housemaster, in charge of  
2 children's care in loco parentis in the boarding house.  
3 On the evidence it is apparent that he failed  
4 significantly in both places and breached yet again the  
5 trust of parents placed in him by Edinburgh Academy, and  
6 by them. Again, it was over a long period of time,  
7 including sexual, physical, and psychological abuse.

8 'Sam', the very first witness we heard from,  
9 speaking about the 1950s, said this of Dawson,  
10 interestingly, remembering Dawson started in the mid  
11 1950s, even as a young teacher he was described thus:

12 "There were others, masters who were known to beat  
13 and to beat quite severe, notably a Mr IGE [REDACTED], but  
14 they were just rather good at wielding the tawse, rather  
15 than being vindictive people, Dawson was of a different  
16 order, it was apparent from the very beginning."

17 LADY SMITH: Yes.

18 MR BROWN: In the classroom we heard much of his instruments  
19 of correction, which were positioned in plain sight, to  
20 mask and permit a false jollity that really focused on  
21 satisfying his sexual desires. We heard much of his  
22 fondling and inappropriate touching. We heard from many  
23 witnesses he was an excellent teacher, and of course  
24 that has echos of Guy Ray-Hills at Loretto. Just like  
25 Guy Ray-Hills, it would appear that Dawson actively

1           sought to groom.

2   LADY SMITH: There were some remarkable parallels.

3   MR BROWN: There were.

4   LADY SMITH: Yes.

5   MR BROWN: He was jokey, he was infamous for giving rewards

6           by way of his jelly beans, and as many commented, by his

7           conduct he made the boys complicit, which is perhaps one

8           of the most sinister and troubling aspects. They

9           weirdly participated in their own punishments, and in

10          the boarding house he was ever present and took full

11          advantage. The accounts of the showers he enforced,

12          again, to use the word, were particularly sinister.

13   LADY SMITH: Yes.

14   MR BROWN: Yet to Edinburgh Academy, as documentary evidence

15          confirms, I think this is spoken to by witnesses, but it

16          is plain from the papers, he remained a master they

17          sought to keep, even when he was wanting to leave.

18          There was never any awareness, it would seem, of the

19          risks he posed.

20   LADY SMITH: I think the impression was it was felt he

21          taught history very well.

22   MR BROWN: And that's what mattered, just as with

23          Guy Ray-Hills.

24   LADY SMITH: Guy Ray-Hills, outstanding French teacher.

25   MR BROWN: He got good results, so he was kept.



1           Then we come to Iain Wares. We heard about him last  
2           year in the Fettes chapter and his conduct when  
3           a teacher at Edinburgh Academy was referred to, however  
4           the scale of his abuse was not altogether known or  
5           established, albeit, I think it was fair to say it was  
6           suspected.

7   LADY SMITH: Yes.

8   MR BROWN: That has now changed. We have now heard multiple  
9           accounts in the clearest possible terms of sexual and  
10          physical abuse of many, many children, at the  
11          Edinburgh Academy, both day and boarders.

12          The submission I made at the conclusion of the  
13          Fettes evidence was that Iain Wares stands out as  
14          perhaps the most significant individual abuser we have  
15          heard of to date. There is now no room, arguably, for  
16          "perhaps".

17          From the evidence he was a serious sexual abuser,  
18          who repeatedly abused multiple boys throughout his  
19          career, first in South Africa, then at  
20          Edinburgh Academy, and thereafter at Fettes. He abused  
21          in plain sight, in front of his class, and on some  
22          accounts involving half or more of the class. He  
23          watched in the showers. He abused children there too.  
24          As one witness referred to it, he abused on  
25          an industrial scale and just as with Brownlee and Dawson

1 he left a lasting, negative impact on every one of his  
2 victims and blighted the lives of young schoolboys and  
3 continues to blight the lives of 60-year old men.

4 What makes Wares so much worse is the knowledge  
5 uncovered in these hearings that his tendencies were  
6 fully understood and inevitable, given the medical  
7 advice we have heard about, in particular the simply  
8 incredible approach by Professor Walton at the Royal  
9 Edinburgh Hospital. The medical records and the  
10 doctors' testimony we heard makes clear that Iain Wares  
11 himself knew himself what he was: a paedophile. He was  
12 in no doubt, and at times even he recognised, just as  
13 his wife and his GP did, that he should not be working  
14 in a school with prepubescent boys. He knew what he  
15 would do, and that is what exactly he did do at  
16 Edinburgh Academy and at Fettes. He did so again and  
17 again and again.

18 It beggars belief, to use the words of an exchange  
19 with one doctor, that Professor Walton nonetheless  
20 encouraged him to start teacher training and insisted he  
21 remain as a teacher, despite the full knowledge that  
22 treatment was actually having no impact and that actual  
23 abuse remained ongoing even to the limited and  
24 unchallenged degree that he shared with those treating  
25 him.

1           The short point is this: none of the Scottish abuse  
2           need have happened had he been treated properly. It  
3           beggars belief that Edinburgh Academy on the evidence,  
4           just as with Fettes, knew what they were dealing with  
5           yet did not act appropriately. I say that because  
6           looking at the knowledge of the Edinburgh Academy, just  
7           as many applicants asked, thinking of the abusive  
8           conduct of Brownlee, Dawson and Wares, how could they  
9           not know? Brownlee and Dawson's conduct, and their  
10          respective reputations, was known to fellow teachers.  
11          The import of it wasn't understood or was ignored, but  
12          with Wares we know that at least one child's parents  
13          complained to Edinburgh Academy, yet was met with the  
14          response, we have told, from ICH [REDACTED] that it would  
15          be unwise to complain and that the child had  
16          an over-fertile imagination.

17          That response was confirmed as likely by one if not  
18          two teachers who worked with ICH [REDACTED]. On the  
19          evidence, your Ladyship would also be entitled to find  
20          that perhaps another set of parents also complained, but  
21          no action was taken.

22          Moving on to peer abuse, briefly. We also heard  
23          evidence of boys abusing boys in both school and  
24          boarding house. Culture played an important part, as  
25          for decades it was clearly described as a harsh and

1 uncaring environment where once again authority was  
2 delegated to other pupils, and staff simply didn't  
3 notice what was going on. That reflects both house and  
4 school. We know that peer abuse could be part of  
5 school-sanctioned discipline, particularly with the use  
6 of the clacken by ephors on a Friday afternoon, still  
7 spoken of with dread by former pupils from the 1950s and  
8 1960s and which we know from the beat book was the  
9 source of enthusiastic record, including pride in the  
10 number of broken clackens from excessive beatings of  
11 boys.

12 Moreover, the evidence is that peer bullying and  
13 abuse remained a constant theme for decades, occurring  
14 in all of the decades we heard evidence of in both  
15 boarding house and school, albeit to varying extents.

16 Again, returning to 'Sam', the very first witness we  
17 heard evidence of, speaking of the 1950s, he described  
18 the culture in MacKenzie House as involving quite a lot  
19 of bullying and violence, he mentioned someone urinating  
20 on his bed and being pushed under the bedclothes, with  
21 people piling on and suffocating him, which was the  
22 worst experience of all. He talked of surviving by  
23 behaving in the same way, because:

24 "... when it came to things like rituals and  
25 tunnels, I wasn't the only one to suffer, that and at

1       that stage, and I can only speak for myself, you become  
2       complicit in it as well. So you stand in your own bed  
3       when someone else is going through it and hit them,  
4       which I think is very damaging indeed. In fact, I think  
5       being complicit in some of the punishment culture and  
6       the bullying actually leaves a much greater scar than  
7       the bullying received oneself."

8           His evidence yet again spoke to another theme that  
9       has been common to all of the schools: difference led to  
10      abuse. And yet difference was never addressed or  
11      recognised as something that needed to be addressed,  
12      'Sam' was the smallest person in the dormitory, he had  
13      a strange accent, he spoke differently, he lacked the  
14      physical prowess that other boys had, so he was in  
15      survival mode. He had to learn quickly how to survive  
16      in that environment, because no one would help him.  
17      That culture persisted, he said, until he was 18, and  
18      again, mirroring some of the Morrison's experiences, for  
19      him school was better because there was some respite  
20      there.

21           However, he did go on to say about the school, as  
22      you progressed, corporal punishment became more and more  
23      commonplace and part of the system. So it was  
24      a constantly evolving survival.

25           'Colum' revealed the laissez faire attitude of the

1 school, talking of ICH [REDACTED] and the fact that  
2 bullying was a huge problem, particularly in the fourth  
3 year, but Mr ICH [REDACTED] he said thought bullying was just  
4 best left to sort itself out. In practice that meant  
5 'Colum' could have a jeering mob surrounding him and,  
6 "in fourth year I was literally paralysed by fear  
7 sometimes, bullying had a deep and lasting impression on  
8 me". So it was known about, but it was just left to  
9 sort itself out.

10 They were both boarders, but the position was no  
11 different for the day boy. Fear and violence was the  
12 settled culture, and remembering Nicky Campbell's  
13 account, speaking principally of the 1970s, he talked of  
14 his relief at leaving what was a brutal environment we  
15 were, he said, "I was a delinquent, I was made feral by  
16 it, it was a feral environment, some people had violence  
17 as their weapon, I had my tongue, I had my wit and my  
18 quick thinking, it was not the Empathy Academy and we  
19 were in an unpleasant world with some good teachers".

20 The culture described by 'Sam', 'Colum' and Nicky  
21 continued into the mid 1980s. 'Mike', one of our  
22 younger applicants, said:

23 "At senior school I just wanted to disappear, I was  
24 terrified, I went from what felt like a protected but  
25 scary environment into an almost prison rule. It really

1 did feel like at any point you could be subjected to  
2 anything, it just wasn't a nice and friendly place at  
3 all, it was horrible."

4 And he made a very interesting point, it was like  
5 a baton passed between years. These boys would have had  
6 it done to them, so it was their turn to do it to  
7 others:

8 "Daily I would be fighting to get away from  
9 something, there would be people administering dead arms  
10 or dead legs constantly, you were being physically  
11 tested the whole time, it was just how it was."

12 And that is the 1980s.

13 LADY SMITH: It was an interesting description by that  
14 witness of wanting to just get away from it all. And it  
15 called to my mind an applicant in I think it was the  
16 Barnardo's case study, who talked about just trying to  
17 seagull his way through daily life, make himself be  
18 a seagull that could somehow soar above it and get away  
19 from it all. It was a very similar sense to that.

20 MR BROWN: Again, perhaps continuing the seagull analogy,  
21 finding your safe point on the cliff, which in the  
22 Edinburgh Academy case seems to have been the library  
23 for more than one.

24 LADY SMITH: Yes.

25 MR BROWN: Refuge was available, but you had to seek it.

1           Moving on to the current Edinburgh Academy. Change,  
2           like the other schools we have heard of and as I have  
3           acknowledged, began to have effect in the 1990s. As  
4           I have observed it doesn't seem to have been perhaps  
5           quite as swift in the Edinburgh Academy as it was in  
6           some others. As the school's part A recognises, "From  
7           the 1930s to 2009 records do not suggest that pastoral  
8           work was overseen or was held accountable by the senior  
9           leadership or court of directors in the way we now see  
10          it operate in all schools".

11          Going up as far as 2009 is perhaps surprising, and  
12          certainly we have heard evidence that pastoral care did  
13          exist, albeit perhaps not as policy driven as it might  
14          have otherwise been. I think it is also fair that it  
15          would appear that records for the Edinburgh Academy may  
16          have been an issue. The evidence tends to suggest it is  
17          really only once Marco Longmore comes in in 2008 that  
18          records are kept and retained in a way that we would  
19          take now as acceptable and ordinary.

20          It is troubling in particular, looking at one very  
21          specific piece of evidence, that in 2003 it appears  
22          a teacher who left the school after only a year was  
23          disciplined for assaulting a child, as we discovered  
24          from pastoral records of the Edinburgh Academy held by  
25          the Scottish Government, but which were absent from the



1 school records provided to us, presumably because they  
2 no longer exist, and in comparison with records which  
3 the Edinburgh Academy did provide, which suggest his  
4 departure was for entirely ordinary and benign reasons.  
5 That message was certainly passed to the court of  
6 directors and it would appear that the full picture was  
7 not shared as it should have been in the last 20 years.

8 LADY SMITH: Yes.

9 MR BROWN: Nonetheless, it is clear that the school of today  
10 is a very different organisation, and that in itself may  
11 lead your Ladyship to some interesting consideration of  
12 how schools should best respond to complaints of  
13 historical abuse, because that has been a very live  
14 issue for the Edinburgh Academy, and the change in tone  
15 referred to by the school in their submissions might be  
16 worth thinking about as a broader concept for those who  
17 have to deal with allegations of abuse in due course.

18 Finally for my part I simply touch on the fact that  
19 mandatory reporting is a matter which has been mentioned  
20 often by applicants, and as I know is going to be  
21 mentioned in the Fettes submission, because it is  
22 something that is now, following Gordonstoun, in  
23 consideration by that school. As they note, however, it  
24 is a complex matter and one that is not necessarily  
25 straightforward in practice. I say that because it is

1 a matter I know that the Inquiry will be considering in  
2 due course, and it is something that I think requires to  
3 be addressed.

4 LADY SMITH: Yes, indeed, and I can say this: we have been  
5 investigating this issue and the pros and the cons for  
6 some time.

7 MR BROWN: Yes.

8 LADY SMITH: They will be brought to light as soon as we  
9 can. But you are right, it is a complex issue, there is  
10 no easy answer, and a lot of questions arise, as I think  
11 were recognised the very first time that a parliamentary  
12 committee looked at it down south. Not easy.

13 MR BROWN: No.

14 Unless there is anything else I can assist your  
15 Ladyship on, I look forward to listening to others.

16 LADY SMITH: Thank you very much, Mr Brown, that's very  
17 helpful.

18 I am going to turn now to Mr McLean, who represents  
19 the Edinburgh Academy survivors group. When you are  
20 ready, Mr McLean, I am ready to hear you.

21 Closing submissions by Mr McLean

22 MR MCLEAN: Thank you, my Lady.

23 I am grateful, my Lady, for the Inquiry's allowance  
24 perhaps of slightly longer than 45 minutes, if  
25 necessary.

1           My Lady, I am Alan McLean KC and I appear on behalf  
2           of the Edinburgh Academy survivors, a group of now  
3           nearly 50 of the many former pupils who experienced  
4           physical and/or sexual and/or emotional abuse during  
5           their time at the school. The survivors who have given  
6           evidence to this Inquiry, many of whom are not members  
7           of this group, have required huge courage to do so, as  
8           your Ladyship has repeatedly heard during the hearings.  
9           Some of them were boarders and some of them were day  
10          pupils, but all of what they experienced falls within  
11          the remit of this Inquiry into the abuse of children in  
12          care in Scotland, because the Edinburgh Academy boarding  
13          pupils spent their school days in the same environment  
14          as the day pupils.

15                 Where there was abuse in the day school, the  
16          boarders suffered it alongside the day pupils. Boarders  
17          then had to suffer the additional abuse that arose in  
18          the houses, with no escape. All that the survivors have  
19          said in evidence, written and oral, therefore falls to  
20          be considered by your Ladyship in reporting on this case  
21          study.

22                 The accounts of the survivors should, it is  
23          submitted, be accepted at face value. There was some  
24          attempt in the evidence of IDT to suggest that there had  
25          been some consultation and confabulation going on

1           between these boys as part of a vendetta against him.  
2           This should be rejected out of hand. Your Ladyship  
3           heard evidence from a group of grown men, some miserable  
4           or agonised, some furious, reflecting painfully and at  
5           evident emotional cost on what they can recall from  
6           their vital formative years. They were, it is  
7           submitted, generally fair when asked if there were  
8           things that they enjoyed about the school, and  
9           scrupulous about not speaking to things they were not  
10          sure they could remember. There is no reason to think  
11          that any of them are doing anything other than trying  
12          their very best to tell the whole truth and nothing but  
13          the truth. Indeed, at these hearings the school has  
14          never suggested otherwise.

15                 These submissions are presented as a series of  
16                 questions and answers about the issues that the hearings  
17                 have been exploring. What I say today is borne out by  
18                 evidence before the Inquiry that is cross-referenced in  
19                 the footnotes provided to the Inquiry with the hard copy  
20                 of these submissions. It is hoped that these footnotes  
21                 will assist the Inquiry team as the work on the  
22                 Inquiry's report is carried forward. The footnotes do  
23                 not pretend to be comprehensive and the Inquiry Team  
24                 will have much more time to review all the evidence  
25                 before the report is published.

1           Firstly, was there abuse at Edinburgh Academy? Yes  
2           there was. Beyond any doubt whatsoever. It took  
3           multiple forms. This included abuse in the boarding  
4           setting and also in the setting of the school as  
5           a whole. The Edinburgh Academy, despite its mottos in  
6           ancient Greek "seeking excellence" and "praising  
7           virtue", failed its pupils in multiple terrible ways  
8           over many decades. The school has frankly acknowledged  
9           this to the Inquiry in its response to the Section 21  
10          notice and in its opening submissions.

11          Secondly, what forms did the abuse take and when and  
12          how did the school know about them? The Inquiry has  
13          heard evidence of individual incidents of abuse running  
14          in to the hundreds. This includes the witnessing by  
15          pupils of the abuse of others. Those who watched were  
16          also traumatised by what occurred. The forms of abuse  
17          overlap and meld in to one another, but various threads  
18          can be distinguished.

19          Firstly, staff-on-pupil physical abuse in the form  
20          of abusive corporal punishment. While it is recognised  
21          that corporal punishment for misdeeds was accepted as  
22          necessary from Victorian times until the late 1970s and  
23          was not unlawful in independent schools in Scotland  
24          until relatively recently, there has always been in the  
25          period covered by this Inquiry, been an understanding

1 that disproportionate sadistic violence in punishment of  
2 pupils was wrong. This much was at least implicitly  
3 accepted by the former members of staff who have  
4 provided evidence.

5 Further, punishment for inability as opposed to  
6 breach of rules has never been recognised as apposite.  
7 Likewise, arbitrary punishment -- when the rules were  
8 underwritten and unknowable to the victim beforehand --  
9 must always have been wrong.

10 The evidence has disclosed at least two  
11 subcategories of abuse of this nature.

12 Firstly, serial violent abusers, these were men who  
13 were habitually over violent or sadistic in their  
14 approach to pupils, delivered severe beatings and were  
15 known, well known, to be harsh disciplinarians, some  
16 developed bespoke violent techniques all of their own,  
17 IBM's knuckle treatment was spoken to by many witnesses,  
18 which in the most extreme cases could cause a pupil to  
19 faint. Then there was Hamish Dawson's instruments of  
20 correction, including lengths of solid wood. These  
21 approaches often involved pupils having to become in  
22 some way complicit in their own or others' abuse, for  
23 example Dawson's requirement that boys help him to  
24 choose which stick to beat their colleagues with and to  
25 hold down the victim, and the victim then had to sign

1 the beating implement afterwards.

2 One of his beatings left a boy with a backside like  
3 a Pirelli tyre, leading to a rebellion in his house.  
4 Another younger member of staff, a learning assistant,  
5 developed the kick in the ring, a full strength kick in  
6 a boy's anus, a matter about which his housemaster was  
7 not only aware, but made jokes. These sorts of abuse  
8 were or must have been particularly well known to other  
9 staff, the sound of classroom beatings and beatings in  
10 houses, if not of the impact of the blows then at least  
11 the cries of the victims would almost certainly have  
12 been heard by other staff members. Some, for example  
13 occupants of neighbouring classrooms, or matrons and  
14 hometutors, knew or must have known something of the  
15 violence that went on at the hands of these men.

16 As is known in the case of Geoff Fisher, a tutor in  
17 IBM's house, as spoken to by Rob Cowie. Gym staff must  
18 have seen bruising from beatings on bodies wearing only  
19 light gym shorts and no shirts, or nothing at all in the  
20 showers. However, nobody seems to have felt able to say  
21 anything to anyone in authority.

22 Secondly, there are incidents of individual loss of  
23 control by a member of staff, leading to an uncontrolled  
24 attack. Sometimes these incidents seem to have been out  
25 of character, but sometimes the individual responsible

1 was well known to have a short fuse and to be likely to  
2 lash out if frustrated or angry.

3 Then there is staff-on-pupil sexual abuse. In  
4 increasing grimness this took at least three forms.

5 Firstly, voyeurism, staff watching and/or towel  
6 flicking children in the showers while they got changed  
7 and even joining pupils in showers at school, or on  
8 camps or trips, and checking for pants under gym shorts.

9 Secondly, abusive physical contact. This ranged  
10 from petting, fondling, hugging, tickling, embracing,  
11 sitting on or far too close beside pupils to frank  
12 sexual assaults.

13 Thirdly, sadistic violence with a sexual motive.  
14 This was spoken to most clearly in relation to  
15 Iain Wares, with the vivid description of his red-faced,  
16 bulging-eyed expression when administering certain  
17 punishments. Others thought that Dawson would perhaps  
18 get a thrill from hitting on a bare backside.

19 The first sort of voyeuristic abuse was often  
20 carried out in plain sight and must sometimes have been  
21 witnessed by other staff members and the second was  
22 sometimes well known to school authorities and sometimes  
23 was reported. Nothing was done to stop it.

24 Then there is staff-on-pupil emotional abuse, and  
25 this includes nicknaming, shaming, humiliating, and



1 deliberately delaying punishment. The particular  
2 psychological torture of delayed punishment was vividly  
3 described by several witnesses.

4 Then there is pupil-on-pupil violence. This took at  
5 least three forms. Perhaps inspired, on the evidence,  
6 in large part by the example laid out before pupils by  
7 staff.

8 Firstly, ephor-on-pupil violence. The beating of  
9 boys by ephors was sanctioned until the early 1960s and  
10 the evidence of the beat book confirms what many  
11 witnesses have spoken to in this regard. The full beat  
12 book is understood to be available to the Inquiry. The  
13 ephors' room was close to the rector's office and the  
14 beat books were presumably there to be read at any time  
15 if any rector had thought to look. This abuse was in  
16 plain sight.

17 Then there is pupil-on-pupil physical violence and  
18 emotional abuse. Bullying, including mocking, name  
19 calling and social abuse, including isolation, group  
20 victimising and shunning appears to have been from time  
21 to time and in various settings rife.

22 Physical abuse included bog washing, compulsory  
23 fight club fighting, group assaults and other  
24 humiliations, including wedgies. The Inquiry has  
25 evidence of a threat by one group of bullies to castrate

1 their intended victim. Bullying appears to have been  
2 something of little interest to the staff whenever it  
3 was drawn to their attention, there was a view,  
4 apparently, that boys should be left to sort these  
5 things out for themselves.

6 Reporting bullying would be unlikely to get the  
7 victim anywhere. If you did not join in the bullying  
8 you were at high risk of being the next victim. Being  
9 complicit in bullying itself left scars on those  
10 involved in bullying, spoken to by witnesses on several  
11 occasions.

12 Then there is pupil-on-pupil sexual abuse. Although  
13 thankfully this was relatively uncommon in the evidence,  
14 KHL spoke to the most frank abuse of this nature,  
15 involving multiple incidents of penetrative rape and  
16 forced masturbation of other boys. IBI spoke to  
17 sadistic sexual torture by a bully and his acolytes.

18 The Inquiry heard evidence about other schools at  
19 the same period of time, in the state and the private  
20 sectors, where things did not operate like this, and  
21 where corporal punishment was at most a threat rather  
22 than a daily reality, and where it was possible to keep  
23 discipline and teach without instilling an atmosphere of  
24 fear. These included local state schools, private  
25 sector schools and Forces-related schools. Therefore

1       these were not simply cultural givens of the time, they  
2       were a particular characteristic of the  
3       Edinburgh Academy. Not every school has as its special  
4       memento an instrument of corporal punishment, the  
5       clacken.

6             Taking the evidence together, it is submitted that  
7       it is clear that for many pupils of the school over four  
8       decades they did indeed experience a cesspit of violence  
9       and paedophilia at the Edinburgh Academy.

10   LADY SMITH: Just on the subject of the clacken, I do have  
11       to recognise that the clacken wasn't brought in to the  
12       school specifically for the purpose of corporal  
13       punishment, its history is as a bat used in the game of  
14       hailes. First I think at the Royal High School in  
15       Edinburgh and then the Edinburgh Academy, the Royal High  
16       School being older than the Edinburgh Academy, and at  
17       the two schools the game was played. But you are right  
18       that it became adopted as an instrument of punishment as  
19       well. Just as I suppose we have heard of a golf club  
20       shaft being used as a weapon.

21   MR MCLEAN: Yes, my Lady.

22   LADY SMITH: Was there reference to a hockey stick at some  
23       point?

24   MR MCLEAN: I think there was, my Lady, yes.

25   LADY SMITH: And a cricket bat.

1 MR MCLEAN: Certainly a cricket bat, I will be coming to  
2 that, my Lady, yes.

3 Thirdly, who were the abusers? The Inquiry has  
4 heard of abusive incidents at the hands of many members  
5 of staff at the Academy and I begin with the three  
6 already mentioned by counsel to the Inquiry.

7 First of all, IBM, Mr Brownlee, as a housemaster,  
8 a classmaster and a senior member of staff in the prep  
9 school was highlighted by many witnesses as one of the  
10 most damaging actors. His behaviour often included  
11 an element of public humiliation of boys, including  
12 beatings where the victim could be seen from  
13 a playground full of pupils while it took place. To  
14 quote IHA:

15 "He demonstrated an unbelievable level of violence,  
16 it was deeply frightening, you dreaded being in that  
17 class, you'd carry it as an active fear."

18 Likewise, in his boarding house, that house was just  
19 filled with fear, no one could do anything about it.  
20 His reputation for being a bit over strict was well  
21 known amongst staff, it seems inconceivable that the  
22 noise of punishment beatings was not heard from  
23 neighbouring classrooms, his far too rough behaviour in  
24 the house was reported to Rob Cowie by a houstutor,  
25 Geoff Fisher. Mr Cowie acknowledged with hindsight that

1 he should have done something about this, but he never  
2 did.

3 Hamish Dawson was widely named by survivors, both in  
4 the house and the classroom settings and for a wide  
5 variety of abusive behaviours, of which the following  
6 are a selection.

7 His unusual approach to discipline and his  
8 collection of instruments of correction were well known  
9 and celebrated when he retired. He commonly used the  
10 performance of classroom disciplining as an opportunity  
11 to fondle boys while they were bent over his lap. He  
12 was capable of turning swiftly from nice to nasty  
13 Dawson, and you never knew which one you were going to  
14 get. In the house context he could beat with extreme  
15 violence. In the games environment the Inquiry heard  
16 evidence of the sexual abuse of a pupil in the guise of  
17 coaching him in a darkened sports pavilion. His conduct  
18 in the house could involve finding reasons to get boys  
19 to strip, such as the suggestion that a room was smelly,  
20 giving him a chance to see the boys naked and to beat  
21 any he said were dirty. On boat trips further  
22 voyeuristic and inappropriately tactile behaviour took  
23 place.

24 It appears looking at the totality of the evidence  
25 about him that he was involved in extensive grooming.

1 At least one witness felt that Dawson's peculiar  
2 activity in the house was common knowledge amongst day  
3 and boarding pupils. Rob Cowie certainly had concerns  
4 about Dawson's interest in checking on boys in the  
5 showers but did not feel able to do anything with that  
6 concern. While it seems on the evidence that his  
7 colleagues had no clear knowledge of what he was up to  
8 off site, some knew enough to want to avoid going on his  
9 Cairngorm Club camps or his steamboat trips.

10 Then Iain Wares, spoken of as being one of the most  
11 prolific abusers in Scottish criminal history, was  
12 repeatedly named as an abuser who had caused terrible  
13 damage to pupils unlucky enough to come across him.  
14 What has become absolutely clear is that he had one  
15 particular sexually abusive modus operandi, which he  
16 developed in South Africa, practised for years at  
17 Edinburgh Academy and then exported to Fettes. This  
18 involved him calling pupils up during lessons to have  
19 their work checked and then abusing them as they stood  
20 beside him at their desk.

21 Wares was reported to the then rector and  
22 a classmaster by the mother of a pupil who was abused by  
23 him in this way in about 1970 or 1971. As my Lady has  
24 heard, the then rector advised the mother not to take  
25 the matter further "in the best interests of your child"

1 and suggested that the abuse reported was the product of  
2 an over-fertile imagination.

3 It is absolutely plain that it was not. If that  
4 rector had acted decisively and appropriately on that  
5 report, Wares's campaign of abuse in Scotland could have  
6 been ended much earlier and his abuse at Fettes would  
7 not have happened at all.

8 The description of the approach reportedly taken by  
9 the rector struck one of the staff witnesses, Rob Cowie,  
10 as quite possibly correct and Tony Cook said he could  
11 well imagine it happening.

12 ICA thought perhaps he should have followed up  
13 stories about Wares that he overheard among a group of  
14 boys in about 1977, but he did not. He thought the  
15 existence of a policy on such matters would have helped  
16 him to do so. There was none, so nothing was done.

17 Wares's other behaviours included inappropriate acts  
18 in the shower rooms and sadistic beatings that sometimes  
19 appeared to give him sexual gratification.

20 Then there is IPT, a [REDACTED] teacher, who was  
21 convicted for child abuse at another school where he  
22 worked subsequently. Possibly no one on the staff  
23 suspected abuse by him while he was at the school,  
24 although the wife of one witness had certain  
25 non-specific worries about him. It is plain on the

1 evidence that he did carry out sexual abuse at  
2 Edinburgh Academy, and the Inquiry also heard evidence  
3 of physical assault. The evidence is unclear as to  
4 whether he left the school because he could not keep  
5 order and needed a fresh start or whether he left under  
6 some sort of cloud related to abuse. Its not possible  
7 to know what considerations the rector at the time bore  
8 in mind in encouraging him to move on, as  
9 characteristically for the school at the time there are  
10 no records about the issue.

11 IBP was spoken of by many witnesses as a slightly  
12 sad, grossly overweight figure who lived with his  
13 mother. The Inquiry heard evidence that he had at some  
14 stage confessed to a former pupil that he had homosexual  
15 urges and its clear now that he did in fact act on those  
16 urges in a number of highly inappropriate ways,  
17 including making what can only be seen as advances to  
18 a boy sent to him for extra tuition, rubbing up against  
19 boys and showering with pupils at Blair House outdoor  
20 centre, as well as paying boys to swim naked in front of  
21 him when he was in charge of school expeditions. It may  
22 be relevant that he was a founder member of Dawson's  
23 Steam Navigation Club.

24 IBU was a PE teacher in the senior school well known  
25 for his propensity for standing watching boys in the



1 showers after games, he also was keen to insist that no  
2 underwear was worn under shorts for sports. He was  
3 spoken of in relation to a number of very violent  
4 assaults: including one using a megaphone; one using  
5 a fencing sword to beat a pupil, resulting in blood  
6 being drawn; one where he punched a boy in the face for  
7 crossing his own name off a team sheet; and one beating  
8 of a boy with a cricket bat.

9 He was also noted to be prone to emotional abuse,  
10 writing off a child who ended a race a lap early by  
11 mistake, name calling and having generally very little  
12 time for children who were not physically able. One  
13 former member of staff, ICA, noted that IBU had  
14 a reputation for being a bit handy as regards corporal  
15 punishment.

16 IDP was a PE teacher in the prep school who would  
17 hit pupils during classes and required pupils to hit  
18 other pupils with a boxing glove. He also used a table  
19 tennis bat as a weapon. He also was spoken of as taking  
20 an unusual interest in whether or not children were  
21 wearing pants under their gym shorts, sometimes asking  
22 fellow pupils to take down a boy's shorts to check.

23 IDT was described by one pupil as "very dangerous",  
24 with examples of two incidents where pupils were  
25 assaulted by him. IDT was prone to lose his temper and

1 was known to throw dusters and/or chalk at pupils,  
2 Nicky Campbell gave evidence of his tendency to kick  
3 pupils on the backside, of an incident when IDT attacked  
4 a boy who had been tied to a desk and dragged into the  
5 yard and most significantly of a violent attack on  
6 Nicky Campbell himself in 1975 or 1976. In his evidence  
7 IDT denied that this incident involved more than a tug  
8 on a shirt and a possible push or a pull on his part,  
9 but the fact remains he was required by the rector to  
10 apologise to Nicky Campbell's father for the incident  
11 and that the rector found the event serious enough to  
12 include it in references for IDT for a period of  
13 three years, meaning that he did not obtain the promoted  
14 post that he had been seeking.

15 In light of what is now known about the culture of  
16 the school, it is suggested that neither the apology nor  
17 the problems with references would had arisen had the  
18 incident in question involved no more than the sort of  
19 mild tussle described by IDT and Nicky Campbell's  
20 account of this incident as a significant assault should  
21 be accepted.

22 IFN once beat IKA on the hands with a gun sling,  
23 with the result that his hands were too swollen for him  
24 to be able to write. IKA showed his hands to IDT in  
25 a lesson shortly thereafter, but nothing seems to have

1           come of that.

2           IEH was a teaching assistant who developed  
3           punishments by way of putting pupils in uncomfortable  
4           stress positions. The housemaster must have seen this  
5           happening, but no member of staff in the relevant house  
6           seems to have noticed or cared about this.

7           IEF was a Canadian teaching assistant whose idea of  
8           appropriate punishment was slamming a swing door into  
9           his victims, he drew blood and caused permanent damage  
10          to IEE's teeth, the damage he did was reported to both  
11          the matron and housemaster at the boarding house in  
12          question very shortly thereafter. The victim, then aged  
13          12, was asked not to talk about what had happened to  
14          him, he was left to invent a lie to explain the chipping  
15          of his tooth when he was sent for treatment.

16          IEG was another teaching assistant, this time from  
17          Australia, responsible for the concept of the kick in  
18          the ring, as he was not always accurate with his kicks,  
19          his techniques must have left the back of victims'  
20          thighs black and blue, which must have been noticeable  
21          to those taking them for games.

22          ICQ was spoken of as a teacher who would act in  
23          a sexually abusive way to pupils, cuddling up to them  
24          while marking work and placing hands on their knees.  
25          Tony Cook accepted that he was dodgy.

1 ICA was the subject of complaints about three  
2 specific incidents of violence spoken to by separate  
3 witnesses. These included an attack on a pupil on  
4 a bus, the slamming of a boy's head into a desk and the  
5 beating of a boy in a storeroom. While some suggested  
6 these events were out of character, others suggested  
7 otherwise.

8 IDO was spoken of as someone with a short fuse who  
9 could sometimes be violent.

10 IDZ was another teacher known to have a short temper  
11 and to lash out.

12 ICG was recorded as having given a severe beating  
13 with a broken clacken that lacerated the victim.

14 ICL once hit a boy so hard that he appears to have  
15 caused a small bleed on the boy's brain.

16 CXL was said to have assaulted pupils with a cricket  
17 stump when they had not done anything that they knew to  
18 be wrong.

19 IDR was said to have thrown pieces of wood at pupils  
20 in the workshop.

21 IHJ was recalled by Neil Douglas as having been one  
22 of the various teachers who would throw board dusters at  
23 pupils.

24 IDQ was named in respect of one episode, in which  
25 a pupil was effectively strangled.

1           IQS, in the more distant past Tony Cook recalled  
2           this master as a sadist, but he thought that even though  
3           other teachers might have known about colleagues being  
4           heavy handed they would have turned a blind eye. As he  
5           said, "You didn't interfere".

6           In addition, a groundsman and various pupils,  
7           including ephors, have been identified as having carried  
8           out abusive acts of one sort or another.

9           To reach a position where there are well over 20  
10          identified staff abusers in this list, and more than 20  
11          police investigations into former members of staff is  
12          remarkable, and affirms why many pupils' experience of  
13          the school for a period of four decades was a cesspit of  
14          sadism and paedophilia.

15          Fourthly, why did the abuse take place? The abuse  
16          took place primarily because of the decisions of the  
17          people who carried it out. Which is why wherever  
18          possible it is in the public interest that they should  
19          be prosecuted and held to account for what they did.

20          That this has not happened, most particularly in the  
21          case of Iain Wares and IBM, is something which Police  
22          Scotland and the Crown Office and Procurator Fiscal  
23          Service will no doubt address in their closing  
24          submissions.

25          Abuse was permitted, and indeed encouraged, by

1 a number of cultural themes at the Academy, as brought  
2 out by the evidence that was simply not addressed by  
3 senior staff or the court of directors at that time.

4 Firstly, there was a culture of violence. In the  
5 words of IDU, staff hit with whatever they liked. As  
6 IPJ put it, "The chastisement was totally over the  
7 top -- it didn't really relate to what you had done".  
8 This began even in the first year of the prep school,  
9 where a pupil might be beaten for having pencils that  
10 had not been sharpened the right way. Violence became  
11 a foreground cultural element later in the prep school,  
12 where beating was normalised and you could be beaten for  
13 being stupid as much as for doing something wrong. It  
14 was a harsh spartan culture with no element of pastoral  
15 care, a world where no allowance was made for example  
16 for homesickness among small children being sent to  
17 board for the first time.

18 There was a feral, Lord of the Flies atmosphere. To  
19 quote IDU:

20 "I just experienced a closed, rule-bound, quite  
21 violent, spartan subculture in an institution which was  
22 unaccountable for what it was doing to people and didn't  
23 care. This fed into a culture of sarcasm, cynicism and  
24 derogatory behaviour."

25 It was, said one survivor, "a very bleak

1 environment".

2 The lack of care for members of the school community  
3 extended beyond pupils to parents. When one pupil's  
4 father lost his livelihood after an accident the school  
5 continued to hound him for the payment of fees, up to  
6 the point where he committed suicide. The school  
7 thereafter continued to hound the pupil's mother for the  
8 fees.

9 There was a culture of toxic masculinity, where as  
10 staff became more exclusively male at more advanced  
11 levels in the prep and senior school, hardness and  
12 violence replaced any softness the pupils might have  
13 experienced from female members of the staff at lower  
14 levels. This was reflected also in the existence of  
15 what might be characterised as a military mindset, being  
16 kept in one's boarding house as a punishment was  
17 referred to in evidence as being confined to barracks,  
18 the chaplain was referred to as the padre.

19 There was in the result a culture of fear, those who  
20 had been in a house or classroom ruled by IBM or Hamish  
21 Dawson for example had grown up with an expectation that  
22 they might be viciously and arbitrarily punished at any  
23 time, a fear which still haunts some survivors. This  
24 was spoken to by many pupils and indeed staff, including  
25 Tony Cook, who recognised the fear in small boys being

1 taken for rugby by IBM. Fear might also be the result of  
2 bullying. ICN spoke of being literally paralysed by  
3 fear when he was 15 years old, "I was weak, in the sense  
4 that I was vulnerable". This might lead a pupil to  
5 spend their whole school life in a state of anxiety and  
6 on high alert for danger, terrified about what might  
7 happen next.

8 Abuse was assisted by a culture of silence, where  
9 pupils were taught by staff and fellow pupils not to  
10 clype. This rule was universally acknowledged, both by  
11 pupils and also by former members of staff. Pupils  
12 learned from experience that telling would probably only  
13 make things much worse. In the words of Phillip Dundas,  
14 "Silence has been our greatest enemy". It was a culture  
15 of conformity, where difference was widely mocked,  
16 whether that be in relation to skin colour, sexuality,  
17 where one came from, if one was too clever or not clever  
18 enough, or too interested in classical music, or if one  
19 had a disability. Whichever way one was different, it  
20 did not pay to stand out. It was a culture of  
21 normalisation of deeply abnormal behaviour. Severe  
22 beatings, sexual voyeurism and inappropriate physical  
23 contact became so much a part of school life as to come  
24 as no great surprise. This theme was spoken to by many  
25 witnesses, who at the time had no compass with which



1 objectively to assess what was being done by those who  
2 were supposed to be looking after them. One witness  
3 even spoke to feeling that there might be something  
4 wrong with him and his best friend as Wares did not  
5 abuse them the way they saw him abusing the rest of the  
6 class.

7 There was also a culture of shame, where those  
8 abused were led to believe it was in some way their  
9 fault, with some survivors still blaming themselves many  
10 decades later. There was also a culture of loyalty  
11 among staff to one another and to the school, as opposed  
12 to the pupils. The staff felt they should not clype on  
13 one another, and it was noted to be difficult to risk  
14 acting on a suspicion about a colleague because of the  
15 likelihood that it would spoil one's relationship with  
16 them. The evidence of former staff members who appeared  
17 before the Inquiry was noteworthy for the striking  
18 imbalance of focus on the welfare of teachers as opposed  
19 to the welfare of the children. It was, as noted by  
20 Rob Cowie, a good place to be a teacher because of the  
21 staff camaraderie, this made one diffident about judging  
22 other people.

23 In a revealing passage on 24 August, IDT was asked  
24 about how concerns about pupils might be shared between  
25 staff. His answer was to highlight staffroom

1           conversations of which he gave an example, not, "I am  
2           worried about X, how is he getting on?" But, "How do  
3           you find X? I find him a pain in the neck". There was  
4           also plenty of evidence that there was no system and no  
5           encouragement or incentive for staff, particularly  
6           junior staff, to notice or criticise behaviour,  
7           concerning behaviour, on the part of colleagues,  
8           particularly senior colleagues, where they would be  
9           frightened to rock the boat.

10           Instead, the staff members would write glowing and  
11           self congratulatory valedictories and obituaries for one  
12           another. Sometimes as if they were in a parallel world,  
13           with a startling lack of congruence with reality.  
14           Survivors spoke to finding these inaccurate and  
15           self-satisfied pieces incredibly annoying. It was  
16           a culture where staff and pupils were seen to be  
17           on opposing sides in a war, rather than the staff or  
18           school were having a duty of care to and for the  
19           children. The focus of the staff witnesses was, above  
20           all, on the need for discipline. A teacher was judged  
21           by his colleagues, it seems, substantially on whether he  
22           could keep order. Until the 1990s if there were any  
23           documents at all evidencing the school's approach to  
24           children they tended to be focused on discipline. When  
25           a second master was appointed in 1982 that was done not

1 to oversee pastoral care, but to ensure maintenance of  
2 discipline after an incident in which pupil-on-pupil  
3 violence had ended up with a boy being hospitalised.

4 LADY SMITH: Mr McLean, would you accept that the ability to  
5 keep order in a classroom might operate perhaps in the  
6 way David Standley described, you are a good  
7 communicator, you know how to engage with children and  
8 so on, it might operate in a way that at least  
9 eliminates staff losing the plot, losing the rag, in one  
10 of the sets of circumstances that you have referred to  
11 as being circumstances in which physical abuse occurred?

12 MR MCLEAN: Yes, my Lady, I would say that the evidence from  
13 the other educational establishments that my Lady has  
14 heard, where people were able to teach without there  
15 needing to be any sort of culture of fear, shows that  
16 discipline could be maintained in the classroom,  
17 teaching could take place without there being any need  
18 for these things that one sees at Edinburgh Academy.

19 LADY SMITH: So you avoid the loss of temper?

20 MR MCLEAN: Yes, my Lady.

21 LADY SMITH: An effective anger management tool, perhaps?

22 MR MCLEAN: Indeed, my Lady.

23 Next, my Lady, if I might refer to something already  
24 mentioned by counsel to the Inquiry, and that's the  
25 culture of independent and autonomous staff fiefdoms,

1 often with little knowledge or understanding about what  
2 was going on in the silo next door, or down the road in  
3 this split-site school. This was true in classrooms,  
4 where it was very unusual for staff members to see  
5 another teaching and where there was no appraisal  
6 system. The senior school staff did not know what was  
7 happening in the prep school, the teachers who worked in  
8 the prep school or the senior school knew very little  
9 about what was going on in the boarding houses,  
10 departments had no idea how other departments worked.  
11 In the words of David Standley, "I was in my own little  
12 world".

13 The concept of an independent fiefdom was  
14 particularly true of the boarding houses, there was  
15 almost no oversight or accountability of housemasters  
16 for their management of their house. The rector, who  
17 lived close by, was never spoken of as having visited  
18 any boarding house. What Rob Cowie could celebrate as  
19 being a most welcome degree of freedom given to him in  
20 managing his house, allowed Hamish Dawson and IBM to  
21 operate their pernicious regimes without any oversight  
22 at all. In relation to almost all questions about red  
23 flags raised with witnesses who were on the staff in the  
24 relevant period, their answer was broadly that they did  
25 not think it was their responsibility or remit to do

1 something about it, and in the absence of any guidance  
2 saying what to do, nothing was done. This autonomy  
3 stretched to a certain extent to each individual member  
4 of staff. Policies for example as regards discipline  
5 were effectively for each staff member to make up for  
6 themselves.

7 The Inquiry also heard of a culture of Buggins'  
8 turn, where appointment to important pastoral posts such  
9 as housemaster would be by seniority, with minor  
10 provisos, with no assessment at all of appropriate  
11 character or skills for the role. The Inquiry knows  
12 that this casual approach led to the appointment of two  
13 prolific abusers, IBM and Hamish Dawson, as  
14 housemasters, with terrible results.

15 It was, as again counsel for the Inquiry has said,  
16 a culture of assumption where if one had been appointed  
17 to the staff one was assumed to be capable of succeeding  
18 in anything one was asked to do, so no training needed  
19 to be provided for teaching or for being a housemaster  
20 or a hometutor. Recruitment was a question of being  
21 the right sort, this might focus on being good on sports  
22 or keen on outdoor pursuits. This led to the  
23 appointment of staff without any rigorous vetting of  
24 applicants and with no structured assessment of any  
25 potential risk factors for children. There was

1 an apparent naivety about the risks that paedophiles  
2 might pose to children and nothing to screen for any  
3 such risk, although IDT did acknowledge a general  
4 awareness on his own part that private schools had  
5 something of a history of problems as regards abuse of  
6 children. It was also a culture where it was assumed  
7 that the school knew best, an assumption that affected  
8 parents as much as staff. It was a culture where  
9 parents did not ask and pupils did not tell, often  
10 because pupils felt it would hurt their parents to know  
11 what was happening to them, when the parents might well  
12 be struggling to be paying the fees for a supposed elite  
13 education.

14 LADY SMITH: The Edinburgh Academy were far from being the  
15 only organisation that suffered -- I say that  
16 advisedly -- from a culture of assumption. I have been  
17 hearing about that for years now, starting with the  
18 religious orders. Where the assumption was that if you  
19 placed children with nuns, nuns must be good people,  
20 therefore child protection must be a given. The same  
21 with the male religious orders, same with the charities  
22 such as Quarriers, Aberlour and Barnardo's, and so it  
23 went on. All to do with the label and the status that  
24 the people in charge, or seeming to be in charge, had.  
25 Which actually weren't labels or status that said these

1 are people who are good at child protection at all, they  
2 are good at something else.

3 MR MCLEAN: Absolutely, my Lady, yes.

4 Some witnesses, my Lady, spoke to being disappointed  
5 that they at perhaps age 11 had not reported abuse to  
6 their parents, taking on a false guilt in that regard.  
7 It was also noted that parents were possibly quite  
8 innocent about the risks of child sexual abuse in the  
9 period before the 1990s, some parents simply dismissed  
10 the truth of concerns about teachers when raised in  
11 their presence, some pupils never spoke to their parents  
12 for fear of being disbelieved. As a result there was  
13 for many years, particularly up to the early 1990s,  
14 a culture of institutional self satisfaction and  
15 complacency, where the school was of the view that it  
16 was an elite institution and therefore it seems  
17 introspection was pointless, policies unnecessary and  
18 training an inconvenience. David Standley agreed that  
19 in the years up to 1977 it was felt that the Academy way  
20 worked, he saw child protection rules introduced later  
21 as involving a prescription of problems and bringing  
22 a danger of escalation. It is clear that there were no  
23 adequate written policies directed at child protection  
24 or significant pastoral care until the 1990s.

25 Rob Cowie gave evidence that he found his first

1 child protection training depressing. It was not  
2 a culture that welcomed the raising of questions about  
3 the way things were, there was often very little  
4 responsiveness to the raising of concerns, for example  
5 IKA's father went twice to speak to the rector and the  
6 chaplain about his son's declining academic performance  
7 but nothing results from those approaches. It was  
8 generally accepted that the chaplain was part of the  
9 establishment and not someone the pupils would have  
10 considered talking to in this context. Even if they  
11 tried to, he took no interest and the pupils were told  
12 to run along.

13 There was further a culture of lack of oversight of  
14 pupils in positions of authority, for example ephors  
15 both in house and school, which led to abuses of power,  
16 including those recorded in the beat books.

17 The school traditionally put "all its authority"  
18 behind ephors but did not monitor or control how that  
19 authority was used. It is perhaps ironic that the only  
20 time when corporal punishment was systematically  
21 recorded at the school it was by the ephors, taking  
22 pride in trying to set records in terms of numbers of  
23 beats given and clackens broken in any given year. It  
24 is plain that to break a clacken in beating a child  
25 would involve using very significant force, when the



1        ephors decided to try clackening one another it led to  
2        a brief moment of self awareness as to the pain they  
3        were inflicting on their fellow pupils, which they duly  
4        recorded in the beat book. However, no member of staff  
5        seems to have checked the beat book or queried what the  
6        ephors were doing as regards beating. There is evidence  
7        also before the Inquiry that staff were supposed to  
8        record punishments or at least, as from 1953, to notify  
9        the rector of any punishment involving more than two  
10       strokes, but it seems that they very rarely did. No  
11       staff beat book has been produced.

12                If anything was suspected or learned about the  
13        abuse, the school then operated a culture of lack of  
14        transparency and cover up, where the reputation of the  
15        school was far more important to those in authority than  
16        the welfare of any particular pupil, past or present.  
17        It was a culture where those raising issues who might be  
18        today defined as whistle blowers were seen instead as  
19        troublemakers. Nicky Campbell spoke of that approach  
20        being taken by IDT to someone who made a complaint and  
21        when pornography was found in Hamish Dawson's briefcase,  
22        something that should have raised question marks over  
23        his suitability to be in charge of a house, the then  
24        rector punished the boys who had made the discovery  
25        without informing their parents and the fact that the

1 material had been found in Dawson's possession was  
2 suppressed.

3 As a result, there was a culture of passing problem  
4 teachers on to other schools, to avoid the bad publicity  
5 that might ensue if their faults were publicly known.  
6 The most egregious case was that of Iain Wares, given  
7 an excellent reference by Edinburgh Academy to make sure  
8 he moved on to Fettes. It was a culture where very  
9 little was recorded in writing generally, thus  
10 preventing the spotting of concerning patterns and also  
11 keeping incidents deniable. Rules were also not fully  
12 recorded, boys were expected to pick up rules by dint of  
13 unintentionally breaking them and being punished.

14 Concluding with the school, it should be  
15 acknowledged that for very substantial periods of time  
16 there was a complete lack of adequate leadership focused  
17 on these issues. Those with charge of the school seemed  
18 not to be interested in any of these matters, provided  
19 the school was performing academically and on the sports  
20 field. There were ineffective rectors and a distant  
21 court of directors, providing no impetus which might  
22 have turned these matters round.

23 It appears to have been only in the early 1990s  
24 that, with the appointment of Andrew Trotman as deputy  
25 rector, the era of complacency began to be brought to

1 an end, with policies and systems to provide oversight,  
2 record keeping and self appraisal beginning to be put  
3 into place. In the background it took a long time  
4 before policing and prosecution services put a high  
5 priority on the investigation and pursuit of claims of  
6 child abuse. There is still too little urgency being  
7 shown in bringing perpetrators to justice.

8 Hamish Dawson has escaped punishment by dying.

9 Iain Wares is hiding in South Africa.

10 Others are still around, but not yet before the  
11 criminal courts, as they should be.

12 Also in the background it turns out was a culture  
13 where medical ethics allowed patient confidentiality to  
14 trump the wellbeing of potential victims of child abuse.  
15 Your Ladyship will well recall as perhaps the most  
16 startling passages during the hearings of the evidence,  
17 the evidence of IQQ and Dr Andrew Watson, but also from  
18 IPZ, which laid bare the way in which the psychiatrists  
19 at the Royal Edinburgh Hospital seemed not to have  
20 considered at all the likely effects that Iain Wares'  
21 known, self-confessed paedophile proclivities would have  
22 on any children that he might be given access to. They  
23 had it in their hands to take some sort of steps to  
24 avoid this supposedly pleasant pederast being in contact  
25 with children even before he completed Scottish teacher

1 training. However, under the domination of  
2 Professor Walton, a friend of Wares's family, they  
3 thought it appropriate instead to insist in the face of  
4 severe doubts of Wares's GP and his wife, and indeed  
5 sometimes of Wares himself, that he must complete that  
6 training and remain in teaching, notwithstanding the  
7 repeated and obvious failure of their efforts to treat  
8 him.

9 This has really not been adequately explained, never  
10 mind justified, Dr Watson confirmed that the  
11 psychological theories that Professor Walton depended on  
12 have been discredited as lacking any evidence base and  
13 IPZ explained that Professor Walton had misapplied them  
14 anyway. Child protection should not and must not be  
15 trumped by the supposed best psychiatric interest of  
16 a suspected paedophile in the future.

17 Overall, the evidence suggested and submitted  
18 a general culture of deference to professionals, whether  
19 teachers, doctors or lawyers, where supposed expert  
20 views were not adequately challenged. This led to  
21 junior psychiatric staff not challenging the  
22 professorial view in relation to the treatment of Wares,  
23 as much as it did junior teachers not feeling they could  
24 challenge any of the excessive discipline being meted  
25 out by more senior colleagues. This deference extended

1       it seems even to senior lawyers and medics serving on  
2       the board of governors at Fettes, who acquiesced meekly  
3       in the continued employment of Wares at Fettes on the  
4       basis of psychiatric advice, when it was quite obvious  
5       that psychiatric treatment had completely failed to halt  
6       his paedophilic assaults.

7             The survivors hope and expect the Inquiry will  
8       address this episode, either in the report concerning  
9       Fettes College or in that for Edinburgh Academy.

10            Fifthly, what was the effect of the abuse on those  
11       who were the subject of it? In all of the necessary  
12       analysis of the abuse and its background, the survivors  
13       ask the Inquiry never to lose sight of those who were  
14       the subject of it and to make factual findings about the  
15       devastating effect of the abuse on their lives.

16       Starting when they were small children, as young as six  
17       or seven, until they have reached retirement age and  
18       beyond. Different pupils have dealt with the trauma of  
19       abuse experienced and/or witnessed in different ways.  
20       However for many, as the Inquiry has heard, the effect  
21       has been a lifetime of profound damage and misery.

22            As one said, "It can be at the front of your mind,  
23       it can be at the back of your mind, but it is always  
24       there".

25            This has led to a lifetime of fear, survivors

1 explained how they had never felt safe at the school or  
2 since.

3 INR explained:

4 "Every day I wake up worried about what the day will  
5 bring, I am hardwired to be anxious."

6 He explained that from the age 8 to 13 he lived in  
7 a state of dread and that he still did. As a lifetime  
8 of shame and forced guilt, some of the most affecting  
9 evidence was that where the survivors expressed their  
10 ongoing shame at what had been done to them, and in some  
11 cases plainly still saw themselves as guilty in some way  
12 with regard to it, perhaps berating their childhood  
13 selves for not pushing away an abusing hand or saying  
14 something to a parent, who would probably not have been  
15 able to understand.

16 ICI said, "Shame and guilt are the things that  
17 Edinburgh Academy gave me as takeaways".

18 Several survivors were reduced to tears in the  
19 witness box by the memories of what they had suffered.  
20 Nicky Campbell confirmed there is a lot of shame in it.

21 And there is destroyed self esteem and lack of self  
22 confidence, the fear and uncertainty, the belittling and  
23 humiliation, that reduced many survivors, who never had  
24 the self confidence that was the very thing an elite  
25 private education was supposed to give them as an

1 advantage in life. ICD had been left with a deep  
2 understanding that he was:

3 "A bad person deserving to be hurt, sadly that is  
4 where I am, sadly that is what I still believe."

5 As Giles Moffatt put it:

6 "The bruising goes away, but the damage to your  
7 spirit is the worst thing."

8 Then there is the uncontrollable anger, a number of  
9 survivors spoke plainly of the rage that was left within  
10 them by years of abuse and the memory of it, this has  
11 adversely affected many aspects of their life, in  
12 particular personal relationships and careers. There is  
13 an inability to trust, a common theme that abuse by  
14 people who are in positions of trust predictably  
15 destroyed the ability of survivors to trust anyone. The  
16 effect on all aspects of life, particularly close  
17 relationships, has been lifelong, there is an inability  
18 to accept authority, linked to the above was a lifelong  
19 mistrust of those in authority, with inevitable  
20 consequences for career prospects. There were  
21 deleterious effects on school performances and career  
22 choices, several survivors noted how their academic  
23 performances fell off a cliff as the abuse took its toll  
24 on them, and they went from A stream downwards, some  
25 losing all interest in education or in certain subjects

1 taught by specific abusers at a very early age. This  
2 has had lifelong consequences, including in choice of  
3 careers.

4 Then there have been the mental health issues,  
5 depression, anxiety, PTSD, sleep issues. The proportion  
6 of survivors who have needed professional help with  
7 their mental health and by way of counselling is very  
8 high.

9 Then there has been substance abuse, addictive  
10 behaviours, self medication with drugs and alcohol, the  
11 Inquiry heard repeatedly of survivors trying to cope in  
12 these ways, leading to other problems that have blighted  
13 their lives, self harming and self-destructive  
14 behaviour, self harm and self-destructive patterns of  
15 living of various sorts were spoken to by survivors from  
16 their time at school and also featured in their later  
17 life stories.

18 Then suicide. IKA mentioned that the Edinburgh  
19 Academy survivors have identified nine of their cohort  
20 who have ended their own lives prematurely, and  
21 therefore cannot tell the Inquiry the degree to which  
22 that resulted from their experiences at the Academy. He  
23 gave an account of helping the mother of one of his  
24 friends to cut the body down after that friend had  
25 killed himself. Several of the survivors gave evidence



1 of having attempted to kill themselves, or of having had  
2 suicidal thoughts. Given what has just been said about  
3 mental illness and self harm amongst the survivors, the  
4 Edinburgh Academy survivors invite the Inquiry to draw  
5 the logical conclusion that a number of former pupils  
6 have ended their lives at least in part because of their  
7 experience of Edinburgh Academy. They would ask again  
8 that at an appropriate juncture the Inquiry should pause  
9 to remember those who did not in fact survive abuse at  
10 Edinburgh Academy and indeed perhaps in various other  
11 institutions.

12 Then there is the deleterious effect on parents of  
13 survivors and family relationships. Many survivors have  
14 spoken of the effects of the abuse on their family  
15 relationships at the time, others have explained they  
16 could never have told their parents of the abuse,  
17 because it would have utterly destroyed them. Then  
18 there is the deleterious effects on partners and  
19 children of survivors. The effects on the psyche of the  
20 survivors listed above had inevitable impacts on their  
21 later family units, including life partners and  
22 children. Many survivors have spoken of divorce,  
23 sometimes multiple divorces, in which the effect of the  
24 abuse has played a part, and the effect of their self  
25 medication with alcohol on their families. The ripples

1 of the abuse can be seen to spread out through the years  
2 and the generations in this way, too.

3 Sixthly, what has the response of the school been?  
4 As stated in the opening submissions of the survivors,  
5 for many years the laurels that appear in the school's  
6 badge were, it seems, used largely for resting on. The  
7 school was far too slow to accept that its pupils had  
8 suffered abuse for many decades because of its multiple  
9 failures in care. This is something that is now  
10 acknowledged by the school and by witnesses such as  
11 Tony Cook, and most clearly by the present rector,  
12 Barry Welsh. This refusal to face up to what happened  
13 at the school resulted in the build up of a pressure  
14 cooker of anger and contempt against the institution,  
15 which has been released really over the last year.

16 The period from the 1950s to 2000 featured  
17 ignorance, denial and cover up. As mentioned above,  
18 Iain Wares's abusive behaviour was first reported to the  
19 then rector in 1970 to 1971, but the complaint was  
20 dismissed. Problem teachers were sent off with glowing  
21 references or lauded in school publications following  
22 their retirement in ways that did not reflect the truth.

23 IDT accepted that in many ways little changed  
24 between 1958 and the 1980s. As Tony Cook put it,  
25 nowadays everything is apparent, in those days nothing

1 was apparent, it was possible to hide things.

2 The period 2001 to 2004 saw the publication of  
3 an article about a high-profile alumnus, which mentioned  
4 that he had been abused at the school. The school's  
5 response was to seek to close him down and that alumnus  
6 cooperated. The Inquiry has the relevant file note  
7 evidencing the then rector's successful campaign in that  
8 regard.

9 The school also persuaded Neil Douglas not to take  
10 any complaint further at that time. The school took no  
11 steps to contact its own former pupils to see if any of  
12 them had suffered the sort of abuse that had been  
13 mentioned. This was followed by the publication of  
14 Nicky Campbell's Blue-eyed Son in 2004, where his  
15 slightly more detailed descriptions of abuse to his  
16 surprise caused no ripple at all and seems to have  
17 passed the school by altogether.

18 Once the trickle of revelations became more  
19 insistent, from the evidence of David Standley the  
20 problem from the School's perspective was how to avoid  
21 an inferno, tsunami or setting fire to the barn had it  
22 at that stage faced up to the possible problem, as  
23 Loretto was doing, and contacted former pupils. It  
24 decided not to do so and to trust that things with would  
25 go quiet again.

1           Between 2008 and 2017 during the rectorship of  
2           Marco Longmore numbers of allegations rose. The Inquiry  
3           has a battery of written information about those  
4           allegations, once more the allegations were attempted to  
5           be contained, rector Longmore's approach was to direct  
6           survivors to the police and to cooperate with the  
7           police, but otherwise no comment was the order of the  
8           day, as he accepted in his evidence.

9           There was no attempt to check whether the  
10          increasingly clear problem was a systematic one among  
11          pupils of the relevant generations, he did seem to  
12          acknowledge during his oral evidence that there was  
13          perhaps an alternative way in which this could have been  
14          dealt with. In 2022 the pressure cooker reached  
15          a critical point with Nicky Campbell's Different podcast  
16          about 'Edgar', referenced by many survivors as the vital  
17          stimulus for them coming forward, and the Inquiry's  
18          decision to include Edinburgh Academy as a case study.

19          Finally, in 2023 the school has reached a place of  
20          full understanding and openness with Barry Welsh's  
21          change of style and written responses to survivors,  
22          apologies at the Exhibition and in his evidence and the  
23          publication of an updated version of the school's  
24          historical abuse policy. The question remains, as one  
25          survivor stated, should there be any credit given for

1           owning up once you have been caught?

2           Seventhly, what is the Edinburgh Academy's current  
3           position as regards child protection? Firstly, changes  
4           in society led to the ending of legal corporal  
5           punishment, with ephors no longer beating by the  
6           mid-1960s, staff no longer beating in the late 1980s,  
7           although the school insisted it held the power of  
8           corporal punishment in reserve, and then corporal  
9           punishment finally banned in Scottish independent  
10          schools in 2000.

11          The risk of abuse in a boarding setting is no longer  
12          an issue for this school, as boarding came to an end in  
13          2008. As Barry Welsh said, it is perhaps not surprising  
14          that Edinburgh Academy is no longer a boarding school in  
15          light of the evidence about how they were doing  
16          boarding.

17          More generally, the introduction of girls to the  
18          school, from a small start in the 6th and 7th forms in  
19          the 1970s to the point where the school became entirely  
20          co-educational after 2008, and the increasing employment  
21          of female members of staff in all parts of the school  
22          and at senior levels changed the culture over time very  
23          much for the better.

24          Partly through the introduction of Childline, modern  
25          legislation and modern practice, the school has adopted

1 many methods to attempt to limit the risks of abuse,  
2 including policies, training, record keeping and  
3 disclosure. The creation of safe spaces and options for  
4 people to report concerns is welcomed. Thus it is  
5 accepted that the school has improved its procedures  
6 over the years so as to remove many of the facilitating  
7 factors for the abuse and to reduce significantly the  
8 risks of recurrence.

9 However, the survivors insist that there is no room  
10 at all for complacency, for this or any other school.  
11 As Barry Welsh put it, "The watchwords must be vigilance  
12 and care, because evil can creep in".

13 The Edinburgh Academy cannot curl up on its laurels  
14 ever again. Properly documented systems must be in  
15 place, and must be actually operated transparently, and  
16 kept under constant review and reassessment. The  
17 school's reputation should rightly depend primarily on  
18 whether or not it keeps its pupils safe. Therefore  
19 keeping children really safe should now be the  
20 cornerstone of the Edinburgh Academy's reputation and  
21 pupil welfare should never return to being considered as  
22 an irrelevant irritant, as it apparently once was.

23 Finally, what should happen for the future?  
24 Edinburgh Academy has begun to acknowledge its legacy of  
25 abuse over decades and the terrible effects of that on

1 hundreds or possibly thousands of former pupils. The  
2 website apology and offer of support to survivors and  
3 the apology at the Exhibition in 2023 are appreciated.  
4 The introduction of the annual Aegis award to honour  
5 those who are outstanding examples of caring is  
6 applauded. The publication of the policy in relation to  
7 survivors is a clear step in the right direction.

8 As to what else should happen, views of individual  
9 survivors vary widely. On the evidence their views  
10 include wanting the school shut down, its buildings  
11 demolished, its land sold and the proceeds given to  
12 charities that assist abused children. Or wishing for  
13 there to be a clearer permanent acknowledgement of the  
14 traumas of the past, in the form of a plaque or memorial  
15 garden on school premises, perhaps similar to the  
16 approach taken in postwar Germany to the Holocaust, and  
17 acknowledging that the current school, staff and pupils  
18 are not responsible for the past events, wishing the  
19 current school well and/or wanting to assist in  
20 improving its wellbeing capability.

21 More generally questions have been raised during the  
22 hearings about the reasonableness of boarding as  
23 a concept, particularly for those younger than 13. If  
24 it is to be permitted it must be carefully monitored by  
25 outside entities to ensure that it is supportive, and

1 not abusive. No school must be allowed to police itself  
2 again.

3 It is hoped that the Inquiry, with the benefit of  
4 the learning accumulated over many days of evidence in  
5 this and other case studies, will be able to make  
6 recommendations to drive to an absolute minimum the risk  
7 of abuse of any of these types by teaching staff  
8 occurring again in schools in Scotland and that if abuse  
9 does occur, to ensure it is quickly identified and  
10 exposed, the perpetrators prosecuted and prohibited from  
11 working with children ever again and survivors offered  
12 appropriate assistance.

13 Some survivors advocate for mandatory reporting of  
14 suspected abuse, backed by criminal sanctions. Others  
15 see this as a nuanced and difficult issue. Many value  
16 the idea of someone available to pupils who is not from  
17 the school, not within the school hierarchy, to whom  
18 concerns can be expressed. It would have made a great  
19 deal of difference to the EA survivors had a caring  
20 approach been taken by Edinburgh Academy when they were  
21 there. It is too late for them.

22 However, if a properly caring, effective approach is  
23 taken for those who follow them as pupils in the future,  
24 in part as a result of the survivors' evidence to this  
25 Inquiry, that will be something positive from so much



1 suffering. The school has an opportunity now for  
2 a great resetting. By truly coming to terms with its  
3 past, and as part of its 200th anniversary celebrations  
4 next year, stepping out into a new, safer and more  
5 humble future. On the strength of what they have heard  
6 from Barry Welsh, the survivors are optimistic that this  
7 can be achieved. They stand ready to help in that  
8 process.

9 Thank you.

10 LADY SMITH: Thank you very much, Mr McLean, I am grateful  
11 to you.

12 I am going to take a short break now, before we move  
13 on to the next submissions and I will sit again in about  
14 a quarter of an hour.

15 Thank you.

16 (11.40 am)

17 (A short break)

18 (11.55 am)

19 LADY SMITH: I am going to now turn to closing submissions  
20 to be presented on behalf of the Lord Advocate.

21 Ms Shand, I think you are ready to do that, is that  
22 right?

23 MS SHAND: Yes, my Lady, thank you very much.

24

25

1 Closing submissions by Ms Shand

2 MS SHAND: My Lady, I am grateful for this opportunity to  
3 make closing submissions to the Inquiry on behalf of the  
4 Lord Advocate.

5 My submissions will deal with two distinct matters.

6 First, the case against Iain Wares.

7 Secondly, developments in the way in which cases  
8 concerning the abuse of individuals in institutions are  
9 dealt with by the Crown.

10 Before dealing with the Wares case, I should explain  
11 at the outset that some of the evidence that has been  
12 provided to the Inquiry during the present case study  
13 relates to allegations of abuse in other cases that have  
14 been reported to and investigated by the Crown. As  
15 a result, some of this evidence relates to live ongoing  
16 criminal proceedings in Scotland. Given that these  
17 proceedings are currently live and to protect the  
18 integrity of any future court proceedings, I will not  
19 comment further on them today.

20 Turning, then, to the case against Iain Wares. In  
21 reflecting on the evidence which has been heard about  
22 this case during the course of the past few weeks, it  
23 must be acknowledged that some of the evidence has been  
24 critical of the Crown in relation to the extradition of  
25 Iain Wares. Applicants have given evidence about their

1 deep frustration that Iain Wares is yet to be extradited  
2 from South Africa. In response to this evidence, the  
3 Lord Advocate wishes to provide the Inquiry with some  
4 further information about the extradition process, and  
5 about the legal and diplomatic efforts that have been  
6 made in recent years to bring Iain Wares to trial in  
7 Scotland.

8 LADY SMITH: Ms Shand, just before you turn to that, are you  
9 able to assure me that the Lord Advocate does understand  
10 and recognise the depth of the frustration that the  
11 Edinburgh Academy survivors have expressed and why they  
12 have done so?

13 MS SHAND: I can give that assurance, my Lady. I certainly  
14 can.

15 If I can continue to explain, my Lady.

16 LADY SMITH: Please do.

17 MS SHAND: Thank you.

18 The Crown is limited in the information it is  
19 permitted to share publicly about the extradition  
20 process. By way of explanation, there is  
21 a well-recognised international convention that a state  
22 requesting extradition does not publicly comment on  
23 proceedings taking place in a state executing the  
24 extradition request. Ultimately, for an extradition to  
25 proceed the Scottish authorities are entirely dependent

1 on the active engagement in that process of the  
2 executing state. A failure by the Lord Advocate to  
3 comply with this convention has the potential to  
4 adversely impact the extradition of Iain Wares and also  
5 any future extradition requests made to that state.

6 However, the Lord Advocate can provide some  
7 information about the history of the Iain Wares case and  
8 the efforts made to try to secure his return to Scotland  
9 for prosecution. As the Inquiry is aware, Iain Wares is  
10 the subject of active domestic criminal proceedings in  
11 South Africa, and also the extradition proceedings.

12 Specifically, on 15 March 2017, a petition warrant,  
13 which is how a serious criminal prosecution is  
14 instigated in Scotland, was granted in respect of  
15 Iain Wares. This contained seven charges alleging  
16 sexual abuse of children.

17 On 27 October 2017, a further petition warrant was  
18 obtained which added one further charge of sexual abuse  
19 of children.

20 On 28 August 2018 an extradition request was sent to  
21 the South African authorities. Iain Wares cannot face  
22 criminal trial in Scotland unless he is extradited from  
23 South Africa to Scotland.

24 In 2020 the Crown was told by the South African  
25 authorities that the extradition of Iain Wares had been

1 ordered but that his surrender would be delayed due to  
2 pandemic travel restrictions. However, the Crown was  
3 then later told that Iain Wares had exercised his right  
4 to appeal.

5 The Lord Advocate understands that Iain Wares has  
6 challenged his extradition from South Africa to Scotland  
7 on two counts.

8 Firstly, on the basis that some of the allegations  
9 have prescribed under South African law, that is to say  
10 have become time barred under South African law.

11 Secondly, a constitutional challenge to the  
12 application of Section 10 of the South African  
13 Extradition Act.

14 The South African authorities have recently  
15 confirmed that the appeal hearing was postponed in  
16 March 2023 and has now been assigned to call in South  
17 Africa on 27 October of this year.

18 The appeal process in South Africa is different in  
19 timescale and approach to the Scottish system. In  
20 addition, Scottish prosecutors are not parties to that  
21 process. Their interests are represented by the South  
22 African prosecutors. Accordingly, Scottish prosecutors  
23 do not have the power to influence court procedure in  
24 South Africa, just as South African prosecutors would  
25 not have the power to influence the progression of

1 a Scottish case.

2 The Crown will, however, continue to liaise with the  
3 relevant authorities and endeavour to provide the  
4 victims and witnesses in this case with as much and as  
5 detailed information as is possible.

6 LADY SMITH: Which authorities, Ms Shand, when you say  
7 "relevant authorities"? Can we spell that out?

8 MS SHAND: I understand that there has been contact with  
9 persons in the justice department in South Africa by the  
10 law officers.

11 Following the Inquiry's oral hearings about abuse in  
12 boarding schools in 2021 and the associated media  
13 reporting a number of other individuals made disclosures  
14 to Police Scotland that they had been abused by  
15 Iain Wares.

16 As a result, on 18 May 2022 a third petition warrant  
17 containing a further 45 charges was granted, which  
18 included further charges of sexual abuse of children and  
19 charges of violence and emotional abuse.

20 In 2022, following the release of the podcasts by  
21 Alex Renton and Nicky Campbell, other individuals  
22 contacted Police Scotland to report abuse by Iain Wares.  
23 On 7 February 2023 a fourth petition warrant was  
24 granted, containing a further 29 charges, which included  
25 further charges of the sexual and physical abuse of

1 children.

2 Separate to the domestic, criminal and extradition  
3 proceedings the Lord Advocate understands that on  
4 30 January of this year Iain Wares appeared in Wynberg  
5 Magistrates' Court, Cape Town in respect of allegations  
6 of indecent assault perpetrated in South Africa. The  
7 Lord Advocate understands these proceedings are  
8 presently ongoing in South Africa.

9 LADY SMITH: Ms Shand, do you have any information as to the  
10 date, not the date the allegations were made, but when  
11 it is said that those alleged indecent assaults, or  
12 assault, occurred?

13 MS SHAND: I don't have that information to hand, my Lady,  
14 but certainly it can be obtained and passed to the  
15 Inquiry.

16 LADY SMITH: It would be helpful to have that confirmed.

17 MS SHAND: That shall be done, my Lady, thank you.

18 LADY SMITH: Thank you.

19 MS SHAND: In addition to the use of the normal extradition  
20 channels, efforts have also been made to expedite  
21 matters through direct contact with the South African  
22 authorities, albeit out of the public eye. I mentioned  
23 contact with the officials in the justice department.  
24 These efforts have included, as I have already said,  
25 direct approaches by the law officers and Crown Office

1 officials.

2 The Lord Advocate would like to assure survivors,  
3 the wider Scottish public and the Inquiry that Scottish  
4 prosecutors have made efforts and will continue to press  
5 to secure the return of Iain Wares to Scotland.

6 Turning to the second part of my submissions, my  
7 Lady, the Lord Advocate wishes to provide the Inquiry  
8 with information about recent developments in the way in  
9 which cases concerning the abuse of individuals in  
10 institutions are dealt with by the Crown. These  
11 developments reflect the Crown's commitment to  
12 continuous reflection and improvement.

13 Specifically, in May 2022 the law officers approved  
14 the creation of an abuse in institutions board. The  
15 purpose of which is to oversee all ongoing pieces of  
16 work and new proposals to improve the service delivered  
17 to survivors of institutional abuse, and to deliver  
18 efficiencies in the investigation and prosecution of  
19 these cases. Thereafter, the board having been created,  
20 the Crown developed the abuse in institutions programme,  
21 which will take forward three key areas of improvement  
22 in the prosecution of cases concerning abuse in  
23 residential care.

24 These are, firstly, survivor communication, and the  
25 aim of this programme, the survivor communication



1 programme, is to ensure that survivors of institutional  
2 abuse are provided with accurate and timeous  
3 information, to ensure they are supported and informed  
4 throughout criminal investigations.

5 The second programme is the efficiency and quality  
6 programme, the aim of which is to monitor and improve  
7 the journey times for the prosecution of cases involving  
8 abuse in residential care, and to ensure that case work  
9 is prepared to a high quality.

10 Thirdly, the knowledge and awareness programme, the  
11 aim of which is to ensure that staff within the  
12 prosecution service are equipped with the tools they  
13 require to effectively and sensitively progress cases  
14 involving the abuse of children in residential care.

15 The abuse in institutions board will oversee the  
16 important work of the programmes, and the Lord Advocate  
17 and Solicitor General sit on the board. The board will  
18 meet quarterly, and it had its first meeting on  
19 27 July 2023.

20 Going forward, the members of the Lord Advocate's  
21 Inquiry team will endeavour to keep the Inquiry updated  
22 on the work of the programme and the board.

23 In conclusion, my Lady, may I repeat the Lord  
24 Advocate's ongoing commitment to supporting the work of  
25 the Inquiry and to contributing, both positively and

1           constructively, to its work and also to ensuring the  
2           fair, effective and rigorous prosecution of crime in the  
3           public interest, for all members of society, including  
4           the most vulnerable.

5           Thank you, my Lady.

6   LADY SMITH: Thank you very much, Ms Shand.

7           If I could have the submissions for the Scottish  
8           Ministers next, I see, Ms O'Neill, you are looking up  
9           ready to deliver.

10          Whenever you are ready.

11                               Submissions by Ms O'Neill

12   MS O'NEILL: My Lady, the Inquiry has the short written  
13           submission that was lodged earlier in the week, I don't  
14           propose to repeat it verbatim but I do adopt it in full.  
15           The Scottish Ministers made a full closing submission in  
16           relation to phase 6 of the Inquiry's work  
17           in February 2022. Ministers rest generally on that  
18           submission, but would take this opportunity to  
19           acknowledge the evidence that has been given in the last  
20           month by survivors of abuse at Edinburgh Academy, and to  
21           update the Inquiry on the implementation of the  
22           Disclosure (Scotland) Act 2020.

23           The Scottish Government has been represented at all  
24           of the hearings of evidence from applicants who spoke of  
25           their experiences of abuse at Edinburgh Academy, the

1 Government has a direct interest in supporting those who  
2 were abused while boarding at an independent school, and  
3 ensuring that they secure acknowledgement of and  
4 accountability for the abuse that they experienced.

5 While I have not been personally present throughout  
6 the hearings, in accordance with established practice in  
7 relation to this Inquiry I and other relevant  
8 individuals within Scottish Government have been briefed  
9 every day about the evidence that has been given.

10 Reflecting the approach taken in previous hearings,  
11 the Scottish Ministers do not make detailed submissions  
12 on the evidence of abuse heard by the Inquiry during the  
13 last four weeks, or propose that the Inquiry should make  
14 specific findings in fact in respect of accounts given  
15 by applicants. It is clear that very many children  
16 suffered serious sexual, physical and emotional abuse  
17 and neglect when in the care of Edinburgh Academy, and  
18 that their suffering has been compounded by the  
19 challenges that they have faced in having their stories  
20 heard.

21 As in earlier stages of the Inquiry, the Scottish  
22 Government wishes to acknowledge the courage of all of  
23 the survivors who gave evidence about their experiences  
24 and about the impact of childhood abuse on their future  
25 lives and to record its gratitude to them for

1 contributing to the Inquiry.

2 The closing submissions I made in February 2022 in  
3 this phase of the Inquiry's work recorded that the first  
4 regulations bringing into force parts of the Disclosure  
5 (Scotland) Act 2020 had been made on 28 October 2021.  
6 Those regulations made changes to the consideration for  
7 listing process, made it clear that the offences in  
8 part 1 of the PVG Act applied to organisations based  
9 outside Scotland offering regulated work in Scotland to  
10 a barred individual, and allowed the Scottish Ministers  
11 to consult with Police Scotland about statutory guidance  
12 under the 2020 Act and the PVG Act.

13 Thereafter, in April 2022, the Inquiry was provided  
14 with detailed notes prepared by Disclosure Scotland  
15 setting out in more detail the implementation timetable  
16 for the 2020 Act and the reasons why implementation  
17 would take some time and full implementation of the Act  
18 was anticipated by early 2024 at the latest.

19 Given the Inquiry's interest in this matter, the  
20 Scottish Government wishes to update the Inquiry on  
21 implementation. A number of the Act's provisions are  
22 now in force and Scottish Ministers are continuing to  
23 work towards commencement of the remaining provisions.  
24 Those are now to be implemented by 1 April 2025, and  
25 include the replacement of the existing disclosure

1 levels of products with a reduced number of levels and  
2 products, replacing regulated work with regulated roles  
3 and making scheme membership compulsory for those  
4 carrying out roles with children and adults.

5 The Scottish Government has delayed implementation  
6 of these provisions by an additional year. The delay  
7 will allow implementation to be delivered using a new  
8 digital platform which is more effective than Disclosure  
9 Scotland's existing legacy platform. The decision to  
10 postpone implementation was based on an assessment that  
11 delivery in 2025 using this new platform would be  
12 significantly more cost-effective than implementation in  
13 2024 and would avoid the risks inherent in beginning the  
14 implementation exercise using an older and inferior  
15 platform.

16 Meanwhile, Disclosure Scotland has implemented and  
17 continues to implement changes to the legacy platform,  
18 resulting in improvements in the service that it  
19 provides. My Lady, reference is made to the reduction  
20 in the timescale for delivery of disclosure reports  
21 between September 2019 and September 2022.

22 Separately, Scottish Government is conscious that  
23 a range of stakeholders have expressed concerns about  
24 the timetable for implementation, and the additional  
25 time will provide a greater opportunity for them to

1 prepare for commencement of the remaining provisions.

2 Aside from the implementation of the Act, Ministers  
3 continually work with stakeholders to review the  
4 practical steps to further improve information change  
5 between organisations when there is a child protection  
6 concern.

7 My Lady, those are the submissions for the Scottish  
8 Government.

9 LADY SMITH: Thank you for that update and we will watch out  
10 for the regulations you say should be by the end of  
11 January 2024 at the latest?

12 MS O'NEILL: My Lady, that was essentially the point I was  
13 trying to convey, that that will be delayed to  
14 1 April 2025.

15 LADY SMITH: Sorry, 1 April?

16 MS O'NEILL: Yes, my Lady.

17 LADY SMITH: Thank you.

18 Thank you very much, Ms O'Neill.

19 Could I turn now please to the closing submissions  
20 for the Care Inspectorate, to Ms Cook who should be here  
21 for that.

22 Closing submissions by Ms Cook

23 MS COOK: Yes, hello, my Lady.

24 As the Inquiry may have anticipated, having regard  
25 to the brief opening submissions for the Care

1 Inspectorate at the outset of this case study, the Care  
2 Inspectorate has little to add to its closing  
3 submissions in relation to boarding schools generally.  
4 That is on the basis that this case study has heard no  
5 evidence from applicants to the effect that they were  
6 abused during the period of Edinburgh Academy's  
7 registration with the Care Inspectorate's statutory  
8 predecessor, the Care Commission.

9 The Inquiry will recall that that period of  
10 registration endured only from 1 April 2005 in terms of  
11 the transitional arrangements around implementation of  
12 the Regulation of Care (Scotland) Act 2001, until  
13 31 March 2008, when it is understood that boarding at  
14 Edinburgh Academy ceased.

15 The limited and brief nature of these submissions in  
16 those circumstances does not, however, detract in any  
17 way from the Care Inspectorate's acknowledgement, as  
18 expressed in previous submissions, of the suffering of  
19 all of those who were subjected to abuse of any kind,  
20 and the courage of those who have come forward to  
21 narrate their experiences to this Inquiry.

22 The Care Inspectorate does not, based on the current  
23 case study, seek to add to either the substance of its  
24 earlier submissions in relation to boarding schools  
25 generally nor to the findings it invited the Inquiry to

1           make at that point. It does, however, wish to reassure  
2           the Inquiry and those whose evidence it heard that the  
3           experiences will inform the actions of the Care  
4           Inspectorate in the same way as those of others who have  
5           given evidence to the Inquiry. That evidence reinforces  
6           the need to be ever vigilant on behalf of the  
7           vulnerable, whether they be children or adults, and the  
8           importance of being informed by the experiences of all,  
9           if there is any possibility that those experiences may  
10          provide an opportunity to learn or improve.

11           It has already been said on behalf of the Care  
12          Inspectorate that it is not complacent. The Care  
13          Inspectorate reiterates that today. It wishes to learn  
14          from the Inquiry and it is hopeful that the independent  
15          scrutiny that the Inquiry brings, including its  
16          anticipated consideration of regulatory arrangements,  
17          will lead to recommendations which will assist it in  
18          fulfilling its goal to be as effective as it can be in  
19          protecting the vulnerable people who access the full  
20          range of services and establishments which it inspects  
21          and regulates.

22           That concludes the Care Inspectorate's submission,  
23          my Lady.

24   LADY SMITH: Ms Cook, you rightly say that I haven't heard  
25          specific evidence to the effect that applicants were



1       abused during the period of, let me put it this way, as  
2       the Care Inspectorate's responsibility for the  
3       Edinburgh Academy boarding houses. But I do hope that  
4       the Inspectorate will learn from listening to those  
5       applicants as to what can happen and go undetected in  
6       circumstances where they weren't aware of anybody from  
7       anywhere outside of the school, or even in a position of  
8       senior responsibility in the school, inspecting and  
9       supervising what was happening in the boarding houses,  
10      particularly given the longevity of the periods of abuse  
11      that we have heard about. I would very much hope that  
12      the Care Inspectorate look on that as being a relevant  
13      source of learning for them, even although it is not  
14      learning about how they could have done better during  
15      that period, but learning what can happen and what can  
16      go on for such a long period.

17 MS COOK: Thank you, my Lady, we will do that and I will  
18       take that on board.

19 LADY SMITH: Thank you very much.

20 MS COOK: Thank you.

21 LADY SMITH: I would like to turn next, please, to  
22       representation for the General Teaching Council for  
23       Scotland. I think Ms MacDonald is here somewhere for  
24       that; is that right?

25 MS MACDONALD: Yes, my Lady, I am here.

1 LADY SMITH: Thank you, sorry, I missed you. When you are  
2 ready, Ms MacDonald.

3 Submissions by Ms MacDonald

4 MS MACDONALD: The General Teaching Council for Scotland --

5 LADY SMITH: Ms MacDonald, could you just pull the  
6 microphone a little bit closer, I am not hearing you  
7 very clearly.

8 MS MACDONALD: Is that better?

9 LADY SMITH: Thank you.

10 MS MACDONALD: The General Teaching Council for Scotland,  
11 GTC Scotland, wishes to thank the Inquiry for granting  
12 it leave to appear in these proceedings and for the  
13 opportunity to provide closing submissions.

14 This submission is brief, given the relatively  
15 limited scope of the evidence that GTC Scotland has  
16 provided for this particular case study. Your Ladyship  
17 has had detailed submissions and heard evidence from GTC  
18 Scotland previously, we have set out the role and  
19 history of GTC Scotland as the independent statutory  
20 professional regulator for teachers, established in  
21 1965, following calls from teachers themselves for  
22 a body to ensure teacher standards.

23 We have explained that GTC Scotland registration  
24 only fully became a requirement for teachers in the  
25 independent school sector in June 2021, while it has

1           been a requirement for teachers employed in local  
2           authority schools since April 1968.

3           We have explained how we carry out our core  
4           statutory functions to register and regulate individual  
5           teachers and provided information in this context,  
6           including the requirements that we set in relation to  
7           professional education and entry to the profession. Our  
8           legislative framework and how we carry out our functions  
9           has developed over time, in the same way that the  
10          teaching profession has and the standards that it holds  
11          itself to. GTC Scotland and all our work centres on  
12          enhancing and maintaining trust in teaching.

13          Communities place a high degree of trust in teachers.  
14          They rely on teachers to interpret what is right and  
15          wrong, keep learners safe and be positive role models.

16          We have said in our earlier submissions that we  
17          believe that improvements should be made to the  
18          regulatory system to help ensure that what the victims,  
19          the survivors, have told the Inquiry about never happens  
20          again in our schools. To achieve this, roles in child  
21          protection and safeguarding in education must be  
22          transparent, understood and joined up. The right  
23          information must flow to the right places at the right  
24          time. We must ensure that the suitability of  
25          individuals to continue to work with children is

1 actively and effectively monitored. There needs to be  
2 a coordinated approach as to who investigates when, and  
3 what information should flow between organisations.  
4 Investigations need to be rigorous and of high quality,  
5 particularly those carried out immediately after  
6 a concern is raised.

7         Appropriate checks and balances must also be in  
8 place to ensure all is happening as it should. We have  
9 continued to engage with the Scottish Government's work  
10 in this context. It is a complex landscape and there is  
11 still much work to do to achieve an agreed system-wide  
12 data-sharing framework and clarity for all on respective  
13 roles and responsibilities. We have provided  
14 suggestions in relation to the national guidance for  
15 child protection, and still believe that we need to  
16 better address through a national framework, that should  
17 also arguably be statutory, situations where concerns  
18 are raised about professionals working within education.

19         We have also said the plans for national education  
20 reform, which are ongoing, must address the role which  
21 an inspectorate or other agency will play in ensuring  
22 that education providers do what is required of them,  
23 and that the education system is appropriately  
24 regulated.

25         In conclusion, GTC Scotland is committed to

1 identifying and highlighting areas where improvements  
2 can be made and where lessons can be learned, for itself  
3 as well as in relation to the system as a whole. We  
4 would reiterate that this Inquiry is in a unique  
5 position to lead positive, system-wide improvement in  
6 the interests of child protection and safeguarding and  
7 we would welcome it making recommendations in this  
8 respect.

9 Thank you, my Lady. Those are my closing  
10 submissions.

11 LADY SMITH: Thank you very much for those submissions,  
12 Ms MacDonald.

13 Can I now turn, please, to the Chief Constable of  
14 Police Scotland, and that's Ms Iridag, who I think is  
15 there at the back, is that right?

16 MS IRIDAG: Thank you, my Lady.

17 LADY SMITH: Yes, thank you.

18 Submissions by Ms Iridag

19 MS IRIDAG: My Lady, I am grateful for the opportunity to  
20 make this closing submission on behalf of the Chief  
21 Constable of the Police Service of Scotland.

22 Firstly, the Chief Constable wishes to express  
23 sympathy to all survivors of childhood abuse, including  
24 survivors who have experienced abuse within  
25 Edinburgh Academy.

1           The Chief Constable would also like to take this  
2           opportunity to reassure survivors, the Inquiry and the  
3           people of Scotland that Police Scotland is fully  
4           committed to thoroughly investigating all forms of child  
5           abuse that have taken place in Scotland, regardless of  
6           when it happened or who was involved. Police Scotland  
7           remains committed to delivering its response to the  
8           Inquiry, and ensuring that all relevant information held  
9           is provided in compliance with the terms of notices  
10          issued under the Inquiries Act 2005. This information  
11          includes policies, procedures and documents relating to  
12          investigations into the abuse and neglect of children  
13          within Edinburgh Academy, which was the focus of this  
14          phase of the public hearings.

15          Police Scotland also wishes to inform the Inquiry  
16          that in keeping with its continued commitment to  
17          non-recent child abuse investigations, it is currently  
18          investigating non-recent abuse within Edinburgh Academy.  
19          These investigations have arisen out of both the review  
20          of previous investigations and new reports of abuse from  
21          survivors. Police Scotland continues to build on its  
22          engagement with survivors of childhood abuse, seeking  
23          views and consulting with survivors, support services  
24          and statutory partners, in an effort to enhance public  
25          confidence and improve service provision. This

1 engagement has led to the creation of information  
2 products to enable survivors to make an informed choice  
3 about whether or not they wish to report abuse to the  
4 police, whilst at the same time ensuring that they are  
5 signposted to relevant support services.

6 Police Scotland recognises the importance of using  
7 organisational learning to effect continuous improvement  
8 to ensure that its staff have the best skills and  
9 capabilities to deal with the specific needs of  
10 survivors of childhood abuse.

11 LADY SMITH: Can I just ask, when you referred a moment ago  
12 to creating "information products", what do you mean?  
13 What are the information products you are referring to?

14 MS IRIDAG: I understand it is information available, as  
15 I understand, partly online, but I think there may be  
16 other materials. I don't have the specifics of that to  
17 hand, my Lady, but I can certainly ask those instructing  
18 me to make those information products available to the  
19 Inquiry.

20 LADY SMITH: Are those on the Police Scotland website?

21 MS IRIDAG: I am not advised that, but I do understand that  
22 there is information in relation to child abuse  
23 available on the Police Scotland website for survivors  
24 thinking of coming forward.

25 LADY SMITH: It is just the term itself doesn't seem to tell

1           us very much. It would be helpful to know a little more  
2           about it.

3 MS IRIDAG: I appreciate that, my Lady, and I will certainly  
4           pass that on to those instructing me.

5 LADY SMITH: Thank you.

6 MS IRIDAG: I will just reiterate what I was saying, my  
7           Lady, that Police Scotland will be using this as  
8           an opportunity for organisational learning to ensure  
9           that the staff involved have best skills and  
10          capabilities to deal with the specific needs of  
11          survivors of childhood abuse and, as such,  
12          Police Scotland will be taking into account any good  
13          practice or areas of learning that may be identified  
14          from this phase of the Inquiry hearings as part of its  
15          commitment to developing and improving its service  
16          provision.

17                 Finally, Police Scotland remains committed to child  
18          protection, both locally, as a core statutory child  
19          protection agency, and nationally, in partnership with  
20          multi-agency and strategic leadership groups to  
21          implement continuous improvements and make a positive  
22          contribution to protecting Scotland's children, both now  
23          and in the future.

24                 Thank you, my Lady.

25 LADY SMITH: Thank you very much.



1 I would now like to turn if I may to Mr Watson, who  
2 has closing submissions to make on behalf of  
3 Fettes College.

4 When you are ready, Mr Watson.

5 Closing submissions by Mr Watson

6 MR WATSON: My Lady, at the conclusion of the phase 6,  
7 independent boarding schools phase of the Inquiry,  
8 detailed submissions were made on behalf of  
9 Fettes College across four themes.

10 First, their apology to those who had suffered  
11 abuse.

12 Second, the evidence of abuse at Fettes.

13 Third, changes in practice, policy or legislation.

14 Fourth, thoughts for the future.

15 I will not repeat those third or fourth chapters at  
16 all. That evidence still stands and your Ladyship will  
17 no doubt have it in mind as she prepares reports on the  
18 abuse suffered and in due course recommendations for the  
19 future.

20 Let me, however, address the second. The evidence  
21 of abuse at Fettes. Although your Ladyship heard  
22 evidence of applicants who had suffered abuse at  
23 Edinburgh Academy, there was also much more evidence  
24 around the abuse by Iain Wares, what was known of that  
25 abuse, and by whom, and in particular the extent to

1           which he had had received psychiatric inpatient and  
2           outpatient treatment before, during and after his  
3           employment with both Edinburgh Academy and Fettes.

4   LADY SMITH:  Of course, we had some reference to that in the  
5           Fettes records, but nothing like the detail that we  
6           discovered was available in the records the Royal  
7           Edinburgh produced to us.

8   MR WATSON:  Indeed, there was reference to the headmaster at  
9           the time having had correspondence with  
10          Professor Walton.  There was nothing like the detail  
11          that is now available.

12   LADY SMITH:  No, no.

13   MR WATSON:  A governor or a member of the leadership team of  
14          Fettes has been present for the evidence of applicants  
15          who referred substantively to Fettes, and for the  
16          evidence of Wares's psychiatric treatment.  It was and  
17          is important to Fettes to hear directly from those who  
18          were abused.  There is simply no substitute for hearing  
19          from them in person.

20                As was said in the previous closing submissions, the  
21          evidence was of physical and sexual abuse by Wares.  The  
22          physical abuse consisted both of corporal punishment  
23          that went beyond reasonable chastisement, and of  
24          physical violence to pupils, both of which would  
25          constitute assault.  The sexual abuse was frequent and

1 regular. It may have stopped for a period after 1975,  
2 but it had resumed by 1978.

3 In preparation for this phase, the Inquiry has  
4 recovered medical records for Wares. Fettes had not  
5 previously seen those records. It is notable that these  
6 are not the complete records, as 'Robert' said in  
7 evidence, he would expect there to be separate records  
8 of clinical psychology and of psychotherapy. While it  
9 is unfortunate those are not available, there is  
10 sufficient in the recovered records to assist your  
11 Ladyship in considering findings of fact around the  
12 treatment he received, the school's knowledge of that  
13 treatment, the consideration of how that impacted his  
14 suitability to return to teaching and the consideration,  
15 or rather total lack of consideration, of the risk to  
16 pupils.

17 Your Ladyship has heard from three witnesses  
18 regarding that treatment. 'Robert', 'Frances' and  
19 Dr Andrew Watson.

20 In his evidence, Dr Watson said that the models of  
21 intervention that are covered here have struggled to  
22 provide the evidence base that meets modern standards in  
23 terms of effectiveness. That might be thought to be  
24 an understatement in general, but most certainly true in  
25 the specifics of Wares.

1           What we can say from the records is this: those  
2           treating him knew of his sexual fantasies for boys.  
3           They knew of his abuse of boys. They knew of his  
4           problems with anger. They knew of his proposed  
5           employment at Edinburgh Academy before it commenced.  
6           They knew of his proposed move to Fettes before that  
7           commenced. Dr Watson's evidence was that Wares's own  
8           account of his thoughts and his behaviours was not  
9           challenged and indeed was minimised. It will be open to  
10          your Ladyship to make findings in fact on opportunities  
11          lost. Opportunities to tell, to warn the schools  
12          concerned, opportunities to inform the police,  
13          opportunities to have prevented the abuse from  
14          occurring.

15          Your Ladyship will no doubt also consider whether  
16          she can make a finding in fact on what Edinburgh Academy  
17          knew during his employment, but what is clear, and  
18          indeed was clear on the last occasion, is that Fettes  
19          did know, at least by 1975. Your Ladyship has now seen  
20          much more extensive records of Wares's inpatient  
21          treatment in 1975. The initial decision by Fettes to  
22          terminate his employment, the intervention of  
23          Professor Walton and ultimately the decision by the  
24          school to permit his return.

25          Your Ladyship has seen reference to the views of

1 Wares's GP, "Thinks we are being utterly irresponsible  
2 allowing the patient to teach, feels he is a hopeless  
3 case, a liar et cetera, bound to be trouble".

4 Professor Walton's view, conversely, was that there  
5 was a therapeutic benefit to him working. Sadly, that  
6 view prevailed. Fettes was prevailed upon to retain him  
7 in employment, and it should not have done so.

8 There is no doubt that from 1975 Fettes knew that  
9 Wares had abused pupils. There is no doubt it knew of  
10 his psychiatric treatment. There is no doubt it was  
11 persuaded to allow him to continue teaching. There is  
12 also no doubt, or to put it at its lowest, no evidence  
13 that it conducted any form of consideration of risk to  
14 pupils. That may have been in the mind of SNR  
15 SNR in 1975, but his concerns were  
16 insufficient to have had a practical impact.

17 In no circumstances, regardless of the views of the  
18 treating psychiatrist, should Wares have been allowed to  
19 return to teaching in 1975. Fettes accepts that it  
20 should have terminated his employment immediately.

21 That brings me to the apology issued by Fettes at  
22 the close of the earlier hearings and repeated at the  
23 start of this. The school is truly sorry and makes  
24 a full and unreserved apology to those who have suffered  
25 abuse whilst at Fettes. But Fettes would also seek to

1 be more specific. The school is sorry that it continued  
2 to allow Wares to teach and therefore to abuse, despite  
3 knowing that he had already abused.

4 The school is sorry that it allowed him to complete  
5 the term when further abuse was reported in 1979. He  
6 should have been dismissed. He should have been  
7 reported to the police. He should have been prosecuted.

8 My Lady, I have not touched on the strenuous efforts  
9 Fettes have taken since then to put safeguarding at the  
10 heart of recruitment processes and ongoing staff  
11 development. Indeed, a rigorous approach to  
12 safeguarding is central to the ethos of the school.  
13 I refer your Ladyship to paragraphs 24 onwards in the  
14 original closing submission. But I would add this:  
15 several applicants have made the case for mandatory  
16 recording. I appreciate this is a complex area. But  
17 your Ladyship should know that despite the absence of  
18 a duty in law, that is the approach Fettes now takes and  
19 undertakes to continue.

20 LADY SMITH: Is that an approach that is embedded in  
21 a policy? Terms and conditions of employment? Or what?

22 MR WATSON: It is not in the conditions of employment. My  
23 Lady, I will check with those instructing me as to  
24 whether it is in the most recent updated version of the  
25 safeguarding policy. It is what the senior management

1 team is doing in practice.

2 LADY SMITH: Thank you very much. Thank you.

3 MR WATSON: My Lady, the tragedy here is that those who  
4 needed to know did know. They did not act. And for  
5 that, Fettes apologises.

6 Unless I can assist your Ladyship any further.

7 LADY SMITH: Mr Brown, are you trying to catch my eye?

8 MR BROWN: I am, my Lady, it is simply to say two things.

9 1, and it may be that Fettes have already, because  
10 I know schools have been approached in relation to the  
11 issue of mandatory reporting discretely, I am not aware,  
12 however, or wasn't aware of this progress until the  
13 submissions came in. If there are details to be shared,  
14 I think that would be appreciated as a comparative  
15 exercise. As we heard during evidence Gordonstoun  
16 already have this in place, so it would be  
17 an interesting comparator.

18 The second thing is, your Ladyship talked about the  
19 medical records coming from the Royal Edinburgh  
20 Hospital.

21 LADY SMITH: Indeed.

22 MR BROWN: It is simply to remind everyone, as is clear from  
23 the reference they had, they didn't come from the NHS,  
24 efforts to recover from the NHS proved unsuccessful and  
25 it was only more recently, in the context of the

1           Edinburgh Academy hearings, that a Section 21 notice to  
2           the police produced the medical reports.

3   LADY SMITH: Of course, thank you for adding that. Of  
4           course the original source was the Royal Edinburgh --

5   MR BROWN: Yes.

6   LADY SMITH: -- but they came to us from the Royal Edinburgh  
7           via the police, because they weren't with the NHS when  
8           we were first looking for them.

9   MR BROWN: That's right, and we did not have them during the  
10          Fettes hearings.

11   LADY SMITH: Yes.

12           I hope that is helpful to you, Mr Watson.

13   MR WATSON: Yes, certainly, I am obliged to my learned  
14          friend for that and I will certainly come back regarding  
15          the question of safeguarding policy. I am aware that  
16          there are ongoing meetings regarding the mandatory  
17          nature of reporting.

18   LADY SMITH: As you will appreciate, it is a difficult issue  
19          to address. There are complexities involved, pros and  
20          cons, choices to be made as to what will really work and  
21          work well if you are going to have anything of that sort  
22          operating, I will be interested to hear what conclusions  
23          Fettes have arrived at.

24           Finally, I would like to turn to the representation  
25          for the Edinburgh Academy. That is Mr MacNeill.



1           When you are ready, I am ready to hear you,

2           Mr MacNeill.

3                       Closing submissions by Mr MacNeill

4   MR MACNEILL: Thank you, my Lady.

5           Before referring to the written submissions which  
6           were lodged on behalf of the Academy on Monday, I should  
7           say that the school's senior managers have read the  
8           other participants' submissions and, with particular  
9           care, those of the survivors' group.

10          I am indebted to Mr McLean KC for his thorough  
11          analysis of the evidence, complete with detailed  
12          references to the statements and transcripts. As stated  
13          at the outset, in opening submissions on 8 August, the  
14          Academy does not challenge or seek to contradict the  
15          evidence of former pupils and survivors. That was their  
16          position then, it remains their position now.

17          I appreciate that it is not always regarded as  
18          desirable for written submissions simply to be read out  
19          verbatim, and I don't intend to do that strictly.  
20          However, in light of the central role of the Academy to  
21          this case study, and the importance to have what the  
22          Academy wishes to communicate to all its former pupils,  
23          including the survivors, current and future pupils,  
24          their parents and to the public in general publicly  
25          accessible via the transcript, I do intend, if I may, to

1 repeat most of what I have said in writing, and in  
2 places supplement it in light of matters arising from  
3 the other submissions.

4 LADY SMITH: Thank you, Mr MacNeill, that will be helpful.

5 MR MACNEILL: I start with an acknowledgement and  
6 an apology.

7 In the opening submissions on behalf of the Academy  
8 I expressed the sincerity of its senior management's  
9 wholehearted apology to each and every one of those  
10 affected directly and indirectly by abuse of all natures  
11 which had taken place at the school and which was  
12 allowed to happen by wholly inadequate oversight and  
13 child-centred safeguarding.

14 I repeat and renew that apology now, and furthermore  
15 seek to expand upon what that apology means, and what  
16 the senior management of the school recognises as the  
17 component parts of what it wishes to acknowledge.

18 All 13 days of the evidence in this case study have  
19 been heard, listened to and reflected on by the senior  
20 management. The rector, Barry Welsh, has been here  
21 every day, all day, without fail, for the evidence of  
22 all of the witnesses, including read-in statements. The  
23 first day back for pupils after summer was Wednesday of  
24 last week, but the rector's usual in-person duties were  
25 delegated to others, as being here and listening to

1 survivors was his priority.

2 The chair of the court of directors, Mark Galloway,  
3 the bursar, Guy Cartwright and director of alumni  
4 relations Sam Byers were each here for all or the  
5 overwhelming majority of the evidence. Vice chair of  
6 the court of directors, Sally Sutherland, also attended  
7 regularly. The promise made in opening submissions was  
8 that they would not be here just to hear, but to listen,  
9 to understand, to reflect and to process. They have  
10 fulfilled that promise, which has been of great  
11 importance to them.

12 The school's further acknowledgement of its past is  
13 informed by the powerful and moving evidence of the  
14 extremely courageous and dignified survivors who have  
15 spoken up to this Inquiry, and elsewhere, which has  
16 brought home to the present management the full horror  
17 of what young boys were forced to endure while  
18 supposedly under the care of the Academy as vulnerable  
19 children in need of care and nurturing, but who instead  
20 were subjected to abuse and neglect. The physical abuse  
21 meted out to the boys in the school was utterly  
22 unforgivable, it was brutal, largely unrestrained, and  
23 driven by anger or a perverse pleasure at causing  
24 distress to the vulnerable. It was emphatically not  
25 "acceptable at the time", even when the use of corporal

1 punishment was legal and culturally accepted.

2 All the witnesses who spoke about it recognised that  
3 some corporal punishment, proportionate to  
4 an identifiable mischief, was something they could have  
5 accepted.

6 LADY SMITH: And, as I referred to earlier, would have been  
7 regarded as acceptable by the founders of the school in  
8 the early 19th century.

9 MR MACNEILL: Indeed.

10 LADY SMITH: But they were clear that one never should go  
11 beyond that.

12 MR MACNEILL: Never, and maybe the importance is just in the  
13 next sentence, that it is clear that beatings took place  
14 which were not punishments at all, but were an abuse of  
15 power, a means of belittling, humiliating and  
16 calculatedly creating a culture of fear.

17 The physical pain, immediate and enduring, was  
18 appalling. But even worse than that, for many, was the  
19 emotional and psychological effect produced by a regime  
20 which apparently administered beatings with the clacken,  
21 the gym shoe, the boxing glove -- I have added in the  
22 chalk duster, the gun strap, or other implements --  
23 either for no apparent reason at all or on an obviously  
24 false pretext. An enduring resentment of authority,  
25 a destruction of self esteem and an inability to trust

1 others stayed with many for decades.

2 The boys entrusted to the care of the school were  
3 led to believe that this was how life was, that adults  
4 just behaved like that. That perhaps they needed to  
5 behave like that just to get by. Several spoke of the  
6 need to adopt a survival mentality, which led some of  
7 them to participate in the culture of violence in order  
8 to prevent being a victim of it.

9 Peer-on-peer abuse in the form of physical bullying,  
10 the use of demeaning nicknames and in one case serious  
11 sexual assault, was widespread and largely unchecked.  
12 The boys were left, and I quote, "to get on with it",  
13 and masters were uninterested in getting involved. Some  
14 boys swam, but some sank, unnoticed in their misery.

15 The sexual abuse was unspeakable conduct, much of it  
16 conducted unhidden, in plain sight. The expression  
17 "hiding in plain sight" isn't even appropriate here,  
18 because it was unhidden in plain sight, with the  
19 perpetrator, or perpetrators, apparently obtaining some  
20 gratification from the unhidden nature of it.

21 It was normalised by the regime. Iain Wares and  
22 Hamish Dawson were both prolific in their despicable  
23 sexual abuse, combined with their physical abuse, some  
24 boys were groomed to adopt the grotesque attitude that  
25 the sexual abuse was actually the preferable option.

1           We have heard evidence of the ill treatment of boys  
2           from as far back as 1954, up to as recently as 1995.  
3           Albeit the weight of the evidence related to the 1970s  
4           and 1980s. So many pupils went through the school  
5           during those years it has to be accepted that there must  
6           have been many more victims than those we have had  
7           first-hand evidence from.

8           In relation to the wider circle of victims, the  
9           apology in the opening statement was very deliberately  
10          directed to those affected directly and indirectly by  
11          the abuse. Because, as we have heard, the boy being  
12          beaten or fondled, or ogled in the showers, or bog  
13          washed, or administered a painful wedgie, is not the  
14          only victim of that behaviour. The onlookers who were  
15          made to feel complicit, the parents who later find out  
16          their son has been suffering in silence, in  
17          an institution they have been paying for a first class  
18          education, are all victims. The future partners,  
19          children and work colleagues, who have to deal with the  
20          broken emotions of a grown man deeply damaged as a child  
21          are victims too. I would add to the written submissions  
22          that we also pause to recognise the fact of self  
23          medication, of self harm and other self-destructive  
24          coping strategies that the victims and those close to  
25          them have had to deal with.

1           The idea of pastoral care was naively assumed by  
2           some to be an integral part of the job. But there were  
3           no systems in place to identify when or where it was  
4           needed, and where it was lacking. There was an absence  
5           of oversight in the classroom, and the boarding houses.  
6           Centres of untrammelled power were allowed to grow and  
7           endure, allowing abuse to go unchecked. Noises from the  
8           neighbouring classroom were ignored. Inspection visits  
9           to the boarding houses were apparently non-existent.  
10          Discipline was delegated to the ephors, whose room was  
11          allowed to operate unsupervised as a tribunal of the  
12          administration of pain. The idea that pupils who were  
13          there to be educated, to flourish, to mature into fully  
14          formed adults, the idea that they spent any, let alone  
15          all, of their school days, hiding, keeping under the  
16          radar, solely in survival mode, and perhaps that's the  
17          seagull analogy from Barnardo's is equally apt there, it  
18          is a damning indictment of the school at the time. The  
19          creation for so many young boys of an atmosphere of  
20          fear, constant vigilance of the next injustice, is  
21          something of which the school is deeply ashamed. It  
22          ought to have been providing the nurturing atmosphere  
23          which would have allowed them to be happy, confident,  
24          and able to concentrate on the study of subjects and  
25          pursuits that interested them and that they enjoyed.

1           The Academy also apologies for the continued abuse  
2           by Iain Wares at Fettes College when he was allowed to  
3           leave without warnings being issued about his behaviour  
4           after concern had been raised about it. Although the  
5           reference provided by the Academy is no longer  
6           available, it is obvious that no concerns could have  
7           been mentioned in it, or else we can only assume he  
8           would not have been offered the job. Whether "glowing"  
9           is an accurate description we will never know, but it  
10          doesn't matter; it was sufficiently positive to  
11          encourage Fettes to employ him when he should have been  
12          facing criminal charges and having nothing to do with  
13          children.

14           For all of the above, the Academy accepts  
15          responsibility and again expresses its sincerest and  
16          wholehearted apology to the boys who were failed and all  
17          of the others who were affected.

18           I then move on to address the present and the  
19          future.

20           Nothing of what will be said about the school as it  
21          now is, is intended to lessen the importance of  
22          examining and acknowledging its past. However, since  
23          one of the purposes of the Inquiry is to make  
24          recommendations for the protection of children in care  
25          in Scotland from abuse in future, it is relevant to draw



1 attention to some of the differences that exist between  
2 the present school and the school of the 1950s to 90s.  
3 Perhaps the most obvious is the cessation of boarding in  
4 2008. Since then, the Academy has only taken day  
5 pupils. The fiefdoms of the boarding houses are gone  
6 and with them the attendant risks to child safety.  
7 Girls first arrived in the 6th form in the 1970s, and in  
8 the summer of 2008 full co-education reached all years  
9 of the Academy. None of the witnesses saw this as a bad  
10 thing. On the contrary, there was unanimity among all  
11 of those who mentioned it that the effect on the culture  
12 and atmosphere of the school was wholly positive.  
13 Several applicants mentioned it having had a dramatic  
14 effect on peer-on-peer bullying when the bullies had the  
15 girls to explain themselves to. Now in every year, the  
16 girls are rightly a constant presence.

17 The role of the ephor has been transformed from that  
18 of disciplinarian to service provider. Sanctioned  
19 beatings by the ephors came to an end in probably the  
20 early years of the rectorship of ICH [REDACTED], 196 [REDACTED] to  
21 197 [REDACTED].

22 LADY SMITH: I think it is 19 [REDACTED] to 19 [REDACTED] for Mr ICH [REDACTED].

23 MR MACNEILL: Sorry, I misread that. 19 [REDACTED] to 19 [REDACTED], indeed.

24 Now senior pupils apply to become ephors. It is  
25 explained to them in no uncertain terms that they will

1 be there to provide a service to the school and their  
2 fellow students. I should maybe expand on what I mean  
3 by that. I mean for instance at school events they have  
4 a role in setting up at the start and clearing up at the  
5 end, helping to ensure that the pupils get in and out in  
6 an orderly and safe way, that sort of thing. They have  
7 no disciplinary role. They are selected by a process  
8 involving firstly the application, and then voting by  
9 pupils and staff, interview by the rector and the senior  
10 pastoral team. The final selection is designed to  
11 reflect and represent the student population they lead.

12 The stranglehold on the role of ephor of the first  
13 fifteen and first eleven, which perhaps began to weaken  
14 in the early 1980s, is now firmly a thing of the past.  
15 As the Inquiry has heard, a new award has been  
16 instituted, the Aegis award, for the pupil or group who  
17 have done the most to make the school a safer, happier,  
18 place. The winner is determined by the pupils via  
19 a democratic process. The first winner was announced at  
20 this year's exhibition, otherwise known in other schools  
21 as a prize giving, in which the rector described it as  
22 particularly important as we consider the terrible  
23 things that have happened at EA in the past. He  
24 referred to the work of this Inquiry and the evidence it  
25 was going to hear. It is to be hoped that openly

1 recognising the past failings of the school -- and if  
2 I could just emphasise this having happened at the  
3 biggest, most prestigious event of the school year, with  
4 pupils and parents both present -- will be one of the  
5 many important features which will contribute to those  
6 failings not being repeated.

7 Mandatory reporting of suspected child abuse is  
8 already effectively in place at the Academy. Any  
9 suspicion of such behaviour would immediately result in  
10 disciplinary action and be reported to the General  
11 Teaching Council for Scotland.

12 LADY SMITH: When you say it is already effectively in  
13 place, Mr MacNeill, I think you know what I am about to  
14 ask you. Can you tell me any more about that?

15 MR MACNEILL: I am sure it is in the child protection  
16 policy, and I don't -- I am not aware of it being in the  
17 contracts of employment, as we have heard it is  
18 elsewhere. But I can certainly provide confirmation of  
19 the precise mechanism by which that is the case. It was  
20 certainly said that anything like that would immediately  
21 be raised once it is spotted. And I was just going to  
22 add, in fact, in relation to mandatory reporting, that  
23 mandatory reporting, by which I understand it is meant  
24 at least the way it has been described by some of the  
25 survivors as the attaching of criminal sanctions to

1 a failure to report abuse or a suspicion of abuse, and  
2 there has been mention in evidence, and is something to  
3 which the school is open. Questions of individual and  
4 corporate responsibility and the threshold for suspicion  
5 would be something that the Inquiry, stakeholders and  
6 legislators will have to address, and I am sure that is  
7 what your Ladyship was referring to when Mr Brown was on  
8 his feet.

9 LADY SMITH: Very much. That is where the difficult  
10 questions and complexities arise; how you create  
11 a really effective system.

12 MR MACNEILL: Indeed.

13 LADY SMITH: Thank you.

14 MR MACNEILL: But if a workable system can be designed, then  
15 certainly the Academy would be behind it.

16 LADY SMITH: Thank you.

17 MR MACNEILL: Meanwhile, the sanctions of discipline and  
18 reporting to the GTCS are firmly in place and of course  
19 the reporting of criminal conduct to the police.

20 LADY SMITH: Thank you.

21 MR MACNEILL: Picking up at paragraph 22, schools and  
22 teachers in the independent sector are now subject to  
23 exactly the same regulatory requirements as all  
24 education authority schools. Pausing there, I think the  
25 GTCS in their submissions mention that it became

1 compulsory for independent schools in June 2021, which  
2 is surprisingly recent, perhaps, but it has been  
3 encouraged by the Academy since long before then, and  
4 now as I say it is compulsory. All schools in Scotland  
5 now follow the National Guidance for Child Protection in  
6 Scotland 2021, which I see has been updated  
7 in February 2022.

8 References issued to prospective employers now  
9 include not only dates of employment, but any factual  
10 information relating to disciplinary action,  
11 safeguarding concerns, and any discipline issues.  
12 Reference forms should ask specifically for any concerns  
13 about the safety and the welfare of children, although  
14 one imagines that even if it wasn't explicitly asked  
15 for, if there were such concerns it would be provided.  
16 But no one suspected of abuse would now be quietly asked  
17 to leave as Iain Wares described his having been in  
18 1973.

19 Prospective members of staff are vetted much more  
20 thoroughly now, and appointments are not based on length  
21 of service. Applications are subject to an equality,  
22 diversity and inclusion filter, and PVG and social media  
23 checks are carried out. References are followed up with  
24 a telephone call or as a preference a Teams meeting, and  
25 the aim is to identify and eliminate any suspicion of

1 unprofessional or abusive conduct.

2       There is now an electronic centralised database on  
3 which child welfare concerns can be logged from the  
4 classroom desk and followed up appropriately. Students  
5 who have been identified as having specific learning  
6 support needs have an individual educational profile.  
7 In the event of a child "falling off a cliff", the  
8 expression that has been used by more than one survivor  
9 to describe an effect of their abuse, there are systems  
10 in place to identify, track, and tackle that.

11       The system of streaming classes has been modified in  
12 a way that reduces stigma but still allows pupils to  
13 progress at a pace that suits their learning needs. The  
14 notion that poorer teachers were assigned to lower  
15 streams is appalling. If anything, now, those  
16 struggling with a given subject will be in a smaller  
17 class set with a more able and experienced teacher.

18       The junior and senior schools are more integrated,  
19 no longer being run as distinct organisations, each with  
20 its own discrete hierarchy. The transition between them  
21 is now handled as a gradual introduction rather than  
22 a leap into the unknown, and I add that Barry Welsh  
23 spoke of recognising the difficulties with a split  
24 campus and the danger of information falling through the  
25 gaps. He spoke of the integration of management and his

1 presence in the junior school weekly. And he says more  
2 in the transcript, Day 367 at pages 123 to 125.

3 We have heard of widespread homophobic bullying.  
4 There is an active LGBTQ+ support group at the Academy,  
5 providing support to pupils of diverse sexuality.

6 On a basic architectural note, the bottleneck that  
7 existed between the main building and the Donaldson's  
8 Building, where older delinquents were described as  
9 loitering and bullying younger boys, has been replaced  
10 so that the whole area is open and visible. Perhaps  
11 that serves as a metaphor for the importance of openness  
12 and visibility when it comes to child welfare.

13 As an overarching approach, Barry Welsh in evidence  
14 stated his belief that when it comes to academic or  
15 other achievement, pastoral care comes first. For  
16 children to mature, learn and feel the benefits of  
17 education, they have to be happy first and feel safe  
18 first. Those boys who were being terrorised and trying  
19 their best to make themselves invisible were not  
20 benefiting from their education.

21 The philosophy of the school is now driven by the  
22 firm belief that children need to be cared for before  
23 they can be expected to learn. The school recognises  
24 that achieving that involves constant vigilance,  
25 continual evaluation of systems, ongoing training and

1 a lack of complacency.

2       Something that was mentioned in the survivors' group  
3 submission that was not mentioned in my written  
4 submission was the culture of "don't ask, don't tell",  
5 when it came to parents. The Academy encourages  
6 an active Edinburgh Academy Parents' Association with  
7 a parent representative from each class. Meetings with  
8 the senior management team every term. There is an app  
9 by which they communicate and raise concerns as and  
10 when, plus Parents' Association WhatsApp groups. All of  
11 which are intended to increase the openness and the  
12 communication as between parents and teachers, and  
13 indeed with children.

14       What I didn't mention is that there is a pupil  
15 council called Pupil Voice, which has class and year  
16 group representatives, and it is run by senior pupils  
17 rather than the staff. There is also an online  
18 confidential reporting system called Chatterbox, which  
19 allows pupils to report concerns directly to the  
20 pastoral team. The above are all there in an effort to  
21 eliminate any idea that "don't ask, don't tell" is at  
22 all a modern phenomenon.

23       I turn now to communication with survivors.

24       I am noticing the time, I am perfectly happy to  
25 carry on, or ...



1 LADY SMITH: I think if you are happy to carry on,  
2 Mr MacNeill, I would be happy to sit a little longer so  
3 that it doesn't interrupt your flow. I don't think you  
4 have too much further to go.

5 MR MACNEILL: Not a huge amount. Thank you.

6 Communication with survivors. Some suggestion has  
7 been made that the school did not do enough quickly  
8 enough in response to complaints of former pupils. In  
9 opening I said more could have been done, and no doubt  
10 it could. Without knowing the full extent of the abuse  
11 that had occurred, it is hard to identify the point at  
12 which an exercise such as writing out to all known  
13 former pupils, or former pupils taught by a given  
14 teacher would have been useful or appropriate. We know  
15 that Loretto wrote to pupils who had been taught by  
16 a particular master and received a significant response.

17 The approach of the Academy has been somewhat  
18 different. In investigating criminal conduct it was  
19 felt that the experts were the police. Any complaints  
20 of potentially criminal conduct, at least in  
21 recent years, have been met with an invitation to  
22 contact the police, and a promise of full cooperation  
23 with them. That promise has been made good and all  
24 requests for information from the police have been  
25 responded to fully and accurately. If the police had

1 felt to write out to former pupils of any particular  
2 category the Academy would certainly have provided them  
3 with the means of doing so. Barry Welsh in evidence  
4 also questioned whether a letter from the Academy with  
5 an invitation to contact it about potential abuse would  
6 have been welcomed by survivors, or all survivors, or  
7 would have been as effective in eliciting the desired  
8 response as it might be assumed it would have been.  
9 There is no doubt that what has been extremely effective  
10 in encouraging survivors who have been silent for years  
11 to come forward has been the work of the Inquiry, and  
12 the action taken by one of their own number,  
13 Nicky Campbell.

14 The Inquiry, and in submissions the survivors, have  
15 noted the change of tone between the rector's letter  
16 of February 2018 and his email to Neil Douglas of  
17 22 June, 2022; his style had become less mechanistic,  
18 and more human and compassionate. I say that that  
19 epitomises the change in approach by the school itself  
20 in recent years. The rector is in regular communication  
21 with the Edinburgh Academy survivors group and that  
22 communication continues. Among other topics on which  
23 their input will be received and welcomed is the  
24 recognition of historic abuse in the bicentennial  
25 celebrations taking place in the 2024/25 school session

1 and the development of the historical child abuse  
2 policy, which is presently in its second version, and  
3 a copy of which the Inquiry has.

4 The school's website, two clicks away from the home  
5 page, has a page on historical child abuse, with  
6 relevant contact information at the school and links to  
7 the survivors' group website and the policy.

8 Anger, guilt and shame. These emotions have been  
9 prominent throughout the testimony heard in this case  
10 study. Survivors are angry at the school. The Academy  
11 hears that anger and insofar as this is possible shares  
12 that anger at the individuals who perpetrated the abuse  
13 we have heard of or tolerated it or allowed it to  
14 happen.

15 Guilt and shame are understandable emotions but,  
16 with the greatest of respect, misplaced in the  
17 survivors. The guilt is the school's. The shame is the  
18 school's. The school let down pupils and parents very  
19 badly and needs to make absolutely certain it does not  
20 do so again.

21 LADY SMITH: Just picking up there, Mr MacNeill, on your  
22 mention again of parents. Something that struck me from  
23 some of the evidence was how being sent to a boarding  
24 school where they were abused and having to go back each  
25 term for some children wrecked their relationship with

1           their parents, because the original source of the  
2           problem was their parents sending them there, albeit in  
3           good faith and hoping they could trust the school to do  
4           well by their parents. But the school didn't just cause  
5           long term damage to those children, they also caused  
6           long term damage to one of the most important  
7           relationships a child can have, which is with their  
8           parents.

9   MR MACNEILL: Absolutely. Absolutely. And that came  
10           through strongly in the evidence of more than one of the  
11           applicants that we heard from, and the difficulty of  
12           feeling that one has been abandoned to the care of  
13           people who just don't care about you.

14   LADY SMITH: Yes. And the school not thinking about that,  
15           even if at some point they did think about the welfare  
16           of the children, regarding the children as an isolated  
17           silo, separate from the family from which they had  
18           emanated.

19   MR MACNEILL: Absolutely.

20   LADY SMITH: Yes. Thank you.

21   MR MACNEILL: So finally, before closing my submissions, can  
22           I just express some thanks. The school wishes to thank  
23           the Inquiry for the time, effort and attention paid to  
24           the school in uncovering features of its past that  
25           probably could not have been done so effectively in any

1       other way. In its vast work with the boarding schools  
2       and all other kinds of residential care, it is  
3       undoubtedly making a huge contribution to the protection  
4       and welfare of children in Scotland. We wish to thank  
5       the Inquiry team for their helpfulness, courtesy, and  
6       professionalism throughout. We wish to thank the  
7       Inquiry staff, here in West Register Street, who have  
8       helped us all with unfailing courtesy and proficiency.

9               Finally, and above all, the Academy wishes to thank  
10       and pay tribute to all of the survivors who have helped  
11       the Inquiry with its work, who have had the tremendous  
12       courage to come forward and speak about their most  
13       painful and intimate memories. Those who have been here  
14       in person, those heard remotely, and those who gave  
15       statements, all of whom spoke up with such great  
16       dignity, the important work of the Inquiry depended on  
17       them, and the Academy has learned so much from what they  
18       have had to do. They have the school's immense  
19       admiration and respect. They are all equally important,  
20       but it would be remiss not specifically to mention  
21       Nicky Campbell and his work with Alex Renton, in shining  
22       a light on this dark and frightening world.

23               The work with survivors is not over with this case  
24       study, however. That engagement continues and will  
25       continue for as long as there are survivors who wish it.

1 Thank you.

2 LADY SMITH: Thank you very much, Mr MacNeill.

3 Well, that completes the closing submissions in  
4 relation to this part of the boarding schools case  
5 study. I will rise in a moment. I am not going to  
6 promise a rapid production of the written output from  
7 this evidence that we have heard for two reasons: I want  
8 to take time to reflect on it and analyse it and think  
9 about it even further than we have done already, and  
10 also, as you have heard from Mr Brown at the beginning,  
11 we are still gathering evidence about the Edinburgh  
12 Academy and that will be taken account of as well. So  
13 please bear with me. Edinburgh Academy won't be  
14 forgotten, that's not why it will take a little bit of  
15 time before you get my written findings.

16 Meanwhile, thank you all for attending, thank you  
17 all for your interest, and I will rise now.

18 (1.12 pm)

19 (The hearing concluded)

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