

Thursday, 28 September 2023

1

2 (10.00 am)

3 LADY SMITH: Good morning.

4 This is the third day of evidence this week and we
5 turn to evidence that's going to be given by
6 a representative of Education Scotland, I think, who has
7 been here before, a couple of years ago, is that right?

8 MR SHELDON: That's right, my Lady. 2021.

9 LADY SMITH: Yes.

10 Is she ready, Mr Sheldon?

11 MR SHELDON: Yes.

12 Janie McManus (sworn)

13 LADY SMITH: Janie, welcome back. Thank you for coming to
14 help us again on behalf of Education Scotland, this time
15 in relation to our case study hearings into all forms of
16 secure care for children.

17 You've been here before. You know how we work. But
18 that doesn't mean that you are not very welcome to ask
19 any questions at any time, if you want any help with
20 anything or if you want a break, because I know we have
21 quite a bit to get through with you.

22 A. Thank you.

23 LADY SMITH: You will see some things coming up on screen,
24 that might be helpful to you. I see you've brought
25 quite a lot of documents with you. I think you did that

1 last time as well, if I remember rightly?

2 A. I did.

3 LADY SMITH: You always come with your homework in hand, but
4 let us know if you need a moment to find anything in
5 your own papers. That's not a problem.

6 If you're ready, I'll hand over to Mr Sheldon and
7 he'll take it from there, is that all right?

8 Mr Sheldon.

9 MR SHELDON: Thank you, my Lady.

10 Questions from Mr Sheldon

11 MR SHELDON: When you gave evidence before, I think my
12 colleague, Mr Brown, addressed you as Janie. Are you
13 happy for me also to address you as Janie?

14 A. Yes.

15 MR SHELDON: I think just for the record, my Lady, the
16 boarding schools evidence was Day 211 in March 2021.

17 LADY SMITH: Thank you. 17 March, I think it was.

18 MR SHELDON: That's right, my Lady, yes.

19 LADY SMITH: Thank you.

20 MR SHELDON: Janie, I think you are the Strategic Director
21 for Scrutiny for Education Scotland, is that right?

22 A. That's correct, yes.

23 Q. As we've heard, you have already given evidence and so
24 you know the drill. If there's anything that I'm not
25 making clear or anything that you want to clarify, don't

1 hesitate to ask me.

2 When you gave evidence in boarding schools, I think
3 we got some details about your CV, but just for our
4 records, am I right in thinking that you worked as
5 a teacher until about 1999?

6 A. Yes.

7 Q. And then as a headteacher and then as an HM Inspector of
8 Education until about 2014; is that right?

9 A. That's correct, yes.

10 Q. Perhaps if we could just look briefly at a document that
11 you have provided, it's the Education Scotland framework
12 document, which is SGV-000102945.

13 If we can look at page 4 of that, please.

14 Janie, I think this is a document which essentially
15 sets out the structure and governance of arrangements
16 for Education Scotland, is that right?

17 A. Yes, it sets out the -- because we're an agency of
18 Scottish Government we have a framework agreement that
19 sets out how we operate between ourselves and Scottish
20 Government as an agency.

21 Q. All right. Thank you.

22 I think we see there on page 4 of our document
23 system there is a role in the status of the agency which
24 tells us that it was established in 2011 as an executive
25 agency of Scottish Government. There's some material

1 there about a policy document, "Education governance:
2 next steps", 2017 and you note at paragraph 1.3 that
3 Education Scotland operates impartially, while remaining
4 directly accountable to the Scottish Ministers for its
5 performance and use of public funds.

6 That is just the basic background.

7 If we could look please at page 7. I think this is
8 a section where the document deals with the various
9 roles of personnel in the organisation; is that right?

10 A. Yes.

11 Q. At paragraph 4.6, towards the foot of that page, we see
12 a section about the Chief Executive and do we see
13 that -- I'm sorry, I'm on the wrong page. It's
14 paragraph 4.6. Just to take this from you, that we note
15 the role of the Chief Executive also encompasses the
16 roles of both HM Chief Inspector of Education and Chief
17 Adviser for Education in Scotland, so this is a dual
18 role, a foot in both camps, as it were?

19 A. Yes, and I could maybe give a bit of an update on that
20 as well.

21 At this point in time the Chief Executive was both
22 the Chief Inspector of Education and the Chief Adviser
23 for Education, with education reform there has been
24 a change to that. The Cabinet Secretary for Education
25 and Skills announced in June that she was going to be

1 recruiting for an interim Chief Inspector of Education,
2 so the previous Chief Executive left their post in
3 April, so there is an interim Chief Executive of
4 Education Scotland and there's now recruitment underway
5 for an interim Chief Inspector of Education, so it's
6 just a slight update.

7 Q. So these roles are going to be separated?

8 A. These roles are going to be separated.

9 Q. Have those appointments been made now?

10 A. We have an interim Chief Executive and recruitment for
11 the interim Chief Inspector is currently underway, so
12 the post has been put out to advert, but it's still in
13 that -- I think the advert closes tomorrow.

14 Q. All right.

15 Was this the result of some relevant policy
16 discussions about that particular issue?

17 A. This is I suppose in light of discussions around reform
18 and the reform of education and that the decision was
19 taken in June that because the previous Chief Executive
20 and Chief Inspector had left their post to take up posts
21 somewhere else that they would appoint an interim Chief
22 Inspector.

23 Q. So there is a wider discussion about educational reform,
24 but as part of it there's this move to separate these
25 two roles?

1 A. Yes.

2 Q. And to keep them independent of each other, is that how
3 we should see it?

4 A. I think that's how we should see it.

5 Q. If we could just look over the page please to page 8.
6 At paragraph 4.7 we see a section about the role of the
7 Strategic Director for Scrutiny, and that's you I think?

8 A. Yes, that's me.

9 Q. Do we see a number of bullet points, 4.8, about the
10 various functions that you perform?

11 A. Yes.

12 Q. I just wanted to ask you briefly about the first bullet
13 point. That's the function of publishing, monitoring
14 and promoting implementation of an appropriate code of
15 practice for inspection, currently known and published
16 as the standards and evaluation framework?

17 A. Yes.

18 Q. Is that something that you've done, Janie?

19 A. Yes, we have developed the standards and evaluation
20 framework and that's published on our website. It sets
21 out a number of different sections, how inspection
22 contributes to national performance and the National
23 Improvement Framework. It sets out the frequency of
24 inspection for different sectors --

25 Q. I'm sorry, Janie, could I possibly ask you to speak up

1 just a little? I'm struggling to hear you.

2 LADY SMITH: If you can get the microphone a little closer
3 to you I think it would be helpful.

4 A. We have published what we call a standards and
5 evaluation framework, which is on our website, and that
6 is our code of practice and there are a number of
7 different sections to it. It looks at the relationship
8 between inspection and how it contributes to the
9 National Improvement Framework. It looks at frequency
10 of inspection for different sectors. It has various
11 different links to our different -- what we call our
12 quality frameworks. We have the code of conduct for the
13 behaviours of inspectors is on there as well, as well as
14 the responsibility about how people treat inspectors,
15 the sort of two-way flow. So there's a number of
16 different sections to that standards and evaluation
17 framework.

18 Q. All right. Thank you.

19 We also see that it's your role to publish an annual
20 programme of inspections, so I'm guessing that just
21 means exactly what it says, that you publish in advance
22 the inspections that you propose to carry out?

23 A. What we publish in advance would be the numbers of
24 inspections that we're going to carry out per sector.
25 We don't publish in advance the particular

1 establishments that we're going to inspect.

2 Q. I was going to ask you about, because presumably there
3 are some inspections which are unannounced or on short
4 notice or whatever?

5 A. Yes. So in that annual programme we set out numbers.
6 We agree those numbers with the Cabinet Secretary and
7 then the actual notification of inspections usually is
8 around two-and-a-half weeks that establishments are
9 notified, so the list of establishments that we're going
10 to inspect isn't published in advance.

11 Q. All right. Thank you.

12 We know you have given evidence in the boarding
13 schools case study that we've done. The Inquiry is now
14 looking at a range of residential establishments used by
15 the State or provided by the State for children either
16 who committed offences or who have been found to be in
17 need of care and protection.

18 For our present purposes we are really talking about
19 special residential schools, secure care units and care
20 homes for children and young people. Am I right in
21 thinking that your function is in essence to inspect the
22 provision of education in these facilities?

23 A. Yes, that's correct. It's the education element that we
24 would focus on.

25 Q. You very helpfully produced three documents for us, and

1 I'll go to those just in a moment or two.

2 There is a Part 1 report, which I think deals
3 essentially with your present structure and functions
4 and procedures; is that the basis of it?

5 A. Yes, that is the basis of the Part 1.

6 Q. There is a Part 2 report, which is looking broadly at
7 Education Scotland's knowledge about past abuse and
8 unacceptable practices.

9 You have also produced a document, Annex A, which
10 I think is a more detailed examination of inspection and
11 other records. It's very lengthy, it's over 600 pages,
12 so I'm not going to attempt to look at all of that
13 today, my Lady. We'll clearly have to check it and
14 analyse it --

15 LADY SMITH: Of course.

16 MR SHELDON: -- against other evidence that we have.

17 Can I ask you this first of all, Janie, about
18 Annex A and the examination of the records, it's just
19 a very general question. The question is: how was that
20 done? Was that a physical examination of records by
21 Education Scotland's personnel or was it drawing on
22 other sources?

23 A. So it was a physical examination by the responsible unit
24 in Scottish Government and from Education Scotland
25 itself. What we looked at was the series of the range

1 of different documents that were available to us and
2 went through the documents and pulled out key evidence
3 and almost chronologies of events that we saw in those
4 documents and then rounded them up into looking at
5 aspects of abuse, aspects of attainment and pulled that
6 together in the report. We took all of the
7 establishments and created what we had from the
8 documents to develop the individual case studies, which
9 is why that annex is so lengthy. And then a summary
10 report that went alongside it.

11 Q. All right. It's a huge piece of work and I think we're
12 all very grateful for that. I'll look in a moment just
13 at a couple of examples of the analysis that has been
14 done.

15 Do we understand really that the Part 2 report is
16 essentially a summary -- if I can use a colloquialism,
17 it's a boiling down of the material in the annex?

18 A. Yes.

19 Q. Can we just look at Annex A, please, and that is
20 SGV-000101851.

21 If we look first of all at page 2, is that
22 essentially a contents page?

23 A. Yes, it's a contents page, going through each of the
24 establishment overviews, the type of establishment and
25 then the particular page numbers that gives you that

1 chronology of the case study.

2 Q. I think these establishments are all those which we gave
3 you notice that we're investigating?

4 A. Yes.

5 Q. At least in the original document, do I understand
6 correctly that the titles of the establishments in that
7 list are hyperlinks, which will take you straight to the
8 analysis in relation to that place?

9 A. Yes.

10 Q. Perhaps just to look at a couple of examples to
11 illustrate the kind of work that you've done.

12 We can look perhaps first of all at page 22, please.

13 If we scroll to the top, please. Thank you.

14 I think we can see that this is a section on the
15 establishment, St John's Springboig?

16 A. Yes.

17 Q. That was an establishment which was run by first of all
18 the De La Salle order and later by other bodies and
19 closed in about 2010?

20 A. Yes, that's correct.

21 Q. That section just notes a little bit of history about
22 St John's, and then in the table, if we scroll down,
23 please, do we see that there are a large number of
24 entries. First of all giving the date, description of
25 document, a reference on the database, which I think is

1 common to both our organisations, details of abuse or
2 allegations and actions taken. Is this just a brief
3 summary of material that you found in particular records
4 for that particular date?

5 A. Yes. What we did was we looked at particular documents
6 that we had for the date and we set them out in
7 a chronology to look at it and then what was the key
8 information related to either abuse or attainment later
9 on and then particular actions that were taken. These
10 are from the documents that were available to us, so
11 I think it was based on what was available to us. We
12 recognise that it's not a completion, because there may
13 be other documents that we didn't have.

14 Q. I appreciate that.

15 As I say, if we scroll down, we see that the first
16 entry is January 1961.

17 If we scroll on to page 23, I think we see another
18 entry for November 1961. That was about a stabbing
19 incident which had taken place at the school in the
20 weekend of 10/12 November. Two boys charged. We see
21 that in the actions column that HM Inspectors alerted
22 SED officials to the difficulties in the school.

23 Broadly speaking, is that what you would expect
24 an inspector to do in that circumstance?

25 A. I think what we have seen from the analysis of the

1 records is that over a period of time our relationship
2 with Scottish Education Department, Scottish Government
3 from that point has changed over a period of time. It's
4 also seen at points where we're part of the Education
5 Department and then we became an executive agency. So
6 there have been different relationships over time that
7 we've seen with that.

8 I think what we're seeing here is that as part of
9 that relationship at this point of time, from what we
10 can establish from these records, is that a number of
11 the reports that inspectors made at that time were to
12 the Scottish Education Department.

13 Q. Scrolling down again to page 24, we see the next entry
14 is for March 1962. Again it's a report of HM
15 Inspectors' visit to the school. That seems to have
16 been in response to a disturbance involving boys the
17 previous night, and there is some material there about
18 discussions that were had with GVA [REDACTED], who we think
19 is SNR [REDACTED] at the school. We see certain things that
20 GVA [REDACTED] has said about the individuals concerned and
21 the actions column, again:

22 "HM Inspectors met with managers of the school and
23 the SED to discuss recent incidents."

24 Again, there is clearly some action being taken
25 there to address what was being done?

1 A. Yes.

2 Q. As we scroll down, I think we see there's really a large
3 number of entries that you have analysed. If we go to
4 page 37, please, do we see there that there is
5 a summary, if we scroll to the top, you see the heading:

6 "Summary of findings from the review of the
7 available records."

8 Is this just exactly that, a summary of what you
9 found in the records?

10 A. Yes. What we've tried to do is -- some of the
11 individual case studies are longer than others, but what
12 we tried to do is what does that tell us when you are
13 going through all the individual entries we just tried
14 to pull together. What we saw particularly related to
15 incidents of abuse and pick out some of the key elements
16 just to make it more straightforward as part of
17 a summary, and also to look at elements around standards
18 of education and attainment as well.

19 Q. Again, just as an example, in the third paragraph there
20 we see your summary:

21 "During the early 1960s HM Inspectors expressed
22 concern about the laissez-faire attitude of headmaster
23 and staff and noted a complete lack of any systematic
24 approach to general training. HM Inspectors reported
25 that boys are contained and entertained, but not

1 trained."

2 Do we understand from that that these reports were
3 going back to SED?

4 A. Yes.

5 Q. Am I right in thinking that the whole of Annex A really
6 follows this general pattern, with your table of
7 findings from the various records and then a summary
8 like this at the end of that section?

9 A. Yes, for all the case studies, it's the same approach
10 that we've taken.

11 Q. Thank you.

12 Just to look at one more example then. If we look
13 at page 238, please. That should be a section on
14 Geilsland School. Again, I think you give a little
15 history about the school. It opened September 1964 in
16 Beith, one of four schools managed by the Church of
17 Scotland, and later by CrossReach. You note that the
18 school continued, albeit in a slightly different form,
19 until 2015 and presumably was inspected by not just your
20 predecessors but by you by that stage, as Education
21 Scotland?

22 A. As Education Scotland, yes.

23 Q. Again, scrolling down to page 239, do we see the same
24 format, with entries based on the records that were
25 examined by your colleagues?

1 A. Yes.

2 Q. Again, I think we see that there are really quite
3 a large number of entries. You see there July 1965
4 there is a concern about irregular punishment that SNR
5 SNR admitted to. He was reminded that irregular
6 punishment was wrong, no justification for striking or
7 cuffing, but I think we see that from the records
8 reviewed there's no information to indicate what further
9 action, if any, was taken by HM Inspectors, so at most
10 there seems to have been a warning issued here but no
11 other formal action?

12 A. For a number of the entries what we weren't clear about,
13 what we wanted to identify, was there any clear action
14 taken from the records? But what we weren't able to
15 establish in some of the records was what was the action
16 was or was any action actually required by inspectors,
17 or particularly was there action required by another
18 body either, so it's sort of those two-fold elements.
19 It's just not clear what action by a range of inspectors
20 or if anything was required.

21 Q. It's a very obvious example of physical abuse, if what
22 is written there is accurate. What would you expect to
23 happen in a case like that now?

24 A. In a case like this now, what we would be expecting --
25 if that was alerted by inspectors in that school, then

1 we would be raising it with the school. We would be
2 looking at the procedures that the school has in place
3 for dealing with incidents of punishment and that we
4 would be expecting that to be reported and we would be
5 following through to see that was reported. In this
6 incident where the -- if it was a member of the staff,
7 we would be expecting the school to have raised that and
8 alerted police in this instance, because it's a violent
9 incident and we would be checking that the school had
10 done that.

11 LADY SMITH: In this case, it's SNR [REDACTED].

12 A. If it's the headteacher we would be raising it with the
13 board. Sorry, I was just reading that.

14 If it was the headteacher we would be raising it
15 with the child protection co-ordinator in the school, if
16 they weren't the headteacher, or the board and checking
17 that police had been informed.

18 MR SHELDON: Thank you.

19 I may come back later to the issue of reporting to
20 child protection officers. We can talk about that in
21 connection with the Part 1 report.

22 I just want to look at a couple more entries from
23 this section. If we go to the foot of page 242, there
24 should be an entry for June 1966. It's 241 and on to
25 242. Starting 241, at the foot of that page.

1 I think you can see there a note of a visit,

2 June 1966. Visit by HM Inspectors:

3 "Two inspectors visited the school in June 1966. In
4 the report the HM Inspector was positive about the
5 relationships between the headteacher and boys. The
6 Inspector described the relationship as 'unique'. He
7 stated that boys liked the school because of how hard
8 they had to work. The Inspector noted that his main
9 criticism of the regime was that everything was about
10 the headteacher and that without him everything would
11 collapse in a day."

12 Your table notes that the report stated the
13 inspectors would be taking up some matters with SED and
14 the Board of Managers, but doesn't say what -- I think
15 there is a note of that below, in the next entry,
16 essentially that the matters should be taken up by the
17 Board of Managers

18 In a situation like that, Janie, what is described
19 as a unique relationship and that everything is about
20 the headteacher, does that raise any red flags? Would
21 that raise any red flags for you as an inspector?

22 A. Yes, I think what we're looking at is a number of
23 areas -- sorry, my screen jumped when you were talking
24 that through.

25 Where we did have some red flags then we would be

1 looking to raise that further around what was happening,
2 if we had any concerns around the approach that the
3 headteacher was taking.

4 LADY SMITH: Let's just assume that does evidence concern
5 about the headteacher here, a special, unique
6 relationship may have red flags all over it. You say
7 you would be looking to raise that further around what
8 was happening. What would you actually do? What would
9 you expect your inspectors to do?

10 A. In terms of -- if it was with the headteacher and if we
11 had concerns about the headteacher we would be looking
12 at who the child protection co-ordinator was, but if our
13 concerns were so significant that we felt that children
14 or young people were at risk, then we would raise those
15 matters with the police.

16 LADY SMITH: Okay. Thank you.

17 Mr Sheldon.

18 MR SHELDON: Thank you, my Lady.

19 Yes, I think it's perhaps going back to my Lady's
20 point about this being about the headteacher. Does that
21 pose particular problems for inspection, where there is
22 a concern about a headteacher as opposed to a more
23 junior member of staff?

24 A. I think we would look at the number of areas. For us --
25 I suppose it doesn't matter which member of staff it

1 was, but I suppose it's the response that we take to it.
2 When it's a member of staff and there is a child
3 protection co-ordinator and the headteacher we may raise
4 it with them, but particularly child protection. But
5 where we have allegations against a headteacher and your
6 routes then to raise it with someone are much more
7 limited, then if there was a risk to children and young
8 people then we would raise it with the authorities and
9 with the police.

10 Q. Who are "the authorities" that you are talking about in
11 this respect?

12 A. Sorry, the police.

13 Q. All right.

14 A. Sorry.

15 Q. If we can go now to page 307. You can take it from me
16 that that is the summary for Geilsland, so it certainly
17 appears that there are a large number of entries. We
18 have jumped a number of pages.

19 This is a school which has had some attention and
20 a number of concerns raised. The summary that you see
21 there notes:

22 "Records were available for the period 1965 to 2013.
23 In the period 1965 to 1981 inspectors had concerns about
24 the use of corporal punishment. That included irregular
25 punishment such as hitting boys and the high number of

1 incidents of corporal punishment. Inspectors had
2 concerns about very strict regimes, that included manual
3 tasks and extensive cleaning. There was an allegation
4 by a pupil of sexual misconduct against SNR
5 in 1965. Inspectors investigated the incident and did
6 not feel it merited further action. In 1997 handcuffs
7 were used at times to restrain pupils and one incident
8 included a boy being handcuffed to a radiator overnight.
9 However, it is not evident from files that inspectors
10 were informed of this practice. On a number of
11 occasions inspectors raised issues about corporal and
12 irregular punishments with SNR and the
13 Church of Scotland Board of Managers. SNR
14 was warned on a few occasions that irregular punishment
15 must not continue. He faced dismissal in 1966, but was
16 given one last chance after intervention from his trade
17 union. Despite instruction from the Board of Managers
18 that corporal punishment should cease by the end of 1968
19 it continued until around 1983. The school routinely
20 had the highest number of incidents of corporal
21 punishment compared to other Approved/List D schools.
22 A new headteacher was appointed in 1982 ..."

23 Just pausing there, it does appear then from the
24 records that there was an issue with corporal
25 punishment, with irregular punishment, with physical

1 abuse in other words, and that situation was allowed to
2 continue for 15 years and more. That seems a fairly
3 extraordinary situation; does it not?

4 A. Yes. I think in the area of corporal punishment,
5 I think we have seen in a number of records where there
6 have been punishments and hitting of children and young
7 people, very strict regimes and different -- but, yes,
8 it does seem a prolonged period.

9 LADY SMITH: The Board of Managers had instructed that
10 corporal punishment should cease by the end of 1968 and
11 it didn't.

12 A. Yes.

13 LADY SMITH: It carried on, this tells us, for 15 years.
14 15 years beyond a specific instruction from the Board of
15 Managers.

16 MR SHELDON: Sorry, my Lady, I don't want to cut across, but
17 just thinking about the Board of Managers, Janie, and
18 thinking about practice now, what would you expect the
19 Board of Managers to be doing in a case like this or
20 even faintly similar to this?

21 A. What we were looking for the Board of Managers, that it
22 would be very clear and looking at the lines of
23 accountability between the leadership of the school and
24 the Board of Governors, Board of Managers in this case,
25 and that they were monitoring and taking action. If

1 they were not taking action, then we would be looking at
2 their ability to govern the school.

3 LADY SMITH: Exactly. You have two problems there. What's
4 happening in the school should not be happening and
5 children are being abused and those who are responsible
6 for managing the school and seeing that it's managed in
7 a way that doesn't involve child abuse aren't following
8 up on their own good ideas, cessation of corporal
9 punishment for example. It's all very well to say it
10 has to stop, but if it doesn't stop and they do nothing,
11 what does that tell you about the quality of their
12 governance?

13 A. I think that's the two elements. The elements are does
14 the Board of Managers know what's happening in the
15 school and what's --

16 LADY SMITH: And if not why not?

17 A. -- their direction and, absolutely, if not, why not?

18 The second bit: what are they doing to monitor that?
19 Or what has been decided, what the policy is, what the
20 procedure is? And how are they monitoring the
21 implementation of that policy to ensure it's happening,
22 and if it's not happening, what are they then doing
23 around it?

24 LADY SMITH: Mr Sheldon.

25 MR SHELDON: Thank you, my Lady.

1 Switching the focus back again to the inspectors.
2 In a situation like this -- where nothing seems to be
3 happening, in spite of instructions being given -- what
4 would you expect inspectors to be doing in that kind of
5 circumstance?

6 A. There are two aspects to that.

7 Where there was abuse to children then we would be
8 raising it with the police, so it's the immediacy of
9 risk.

10 Secondly, for the school we would then be discussing
11 with the Registrar of Independent Schools and making
12 representation to Ministers whether we need to put
13 enforcement action or conditions on to that school to
14 make immediate changes. Then we would be following up,
15 particularly if there were conditions put on to the
16 school. It would require action to be taken within
17 a very specific timeframe and inspectors would then be
18 following up to ensure that that action had been taken
19 and reporting back on that as well.

20 It's the element around the immediacy and contacting
21 the police on it and then also what action is then taken
22 up on an ongoing basis to ensure that people are
23 fulfilling their duties.

24 LADY SMITH: You are seeing there three potential responses.

25 1, from the police, if there are or have been

1 specific incidents of abuse that may require police
2 action.

3 2, informing the Registrar of Independent Schools,
4 so the Registrar will respond to form his or her
5 judgment as to whether there's anything that he or she
6 should do.

7 3, as an inspection body looking at whether you
8 should use your powers to impose conditions on the
9 school.

10 Do I have that right?

11 A. I think that things sort of work in tandem. When we are
12 alerted to an aspect that's significant, we are liaising
13 with the registrar on an ongoing -- so there is
14 an element of we're not waiting, that discussion and
15 liaison with the Registrar of Independent Schools would
16 be on taking -- and together we would be making
17 representation to Ministers, and the speed of that
18 depends on particular situations where we would provide
19 advice to Ministers on what we have found. The
20 Registrar would look at the different powers Ministers
21 have around conditions to set on the school and whether
22 it would be deemed to be objectionable and then the
23 Ministers would then take action.

24 It's a bit of a joint approach and where -- in
25 a situation now you would I think reasonably assume that

1 there would be specific action that Ministers would
2 require the school to undertake within a time period,
3 and we would then work -- inspectors would work with the
4 Registrar and inspectors would then go back to the
5 school to ensure that the conditions that were set upon
6 the school had been met within the timeframe.

7 We would produce another report as to whether those
8 conditions had been made and it would then be again,
9 combined between ourselves and the Registrar, going to
10 Ministers.

11 MR SHELDON: I think even at the time we see from your
12 summaries of the records that inspectors are raising
13 this or some of this with SED, but it seems even there
14 nothing was being done or nothing substantive, so far as
15 we can tell. Is that right?

16 A. From the records we're not really able to see what was
17 done by SED. We didn't have any records to show that.

18 Q. From your previous answer, do I take it you would say
19 that at least one possible action that might be taken
20 would have been to make representations to Ministers --

21 A. Yes.

22 Q. -- at the time?

23 Just going back then to page 307, to finish off that
24 entry, we had looked at this section on the problems
25 with punishment and abuse, physical abuse. Just at the

1 foot of that first paragraph we see the note:

2 "A new headteacher was appointed in 1982 and in 1983
3 the school started to phase out the use of corporal
4 punishment. At this time, the use of segregation
5 increased."

6 Did that seem to be, from your analysis of the
7 records, the result of phasing out corporal punishment?

8 A. I don't think we were able to draw definitively if that
9 was or if that wasn't at that time. I would need to get
10 back to you on that one.

11 Q. Of course, yes.

12 I think just going on in that paragraph:

13 "In more recent times, 2005 to 2009, there were
14 a significant number of complaints about staff. These
15 complaints were mainly in relation to alleged physical
16 intervention or alleged assaults. In one case of
17 emotional abuse both staff members were dismissed ..."

18 Just thinking about that and in terms of physical
19 intervention, is that in these types of schools, these
20 types of, I suppose, special residential schools, is
21 physical intervention a particular issue or can it be?

22 A. I think it can be a particular issue. I think what was
23 seen over a period of time is much more clearer guidance
24 around physical intervention and physical restraint.
25 But it can be.

1 Q. All right.

2 Again, we'll come back to look at some aspects of
3 that in terms of your current inspection practice.

4 Just one other point from this summary. In the
5 second paragraph there, it's about two lines down, the
6 fourth sentence, I think beginning:

7 "HM Inspectors reported that education was
8 undervalued by the school. The priority for vocational
9 training instead of education was particularly evident
10 in the period 1965 to 1981. The appointment of a new
11 headteacher in 1982 resulted in a shift to a more
12 balanced curriculum ..."

13 Again, just thinking about your review of the
14 records, was that a pattern that you saw repeated
15 elsewhere?

16 A. I think in the period 1965 onwards I think what we saw,
17 in particular in this sector of schools, was an emphasis
18 based on vocational education rather than what we would
19 traditionally see now as a curriculum element, and
20 around potentially more work experience for children and
21 young people, rather than what we would expect to see
22 now. So this shift in education has happened over
23 a number of years.

24 Q. Just to be clear, what you are seeing there is people
25 being given work to do or shown how to do work perhaps

1 but not being instructed/given lessons in what we would
2 think of as core subjects like maths, English and so on,
3 sciences?

4 A. Yes. There may be an element of maths and English and
5 literacy element, but in terms of what we would expect
6 now and having a broad range of different learning
7 experiences and making sure that there is a progression
8 in learning as well, and it's actually suitable to the
9 needs -- I think more importantly that the children and
10 young people are engaged in learning, so there has been
11 a definite shift in the curriculum over the years and
12 what we would expect to see now.

13 Q. All right. Again, we can look at some current examples
14 or recent examples of that later on.

15 Just to note, the final paragraph on that page:

16 "Education Scotland recognises that the records that
17 it has identified, recovered and reviewed for the
18 purpose of this report may not reflect the actual extent
19 and scale of any abuse suffered by children at Geilsland
20 School."

21 Again, is that an issue, is that a phrase that you
22 use in relation to all or even most of the entries in
23 this annex?

24 A. Yes, it is. I think we recognise what we have been able
25 to pull out from the case studies and from the summary

1 are the records that we were able to access and that
2 were available. But we acknowledge that it may not be
3 a complete data set. It may not be the complete records
4 and there may be elements in there that don't give us
5 that actual extent and scale.

6 Q. All right. Thank you.

7 If we could put that document aside for moment,
8 please, and look at your Part 2 report. This is
9 SGV-000101854.

10 I think you told us earlier on that this is by way
11 of a summary, at least in part, of what we see in
12 Annex A. If we look, please, first of all, at page 3.
13 In the introduction you just note first of all that this
14 is a response to a Section 21 notice issued by the
15 Inquiry. You tell us which parts or which questions in
16 the Section 21 are addressed by which parts of the
17 report.

18 You note at 1.3:

19 "The Part 2 report should be read in conjunction
20 with the appended establishment overviews."

21 Some of which we have just had had a look at.

22 At 1.4:

23 "The report makes reference both to Education
24 Scotland and its predecessors and HM Inspectors. This
25 is to reflect the fact that HM Inspectors have existed

1 and statutory functions have been conferred on them
2 throughout the period of interest to the Inquiry."

3 A. Yes.

4 Q. In 2.1 you note the approach taken by Education
5 Scotland, and the second sentence:

6 "Education Scotland has undertaken a review of all
7 relevant content recovered from searches of material
8 held by it, and its predecessors."

9 We have seen the results of that in the annex. You
10 say that this has enabled an evidence-based assessment
11 to be made as to what was within the knowledge of
12 Education Scotland's predecessors. You note that for
13 the period 1930 to 2011 Education Scotland's response is
14 based solely on its assessment of the information
15 contained in written historical records, rather than
16 direct knowledge.

17 I think we appreciate, of course, that you,
18 Education Scotland, are a successor organisation and
19 a recent establishment, recent development.

20 Am I right in thinking that section 3 of the Part 2
21 report is a set of acknowledgements by you of what you
22 found from the records reviewed?

23 A. Yes, it is.

24 Q. At 3.1 you acknowledged that children accommodated in
25 the establishments under investigation were subjected to

1 practices, conditions and regimes that were abusive.

2 At 3.2, you acknowledge that some children committed
3 to some of these establishments were subjected to
4 physical abuse, including corporal punishment, sexual
5 abuse and psychological abuse, abuse predominantly by
6 staff, but you say peer-on-peer abuse also occurred.

7 At 3.3, you note that where Education Scotland and
8 its predecessors had an awareness, knowledge was
9 acquired in some instances directly through disclosures,
10 but more frequently acquired by Education Scotland and
11 predecessors indirectly through information being shared
12 with them by other agencies, such as the Care
13 Inspectorate.

14 That's really talking about a more recent period; is
15 that right?

16 A. I think more recent and also historically as well. From
17 some of the records you can see there's been exchanges
18 of emails, but sometimes it's hard to ascertain actually
19 whether it was sharing information and who the
20 information became available to, so there was a range
21 where, yes, we did see some disclosures but also
22 information sharing as well.

23 Q. Right. Thank you.

24 3.4, you note that Education Scotland considers the
25 remit of educational inspection historically was

1 insufficient to ensure that children in care were safe
2 from suffering harm and distress. You indicate that
3 today Education Scotland shares in the collective
4 responsibility of all agencies with a role to play in
5 the protection of children.

6 Perhaps you can just say a little more about that,
7 Janie. You see yourselves, in essence, as a partner?
8 Is that how we should view it?

9 A. Yes, yes. I think there is an element around the
10 limitations that can occur from external inspection, but
11 I think -- what I would say is that in Scotland everyone
12 who is engaging with children and young people, from
13 staff to external bodies, to Children's Services, to
14 inspectorates, we all have a collective responsibility
15 towards keeping children and young people safe.

16 Q. If we can jump, please, to 3.9. You have made the point
17 already that you think it's unlikely that all abuse will
18 have been reported, that there's underreporting in other
19 words. In 3.9 you note:

20 "Records indicate that in some establishments there
21 were periods when inspections by HM Inspectors do not
22 appear to have been carried out. For most of these
23 establishments the reasons for this is not clear. It is
24 known that methods for selecting schools for inspections
25 have varied over time. In one example there was

1 a 17-year gap between inspections in relation to the
2 open unit at Kerelaw School, from 1984 to 2001."

3 It's noted that a briefing to the Minister
4 responsible explained that this gap was due to a lack of
5 specialist staff required to carry out such inspections.

6 Just thinking about that briefly, that was the
7 position or appears to be the position historically.
8 What is the position now?

9 A. The position now for inspection of schools is that we
10 carry out inspections of schools on a sampling basis, so
11 it's not a cycle. Historically, there was a period
12 where we carried out a cycle of inspections, where
13 schools, including special and secure, would be expected
14 to be inspected between every seven years.

15 We moved in 2010/2011 to a sampling approach. The
16 numbers of schools inspected each year varied.

17 In 2018 we moved to carrying out at least 250
18 inspections each academic year, but it's still in
19 a sampling approach.

20 For this particular sector, because of the level of
21 vulnerability of children and young people who attend
22 this sector, we do inspect this sector more frequently.
23 So in the period 2015 we have inspected all of the
24 schools in this particular sector, because of the
25 vulnerability.

1 Q. Sorry, to stop you, what was the period?

2 A. 2015.

3 Q. Just in 2015?

4 A. 2015 until 2020, and then inspections paused in 2020 due
5 to pandemic.

6 LADY SMITH: You are telling me that over a five-year period
7 you inspected all the schools in this sector?

8 A. Yes, secure accommodation, yes.

9 LADY SMITH: Am I right in thinking what you are saying is
10 you have changed your approach so that there is a set
11 cycle for inspection in this sector?

12 A. No. There isn't a set cycle, but just because of the
13 level of vulnerability we have looked at that. We also
14 look at the level of risk as well in this sector, but
15 one of the, I suppose, "unique" elements around this
16 sector is that we have children and young people who may
17 be in the school for a short period of time, so the
18 changing in population is different. We don't have
19 a set cycle. It still falls under a broad sampling, but
20 because of that we tend to inspect this sector more.

21 LADY SMITH: Right. Your system for this sector is actually
22 the same as the rest of the schools, is it? It's
23 a sampling system?

24 A. Yes.

25 LADY SMITH: It just so happens that between 2015 and 2020

1 you did all these types of schools?

2 A. Yes.

3 LADY SMITH: But that doesn't mean that you're going to
4 carry on doing that?

5 A. No.

6 LADY SMITH: Right. Thank you.

7 MR SHELDON: Thank you, my Lady.

8 If I can follow up on that briefly. I suppose the
9 question then is -- in fact it might be helpful to look
10 at paragraph 3.10, over the page, just at the top there:

11 "HM Inspectors currently consider risk as one of the
12 criteria for selecting schools for inspection."

13 You have mentioned the increased vulnerability of
14 children and young people in this particular sector.

15 Albeit I think you are telling us that you use
16 a sampling approach rather than a cyclical one, is the
17 sampling process weighted, as it were, by your
18 assessment of risk?

19 A. Yes.

20 Q. Is the effect of that, if that is to continue to be the
21 approach, to mean or to result in the same thing
22 happening again, that all these schools would be
23 inspected within a similar period to the one that you
24 just talked about, 2015 to 2020, is that right?

25 A. Yes. There are a number of factors that sort of come

1 into play and it's one of the factors that when we are
2 looking at risk we are looking at -- particularly
3 information that now becomes available. Where we have
4 a residential element, we are also linking closely with
5 the Care Inspectorate. So there is a range of different
6 information available that we would be looking at. But
7 it would certainly be our intention to keep a close eye
8 on this sector, because of the level of vulnerability.

9 Q. All right.

10 Just picking up on a point that arose in the
11 previous paragraph. I don't think we need to go back to
12 that, but the briefing in relation to issues at Kerelaw
13 was that a gap in inspection there was due to a lack of
14 specialist staff. Does that remain a concern at this
15 time?

16 A. At this point in time we have 60-plus inspectors of
17 education across all sectors. We have a specialist team
18 of nine. We have sufficient staff at the moment in that
19 specialist sector that wouldn't -- I was going to use
20 two negatives there. So that gap of 17 years, we have
21 sufficient staff for that not to happen.

22 Q. When you talk about specialist staff, when you talked
23 about I think nine specialist staff, are these
24 specialists in this particular sector, the one we're
25 talking about?

1 A. Yes. All of our inspectors come from an education
2 background. They've all had leadership responsibilities
3 in particular sectors. We have a team of inspectors
4 with a specialism in special education, and some of
5 those have a particular specialism in secure care as
6 well.

7 Q. I suppose the specific question then is: is that level
8 of staffing and level of staff specialisation sufficient
9 to continue to inspect this sector on the basis that you
10 have been outlining?

11 A. Yes.

12 Q. Moving on then in section 3 of the Part 2 report, you
13 note again, at 3.12, that the limitations of the records
14 make it difficult in some cases to identify what action
15 was taken. We have talked a little bit about that.

16 At paragraphs 3.13 and 3.14 you give Geilsland as
17 an example of difficulties where inspectors were aware
18 of abuse but nevertheless unacceptable practice
19 continued.

20 Over the page, at 3.15, records indicate that the
21 historical approaches to inspection differ from the
22 approaches that are in operation today. The records
23 indicate that there was at times a lack of transparency
24 in the inspection process, which would not be acceptable
25 now.

1 What do you mean by that?

2 A. There are a number of areas in terms of the transparency
3 that have changed since this period of time. The key
4 area now is around the publication of inspection
5 reports. It was in the 1980s that we moved to publish
6 our inspection reports, so that our reports are now
7 published.

8 We now publish two aspects of reports. We publish
9 what we call a letter, or a report for parents, which
10 sets out key strengths and areas for development, but we
11 also publish what we call a more technical report, which
12 is a summarised inspection findings. So both those
13 documents are published.

14 The other shift that we have is in terms of
15 I suppose the focus of inspections, where it wasn't
16 until the 1990s that we started publishing our quality
17 frameworks that set out the specific areas that we would
18 look at and the specific criteria that we would be
19 inspecting against. So in that respect it's much more
20 transparent.

21 Q. There's publication now of the results of your
22 inspections, but also how you inspect?

23 A. Yes. I think it's also clearer in the reports than what
24 the next steps -- what the follow-up action would take,
25 and that's published as well.

1 Q. I think you say something about that in 3.16.

2 At 3.17 you note that the records also reveal
3 instances of historical practice whereby SED officials
4 amended inspectors' reports and other documents written
5 by inspectors. You give an example arising from a visit
6 to Balgay, where an amendment was made by an official in
7 SED and that was queried, but the query seemed to have
8 been overruled whoever the official was and/or by the
9 Minister.

10 Is that something which could happen now?

11 A. No.

12 Q. Why not?

13 A. What happens now is we publish our reports very clear
14 that the reports are the findings of inspectors. The
15 reports are sent to Scottish Ministers before they are
16 published and it's less than a week before they're
17 published, and they're sent to Ministers to note and it
18 is the final published version that Ministers see,
19 rather than draft versions.

20 In my experience since taking up post I've not been
21 asked to change reports, either by Ministers or by
22 policy officials either.

23 Q. All right. I suppose one might say or one might think
24 that given the cross-over of roles at the moment that
25 there might be at least an apprehension that there was

1 some influence or lack of independence about HM
2 Inspectorate's reports. Is that something that is
3 really recognised by the reforms that are now proposed?

4 A. I think it's recognised. In terms of the reforms
5 proposed, it was recognised from when the OECD published
6 the report that it was a sort of unusual configuration,
7 having an inspection body and improvement body in the
8 same organisation.

9 Q. Was it an unusual arrangement in terms of international
10 practice?

11 A. We have seen -- in international practice, there are
12 some inspectorates that are part of education
13 departments of government. For some inspectors there
14 are not. So there's quite a varied practice in
15 different inspectorates, in where they are located
16 within government or otherwise and the relationship with
17 government, so it sort of varies from country to
18 country.

19 Q. All right.

20 3.19, I think you say something about that, that
21 current approaches are underpinned by a number of
22 principles, including independence, impartiality and
23 accountability and that inspection reports are routinely
24 made available to the school. I think we understand
25 that wasn't always the case, was it?

1 A. No, it wasn't always the case.

2 Q. Inspectors might talk to individuals at the school, but
3 the report itself wouldn't routinely be shared, is that
4 right?

5 A. No, historically it wouldn't routinely be shared.
6 I think we have seen examples where schools have asked
7 for reports. I think picking up on some of the previous
8 sections, but now the reports are -- as well as our
9 detailed findings.

10 LADY SMITH: Can I just take you back, before we lose it off
11 the page, to 3.18, please, Janie. There is a reference
12 there to somebody called "the Official Correspondent",
13 who is that?

14 A. So the Official Correspondent --

15 LADY SMITH: Capital O and a capital C.

16 A. I'll go through the case study.

17 LADY SMITH: The footnote doesn't help.

18 A. No, it doesn't help. I will pull that out.

19 LADY SMITH: Can you check that and let me know?

20 A. I can.

21 LADY SMITH: Obviously somebody who has some degree of
22 power, because needs to be appeased, it would seem,
23 because the SED amended a minute so as to minimise the
24 inspector's concern.

25 I think we may have the answer from the oracles over

1 there. Do we have the answer, Mr Sheldon?

2 MR SHELDON: I thought I had the answer, my Lady, but

3 I thought I better check from the oracles.

4 The Official Correspondent is the link between the

5 Board of Managers and the department, so almost

6 certainly a solicitor or someone of that sort.

7 LADY SMITH: I see.

8 MR SHELDON: A sort of secretarial appointment in the sense

9 of a company secretary.

10 LADY SMITH: Appointed by?

11 MR SHELDON: Likely by the provider. Likely by the school.

12 LADY SMITH: By the provider?

13 MR SHELDON: Yes.

14 LADY SMITH: Thank you.

15 MR SHELDON: Certainly, my Lady, we can get chapter and

16 verse on that, but that, I think, is the position.

17 LADY SMITH: That would be helpful, thank you.

18 MR SHELDON: Back to section 3, 3.21.

19 You note:

20 "Today inspectors operate independently of Scottish

21 Government policy colleagues and reports are shared

22 confidentially with the Scottish Ministers and Scottish

23 Government Officials in advance of publication, for

24 information only, and not for amendment."

25 Ministers get, as it were, a first look, is that

1 right?

2 A. They get a look at the individual school reports just
3 before they are published. We usually publish on
4 a Tuesday, and on the Friday lunchtime/afternoon we will
5 send to Ministers and Scottish Government Officials
6 a copy of the reports that are going to be published the
7 next week.

8 Q. All right. So they have a chance to look at it over the
9 weekend?

10 A. Yes. It's very clearly that we put on "for noting".

11 Q. All right.

12 3.22, you note it's current practice to share
13 information. I won't say anything about that, Janie,
14 we'll look at that a little later on.

15 At section 4 we have a section about which is
16 headed, page 9 -- that is noted to be a section about
17 Education Scotland's knowledge of the nature and extent
18 of abuse in each of the relevant establishments.

19 Does this follow a form that there is
20 an acknowledgement that children were abused in various
21 ways, so you talk about physical abuse, sexual abuse,
22 peer abuse and so on. Is that the format of this
23 section?

24 A. Yes, it is.

25 Q. I think we see at 4.3, for example, that you are again

1 giving examples and I think these are summarising what
2 you have looked at for the annex?

3 A. Yeah. I think what we wanted to take out for each of
4 the areas, based on the case studies that we pulled
5 together, is to illustrate some of the points rather
6 than having to go through the case studies, but actually
7 where we could pull out some examples and what we tried
8 to do in the report was to pull out examples from
9 different schools rather than focus on one school. You
10 can see from some of the case studies some are really
11 lengthy --

12 Q. Can I just stop you for a moment and ask you, when you
13 talk about "case studies", are you talking about the
14 establishment overviews in the annex?

15 A. From the annex, yes.

16 Q. All right. Thank you.

17 4.4, page 11, for example, you are indicating there
18 that these examples illustrate that Education Scotland
19 and its predecessors were aware that sexual abuse
20 happened during the relevant period. The first bullet
21 point there is an illustration from St Mary's Kenmure
22 School about alleged sexual misconduct by the
23 headmaster.

24 Over the page, page 12, at paragraph 4.6:

25 "The following examples indicate that Education

1 Scotland and its predecessors were aware that neglect
2 existed during the relevant period."

3 Page 13, I think we see that the first example given
4 there is an example from Kerelaw School and a concern
5 about lack of access to food and medical care.

6 I think it seems from the summary there that that
7 was being used in essence as a punishment; is that
8 right?

9 A. Yes. I think why we drew this one out was because if
10 pupils didn't return to school by a certain time.

11 Q. Am I right in thinking that there are other examples of
12 that sort of punishment being used, for example from
13 Balgay School --

14 A. Yes.

15 Q. -- where food was withheld as a form of punishment?

16 A. Yes.

17 Q. Again, 4.7, same page, these examples indicate awareness
18 that unacceptable practises existed during the relevant
19 period and there is an example from Balgay. This is
20 about a query whether requiring girls to attend church
21 twice on a Sunday could be regarded as a form of
22 punishment. That was, I think, not pressed by the
23 inspectors, having had assurances that the girls enjoyed
24 church attendance. Do we see that?

25 A. Sorry?

1 Q. We see in the last sentence that the Inspector raised
2 the matter with the headmistress, who assured him that
3 the girls enjoyed church attendance?
4 A. Yes.
5 Q. Is that something that would be likely to happen now?
6 A. No. In my experience I haven't come across that now.
7 LADY SMITH: There is also an element there of a reluctance
8 to press the managers, because of managers themselves
9 having strong church connections?
10 A. Yes.
11 LADY SMITH: Looking at matters through their eyes rather
12 than through the children's eyes. Thank you.
13 MR SHELDON: Another example at page 15, please, 4.8, it's
14 noted there that the abuse outlined was predominantly
15 perpetrated by staff upon children within their care,
16 but you say the records do also include instances of
17 peer-on-peer abuse, albeit to a lesser extent, and again
18 some examples are given.
19 The first example there is a note of a visit to
20 Dr Guthrie's Girls' School in 1958, which uncovered
21 a practice of girls physically dragging unwilling pupils
22 to the punishment room. What is the idea, as it were,
23 behind the punishment room? What sort of thing is that?
24 A. We would see in that with peer on peer, hitting of
25 other -- of peers, as part of that.

1 Q. I'm sorry, I didn't catch that.

2 A. So you would see peer on peer, so other children hitting
3 children or being violent towards other children.

4 Q. Is the record suggesting that punishment was
5 administered in the punishment room by other girls, or
6 was the room itself the punishment?

7 A. Can I get back to you on that?

8 LADY SMITH: It's on the screen. If you look at the last
9 bullet point that's showing there, the description seems
10 to be of some girls physically dragging other girls,
11 presumably who were unwilling to go to the punishment,
12 to the punishment room. Do we have that right? Is that
13 how you understood it?

14 MR SHELDON: That is how I understood it, my Lady, yes.

15 LADY SMITH: I think we were interested in what is going on
16 here and what is this punishment room all about. Do you
17 know?

18 A. I think what you are asking: was the punishment room
19 then carried out by pupils or by adults?

20 MR SHELDON: I think we were just interested in what the
21 punishment room was.

22 A. I can get back to you on that particular point.

23 Q. I'm sure we can see that from the note in Annex A, if we
24 need to find out further information about that.

25 LADY SMITH: Whatever was going on, the inspector was

1 alarmed, it would seem, because the inspector said it's
2 got to stop now.

3 A. Yes.

4 LADY SMITH: But the school's response was, "Oh, that's all
5 a bit difficult. It's not always possible to prevent
6 it".

7 A. Yes.

8 LADY SMITH: No note, I take it, in the absence of us being
9 told anything further, of further efforts on part of the
10 inspector get to get the message through to them that
11 they have to try harder or something to that effect.

12 A. Yes.

13 LADY SMITH: Mr Sheldon.

14 MR SHELDON: Thank you, my Lady.

15 On page 16 there is a section on corporal
16 punishment. At 5.3 there is an acknowledgement:

17 "Notwithstanding the fact that corporal punishment
18 was permitted within certain parameters for much of the
19 relevant period, Education Scotland considers that its
20 inappropriate use was an abusive practice and that what
21 was considered permissible within the rules then would
22 certainly constitute abuse and would be illegal today."

23 You go on to note a section of the UN Convention on
24 the Rights of the Child. Do I have this right, that
25 Education Scotland is acknowledging or considering,

1 I think you say, that inappropriate use of corporal
2 punishment, even when permitted, was an abusive
3 practice?

4 A. Excessive, when it was excessive or inappropriate.

5 Q. By that do you mean corporal punishment beyond the
6 bounds of what was then legal?

7 A. Yes.

8 Q. All right. Thank you.

9 5.4, page 17, I think it again gives a series of
10 examples of where excessive corporal punishment was
11 noted.

12 The first one being again an example from Balgay
13 School, 1957.

14 I think we'll be looking at Balgay School in some
15 detail at a later stage in the case study, my Lady.

16 Section 6, page 18 deals with knowledge of the
17 nature and extent of abuse of children between
18 17 December 2014 and the present date.

19 I think you've done an analysis of much more recent
20 records?

21 A. Yes.

22 Q. I think you say that in general the number of entries
23 tending to show abuse are rather lower than they were
24 historically; is that fair?

25 A. That's fair.

1 Q. Over the page, 6.3, page 19, you note that records of
2 relevance to the notice were identified in respect of
3 four establishments: St Philips, Plains; Kibble; Rossie;
4 and Edinburgh Secure Services, formerly Howdenhall. You
5 say that no information relating to abuse was identified
6 in respect of the other five establishments which were
7 open during this period.

8 At 6.4 it can be seen that records show that
9 Education Scotland was aware of instances of alleged
10 physical abuse and unacceptable practices. You note
11 that was predominantly acquired as a result of the Care
12 Inspectorate sharing relevant information with it. That
13 is in accordance with the memorandum of understanding.

14 Should we understand that there is an understanding
15 between your organisation and the Care Inspectorate that
16 information about this sort of thing will be shared?

17 A. Yes.

18 Q. I think we can look at that again a little bit later on.

19 LADY SMITH: Can you tell me when a memo of understanding
20 between you first came into existence?

21 A. I would need to check back the exact date of that,
22 Lady Smith.

23 LADY SMITH: I'm thinking not just of what now is the Care
24 Inspectorate, but its predecessor, the Care Commission.
25 Do you regularly update the memo?

1 A. Yes. The memorandum of understanding is regularly
2 updated.

3 LADY SMITH: Thank you.

4 MR SHELDON: I think we can have a look at what is the
5 latest memorandum of understanding later today, my Lady.

6 LADY SMITH: Thank you.

7 MR SHELDON: Still page 19, 6.5, you give I suppose
8 a definition of "physical intervention".
9 At 6.7 you note:
10 "Restraint is a particular kind of physical
11 intervention, namely an act carried out with the purpose
12 of restricting a child or young person's movement,
13 liberty or freedom to act independently."
14 I think at page 20, 6.8, you go on to give a number
15 of examples of records of restraints being applied. Is
16 that right?

17 A. Yes.

18 Q. First bullet point on page 20, it's noted that a young
19 man sustained a broken hand and facial bruising in 2006
20 as a result of a physical restraint carried out by three
21 members of staff. Inspectors advised the Chief
22 Inspector, who recommended that the Care Commission
23 should report the incident to the Registrar. That is
24 the Registrar of Independent Schools, is that right?

25 A. Yes.

1 Q. Records demonstrate communications took place between
2 the Registrar, Care Commission, HM Inspectors and the
3 Ministers, so there was awareness and it seems that
4 staff members concerned were suspended and a report sent
5 to the Procurator Fiscal Service, the decision was taken
6 by the Fiscal to discontinue the case, for reasons
7 unknown, in 2009. It seems that action was taken in
8 that instance, but no prosecution resulted?

9 A. Yes.

10 Q. 6.9, over the page, page 21, the following example
11 demonstrates Education Scotland was aware of
12 unacceptable practices during this period. The example
13 there was arising from an inspection of Edinburgh Secure
14 Services in September 2022.

15 The report of the inspectors found there was
16 insufficient information regarding safe ways in which
17 individual young people should be held if physical
18 intervention was necessary. As a matter of urgency,
19 inspectors asked school leaders to develop a shared risk
20 assessment and agreed physical intervention plan for all
21 young people and to ensure that all staff understood
22 best practice.

23 Just to be clear, in this example/this instance you
24 were saying the unacceptable practice was the failure to
25 have information or procedures set out for staff?

1 A. Yes. In this case we weren't satisfied with the
2 documentation, particularly around the plan and the risk
3 assessment. We would expect now for -- where there are
4 children and young people who may require physical
5 restraint that there is a very clear plan and a very
6 clear risk assessment of particular triggers or
7 particular situations where physical restraint may be
8 required.

9 In the case of Edinburgh Secure we weren't satisfied
10 that the documentation in the initial stages was
11 satisfactory, so we asked for that to be undertaken as
12 a matter of immediacy and for us to send the revised --
13 because Edinburgh Secure was a Local Authority Service,
14 the Local Authority was involved in that as well.

15 LADY SMITH: Mr Sheldon, it's now 11.30. I think we should
16 take the morning break now.

17 If that will work for you, Janie?

18 MR SHELDON: I was about to suggest that, my Lady. Thank
19 you.

20 LADY SMITH: I'll sit again in about a quarter of an hour or
21 so.

22 Thank you.

23 (11.30 am)

24 (A short break)

25 (11.45 am)

1 LADY SMITH: Janie, are you ready for us to carry on?

2 A. Yes, thank you.

3 LADY SMITH: Thank you.

4 Mr Sheldon.

5 MR SHELDON: Janie, we were looking at your Part 2 report,
6 page 21.

7 This is a section, section 7, on Education Scotland
8 and I dare say their predecessor's knowledge of
9 complaints or allegations of abuse during the relevant
10 period, that's up to 2014.

11 7.1 indicates the records reviewed showed
12 a significant number of complaints and there was both
13 direct and indirect knowledge of that.

14 7.2, it's noted the complaints related to a range of
15 issues, excessive corporal punishment, physical abuse,
16 sexual abuse and unacceptable practices.

17 The evidence shows that in some instances complaints
18 were made by the victim shortly after the event, but
19 there are other instances where the abuse was not
20 disclosed for many years.

21 The records show that some complaints were made by
22 staff, including teachers against their colleagues, by
23 parents of children in the relevant establishments and
24 also by third parties. Complaints were made verbally
25 and in writing, with a small number being made directly

1 by pupils to HM Inspectors.

2 There is also evidence to show some complaints were
3 made in writing to those in positions of authority,
4 including MPs, Government officials and others such as
5 the Care Commission/Care Inspectorate.

6 7.3 notes that although there was awareness of
7 complaints and allegations, it's not clear from the
8 records in many cases what further action was required
9 of or taken by HM Inspectors.

10 I think you say it may be due to the fact that it's
11 just not recorded or the records not available. Again
12 there are some gaps in the records there, it seems?

13 A. Yes.

14 Q. You say, in fairness also, that it may also be explained
15 by the fact that HM Inspectors do not have regulatory
16 powers or remit to investigate complaints or rather that
17 the appropriate response was within the remit of other
18 agencies, such as the Care Inspectorate or the
19 Registrar.

20 I think that's just noting that it's the Care
21 Inspectorate really who have the powers of enforcement
22 here and not Education Scotland; is that right?

23 A. Yes. We don't have enforcement powers and we don't have
24 the remit to investigate complaints.

25 Q. All right.

1 Again, you give some examples.

2 7.4, page 22. The first bullet point there is
3 an example of where an inspector had interviewed pupils
4 privately, revealing numerous allegations that food was
5 being withdrawn as a punishment and there was
6 a recommendation that that -- presumably to the school
7 Board of Managers or Governors -- that that practice
8 should be stopped immediately. Indeed SED insisted that
9 the headmistress should be dismissed, but the schools's
10 managers, we are told, failed to obtain the same
11 evidence and indeed supported the headmistress.

12 It appears there that children then interviewed by
13 the managers weren't speaking up as they had to
14 inspectors?

15 A. Yes.

16 Q. There is then an example from St Ninian's, 1964, and it
17 included a complaint by the headteacher or a report by
18 the headteacher that another Brother had the habit of
19 hitting the boys with a lace. HM Inspectors provided
20 a note of the visit to SED officials and it's not clear
21 from the records what further action was taken.

22 Again, just to be clear, what kind of action would
23 you expect to be taken now in respect of that sort of
24 report or complaint?

25 A. In terms of that, that particular point, where a child

1 had disclosed ultimately abuse to an inspector, we would
2 be looking -- what we do is we follow the school's Child
3 Protection Policy. What we would do is we would report
4 it to the child protection co-ordinator, assuming that
5 it's not the same person. We would then follow through
6 with the school that they have reported it to social
7 work, Children's Services, and that the action was
8 followed through and we would check that the school has
9 followed through on that action. We would also provide
10 written documentation of what was disclosed to us as
11 well.

12 Q. While it's in my mind, Janie, just in relation to
13 Dr Guthrie's Girls, could we look back briefly please at
14 the annex document, that's SGV-000101851, page 330,
15 please.

16 This is just to clear up the point about the
17 punishment room, my Lady, at Dr Guthrie's.

18 LADY SMITH: Oh, yes.

19 MR SHELDON: The entry, I think we see at the foot of
20 page 330.

21 LADY SMITH: It was mentioned at 4.9 in the first bullet
22 point, at the bottom of page 15, wasn't it?

23 MR SHELDON: That's right. I think this is the equivalent
24 entry in the annex document. At the foot of 330, entry
25 for October 1958, there is a record of inspectors'

1 visits at various dates. Right at the foot of that
2 page, it's noted that inspectors had recommended there
3 should be less corporal punishment, particularly when
4 used against older pupils.

5 Over the page, the practice of fellow pupils forcing
6 unwilling girls to the detention room should be stopped
7 and the pupils in the room should have a means of
8 occupying themselves.

9 Does it appear there, Janie, that the punishment
10 room that we see in the summary, or the reference to the
11 punishment room, presumably is a reference to a
12 detention room, a place of detention, rather than
13 a place of punishment --

14 A. Yes.

15 Q. -- in the sense of physical punishment of some sort?

16 A. Yes.

17 Q. All right.

18 LADY SMITH: Thank you.

19 MR SHELDON: So back, please, to the Part 2 report. That's
20 SGV-000101854. Go to page 25, please.

21 This is headed, "The extent of Education Scotland's
22 knowledge of complaints or allegations from
23 17 December 2014 to the present".

24 As I think you indicated in the earlier session
25 today, 8.2, there are significantly fewer records to

1 review in relation to this time period and the records
2 available contain very few references to abuse and
3 unacceptable practices in relation to children
4 accommodated in the relevant establishments.

5 Education Scotland acknowledges that doesn't mean
6 that abuse did not occur. Again, you are indicating
7 that records of relevance were identified in relation to
8 the four establishments that we looked at before. 8.4
9 again gives a number of examples.

10 First bullet point, 2020, Education Scotland
11 received an email complaint from the parent of a pupil
12 at St Philip's School. The parent alleged inappropriate
13 use of restraint, which resulted in bruising. Education
14 Scotland followed its child protection and safeguarding
15 policy -- I think we'll look at that later, Janie --
16 which required it to notify a senior member of staff
17 within the relevant Local Authority of the complaint.
18 Education Scotland advised the parent to communicate
19 with the school's Board of Governors, to follow the
20 school's complaint procedures and of their right to
21 complain to the Local Authority and the Registrar.

22 You make the same point again that Education
23 Scotland does not have a remit to investigate
24 safeguarding or child protection concerns.

25 You say there that Education Scotland notified

1 a senior member of staff at the relevant Local
2 Authority. Why is that the first port of call, as it
3 were?

4 A. Because I think in this particular school ... it's
5 a Local Authority area.

6 Q. It's Local Authority run?

7 A. Yes. Then we would get assurance from the Local
8 Authority that they've looked into it.

9 Q. All right. What would the position be if it was
10 an independent school that was involved in this
11 complaint?

12 A. If it was an independent school we would then link in
13 with the Registrar -- would look predominantly at that
14 and seek assurances from the school and then if the
15 Registrar required any follow-up action from inspectors.
16 It would be that close liaison with the Registrar.

17 Q. Thank you.

18 Second bullet point on page 26. September 2021.
19 The Care Inspectorate received an anonymous complaint in
20 relation to Rossie, which they shared with HM Inspectors
21 for information only by email. So the Care Inspectorate
22 is essentially copying HM Inspectorate in?

23 A. Yes.

24 Q. Do we take it from that that the Care Inspectorate is
25 primarily the body dealing with this complaint?

1 A. Yes.

2 Q. All right.

3 This was a complaint that young people were being
4 locked in their rooms due to staff shortages. The
5 complaint was investigated by Rossie's managers and
6 upheld. The same email also alleged that the school had
7 failed to provide education for two weeks due to poor
8 management and lack of staff.

9 There was no requirement for HM Inspectors to take
10 any action as a result of the information being shared
11 with them.

12 I just wonder why that's the case, Janie, when there
13 is a complaint here of failure to educate as well as
14 what may be inappropriate use of seclusion or restraint?

15 A. In this case because the complaint was upheld and the
16 school had taken action from it and linking in with the
17 Care Inspectorate, that action has been taken as
18 a result of it and the complaint was upheld.

19 Q. Thank you.

20 Janie, can I just ask you again to pull the
21 microphone towards you a little. I'm still struggling
22 to hear you a little.

23 A. I think also in this case, because we were in a period
24 during the pandemic and we weren't carrying out routine
25 inspections of schools, but what we did do for this

1 particular school in Rossie was put it on an inspection
2 list for last academic year and we inspected it -- it
3 has been inspected in the past year.

4 Q. Thank you.

5 Just thinking about that last point, Janie, it was
6 of course the period of the pandemic at that time. Were
7 you as an organisation aware of other issues where there
8 were staff shortages, perhaps because of the pandemic,
9 and that had a knock-on effect for young people in care
10 settings?

11 A. No, we weren't aware particularly of that, that I can
12 recall, that it was a particular issue raised with us
13 around staff shortages.

14 Q. Thank you.

15 Over the page, page 27, please. Section 9. That is
16 just a note of the sources of Education Scotland's
17 knowledge. You say that's partly the records that have
18 been identified and those are records both prior to 2014
19 and after 2014. You say that a separate methodology is
20 being provided to the Inquiry explaining how the source
21 records for this report were identified.

22 Is that a work in progress, as it were?

23 A. Yes. I thought that had already been provided, but
24 I'll double check.

25 Q. Thank you.

1 Paragraph 10, same page, whether in the case of the
2 relevant establishments or any of them there were
3 problems or issues historically as regards educational
4 attainment and, if so, the nature of such problems.

5 We've looked briefly at this issue already in
6 relation to Geilsland I think, and the focus there on
7 vocational education.

8 A. Yes.

9 Q. 10.1, Education Scotland acknowledges that based on the
10 records there were a range of issues historically
11 regarding educational attainment in at least some of the
12 relevant establishments. There is substantially more
13 evidence available for review in relation to educational
14 attainment than in relation to allegations of abuse.
15 That is unsurprising, you say, given the purpose of
16 inspection, namely to report on the quality of
17 educational provision?

18 A. Yes.

19 Q. I think, again, you go on to look at some examples.
20 Page 29, paragraph 10.11. The first bullet point there
21 is regarding a note from an HM Inspector, dated
22 30 September 1959, concerns raised by the headteacher of
23 Perth Academy regarding the behaviour of girls from
24 Balnacraig School and their suitability to attend
25 mainstream education at Perth Academy.

1 Does it seem that girls from Balnacraig were being
2 sent to Perth Academy for their education at that stage?

3 A. Yes.

4 Q. A number of years later, 1964, an educational
5 psychologist indicates that in their view the girls
6 needed specialist training and as such an in-house
7 education provision was needed. The records suggest
8 that in-house provision was not implemented until 1971,
9 although the breadth of the curriculum was considered
10 inadequate and the school would not be registered until
11 it provided a science curriculum.

12 Does it appear there that there's a lengthy period,
13 until the early 1970s, where the girls aren't really
14 being educated properly at all?

15 A. I think I would need to double check on that and the
16 level of education they were getting, but I think what
17 we're seeing here is that in terms of in-house
18 education, education in that particular establishment,
19 that it wasn't sufficient at that point in time.

20 LADY SMITH: Is the time you are referring to 1971? I can
21 see 1964, the psychologist, educational psychologist
22 says:

23 "These girls need in-house education."

24 Seven years later, in-house education starts at
25 Balnacraig. Are you telling me that -- I'm to take from

1 that there is a "however". However, although they
2 started their in-house education, it wasn't good enough?

3 A. Yes.

4 LADY SMITH: Curriculum not broad enough and not good enough
5 to be registered --

6 A. Yes.

7 LADY SMITH: -- as a school providing education?

8 A. Yes.

9 LADY SMITH: Thank you.

10 MR SHELDON: I'm obliged, my Lady.

11 Just as another example, a second bullet point there
12 on page 29:

13 "A visit by HM Inspectors to St John's Springboig in
14 1966 revealed that all education offered by the school
15 was of vocational training and that the boys were
16 observed proceeding about their jobs with an apparent
17 lack of interest [I think that should be 'or']
18 enthusiasm. It's not clear from the records whether any
19 further action was taken by HM Inspectors."

20 Again, there is a similar issue to the one that we
21 saw at Geilsland that this is all vocational. The boys
22 aren't apparently being given any education in the core
23 academic subjects, is that right?

24 A. Yes.

25 Q. At page 32, paragraph 11, there is a section about

1 reform. If we can come back to that, Janie, and I will
2 come back to it, but I want to just jump to your
3 conclusion to round off this part of the evidence.

4 The conclusion I think is by way of a set of
5 acknowledgements about past abuse; is that right?

6 A. That's correct, yes.

7 LADY SMITH: It begins at paragraph 12, does it, page 33?

8 MR SHELDON: Yes. Paragraph 12, page 33, my Lady, yes.

9 At 12.1 I think you say that Education Scotland
10 accepts that it and its predecessors were aware of some
11 of the abuse and harmful practices suffered by children
12 in a number of the relevant establishments throughout
13 the period, and that's the period almost to the present
14 day.

15 It's acknowledged by Education Scotland that such
16 treatment of children and young people is unacceptable
17 and should not have happened:

18 "Education Scotland is committed to learning lessons
19 from the past and will listen to and reflect carefully
20 on the evidence of survivors. Education Scotland will
21 implement any necessary improvements to minimise the
22 risk of similar abuse and harmful practises occurring
23 again."

24 There is an acknowledgement there that abuse
25 occurred, that it was unacceptable and shouldn't have

1 happened and you are saying that Education Scotland will
2 implement any necessary improvements to prevent such
3 things happening again.

4 I understand that there may be something else that
5 you may want to add to that, Janie, and with my Lady's
6 permission I would invite Janie to do that.

7 LADY SMITH: Please do.

8 A. Thank you.

9 You know I'm here today on behalf of Education
10 Scotland to assist the Inquiry with its investigations
11 into the abuse of children and young people accommodated
12 in establishments for their care and protection or in
13 Young Offender Institutions and who were in receipt of
14 education there.

15 In preparation for giving evidence to the Inquiry,
16 Education Scotland carried out an extensive review and
17 evaluation of records that they held in relation to
18 establishments included in this phase.

19 Education Scotland has acknowledged in its written
20 response to the Inquiry that children and young people
21 suffered abuse and other unacceptable practices whilst
22 accommodated in one or more of these establishments and
23 I want to reiterate that acknowledgement in person.

24 It's unacceptable that any child was abused or
25 subjected to abusive practices, conditions and regimes.

1 Children attending educational establishments should
2 have done so with the expectation that they would be
3 safe and free from harm, for children who were abused
4 this was not the case.

5 On behalf of Education Scotland, the agency
6 currently responsible for inspection of education,
7 I would like to apologise sincerely for failings in
8 inspection regimes that have operated over the years and
9 contributed to the creation of environments that enabled
10 the abuse of children to take place.

11 I would like to apologise to each of those children
12 and their families for the harm and distress caused at
13 the time of the abuse and the effect this has had on
14 their lives.

15 In my capacity as Strategic Director for Scrutiny,
16 I want to ensure that inspection of education is trusted
17 by children and that it will help to protect them and
18 keep them safe from harm. While there have been changes
19 to inspection over the years, including an increased
20 focus on child protection and safeguarding, I want to
21 ensure that Education Scotland does all it can to
22 promote the safety and well-being of children when they
23 are in education and that all possible measures are
24 taken to ensure that education is delivered within
25 a safe environment.

1 I'll listen carefully to the evidence presented
2 during these hearings and the questions asked to
3 consider if any further improvements which need to be
4 made to inspection practices.

5 Thank you.

6 LADY SMITH: Thank you very much, Janie. Thank you for
7 that.

8 Mr Sheldon.

9 MR SHELDON: My Lady, thank you.

10 Janie, I mentioned that I would go back to
11 section 11 in your Part 2 report. It's a section headed
12 "Reform", at page 32.

13 You have spoken a little bit about this already when
14 we looked at the framework document earlier on.

15 Paragraph 11.1 you say there the Scottish Ministers took
16 the decision in June 2021 to remove the inspection
17 function from Education Scotland, in recognition of the
18 need for an independent inspectorate. I think you have
19 indicated that the process of appointing independent
20 personnel has begun; is that right?

21 A. Yes, that's correct.

22 Q. All right.

23 You say that an Education Reform Bill will be
24 introduced to support the establishment of the new
25 independent inspectorate.

1 11.2 is a section about policy proposals for the
2 Education Reform Bill, and that's over the page,
3 page 33, but can I just ask you before we look at that,
4 is there as yet a draft Bill or is this still at the
5 stage of policy formulation?

6 A. So it's still at the stage of formation. The Cabinet
7 Secretary for Education --

8 LADY SMITH: At the stage of policy being formed, are you
9 saying?

10 A. Yes.

11 LADY SMITH: There isn't a draft Bill yet?

12 A. There isn't a draft Bill yet, no.

13 The Cabinet Secretary for Education and Skills
14 confirmed in an update to Parliament on 22 June of this
15 year that the independent inspectorate will be
16 underpinned by statute and her intention that
17 legislation for this would be brought forward in the
18 next Parliamentary year. So there's been a delay to
19 that legislation.

20 This was to allow further consideration to the
21 powers, responsibilities and governance and
22 accountability of the new inspectorate and how it
23 completes the full role. The programme for Government,
24 2023/2024, includes a commitment to introduce
25 an Education Bill, which will provide for the creation

1 of the independent education inspectorate and it gives
2 also that commitment to recruit an interim His Majesty's
3 Chief Inspector.

4 LADY SMITH: Are you reading from what the Cabinet Secretary
5 said in Parliament?

6 A. No, I'm not reading -- it's just an update on it, just
7 so I had the sequencing correct.

8 LADY SMITH: Thank you. We can check for ourselves no doubt
9 what exactly she told the Parliament.

10 MR SHELDON: Thank you, my Lady.

11 Janie, can I just ask you very briefly to indicate
12 where this policy move came from in the first place?
13 Was this something that came from the Ministers
14 themselves, from Education Scotland or from somewhere
15 else?

16 A. It came from Ministers. It came following -- there was
17 a report carried out by an international organisation,
18 the OECD, and they produced a report about the Scottish
19 curriculum, Scotland's curriculum, and it was in that
20 report that they identified an unusual configuration.

21 Following that report, the then Deputy First
22 Minister, Cabinet Secretary, announced the removal of
23 the inspection function from Education Scotland.

24 Q. This was driven by a report really about curriculum
25 change, but which, if I'm understanding you correctly,

1 incidentally suggested or indicated that the system
2 looks a bit odd and you might want to think about
3 changing it. Is that a fair way of putting it?

4 A. Yes.

5 Further to that, there was then an independent
6 report carried out by Professor Kenneth Muir to look at
7 specific proposals and to gather the views so there was
8 a widespread consultation from that report, which was
9 published in March 2022.

10 Q. All right.

11 We do have a copy of that report, my Lady, although
12 I don't think we need to look at it.

13 I'll find the reference for it, my Lady --

14 LADY SMITH: Thank you.

15 MR SHELDON: -- I have it somewhere.

16 I think what's set out in section 11 of your Part 2
17 report, am I right in thinking this is the latest
18 thinking on what's going forward, so it's looking at
19 Professor Muir's report, but taking that forward, am
20 I right in thinking that?

21 A. It's looking at Professor Muir's report and taking it
22 forward, particular policy elements around the
23 legislation hasn't been firmed up yet because the
24 legislation is being moved back into the next
25 Parliamentary year.

1 Q. All right.

2 But the legislation, I understood you to say, was
3 being moved back so that further thought could be given
4 to this, is that right?

5 A. Yes. There are a number of education reforms taking
6 place, and so there has been a further review into the
7 assessment. There has been a further review into skills
8 development from post-16, from 16 years onwards and
9 there has been a further independent review and
10 consultation around the curriculum. So there is
11 an element of looking at the total reform of education
12 and how it all fits together.

13 Q. All right.

14 It's really a root and branch proposal to reform not
15 just the inspection function?

16 A. Yes.

17 Q. All right.

18 If we can look at some of the bullet points that you
19 set out in section 11. The first one -- the top of
20 page 33 -- is that a new independent inspectorate is
21 established, or I think will be established, and will
22 take on the functions of inspection of standards and
23 quality of education provision.

24 Inspection of education provision can continue to
25 cover the range of establishments and services currently

1 within scope and inspections will be carried out by HM
2 Inspectors, who are civil servants.

3 LADY SMITH: All civil servants or will they have the
4 ability to bring in people who are not civil servants,
5 teachers? I know there has in the past been a practice
6 for example of inviting senior teachers in schools to
7 assist the Inspectorate, will that carry on?

8 A. Yes, that will carry on. There are two elements of it.
9 To have the title His Majesty's Inspector they are
10 permanent members of staff, who it is intended will
11 remain as civil servants, but as part of inspection
12 teams we also bring in senior leaders from schools, who
13 we call "associate assessors", and they join inspection
14 teams or they are sometimes seconded to work with us on
15 a full-time basis for a year/23 months.

16 LADY SMITH: They bring the value of themselves, either
17 still being teachers or having recently been teachers
18 and gone into leadership and having in depth up-to-date
19 knowledge of how schools are operating on the ground?

20 A. Yes. It serves two functions for us. Exactly as you
21 said, Lady Smith, but it also gives current leaders and
22 headteachers an understanding, a really good
23 understanding of evaluating quality of provision and
24 actually so that they can see practice elsewhere, with
25 the intention that they will take that into their school

1 and it will support them to continually make
2 improvements.

3 LADY SMITH: Thank you.

4 MR SHELDON: Thank you, my Lady.

5 This is the third bullet point, HM Chief Inspector
6 will have power to set the schedule, frequency and focus
7 for inspections, and that's currently under the control
8 of Scottish Ministers.

9 Next bullet point:

10 "If necessary, Ministers will be able to provide
11 structure around the frequency of investigation for
12 schools and early learning ..."

13 I think two points to ask about there.

14 First of all, "if necessary", under what
15 circumstances might it be necessary for that to happen?

16 Second, what is intended by the word "structure",
17 "Ministers will be able to provide structure around the
18 frequency of inspection"?

19 A. For that I would need to refer to Scottish Government
20 policy officials for this, and I think it would be fair
21 to say this was based on policy proposals at the time of
22 this report. I don't have the updated policy proposals
23 for it, but it's something that we could provide once we
24 have that from -- once that's available.

25 Q. This is still a work in progress, in other words?

1 A. Yes.

2 LADY SMITH: I recognise this isn't the drafting of
3 legislation, but put that way I suppose one is
4 immediately alarmed that there may be a risk of that
5 completely undermining the independence of the
6 Inspectorate, if Ministers can, as it says, provide or
7 dictate what the structure's going to be. Then they
8 have the last word and the Chief Inspector can't enforce
9 and impose a different structure if the Ministers don't
10 like it.

11 A. I think this is one of the areas that they are exploring
12 what does "independence" mean for an inspectorate and
13 how that can be strengthened? I think that's one of the
14 areas that I know has been explored and will be
15 consulted as it goes through, and I expect there will be
16 much discussion and debate.

17 LADY SMITH: At one level you would expect real independence
18 to involve giving the inspectorate, through the Chief
19 Inspector, simply the power to determine what will be
20 the conduct and procedure of the running of inspections?

21 A. Yes.

22 LADY SMITH: I suppose. I'm sure there's going to be much
23 discussion around that.

24 Mr Sheldon.

25 MR SHELDON: I'm obliged, my Lady.

1 That really was what I was driving at. Albeit that
2 this isn't a legislation provision, the word "structure"
3 I think might be thought to contain multitudes, as it
4 were, but I think you have assured us that this is very
5 much still at the stage of policy formulation?

6 A. Yes.

7 Q. All right.

8 Just finishing that off, provision or proposed that
9 the Chief Inspector will report annually, will seek to
10 give power to the Chief Inspector to report about any
11 matters relating to inspectors' functions and the Chief
12 Inspector will continue to have to make a reference to
13 Ministers if they consider that an establishment or
14 authority is failing or has failed to secure
15 improvement, despite having been given sufficient
16 opportunity to do so.

17 It would continue to be the responsibility of
18 Ministers to take any enforcement action necessary.

19 The proposal is that Education Scotland would
20 continue not to have an enforcement power; that is the
21 proposal?

22 A. That was the proposal at this stage, yes.

23 Q. All right.

24 You have told us about the commitment for a bill to
25 be introduced. Just thinking about that last point.

1 Can I ask you this: is the ability to take enforcement
2 action something that you as an inspectorate would want?
3 Would it be something that would make your job easier or
4 at least more effective, I suppose?

5 A. I think under our current area I don't think it would
6 make our job more effective. I think as long as there
7 is line of sight around can enforcement action be taken
8 to take that action, and that --

9 Q. Can I just stop you, what do you mean by "line of
10 sight"?

11 A. That someone has an enforcement action and that the
12 inspectorate can provide advice into taking that
13 enforcement action.

14 Q. You would still view your job as having input into that
15 process, but not actually executing the process
16 yourself?

17 A. Yes.

18 Q. All right.

19 Thank you, Janie, that I think concludes
20 consideration of your Part 2 report.

21 There is one final piece of housekeeping to do in
22 that connection, and it's back I'm afraid to the annex,
23 SGV-000101851. If we could go to page 442, please.

24 This is a section about St John Bosco's School, and
25 it's in a familiar form that we've looked at in relation

1 to other examples. I just want to take you to what
2 appears in the second paragraph there:

3 "St John Bosco's School was opened in March 1960 as
4 an Approved School for junior Roman Catholic boys and
5 was operated De La Salle Order."

6 I think we know, and you can take it from me, that
7 St John Bosco's was operated by the Salesians of
8 Don Bosco and not De La Salle, so it's perhaps just to
9 make crystal clear that that was the case and we can
10 have it certainly on our records that --

11 LADY SMITH: Thank you. That has been corrected.

12 MR SHELDON: Thank you.

13 If we can put aside your Part 2 report and annex and
14 turn back to your Part 1 report. This is I suppose
15 really looking at current issues.

16 Page 4, I think we can take this fairly short. You
17 note at 1.1 that the report has been -- do you have
18 that, Janie?

19 A. Yes, I have it. Thank you.

20 Q. You note at paragraph 1.1 that the report's been
21 produced in response to a Section 21 notice, which asked
22 you for information on a number of matters, and we have
23 seen some of that in relation to the Part 2 report.

24 1.2, this report, the Part 1 report, provides
25 information on how His Majesty's Inspectors inspect

1 educational establishments for children within
2 residential and secure accommodation. That is talking
3 about what happens now; is that right?

4 A. Yes.

5 Q. You note that there are various types of schools and
6 nevertheless, at the end of that paragraph, all schools
7 are subject to inspection by HM Inspectorate, so
8 whatever category they're in, and I think we have
9 already noted what we are talking about here mainly is
10 education within secure care establishments and special
11 schools?

12 A. Yes.

13 Q. Certainly, 1.4, you say the report focuses on special
14 schools and secure.

15 At 1.6, over the page, I think you note that at
16 present there are five secure accommodation services in
17 Scotland. I think it may be there are now only four?

18 A. Yes.

19 Q. I think you are aware that Edinburgh Secure Services has
20 now closed; is that right?

21 A. Yes, it closed in June this year.

22 Q. Yes, which, in fairness, was after the date this report
23 was produced to the Inquiry?

24 A. Yes.

25 Q. You note that four of those accommodation services are

1 independent and one under the management of an education
2 authority.

3 At 1.7 you note that there are 20 residential
4 special schools. These are either independent or grant
5 aided but there are currently no education authority
6 residential special schools. You say that Kerelaw was
7 one such school, although of course it now has closed.

8 1.8, inspection of HM Prisons and Young Offenders
9 Institutions is the responsibility of His Majesty's
10 Chief Inspector of Prisons, but am I right in thinking
11 that on occasion HM Inspectors will be asked to
12 accompany prison inspectors as they do inspections of
13 Young Offenders Institutions?

14 A. Yes, that is correct.

15 Q. What is the purpose of that?

16 A. The purpose of that is that the prison inspectorate --
17 because our inspectors inspect education then for Young
18 Offenders Institutions you are looking at the quality of
19 education that they have as well while they are in the
20 institution, and because of the specialist background
21 that our inspectors have we are invited to join part of
22 the inspection teams.

23 Q. In section 2 you then go on to give a brief history of
24 Education Scotland.

25 2.1, you note that Education Scotland was

1 established in 2011 to bring together the work and
2 responsibilities of HM Inspectorate and those of
3 learning and teaching Scotland, so these are the two
4 bodies that go to make up Education Scotland.

5 I suppose the obvious observation there is that
6 2022/2023 we are now talking about demerging these
7 bodies; is that a fair way of putting it?

8 A. Yes.

9 Q. It's been a fairly short-lived marriage between these
10 two bodies. Does that suggest to any extent that it was
11 an unhappy marriage?

12 A. I think what it indicates is the change in education
13 that's happening and a number of reforms. Over the
14 years on and off there has been criticism of the
15 inspectorate marking its own homework, particularly
16 around curriculum development, if other teams in
17 Education Scotland are providing curriculum advice and
18 then how do inspectors inspect that and remain
19 independent from it? So I think it would be fair to say
20 the independent element has been going back and forth.

21 Q. Can I just ask you where these criticisms came from?
22 Where were you getting indications that this was thought
23 to be not ideal?

24 A. It was mainly from the media.

25 Q. All right.

1 Not from within, for example, the teaching
2 profession?

3 A. No. I don't recall anything specifically from the
4 teaching profession.

5 Q. All right.

6 Section 3, page 6, you note the existence of
7 Education Scotland's framework document and we looked at
8 that right at start of your evidence, so we don't need
9 to look at that again.

10 Section 4, the structure of Education Scotland and,
11 as we have seen from the framework, the body is led by
12 a Chief Executive.

13 4.2, it comprises five directorates led by strategic
14 directors. Really I think for present purposes we are
15 only concerned with the scrutiny directorate.

16 Can I just ask you about scrutiny and inspection.
17 You are described as the Director of Scrutiny, but we
18 have heard a lot about inspection. What, if any, is the
19 distinction between these two concepts?

20 A. There isn't any. Prior to me taking up post it was
21 Director of Inspection. It was felt that in
22 consultation with stakeholders that scrutiny was
23 a better title, but the scrutiny directorate houses all
24 of our inspection functions.

25 Q. Over the page, paragraph 5, you note that there were

1 some significant changes to Education Scotland's
2 structure in 2017.

3 That included, 5.1, an enhanced role and purpose for
4 Education Scotland, incorporating strength and scrutiny
5 and inspection function. How was that function
6 strengthened, Janie?

7 A. The function was strengthened. Prior to 2019 the
8 organisation didn't have a separate scrutiny
9 directorate, staff were in other areas of work. What we
10 wanted to do was, I suppose, to strengthen the element
11 of bringing all of the inspection work together in one
12 directorate. So that was the creation of the scrutiny
13 directorate as well.

14 Also in the back of the Scottish Government
15 publication that governs next steps there was
16 an increase in the number of school inspections. That
17 at least 250 school inspections to be carried out each
18 academic year was as a result of that, so to increase
19 the number --

20 Q. That made that level of inspection possible?

21 A. Yes.

22 Q. Do we take from that that there wasn't that level of
23 inspection before?

24 A. No, there wasn't that level of inspection before.

25 Q. You then set out in paragraph 6 some of the legislative

1 framework. In particular at paragraph 6.3 that the Care
2 Inspectorate has functions to register, inspect and
3 regulate school accommodation services. HM Inspectors
4 inspect the schools but don't ordinarily inspect the
5 residential accommodation providing by such services,
6 although they do have power to do so.

7 Do we take from that that ordinarily it's the Care
8 Inspectorate who does the accommodation?

9 A. Yes.

10 Q. In what circumstances might Education Scotland get
11 involved in that?

12 A. So we may get involved -- if there were perhaps joint
13 staff working across care and education, that we may
14 look to see the provision. But that would be by
15 exception, because it's the Care Inspectorate now that
16 would do that. There are times that we carry out
17 an inspection at the same time, so that both the Care
18 Inspectorate and ourselves are in the school at the same
19 time, the Care Inspectorate focusing on the care and
20 accommodation and ourselves focusing on the education.
21 But we would also have joint meetings with staff.

22 Q. All right.

23 It may be an obvious question, but what is the
24 purpose of the joint meetings?

25 A. The joint meetings if we're looking at the same areas,

1 rather than having two separate meetings with the
2 manager or with the board, that we'd have those meetings
3 together but we would cover the entirety of the key
4 points that we want to cover, but we would also be
5 sharing information as well during the inspection.

6 Q. That is the next thing I was going to ask you about.
7 Can we take it that these meetings are essentially
8 co-ordination meetings?

9 A. Yes.

10 Q. Next heading, page 8, section 7, is on sharing
11 information. You note that HM Inspectors share
12 information with other bodies, not least with the
13 Registrar and the Care Inspectorate.

14 At 7.3 you note that HM Inspectors and the Care
15 Inspectorate have a memorandum of understanding which
16 sets out how they co-operate and how information is
17 shared. Perhaps we can just look at that briefly, as
18 I think I promised earlier.

19 The memorandum is at SGV-000102423. If we scroll up
20 we can see the heading. Going down to the foot I think
21 we see the date there: July 2022 to July 2025. Do we
22 take from that that this is the latest version of the
23 memorandum?

24 A. Yes, this is the latest version.

25 Q. I think Lady Smith asked you earlier if you knew when

1 the first one was. Any further forward on that?

2 A. No, there was one previous to this one.

3 Q. Only one you think?

4 A. But when we had that first memorandum, I would need to
5 check the date.

6 LADY SMITH: Thank you.

7 MR SHELDON: Is this something that would likely have been
8 done on the inauguration of Education Scotland in 2011?

9 A. Yes, and particularly because also the creation of Care
10 Inspectorate as well, whether we -- when we required to
11 have the sharing of information between new bodies, but
12 I will double check that.

13 Q. Thank you.

14 Page 2 of this document, please. That is just the
15 introduction. If we scroll down to the middle we see
16 a section about joint inspection. In the context of the
17 memorandum that is an inspection carried out between
18 Education Scotland and the Care Inspectorate at the
19 request of Scottish Ministers in relation to the
20 provision of Children's Services and so on.

21 Again, do we take from that that these joint
22 inspections are something that the Ministers have to
23 initiate currently or can that be initiated by Education
24 Scotland and/or the Care Inspectorate independently?

25 A. Yes, it can, because the memorandum -- our work with the

1 Care Inspectorate goes beyond inspection of these
2 services. So we work with the Care Inspectorate for
3 early learning and childcare as well, and we also work
4 with the Care Inspectorate around the inspection of
5 Children's Services in Local Authority areas. Those
6 inspections are led by the Care Inspectorate.

7 That's where they inspect the provision of services
8 for children in a Local Authority area and we join the
9 inspection teams with the Care Inspectorate. The
10 memorandum of understanding covers a number of different
11 joint activity with the Care Inspectorate over a number
12 of different activities. Not just this one as well.

13 Q. All right.

14 Scrolling down a little, please, just to see
15 section 2:

16 "The purpose of this memorandum is to set out
17 an agreed framework for co-operation and collaboration,
18 reflecting a commitment to work together to improve the
19 quality of education and care for children and Education
20 Scotland and the Care Inspectorate will work together."

21 The next paragraph:

22 "The MOU sets out the working arrangements between
23 Education Scotland and the Care Inspectorate in respect
24 of joint inspection responsibilities. Any shared
25 inspection work of regulated care services providing

1 early learning and childcare, where both organisations
2 have a mutual interest ..."

3 It's not a contract, but it's like a contract, is
4 that a fair way of looking at it?

5 A. I suppose it's an understanding but it's also -- one of
6 the key areas that the MOU is our commitment to work
7 together as inspectorate bodies where we can. To ensure
8 that we are sharing information. It also enables us
9 under a memorandum of understanding, which you see
10 further on, where we want to exchange free and frank
11 views, that we are unable to do that as well.

12 Q. Thank you.

13 If we can move to page 4, please. This is the
14 section about working together and sharing information.
15 There is a commitment there to work within the
16 requirements of the Data Protection Act and regulation,
17 but with those limitations in mind, there is to be
18 sharing of information between the bodies. Is that
19 right?

20 A. Yes.

21 Q. Scrolling down, please, the Care Inspectorate carries
22 out inspections of the quality of all registered care
23 services in Scotland. That includes services for
24 children and young people, such as residential aspect of
25 independent boarding schools and so on.

1 At the foot of the page, at the request of Ministers
2 the Care Inspectorate leads on the programme of joint
3 inspections and services for children and young people
4 at risk of harm. That, I think, would include young
5 people who are in secure care, I think for the reasons
6 you've already sketched out. Is that right?

7 A. Yes, but this is a particular programme around Local
8 Authority inspections around Children's Services that
9 the Care Inspectorate lead on.

10 Q. Thank you. Over the page, please, I think there is
11 a list of shared inspection activities there and under
12 "Planning approaches" we have told the Care Inspectorate
13 has an overarching four-year inspection plan, including
14 each of the care services registered with it. Education
15 Scotland will share information with the Care
16 Inspectorate on at least an annual basis. This supports
17 the planning and delivery of shared inspections.

18 It's noted:

19 "In March each year, managers with the Care
20 Inspectorate and Education Scotland will exchange
21 information on planned programmes for inspection."

22 LADY SMITH: Just going back to that previous paragraph, you
23 say Education Scotland will share information with the
24 Care Inspectorate about establishments which may be
25 inspected. What actually would be shared in relation to

1 that? Is it sharing of the proposals about when you are
2 going to inspect and who you are going to inspect? Or
3 is it details of the establishments that you have? Do
4 you see what I mean?

5 A. It's detail of the establishments and proposed timescale
6 for inspection. We would share with the Care
7 Inspectorate what our selection of schools for that year
8 would be and the Care Inspectorate would do the same
9 with us.

10 Then we'd look at where we have the same
11 establishments being inspected, we would then look at:
12 do we carry those out at the same time?

13 LADY SMITH: That makes sense.

14 A. Similarly, there could be, particularly related to
15 complaints, information that Care Inspectorate is aware
16 of that they have schools on their list that we don't
17 have, and we would then discuss: actually, do we need to
18 carry this out jointly?

19 LADY SMITH: Thank you.

20 Mr Sheldon.

21 MR SHELDON: Thank you, my Lady.

22 If we can move on to page 7 in this document,
23 please. I think there is a section there on information
24 sharing, paragraph 6.

25 Education Scotland and the Care Inspectorate agree

1 to exchange such information routinely or by exception,
2 as is necessary to fulfil joint or shared inspection
3 responsibilities with respect to joint inspections and
4 their respective statutory functions.

5 You note next that contact between the two
6 organisations will be at an appropriate level within
7 each organisation, depending on the matter under
8 discussion. Can I just ask you a little about that?

9 What is intended by that? How does that work in
10 practice?

11 A. It works in practice whereby -- so I have heads of
12 scrutiny and senior inspectors. So if they were aware
13 of information in the Care Inspectorate they would link
14 together to share that information. But also where we
15 have planned activity, we would have managing inspectors
16 liaising with their counterparts in Care Inspectorate as
17 well.

18 We also have link inspectors for this sector and if
19 link inspectors became aware of any information then
20 they would routinely share that with the Care
21 Inspectorate as well.

22 Q. I think we heard something about that in the boarding
23 schools case study, so these are liaison officers?

24 A. Yes. I suppose what we're trying to do is seeing the
25 engagement and the sharing is not restricted to senior

1 people, but it's as is appropriate for us to enable to
2 carry out both our functions and do it well enough.

3 Q. Just digging a little deeper into that, we see the
4 subparagraphs there, (i), "Senior managers will meet
5 quarterly", so there is a schedule of meetings for them,
6 operational managers will meet quarterly for these
7 particular purposes.

8 If we go over the page to page 8, inspectors, we are
9 told and operational managers in the Care Inspectorate
10 will routinely share information. There is no specific
11 provision there for meetings. Was there any particular
12 reason for that?

13 A. No, because it will just be as it arises, so the
14 expectation is that as things arise. One of the aspects
15 would be if we inspect a school and the Care
16 Inspectorate, it's not a shared inspection, that the
17 managing inspector would routinely share the outcome of
18 the inspection with the Care Inspectorate. That's why
19 there's no sort of specified timeframe, because it's
20 part and parcel of the way that we work.

21 Q. It's more on ad hoc basis, as it were?

22 A. An ad hoc, yes.

23 Q. I think one other matter on that page, if we could
24 scroll down, please. I think it's three complete
25 paragraphs from the foot:

1 "Education Scotland and the Care Inspectorate may
2 from time to time co-operate on joint projects, for
3 example as part of a joint action plan in response to
4 a consultation document or to develop a joint
5 publication."

6 What sort of things are we talking about there when
7 we are talking about joint action plans?

8 A. One of the things that we're working on at the moment in
9 our early learning and childcare sector, we are looking
10 at developing a shared quality improvement framework
11 that both ourselves and Care Inspectorate will use.
12 Currently we have a separate one that we use and Care
13 Inspectorate have their own as well, but we're doing
14 a piece of joint work that we're bringing the frameworks
15 together to have one framework for early learning and
16 childcare sector.

17 Q. Thank you.

18 Setting that document aside for the moment, if we
19 can go back to your Part 1 report, please. That is
20 SGV-000086470, page 8. We were on the section on
21 sharing information.

22 7.5, you give an example of information sharing
23 between Care Inspectorate, HM Inspectors and the
24 Registrar:

25 "In 2021 the Care Inspectorate alerted HM Inspectors

1 and the Registrar to potential use of inappropriate
2 physical intervention. Having reviewed the child
3 protection policies and procedures, HM Inspectors
4 advised Scottish Ministers via the Registrar that they
5 should instruct a special inspection. As a result of
6 the special inspection, HM Inspectors identified and
7 reported significant weaknesses requiring urgent action.
8 This resulted in Scottish Ministers imposing a notice of
9 complaint upon the school."

10 There was then engagement to ensure that areas of
11 concern had been expressed.

12 Can I just take you please to what I think is the
13 example that you are giving, in the original document
14 there is a hyperlink there to -- it won't work here, but
15 if we can have on the screen please SGV-000102940.

16 It's noted that in May 2021 -- I think I have
17 a wrong reference there. I do apologise.

18 That is the one. SGV-000102941.

19 This is a letter which is a report of a special
20 inspection at a place called Harbour Point School; is
21 that right?

22 A. That's correct, yes.

23 Q. It's headed "Dear parent/carer".

24 To whom was this addressed, this letter?

25 A. We have made a change to our special inspections,

1 whereby we now -- in the past we didn't always publish
2 the reports on our website if a special inspection had
3 been carried out. We took the decision for public
4 accountability and to be transparent that we would
5 publish, so this is our report to parents, one to let
6 them know that we carried out a special inspection and
7 also what our findings were.

8 Q. All right?

9 A. There would be a separate report that went to Scottish
10 Ministers.

11 Q. Thank you.

12 Can you tell us just a little about Harbour Point
13 School, what it did. I think it's now closed, is that
14 right?

15 A. That is correct.

16 Q. What was it? What did it do?

17 A. In Harbour Point we became aware -- the Care
18 Inspectorate raised some concerns with us when we looked
19 at the particular policies for the school. We weren't
20 satisfied and therefore we felt we would need to go in
21 and inspect and I think bearing in mind this was also
22 during the pandemic, where our routine inspection
23 programme was paused.

24 We felt that we weren't -- I suppose we weren't
25 assured or confident from what we were seeing and

1 satisfied, so that's why in discussion with the
2 Registrar we put up advice to Ministers that we would
3 need to go in and inspect the school to be satisfied on
4 what we found.

5 Q. If we can look down the page first of all at the
6 heading:

7 "Quality of the school's plans to improve its
8 performance."

9 It is noted the newly appointed headteacher has made
10 a promising start in improving culture at the school.
11 Fostering positive relationships. Most parents and
12 partners are confident the new senior leaders will
13 improve the school over time. Senior leaders now need
14 to increase significantly the pace of improvement and
15 there is a section about monitoring.

16 The second sentence:

17 "These systems are not yet identifying key areas
18 requiring improvement. Such as safeguarding and child
19 protection."

20 What was the kind of thing that was posing issues
21 there?

22 A. I don't have that level of detail with me today, but
23 I can --

24 Q. All right.

25 A. -- provide that.

1 Q. Certainly your Part 1 report is saying there was
2 a concern about inappropriate physical intervention.
3 I think just to look through this letter and if we see
4 that that isn't directly said in this report.

5 It's over the page, under the heading:

6 "Safeguarding, child protection and promoting
7 positive behaviour."

8 It is said:

9 "The school's policies and approaches to
10 safeguarding and child protection require urgent action.
11 Senior leaders and staff do not yet have a consistent
12 understanding of their responsibilities in relation to
13 safeguarding. Senior leaders need to put in place
14 policies and practices in line with national legislation
15 and guidance."

16 There is a reference to inappropriate content, and
17 in the next paragraph:

18 "Senior leaders need to take action to reduce the
19 use of safe holds. They also need to ensure that
20 whenever staff use safe holds that they do so in
21 an appropriate and consistent way. The school's
22 procedure for reporting and recording restraints
23 requires to be improved."

24 And a detailed review should be made.

25 Just looking at that, there is certainly a reference

1 to safe holds, which I think in the context it appears

2 to be a reference to restraints. Is that fair?

3 A. Yes. What we would be looking for is for a school to
4 reduce the number of holds it was having in a school.

5 Q. I think the point that I'm trying to get at is that the
6 concern expressed seems to have been -- there were
7 serious concerns about the use of inappropriate physical
8 intervention. That's I think not quite what the report
9 seems to be saying.

10 I suppose on one reading of this you might think
11 that this report is underplaying what was reported as
12 a concern. Am I getting the wrong end of that stick?

13 A. I don't think it would be underplaying. It would be
14 significant for us to require that a notice was placed
15 on a school and for us to monitor every fortnight on it.
16 In terms of report -- one of I suppose the limitations
17 of the report is that we try to safeguard identity of
18 children and young people in the reports. So I think
19 what we're saying is it's significant for us that we
20 needed to go in to monitor that, to make sure that the
21 school was taking action to improve both its policies
22 and its practices as well.

23 Q. At all events the report tells us that senior leaders
24 don't have a consistent understanding of
25 responsibilities in relation to safeguarding and

1 well-being.

2 Two paragraphs on from that it is said that senior
3 leaders recognise the number of young people temporarily
4 excluded from school has been too high. They
5 acknowledge that the use of exclusion does not support
6 young people's social, emotional and physical well-being
7 and should only be used as a last resort.

8 So there's also apparently a problem with exclusions
9 from the school. Is that a surprising finding in
10 a school of this sort?

11 A. In some respects in a school like this we have children
12 and young people who may have refused to attend school
13 in the past. We may have children and young people who
14 find it difficult to have positive relationships with
15 adults or take them longer to trust adults, but what we
16 would be expecting the school to do is to understand
17 where children are and looking at -- I suppose providing
18 learning and activities that are going to engage
19 children and young people and encourage them to want to
20 come to school.

21 When we're looking at exclusions, we're looking at
22 what the school will be undertaking as sort of
23 preventive measures, rather than getting to the point of
24 having to exclude. I think it ties up around looking at
25 what risk assessments are for individual children.

1 I think in schools within this context we would be
2 expecting to see really individualised plans for every
3 child or young person and that would include risk
4 assessments, what the particular needs for children and
5 young people are, and having those risk assessments then
6 helps for preventive action to take place.

7 LADY SMITH: Janie, you put this forward as an example of
8 information that was shared between the inspectors,
9 Education and the Care Inspectorate, in 2021. Does it
10 then relate to what was happening in 2021?

11 A. Yes. It would have been information that the Care
12 Inspectorate became aware of in 2021 and then alerted us
13 to it.

14 In the context of 2021, the Care Inspectorate were
15 still inspecting. We weren't inspecting because of the
16 pandemic, so we weren't physically in schools. That's
17 why, based on the information, we may have gone in and
18 inspected but the special inspection was because of the
19 information we received, we felt that we had to go in.

20 LADY SMITH: Indeed.

21 Hence this document?

22 A. Yes.

23 LADY SMITH: Following the special inspection?

24 A. Yes.

25 LADY SMITH: It seems that however calmly the language may

1 be stated, once you really think about what's being said
2 here, starting with an urgent need for action, can we
3 just scroll up a paragraph, am I remembering that
4 correctly:

5 "Approaches to safeguarding and child protection
6 require urgent action."

7 As Mr Sheldon's already said, senior leaders and
8 staff don't have a consistent understanding of their
9 responsibilities and this is filtering through into what
10 in the next paragraph reads as real problems with their
11 safe holding practice, their restraint practice, urgent
12 action needed, yes.

13 A. I suppose because of that urgent action, which is why it
14 then was escalated to a notice of complaint. So it
15 wasn't conditions that were set, it was a notice of
16 complaint, which is one of the highest levels.

17 LADY SMITH: This isn't historical, this is now.

18 A. I know.

19 MR SHELDON: I'm obliged, my Lady.

20 I'm conscious of the time, but if I can just ask one
21 follow up from my Lady's questions?

22 LADY SMITH: Certainly.

23 MR SHELDON: Given what is said in the introduction to this
24 report, and I took you to it, the newly appointed
25 headteacher has made a promising start and so on, is

1 there a slight sense that this is an attempt to reassure
2 parents, in spite of what appears to be rather an urgent
3 situation that requires a remedy?

4 A. I wouldn't say it was an attempt to reassure. I think
5 it's an attempt just to report what we found and from
6 the engagement with the headteacher that would be our
7 professional view of the situation on the school at that
8 particular time, rather than we were doing something to
9 reassure parents. I think it was at that time that was
10 our view of the headteacher in the school.

11 MR SHELDON: If my Lady's content to stop, we can pick that
12 up after lunch.

13 LADY SMITH: That would be the right time to pause.

14 Janie, we'll stop now for the lunch break and

15 I'll sit again at about 2 o'clock.

16 Thank you.

17 (1.05 pm)

18 (The luncheon adjournment)

19 (2.00 pm)

20 LADY SMITH: Janie, welcome back. Are you ready for us to
21 carry on?

22 A. Yes, thank you.

23 LADY SMITH: Thank you.

24 Mr Sheldon.

25 MR SHELDON: My Lady.

1 Janie, before the lunch break we were looking at the
2 Part 1 report. It was paragraph 7, which was about
3 information sharing.

4 We had looked at a particular report of a special
5 inspection at a school called Harbour Point.

6 I just had a couple more questions about that. If
7 we can have that -- I see you have it. You are
8 anticipating my every need.

9 Just a couple more questions about that, Janie. The
10 first thing really arises more from your own report, but
11 it's just a question about how the matter came to be
12 reported to you. I think you say in the report the Care
13 Inspectorate alerted HM Inspectors and the Registrar to
14 the potential use of inappropriate physical
15 intervention.

16 Why is it that they're doing that? That may be
17 an obvious question, the Care Inspectorate are
18 inspecting care, this looks, on the face of it, like
19 a care issue, as opposed to an education issue. So how
20 does that come about?

21 A. It can come about where you may have -- from
22 recollection on this one there was a relative new
23 headteacher, there may have been something in the Care
24 Inspectorate, the policies, that were working across
25 both care and education, that alerted them to the need

1 to share information. Or in other circumstances we find
2 that through the routine sharing of information we would
3 share that information anyway. This was something that
4 caused us concern or something that has been brought to
5 our attention, that we think you need to be aware of --
6 that you may want to explore further on the school side
7 or may cause concern to us that we think you need to be
8 aware of.

9 I suppose it's just that ongoing sharing of
10 information that comes up.

11 Q. Can we take it from what you said in the first part of
12 that answer that really what's being done here is
13 an idea, a policy, if you like, that if there is
14 a problem, if a problem appears, that there ought to be
15 a holistic look, a look in the round, both at what's
16 actually happening and what the policies are that might
17 be underlying what's happening?

18 A. Yes.

19 LADY SMITH: Would I be right in thinking, Janie, that
20 an important aspect of your inspections is to look at
21 the extent to which a school is helping a child to
22 learn, the extent to which a school's systems and
23 environment support learning, as opposed to perhaps work
24 against learning, by, for instance, not addressing child
25 protection?

1 A. Yes, we are looking at a number of things: what approach
2 does leadership and management take in the school to
3 continually improving their work?

4 Then we're looking at: what is the environment, how
5 is learning planned? What are the experiences that
6 children and young people participate in?

7 Particularly, in this sector, we're really looking
8 at individual plans, what motivates children and young
9 people. Ultimately then: what is the outcome? As part
10 of that I suppose we're looking at: what indicators do
11 we have that staff in a school are keeping children and
12 young people safe? That is around what arrangement do
13 they have in place? What do the policies say? Do staff
14 have an understanding of the policies? Do they have
15 appropriate records in place? Are records kept safe?
16 Particularly for physical restraint, what is their
17 policy? Are they recording any instances of physical
18 restraint? Then are they doing a debrief afterwards and
19 are they recording the debrief, so that they can,
20 I suppose, reduce numbers of holds that they're having
21 to place on children and young people? Are they
22 learning from that on an ongoing basis?

23 When we are looking at particularly around what we
24 would call arrangements, a lot is to do with policies
25 and procedures. Are they really rigorous and robust and

1 are things detailed? Are things dated? So there is
2 a whole range of areas that we're looking at and those
3 give us, I suppose, the indicators about how confident
4 we are in the environment for keeping children and young
5 people safe as well.

6 LADY SMITH: What about wanting to find out not simply what
7 they've written down in policies, but what they do?

8 A. Yes.

9 LADY SMITH: Isn't that important?

10 A. Yes. We'll sample particular cases and files to look at
11 what, in this particular instance, have you done. We
12 will speak to headteachers, child protection
13 co-ordinators, talk us through what you've done and why
14 you have done this and have you alerted the right people
15 at the right time.

16 But we're also looking at areas such as the
17 curriculum. What do you have particularly around health
18 and well-being that encourages and ensures that children
19 and young people know their rights and know who they can
20 talk to. We'll also be asking staff around recent
21 training that they've had.

22 LADY SMITH: Forgive me for interrupting, Janie.

23 I think we have drifted away from my interest, which
24 is thinking of the core concern of your inspectors
25 needing to be education, what is the quality of the

1 education being provided and implemented, if I can put
2 it that way, in this school. Would you agree that when
3 you are looking at this sector that we're looking at
4 here, it must be equally important to think about
5 whether there are barriers to the children or individual
6 children in the form of abusive practices preventing
7 them from learning, preventing them from being educated?

8 A. Yes.

9 LADY SMITH: It really is, in a way, as important to you as
10 it is to the Care Inspectorate, isn't it?

11 A. It is.

12 LADY SMITH: Yes. Thank you.

13 Mr Sheldon.

14 MR SHELDON: Thank you, my Lady.

15 Janie, I think that after the initial inspection,
16 there was a follow up and if we can have SGV-000102941
17 please. I think we can see -- oh dear, I've done it
18 again. I'm getting these the wrong way round.

19 LADY SMITH: One is a two-page document and one is
20 a three-page document; is that right?

21 MR SHELDON: Yes.

22 That is it. This is the follow up. It's another
23 letter or report, dated 15 February 2022. It notes that
24 there had been a special inspection. A letter had been
25 published about the school, which set out a number of

1 areas for improvement. Then there was a follow-up
2 visit.

3 We're told that the headteacher had been spoken to
4 and particular areas identified from the original
5 inspection. Under the quality of the school's plans to
6 improve its performance, we see that the headteacher has
7 been successful in introducing new and productive
8 approaches to safeguarding and promoting positive
9 relationships.

10 What are the relationships that that's getting at
11 there, the positive relationships?

12 A. Promoting positive relationships between pupils and also
13 between pupils and staff as well, particularly where in
14 this case it was a new headteacher and it was
15 a relatively new deputy headteacher as well. One of the
16 areas we picked up was -- I suppose it's the engagement
17 between staff and pupils and the young people wanting to
18 come into classes as well.

19 Q. If we look down that page at "Supporting young people",
20 we are told that senior leaders and staff now have
21 a clearer understanding of young people's additional
22 support needs.

23 Just over the page, under "Safeguarding":

24 "Senior leaders have improved approaches to child
25 protection and safeguarding, relevant guidance and

1 policies are now understood by staff."

2 Perhaps just in summarising the previous report,
3 does it appear that prior to this process senior leaders
4 and staff didn't have a particularly clear understanding
5 of young people's additional support needs and they
6 didn't fully understand the relevant guidance and
7 policies about child protection?

8 A. I think there were two areas in this and particularly
9 with the children, their additional support needs, would
10 be actually was there personalised planning in place
11 that actually identified the needs and how the school
12 was going to address it.

13 In terms of the child protection and safeguarding,
14 the headteacher and deputy head in this instance were
15 aware of the responsibilities but we felt that staff
16 should have a greater understanding of the
17 responsibilities and of the policies and procedures.

18 Q. Just going on in that paragraph about safeguarding:

19 "Almost all staff are promoting a positive school
20 culture and aiming to minimise the use of physical
21 restraints. There has been a significant reduction in
22 the use of safe holds. Young people report that
23 physical intervention is no longer used."

24 It's just to tease out there that there is three
25 different expressions being used. There is "physical

1 restraints", "safe holds" -- which have been reduced,
2 we're told -- and that "physical intervention" is no
3 longer used.

4 Are these different technical terms for different
5 things or is it all talking about the same thing?

6 A. In general it's talking about the same thing, that where
7 staff need to make a physical intervention and whether
8 they're restraining or whether they're putting children
9 into or young people into particular holds and there are
10 a number of different holds that can be used, should it
11 be necessary.

12 I think that what we're saying there is there is
13 a culture to actually minimise restraint at all, but
14 also if there needs to be a safe hold put into place for
15 a young person, that that has been reduced as well and
16 that overall -- I think important from this is the
17 outcome is around young people reporting that physical
18 intervention is no longer used. I think it's
19 an important point, that that's also the view of young
20 people.

21 LADY SMITH: I see what Mr Sheldon was asking there, Janie.
22 Of course if you read about this subject you'll read
23 different interventions that may be made with a child
24 that could be physical restraint, there's nothing to do
25 actually with touching the child, but the child may not

1 be allowed out of a particular part of the building for
2 example, so physically they can't go freely where they
3 want to do or physical restraint that does involve
4 physically stopping them.

5 We also have safe holds, which is perhaps newer
6 language about that.

7 And physical intervention suggesting maybe momentary
8 intervention.

9 Have I picked it up right, Mr Sheldon?

10 MR SHELDON: That is the point I'm getting at, my Lady.

11 Indeed perhaps if I can take that a little further.
12 It's noticeable, or at least it is I think to perhaps
13 a legalistic eye, that none of the language that you use
14 here reflects what appears to have been the original
15 complaint, which in your report at least is reported as
16 being there is a concern about "inappropriate physical
17 intervention". I don't think that language is used in
18 either of the reports. Instead we have expressions like
19 "safe holds", "physical intervention" ...

20 There is no use of word "inappropriate", and I just
21 wondered then what was meant by "inappropriate physical
22 intervention" and the kind of language that's used here?
23 A. In this case when we're looking at "inappropriate" was
24 the type of holds and safe holds that were used. For
25 this particular school --

1 Q. Holds or safe holds or both and --

2 A. Safe holds.

3 LADY SMITH: We are talking about using a hold?

4 A. Yes.

5 LADY SMITH: Not circumstances where there should have been

6 none of that type of intervention at all?

7 A. No, we're talking about holds.

8 LADY SMITH: Right. The starting point is to accept that

9 doing something of that nature was appropriate and the

10 issue was how it was done?

11 A. Yes.

12 LADY SMITH: Right.

13 You see, we also tend in the area of physical abuse,

14 physical corporal punishment, to talk about it being

15 inappropriate because no physical punishment, no

16 corporal punishment was justified at all in the

17 circumstances, do you see what I mean?

18 A. Yes.

19 LADY SMITH: It's important that we get clear what we're

20 talking about here.

21 A. What we would expect for a safe hold for that is

22 actually where there was immediate risk of a child being

23 harmed or for the safety of another, so that would be --

24 that's why we would be looking at in any school seeing

25 reductions in this, so that is at a minimum and it's

1 only if there is an immediate risk to either the young
2 person's safety or another's safety.

3 MR SHELDON: I suppose another aspect of what I'm trying to
4 get at though is in the initial report of inappropriate
5 physical intervention, are we talking about safe holds
6 being used inappropriately or are we talking about
7 physical intervention, which is per se inappropriate,
8 intervening in a rough way, in a very physical way?

9 A. No, I think we are talking about overuse of safe holds,
10 that actually there was not a necessity for it to be
11 a safe hold and proactively reducing it, rather than
12 a young person being hit in this instance. Rather than
13 that, it's more around the use of holds.

14 Q. All right.

15 I just wonder whether this could all be expressed
16 a bit more clearly to make it absolutely clear that that
17 is what you're talking about and that is the issue which
18 has now been addressed.

19 A. Yes.

20 Q. In fairness to you, you do go on to say in the next
21 sentence:

22 "Strategies are in place to allow young people to
23 manage their emotions and behaviour in an appropriate
24 way."

25 Is that getting at the idea that in implementing

1 these strategies there is less need to use any sort of
2 hold?

3 A. Yes. It's looking at the prevention and it ties in with
4 the individualised planning and the need of young
5 people. In the best practice, where we have really
6 clear individualised planning, looking at what the
7 particular need of young people, what their needs are,
8 then the prevention becomes much more clearer around --
9 and therefore you would then see minimised holds or
10 restraint.

11 Q. Moving on to a point that Lady Smith took up earlier on,
12 under the heading "Young people's achievements". It
13 says most young people are building successfully their
14 skills for learning, life and work. They are more able
15 to communicate well, cope with change and so on.

16 In the next paragraph, a minority of staff are
17 measuring young people's achievements in a meaningful
18 way. All staff now need to plan, promote and celebrate
19 consistently young people's achievements.

20 Again, does it seem that in that respect a majority
21 of staff were not, as you put it, measuring young
22 people's achievements meaningfully, that they weren't
23 helping young people to achieve what they might. Is
24 that what we take from that?

25 A. I think what we take from this is around about -- it's

1 moving on and doing so it's looking at accreditation of
2 awards under qualifications. So we can see where
3 actually we now have young people who are getting many
4 more opportunities, they're building appropriate skills,
5 so the next step for this school is then actually to
6 record that and to look at accreditation for what we
7 would call those achievements.

8 LADY SMITH: It doesn't say anything about accreditation of
9 awards and qualifications there, does it?

10 A. I think it says:

11 "Staff should identify ways for young people to
12 receive accredited awards for their personal
13 achievements."

14 LADY SMITH: Where are we?

15 Staff should identify ways for them to get those,
16 yes. I see that.

17 But if we go to the beginning of that achievement
18 section, there is apparently a confident statement that
19 most young people are building successfully their skills
20 for learning, life and work, but there is nothing here
21 that tells the reader that actually they're not
22 achieving any awards or qualifications at all, is there?

23 MR SHELDON: Indeed, if I may --

24 LADY SMITH: Please do, Mr Sheldon.

25 MR SHELDON: It seems that the majority of staff aren't

1 helping in that respect.

2 A. Or it may be that they're not recording that and putting
3 young people forward for the accreditation.

4 LADY SMITH: Is that good enough?

5 A. No, it's not good enough. I think that's why --

6 LADY SMITH: Because you're entitled to --

7 A. It's not good enough.

8 LADY SMITH: -- conclude that if there is no evidence of
9 that, it hasn't happened?

10 A. Yeah.

11 LADY SMITH: Yes.

12 MR SHELDON: Summing up, it does seem that at least at the
13 start of this process staff and senior leaders didn't
14 clearly understand young people's support needs. They
15 didn't fully understand guidance and policies on child
16 protection and safeguarding. They weren't helping young
17 people to achieve all that they might, so it does sound
18 as though this is not a great situation for this school?

19 A. No, it's not. And had the school not closed --

20 Q. I was coming on to ask you about that.

21 A. -- then we would have gone back, because we're saying
22 it's made some progress in addressing the areas. And
23 where a school has only made some progress then we would
24 intend to go back to that school.

25 I think in particular, in this school, we were also,

1 because there had been -- there was a notice of
2 complaint on the school, that inspectors were engaging
3 at some points every two weeks with the school to ensure
4 that they were taking really immediate action to some of
5 the areas, so it wasn't just this report. There was
6 also other interventions in between.

7 Q. There were more visits than just these two?

8 A. Yes, yes.

9 Q. I think we see in the final paragraph that the school
10 had made some progress. The school proprietors had made
11 the decision to close the school as of the end of 2021,
12 so no more visits. Do you know what the reason for that
13 was? Was it the difficulties that these visits
14 highlighted?

15 A. I wouldn't be able to say for certain the reason for the
16 closure.

17 Q. Moving on then back to your Part 1 report and we're on
18 page 9, looking at paragraph 8.

19 This is a paragraph about the purpose of inspection.
20 You note in the context of your work it's aiming to
21 support improvement and provide assurance on quality in
22 Scottish education, inspection aims to fulfil this by
23 providing assurance and public accountability about
24 quality, promoting improvement and building capacity and
25 informing the development of educational policy and

1 practice.

2 I just note those bullet points to make the point
3 that there is nothing explicitly there about
4 safeguarding or child protection. Is that a deliberate
5 omission?

6 A. I wouldn't say it was a deliberate omission. I think
7 this is looking at more the high level, what we aim to
8 achieve through it, rather than going into specific
9 areas.

10 Q. Because I think you do have a child protection policy,
11 a published child protection and safeguarding policy.
12 If we can go briefly please to INQ-000000774, page 3.

13 If we just scroll down, you have a section there:
14 What do we mean by child protection and safeguarding?
15 You note that child protection refers to processes
16 involved in addressing problems which arise when a child
17 may be at risk of harm. You note in the various bullet
18 points the different steps that might be taken,
19 immediate action, inter-agency investigation and so on.

20 If we can scroll down, please, to look at
21 safeguarding. You say that's a much wider concept than
22 child protection and refers to promoting the welfare of
23 children and young people and protected adults.

24 Just at the foot of the page you note that there is
25 a distinctive approach in Scotland, which is linked to

1 the GIRFEC principles which are familiar to us.

2 A. Yes.

3 Q. Just on the last line you said "safeguarding is a golden
4 thread that runs through the curriculum". Is there some
5 sense in which Education Scotland is more concerned with
6 safeguarding than with child protection, or is it with
7 both?

8 A. It's with both.

9 Q. All right.

10 In terms of child protection, your function in that
11 sphere is to ensure that the appropriate policies are in
12 place?

13 A. Yes. To look at the indicators in a school that
14 encourages a safe environment for children and young
15 people.

16 Q. If we go on to look in your report, the Part 1 report,
17 paragraph 9, "Principles of inspection", you note that
18 HM Inspectors adhere to a set of overarching principles
19 and in particular ten principles, which you set out in
20 that paragraph, beginning:

21 "Independence, impartiality and accountability."

22 I want to touch briefly on the last bullet point on
23 page 9, which is building on self-evaluation. I think
24 we have heard evidence about self-evaluation from the
25 Care Inspectorate. Can you just tell us please what is

1 intended by "building on self-evaluation" in that
2 context?

3 A. In terms of in this context in building on
4 self-evaluation, prior to an inspection that we would
5 ask the school to submit its own self-evaluation,
6 particularly looking at what it feels it's doing well,
7 where its areas for improvement are and what its
8 improvement priorities are going to be.

9 We would and we recommend, that they use our
10 frameworks 'How good is our school?' and the quality
11 indicators that we are looking at. However, schools can
12 go beyond this as well.

13 It's part of the information that we use at the
14 beginning of the inspection. The inspection team will
15 discuss the information that the school has provided as
16 part of its own self-evaluation and will have
17 a discussion and explore that with the school.

18 Q. Thank you.

19 At 9.2, over the page, page 10, you note beneath the
20 ten principles:

21 "Inspectors develop and maintain specific inspection
22 guidance, which describes how they work in particular
23 sectors. This guidance illustrates how inspection
24 principles work in practice for the various
25 establishments."

1 Is this guidance published by and available to those
2 who are being inspected; is that the idea?

3 A. Yes. We publish a couple of pieces of guidance.

4 One is predominantly our quality improvement
5 framework, which for this sector is 'How good is our
6 school?' 4.

7 Then we'll also provide a briefing note for
8 headteachers to let them know I suppose the process of
9 inspection and what to expect, the inspector will give
10 them a call, there will be a self-evaluation discussion,
11 and actually to talk them through what the different
12 features are.

13 Q. All right.

14 This document, or these documents, this is separate,
15 is it, from what you talk about in paragraph 11, the
16 quality framework, How good is our school?

17 A. Yes, so there is the quality framework and then
18 I suppose it's the more procedural elements of
19 an inspection. How many days the inspection will last,
20 who will visit the school. So the quality framework is
21 I suppose the standards that we inspect against.

22 Q. All right.

23 If we can just look at that, please. This is
24 consideration of 'How good is our school?' in
25 paragraph 11. You say that the various standards for

1 evaluation are set out in that quality framework. This
2 is a framework that applies to all schools in Scotland,
3 you say. The rationale for using the same framework in
4 all school inspections is to ensure that all schools are
5 held to the same standards of education.

6 Does that mean that in this context one size fits
7 all or is there special provision for special schools,
8 if I can put it that way?

9 A. The standards are the same, the element around we would
10 expect all children to have the same standard of
11 education, but how we apply the framework is different
12 depending on different sectors and different
13 circumstances as well. Our focus and particularly areas
14 that we look at, we would expect different things in
15 different schools.

16 A really good example is the element around
17 individualised planning for learning in a large primary
18 school --

19 LADY SMITH: That is individualised planning?

20 A. Yes.

21 So in a large primary school we would expect there
22 might be a small number of pupils that require
23 an individualised planning for their learning, whereas
24 in this particular sector we would expect all children
25 to have that. So rather than looking at, I suppose,

1 a one-size-fits-all curriculum, we are looking at
2 something that is much more tailored to an individual
3 pupil.

4 Q. Thank you.

5 At paragraph 11.3 you set out some of the quality
6 indicators that are used when schools are being
7 inspected on a full model. You list those there.

8 I think the 'How good is our school?' guidance
9 actually is rather fuller than this?

10 A. Yes.

11 Q. There is a lot more to it.

12 I wonder if we can dip into it a little to
13 illustrate what's in it and how it works perhaps.

14 If we can look please at SGV-000102426.

15 I think this is How good is our school? 4. Do we
16 understand that is the latest model?

17 A. That is the latest version.

18 Q. All right.

19 If we could look, please, at page 11.

20 LADY SMITH: This is a 2015 version of How good is our
21 school?

22 A. Yes.

23 LADY SMITH: This is the most recent one?

24 A. Yes.

25 LADY SMITH: Eight years old. Thank you.

1 MR SHELDON: Page 11 is the start of a section on leadership
2 and management. I was just interested in that because
3 in your report the main quality indicator is described
4 as leadership of change. I think there is, as we see,
5 a section on leadership full stop, as it were.

6 A. The whole section is called leadership and management,
7 and it's subdivided into five categories.

8 Q. All right.

9 If we can look please at page 15. This is a section
10 entitled "Leadership and management of staff". In the
11 theme section I think we see that the indicator
12 highlights the importance of sound governance and fair
13 and proper recruitment, focuses on accountability,
14 responsibility and effective empowerment of staff and
15 partners.

16 What is intended by that "effective empowerment of
17 staff and partners"?

18 A. What is intended by that is that staff and partners are
19 fully involved in the work of the school, so that where
20 there are improvement priorities taken forward that
21 staff are consulted with and are sharing their views and
22 the empowerment is intended that I suppose all staff are
23 committed to improving the work of the school rather
24 than it being, I suppose, done to them. Is that they
25 are seen as part of the leadership of the school. That

1 it's not just a headteacher or a senior management team
2 that lead the school, that everyone is proactively
3 involved.

4 Q. Looking down the page, there are a number of bullet
5 points there under the level 5 illustration. The second
6 bullet point, "Building and sustaining a professional
7 staff team":

8 "Our school uses effective and transparent
9 recruitment, selection and performance management.
10 Safeguarding procedures are clearly understood and
11 implemented by managers, with responsibilities for the
12 recruitment of staff."

13 So there is the emphasis on safeguarding there.

14 LADY SMITH: What is it about in that context, because you
15 are talking about recruitment there? Is that to do with
16 doing all the safeguarding checks that you have to do
17 before you could consider employing somebody or what?

18 A. Yes. Part of the area that we look at if a new school
19 was being formed and being registered as a school, we
20 would look at what are the procedures that are
21 undertaken to make sure the safe recruitment of staff,
22 that staff have not had any disclosures or been barred.
23 We would look at that as part of the registration
24 element.

25 LADY SMITH: The procedures you are referring to there are

1 recruitment procedures and practices?

2 A. Yes.

3 LADY SMITH: Thank you.

4 Mr Sheldon.

5 MR SHELDON: Thank you, my Lady.

6 I think following up from that, I think if we look
7 across the page, it's very small print, unless you can
8 blow that up, as it were, I think we see in features of
9 highly-effective practice, just over halfway down, so:

10 "All staff have current membership of the PVG
11 scheme."

12 Is that really the particular aspect of safeguarding
13 that has been focused on in that context?

14 A. Yes.

15 Q. All right.

16 LADY SMITH: Is there anything else? I think that is the
17 only one in that list isn't it, or have I missed
18 something?

19 MR SHELDON: I was going to ask that.

20 Apart from that, there seems to be no mention of
21 safeguarding in the highly effective practice section,
22 so is that it?

23 A. No, it's because we have a separate quality indicator
24 related to child protection and safeguarding.

25 Q. Perhaps we can just look at that, please. I think it's

1 page 18.

2 It's set out in the same way as the previous page we
3 looked at, "Safeguarding and child protection":

4 "This indicator focuses on the wide range of duties
5 required of all staff and partners to ensure that all
6 children and young people are safe, well cared for and
7 enabled to flourish. This indicator looks to how the
8 school takes account of statutory requirements in
9 relation to child protection. Safeguarding of all
10 children requires strong partnerships to be established
11 between the school and its local community."

12 Can I just ask you about that sentence,
13 "safeguarding requires strong partnerships", what are
14 you thinking of in that context?

15 LADY SMITH: Can we shift a little to the left, because we
16 are reading that paragraph? Thank you.

17 A. Sorry, so what we're looking at is that there are links
18 between Children's Services and the school. That if
19 it's a Local Authority school that there are links
20 between the child protection officers in the Local
21 Authorities. We are also looking at areas such as do
22 parents have an understanding, of how well are the
23 procedures for child protection and safeguarding
24 publicised and are parents aware of it? If there are
25 community partners coming into the school, are they

1 aware of child protection policies and procedures in the
2 school? If there are volunteers in a school, as well.

3 So it's taking it into the round.

4 Q. Is it quite common to have volunteers in schools,
5 particularly schools of this sort?

6 A. Not particularly in schools of this sort.

7 Q. All right. Okay.

8 In the first bullet point on that page:

9 "We have clear, appropriate and up-to-date policies
10 and procedures in place to ensure safeguarding,
11 including child protection. All staff take part in
12 regular professional learning and are confident in
13 responding to child protection or safeguarding issues,
14 including e-safeguarding."

15 What is that talking about?

16 A. That would be for children accessing websites and
17 technology as well, so it would be aware of
18 responsibilities and also what -- I suppose the area for
19 having filters on so that children can't access websites
20 unintended or otherwise and social media, social
21 devices, so we're looking at those sort of policies.

22 Q. Would it be fair to say that this particular aspect of
23 safeguarding, the policies and procedures, is where we
24 saw some difficulties arising in the Harbour Point
25 example?

1 A. Yes, and in Harbour Point we saw that around access
2 to -- I think we weren't confident in the filters that
3 Harbour Point were putting in place in relation to
4 accessing the internet.

5 Q. I don't know what you mean by "filters"?

6 A. I suppose it's a block. If people put in lots of words
7 to search for it, it would be an automatic block and
8 we'd expect that there would be a block on accessing
9 specific websites. If you are using a search engine.

10 Q. I think we may have been talking at cross purposes,
11 Janie, I was really talking about the difficulties at
12 Harbour Point with safeguarding policies in general
13 rather than e-safeguarding in that context.

14 A. Okay.

15 Q. Are you saying to us that there was a problem with
16 filters?

17 A. Yes --

18 Q. All right.

19 A. -- there was.

20 Q. Looking briefly at the second bullet point there,
21 arrangements to ensure well-being.

22 In the third sentence there:

23 "Children have access to a named person to help
24 them, who they can discuss personal issues with whenever
25 they want to. They feel they're supported well to help

1 themselves."

2 I think we know about the difficulties that arose
3 recently with the statutory named person scheme. Who is
4 the named person in this context?

5 A. In this context what we would be ascertaining from
6 children and young people is: do you have someone that
7 you can talk to if you have a concern or a complaint?
8 Rather than any legislative named person. It's if you
9 have a concern about something, do you have someone you
10 can talk to in the school?

11 Q. Who names the person though? Is it the child or is it
12 some adult?

13 A. In this instance, it would be the child.

14 Q. In every case?

15 A. We would ask the child do they have someone that they
16 can talk to.

17 Q. All right.

18 Putting that to one side again and going back to
19 your report, this is page 11. You talk there at
20 paragraph 11.5 about evidence and evaluation grades
21 feeding directly into the evidence base for the Scottish
22 Government National Improvement Framework and
23 improvement plan.

24 How does the improvement framework fit into the
25 picture? We have heard about your specific inspection

1 guidance, we have looked at How good is our school?

2 Where does the framework fit into this picture?

3 A. The framework is the Scottish Government framework and
4 what we do is we provide evidence around quality of
5 education provision. So for a sample of approximately
6 120 schools we will provide evidence of the overall
7 quality indicator grades that we assign for those
8 schools. We provide that around the four quality
9 indicators: leadership of change; learning, teaching and
10 assessment; ensuring well-being, equality and inclusion;
11 and raising a team and achievement.

12 For that selection of 120 schools we would say what
13 percentage of schools were satisfactory or better or
14 good or better.

15 Q. Thank you.

16 In paragraph 12 I think you go on to give some
17 examples of how the 'How good is our school?' document
18 works in practice.

19 At 12.3 you make the point:

20 "Children and young people attending school within
21 residential and secure accommodation have a range of
22 different needs. They each have significant, social,
23 emotional and learning needs. Each child or young
24 person requires a personalised education programme.
25 Inspectors will gather and evaluate evidence about the

1 quality of individualised planning and learning
2 activities.

3 "For example, in an inspection in 2018 of a school
4 within secure accommodation, inspectors gathered and
5 evaluated evidence on the school's processes for
6 tracking and monitoring learners' progress. They looked
7 at how this information was used to support the
8 development of individualised targets for young people
9 and to plan next steps in their learning."

10 Is this really the point that I think you were
11 making earlier on about there being something extra in
12 the context of these types of care settings?

13 A. Yes, yes. I think particularly in this example was
14 particularly how quickly this particular school had
15 these in place for young people who were transitioning
16 into the school at the early stages. Because it's
17 a really important point for us and what we would see as
18 effective practice is to ensure that -- I suppose it's
19 continuity in learning at the point of transition.

20 So this was a school that had individualised
21 planning in place, so that at that point where the
22 children were coming into the school that they weren't
23 disengaging from learning.

24 Q. I think at paragraph 12.4 there is a point here about
25 young people's behaviour. Putting this short, did it

1 seem that inspectors were worried that in an attempt to
2 improve children's behaviour they were being encouraged
3 or compelled to spend time out of class?

4 A. Yes.

5 Q. That had, predictably perhaps, an effect on their
6 learning?

7 A. Yes.

8 Q. Perhaps conversely, if there is a deterioration in
9 a child's behaviour, demeanour and so on, is that
10 something that inspectors would be told to look out for
11 as a sign of possible problems?

12 A. Yes. Areas that we're looking at is decline in
13 behaviour or if you are seeing a decline in attainment.
14 Those are some of the questions that we would explore
15 with staff.

16 Q. In 12.6 you make the point that inspectors expect
17 schools within residential and secure services to
18 provide children with full access to education. I think
19 we know that historically that perhaps hasn't been the
20 case.

21 This is something that is now explicitly part of the
22 process to ensure that it is now part of the process; is
23 that right?

24 A. Yes, that's right. Our expectation is all schools are
25 expected to give children and young people a full

1 curriculum, in line with the principles of curriculum
2 for excellence, regardless of the sector, and that's
3 an area that we particularly look at in this sector as
4 well.

5 Q. You give another example there of an inspection of
6 a school, 2014, where it seemed that there was a shorter
7 school day than in mainstream schools and there were
8 part-time timetables. So the requirement, the
9 recommendation, was that the length of the school day
10 needed to be increased.

11 What was the reason given for the school day being
12 shorter; do you recall?

13 A. I don't recall from that. I can go back and look at the
14 specific instance in that, but it is something that we
15 can see in this sector and the same in the special
16 sector as well.

17 Q. All right.

18 Moving on to paragraph 13, please. This is page 13,
19 this is a particular paragraph about safeguarding and
20 child protection. I think we have seen already that
21 there is evaluation of a school's approaches to
22 safeguarding and child protection. You say that the
23 school is asked to complete a self-evaluation form for
24 that.

25 Perhaps we can just look very briefly at that, it's

1 SGV-000102420. I think we can see that is a relatively
2 short document, three pages long. We're told in the
3 introduction that the nominated child protection
4 co-ordinator is to provide self-evaluation evidence
5 related to this topic, should focus on the effectiveness
6 and impact of the practices, any relevant issues you
7 have been addressing or improvements you have been
8 making. There is then a list of documents which are
9 expected to be made available; is that right?

10 A. Yes.

11 Q. There is then a data protection consent form or box,
12 some pro forma questions, 2 and 3, 4, the establishment
13 sector, 5, protection co-ordinators.

14 Then the meat of it, which is section 6, page 2, how
15 effective are your arrangements to ensure that all staff
16 who come into contact are aware of and carry out their
17 child protection responsibilities? Maximum 100 words.

18 Then, how many children or young people in your
19 establishment are currently on the Child Protection
20 Register? How effectively do you monitor their
21 well-being and progress?

22 Finally, how many learners are currently recorded as
23 being care experienced. Really the main substantive
24 question there is question 6, how effective are your
25 arrangements?

1 Can I just ask you first, is this one of a number of
2 forms, are there a number of different topics on which
3 schools would have to carry out an individual
4 self-evaluation like this?

5 A. We have two forms that schools are required.

6 There is one form that is particularly focused on
7 the quality indicators that schools have to write.

8 Then there's one that's particularly on child
9 protection and safeguarding.

10 Q. It's actually only the two forms?

11 A. Yes.

12 Q. All right.

13 The other one, would that be the one based on the
14 'How good is our school?' framework?

15 A. Yes.

16 Q. That is a much longer document, I take it?

17 A. Yes, although I am smiling when I saw the maximum 100
18 words. We tend to put that on because sometimes we get
19 an extensive range of information when we try to keep it
20 succinct, but it is the two forms that we use.

21 Q. Do people often want to tell you more than 100 words
22 about what they are doing?

23 A. Sometimes, quite often they will put bullet points that
24 tell us more, but this is the sort of starting point of
25 the discussion.

1 Q. Just going back to your report, paragraph 3.1, page 14,
2 about five lines from the foot of 13.1, HM Inspectors
3 speak with staff about particular needs and challenging
4 behaviour. In special schools, reading short, there is
5 a particular focus on physical and intervention and
6 seclusion, which is different to other schools.

7 Again it's perhaps an obvious question, but why is
8 there that particular focus for these establishments?

9 A. Because this is the sector where we may see the use of
10 safe holds.

11 Q. Do you see it in any other sectors or is it only in this
12 sector?

13 A. It's not only in the sectors, we see it in secure and we
14 see it in special sector. It's not only in this sector,
15 but it's the most common sector that we would see it.

16 Q. All right.

17 13.2, you again give an example of the 2021
18 inspection. Is the example you are talking about there
19 back to Harbour Point?

20 A. It is Harbour Point.

21 Q. All right. Thank you.

22 13.3:

23 "If inspectors identify any aspects of a school's
24 policies or practices which could place a child or young
25 person at risk, the report leads to the child protection

1 co-ordinator and the proprietor/education
2 authority/child protection officer."

3 Setting aside the question of the education
4 authority, it seems that the reporting line then, if
5 there is a suspicion of risk to a young person, is to
6 a child protection officer and the proprietor of the
7 particular school. Reporting, essentially, to
8 individuals within the school. Is there any sense that
9 there ought to be a reporting line that takes you
10 outwith the school at that stage as well?

11 A. There are two elements in this.

12 When we talk about -- so we report it to the child
13 protection officer in the school and the proprietor,
14 because we're following the school's child protection
15 policies. But as well as reporting within the school,
16 we are also looking at and ensuring that the school
17 takes appropriate action, depending on the incident that
18 happened.

19 If there is an immediate risk to a child we would
20 expect an immediate action and whether we need to make
21 contact with the police or Social Services in addition
22 to that, then we would also be completing our own
23 records where we had concerns, if we had concerns about
24 safeguarding.

25 Q. All right.

1 within residential and secure are led by a managing
2 inspector, who is an HM Inspector. Inspection teams may
3 include, in addition to the managing inspector,
4 additional HMIs, assistant inspectors or associate
5 assessors.

6 Is this the involvement of, as it were, outside
7 people that I think we spoke about a little before
8 lunch?

9 A. Yes. Associate assessors are existing practitioners or
10 leaders in particular sectors that come in.

11 Assistant inspectors can be -- they're sometimes
12 colleagues who have been permanently employed as HM
13 Inspectors who may have retired, but they work on --
14 they're willing to undertake work and you pay them for
15 doing that.

16 Q. All right.

17 Is there a list held centrally of people who are
18 willing to do that or are people approached at random,
19 as it were?

20 A. Usually for the assistant inspector element then we
21 would approach people or they may contact us to say that
22 they would be willing to undertake the role. We would
23 then interview them -- even if they have been former
24 HMI, we would interview them just to make sure of the
25 suitability.

1 The associate assessors, we would usually put
2 communication out to the sector to say that we're
3 looking for associate assessors. They would be required
4 to complete an application, we would then interview them
5 and some of those that are interviewed are then brought
6 on board as associate assessors. And they will
7 undertake between two to three inspections a year. It's
8 up to a maximum of around four, but they are current
9 practitioners in schools that they come out for the
10 period of the inspection and then they go back to their
11 establishment.

12 LADY SMITH: Do you pay them?

13 A. We pay them a nominal fee to their establishment, not to
14 them as a person. If it's a Local Authority we'll pay
15 to the Local Authority, if it's independent we would pay
16 to the establishment for that. As part of it, we
17 provide them with induction training. They are then
18 required to undertake some, what we call, shadowing
19 activities, so they go out with an experienced HMI. We
20 would then continue to assess their suitability when
21 they're shadowing, before we then deploy them as part of
22 a team.

23 MR SHELDON: All right. Thank you.

24 LADY SMITH: Thank you.

25 MR SHELDON: Moving to paragraph 15, there is a section on

1 engagement with education authorities.

2 Taking that short, I think essentially the
3 inspection team is consulting with education authority
4 officers for their views on school performance and for
5 any concerns that they have.

6 Is that in relation to all schools or just schools
7 which have a Local education authority component?

8 A. There are two areas. For all schools, yes, we would ask
9 the Local Authority for their view, but particularly for
10 schools in this category we would ask if it was
11 a placing Local Authority we would ask that placing
12 Local Authority for their view on how well the school
13 was performing or if they had any concerns.

14 Q. I understand. Thank you.

15 LADY SMITH: What views are you seeking there? So a school
16 is notified that it's going to be inspected and then the
17 team, you say, seeks the views of education authority
18 officers, so this is a school, let's say it's in
19 Edinburgh, so the Local Authority is City of Edinburgh,
20 what is it you are asking the officers?

21 A. So we're asking the officers what their views are on the
22 performance of the school.

23 LADY SMITH: About the school?

24 A. Yes. Also if they have any concerns about the school or
25 if they've had any complaints about the school either.

1 MR SHELDON: Just following up on that, have you had
2 concerns expressed by Local Authority officers and if so
3 what sort?

4 A. Yes, so I can recall, not in a residential special
5 school. We had concerns raised by Local Authority
6 officers around the quality of education being provided.

7 Q. But not safeguarding concerns?

8 A. I would need to double check.

9 Q. Okay.

10 We have discussed self-evaluation a bit, so over the
11 page, page 16, there is a section on "during the
12 inspection."

13 It's noted that there's engagement with staff.
14 There is a discussion of self-evaluation. There is
15 observation of learning and teaching. That is the
16 actual looking at what they do bit.

17 Moving on to paragraph 18, there is a section on
18 engaging with children and young people. I just wanted
19 to ask you, 18.1, you are saying that inspectors gather
20 the views of learners, parents, partners and staff for
21 children and young people. Questions include asking
22 them how safe they feel in school. This gives children
23 the opportunity to share their views and staff are asked
24 to ensure that learners have privacy to complete the
25 questionnaires.

1 Is that ever a problem? Is there ever a problem
2 with giving students privacy? Do providers ever balk at
3 that? Is there ever a problem with ensuring that
4 children have privacy to complete questionnaires of that
5 sort?

6 A. I'm not aware that any child has raised with us that
7 they didn't have privacy to complete the questionnaire.
8 I think one of the challenges is that where you have
9 children and young people in care settings it's where
10 they complete it and ensuring that they do have privacy.

11 Q. I just wanted to ask you about what you say in 18.4,
12 inspectors speak with children, page 17, and young
13 people during every school inspection. In schools
14 within residential and secure and inspectors take
15 account of factors such as children and young people
16 being reluctant to speak formally to adults they don't
17 know. They can have issues with authority or are
18 concerned that inspectors are inspecting them rather
19 than the school.

20 I think during the boarding schools hearings you
21 discussed this to some extent with my colleague,
22 Mr Brown. The suggestion I think was that as time has
23 gone on children and young people have become more
24 confident and forthcoming about speaking to inspectors,
25 sharing views about the school and so on.

1 Do we take it from this paragraph that that's not
2 the case in this sector?

3 A. Yeah. It's not always the case in this sector.

4 I think in this sector in particular we can have
5 children and young people that don't have particular
6 trust in adults and they can be suspicious of adults
7 visiting. So it is something that we're very aware of
8 as a team.

9 Q. I suppose some of them might even have communication
10 issues. Is that something that crops up and if so how
11 is it dealt with?

12 A. In terms of that -- that is one of the reasons why we
13 have a team with a specialist background, both in
14 working with learning and teaching with children who
15 have complex difficulties but also working in the sector
16 itself.

17 LADY SMITH: Have you discussed your approach to gathering
18 information from young people with SSSC?

19 A. No, we haven't. It is not something we have done.

20 LADY SMITH: I understand from them that they have developed
21 some particular strategies to seek to address the
22 likelihood that children won't automatically trust them
23 and find ways of demonstrating to children that the
24 children are their primary interest, not the people in
25 the offices and people who do the admin.

1 A. I think it is something that as an inspector we're
2 always looking at. One of our key principles is putting
3 children and young people at the heart of what we do.
4 LADY SMITH: That is very easy to say, but you have to work
5 out how you are going to do it.
6 A. You have to work out how to do it and I think that's one
7 of the areas that we're looking at, how do we speak with
8 more children and young people when we are inspecting.
9 How do we give more children and young people the
10 opportunity to speak to us as well. It's something that
11 we're always looking at, different approaches and
12 different ways that we can take. That's certainly
13 something that we can follow up.
14 LADY SMITH: Did you know that SSSC are interested in trying
15 to develop an app that children can use to communicate
16 with them? Would you consider the same approach?
17 A. Yes, we would.
18 LADY SMITH: Did you know they were thinking of doing that?
19 A. No, I didn't know they were doing that.
20 LADY SMITH: Mr Sheldon.
21 MR SHELDON: Thank you, my Lady.

22 Paragraph 19 is a section about the post-inspection
23 phase and when inspectors write a report. I think we
24 saw this in relation to the Harbour School. It takes
25 the form of a letter for parents and carers.

1 One thing I meant to ask you when we looked at the
2 Harbour Point School material was -- we see this letter,
3 which is addressed to parents and carers. Is there
4 documentation, are there formal reports, are their
5 pro formas that underlie that letter that, as it were,
6 go towards making up that final version? In other
7 words: do you have your workings written down?

8 A. Yes, we have something called a summarised inspection
9 findings document. So that has the workings, as you
10 would say, written down, and that's what we aim to
11 publish as well.

12 Q. You say, in 19.1, inspectors also write a more detailed
13 report of these findings, the summarised inspection
14 findings.

15 That's then, 19.2, checked for accuracy and comments
16 considered.

17 These are comments from teachers, proprietors and
18 education authorities that might be challenging some of
19 the things that you say. Is that right?

20 A. Yes, it's predominantly from the proprietor, the
21 headteacher or the Local Authority that we would ask for
22 comments.

23 Q. 19.3, you say once finalised the report and the SIF are
24 published on Education Scotland's website.

25 For example, if we wanted to, could we go and check

1 the SIF in relation to Harbour Point School?

2 A. Yes.

3 Q. All right.

4 Paragraph 20 is a section about the consequences of
5 adverse findings. We have seen in relation to Harbour
6 Point again that inspectors may revisit to review
7 progress if there are problems and further inspection
8 activities can focus on particular problem areas.

9 What is the ultimate sanction in relation to schools
10 which don't improve or can't improve? So far as you're
11 concerned at least as Education Scotland?

12 A. As far as we are concerned, I think, and we saw that
13 in -- the Harbour Point one I think is a good example of
14 that, if they don't improve then we would provide advice
15 to the Registrar and Scottish Ministers that it's not
16 improved and for the Ministers to either put conditions
17 on a school or serve a notice of complaint and then
18 I suppose the ultimate is closure.

19 If it's a Local Authority, then for Ministers to put
20 action on the Local Authority as well.

21 Q. All right.

22 21 is about special inspections and there is
23 a paragraph about the power under the 1980 Act to order
24 a special inspection.

25 These would mainly arise, 21.2, as a result of

1 specific concerns about a school's practices. They're
2 focused on areas of concern. So these are more limited
3 inspections than a full model inspection; is that right?

4 A. This is an inspection where there are particular
5 concerns that we feel we need to go in almost
6 immediately. In particular, the areas that we look at
7 we also use our How good is our school? framework, but
8 we may look at particular quality indicators or
9 particular themes depending on the nature of concern
10 that we have.

11 Q. You say, 21.3, a special inspection will normally take
12 the form of an unannounced or short-notice inspection.

13 Paragraph 22 is about that, unannounced or
14 short-notice inspections in response to identified
15 risks.

16 Was Harbour Point an unannounced or a short-notice
17 inspection?

18 A. It was a short notice one.

19 Q. How short is short?

20 A. It would be a couple of days.

21 Q. Right.

22 22.2, page 19, you tell us the most recent
23 short-notice special inspection was carried out in
24 2022/2023. An independent day school, so not strictly
25 within our terms of reference, but it's perhaps

1 an interesting example. An independent day school
2 received short notice of a special inspection, this was
3 as a result of concerns identified during a link
4 inspector's visit. Can you just tell us a bit more
5 about the natures of the concerns that the link
6 inspector reported back?

7 A. The nature of these concerns that the link inspector
8 reported back in this instance was as part of their
9 engagement with the school around the Child Protection
10 Policy and training that staff had had in child
11 protection, that it hadn't taken place and the period of
12 time was that we had asked -- the school had originally
13 given us assurances that this would take place over the
14 summer period. This arose at the end of June, so the
15 school was closing for the summer. So when we checked
16 towards the end of July into August, it still hadn't
17 taken place and therefore that's why we sort of gave
18 advice to carry out a special inspection.

19 Q. All right. Was this an inspection on a school called
20 Al Qalam School?

21 A. It was, yes.

22 Q. Can we look at that briefly, SGV-000102935.

23 I think again we see that this is a letter addressed
24 to parents and carers, 1 November 2022.

25 Once we get beyond the introductory paragraph, under

1 "Leadership, governance and management" we are told that
2 school leaders, staff and those in a governance role are
3 clear about their roles. The executive head has a clear
4 vision for the future of the school, works very closely
5 with highly experienced quality assurance executive and
6 provides robust governance, support and challenge to the
7 school. Together, the executive head and QAE are
8 clearly committed to school improvement. Keen and
9 active interest in children's well-being, progress and
10 achievements.

11 We see that, reading over a couple of sentences, the
12 head of learning is well respected by children and
13 families, who appreciate his supportive and open
14 approach. The executive head and QAE should continue to
15 monitor closely all aspects of school life, including
16 arrangements for child protection and safeguarding. In
17 doing so they should ensure that all staff continue to
18 understand fully their roles and responsibilities.

19 Then towards the foot of that page, under
20 "Safeguarding and child protection", we are told that
21 school leaders have recently refreshed the school's
22 policy for safeguarding and child protection. The
23 updated policy takes full account of current national
24 guidance and legislation and reflects well the context
25 of the school's community of faith.

1 If I can just pause there, there is a wider point to
2 ask you about, but just reading that sentence about
3 "reflects well the context of the school's community of
4 faith", what is that getting at in the context of this
5 inspection?

6 A. From recollection this one was just an acknowledgement
7 that it was a faith school and that the aspect of the
8 policy was -- one of the challenges that we had with
9 this school was that the previous policy had looked like
10 it had been adopted from another school. So what we
11 were acknowledging actually is actually you are now
12 taking account of your community as part of your policy.

13 Q. This was a policy which, all be it took account of
14 national guidance --

15 A. Yes.

16 Q. -- fitted more with the school's ethos, if one can put
17 it that way?

18 A. Yes.

19 Q. All right.

20 LADY SMITH: Can you give me an example of any changes that
21 needed to be made to that policy?

22 A. In the policy it had -- the shift in policy from what we
23 had seen in June where the policy wasn't updated, when
24 we then saw the policy in July it then looked like it
25 had actually just been another school's policy that they

1 hadn't really done any work with the policy or with
2 understanding, which is why we weren't assured around
3 the approach that the school was taking from that.

4 So the policy was specific to how it would take
5 account of having a child protection co-ordinator, we
6 would be looking at having chronologies of any
7 incidents, things would be dated, what training the
8 staff would undertake.

9 LADY SMITH: I'm not sure I understand why that was anything
10 to do with the school's community of faith. The updated
11 policy takes full account not only of national guidance
12 and so on, but reflected the school's community of
13 faith. I thought from something you indicated earlier
14 that that was something it needed to do. Have I picked
15 you up wrongly.

16 A. Again, I can come back on that one with the specifics of
17 that one.

18 LADY SMITH: Thank you.

19 MR SHELDON: If you would. It would be helpful to
20 understand how that fits into the context of
21 an inspection like this.

22 As I say, there is perhaps a wider point to make,
23 and if I can just read you a couple of other passages on
24 the next page, page 2. The first line:

25 "As a result of training, staff have made

1 improvements to how they will record any well-being or
2 child protection concerns ..."

3 The next paragraph:

4 "Children say they feel safe and happy at school."

5 Next paragraph again:

6 "The school has a well-established range of
7 effective procedures to ensure the well-being of
8 children, including policies for anti-bullying ..."

9 The point I want to ask you about is this: on the
10 face of it, again, it looks like a very positive report
11 actually. Do you feel that it adequately reflects the
12 concerns and perhaps the seriousness of the concerns
13 that originally led to the inspection being done in the
14 first place?

15 A. I think this is an example where we had concerns --

16 Q. Again, can you tell us what the nature of the concerns
17 were?

18 A. The concerns were around the policies and the training
19 of staff in relation to child protection and
20 safeguarding. Our concerns were that the staff didn't
21 have training in place. What we wanted to do through
22 the inspection was to be assured that actually what was
23 happening, I suppose, on the ground was what we needed
24 it to do.

25 That's one of the reasons why we carried out the

1 special inspection. While the headteacher was telling
2 us, yes, we're going to put this in place, yes, we're
3 going to update our policy, I suppose pace wasn't quick
4 enough for us. That's why we felt we had to go in and
5 carry out a special inspection of that.

6 There was also in this school some changes in
7 leadership and the relationship between the executive
8 head as well, and what happened when we went in the
9 school had done a lot of very intensive work in the
10 period.

11 Q. You mean before you went in?

12 A. Before we went in. Because we were engaging with the
13 school from the June and then over the summer period,
14 when there were no children in the school.

15 Q. This report reflects the improved version of the school,
16 as it were, rather than the pre-concern state?

17 A. Yes.

18 Q. You also talk in paragraph 22 about the most recent
19 unannounced special inspection, which was carried out in
20 academic year 2017 to 2018. This was as a result of
21 ongoing concerns related to child protection approaches
22 and the quality of leadership and governance.

23 Is this an inspection of a school called the New
24 School Butterstone?

25 A. It is.

1 Q. If we can look at that, please. It's SGV-000102942.

2 We see this is in the familiar form, it is dated
3 21 August 2018 and the introduction indicates that the
4 inspection looked at the quality of leadership and
5 governance and the school's provision in relation to
6 safeguarding and child protection.

7 Under "Quality of leadership and governance" we see
8 that the recently appointed, experienced head of school
9 is well respected by the school community. Clearly
10 committed to ensuring that young people achieve success
11 and so on.

12 Again, there are quite positive things being said
13 about the school and, again, is this another example of
14 a post-improvement report or can it be that, given that
15 this is unannounced?

16 A. This was a school that we had -- both ourselves and the
17 Care Inspectorate had been engaging for a period of
18 time. Again, we weren't seeing the pace of
19 implementation that we would expect to see. While we
20 were visiting the school and our link inspector was
21 visiting the school, while we were getting conversations
22 with the headteacher to give us assurances, we weren't
23 confident that those were going to come to fruition and
24 so that's why we felt we had to carry out this
25 unannounced.

1 Q. All right.

2 Have I understood you correctly, that this school
3 was being told: you have to improve and you have to do
4 X, Y and Z?

5 A. Yes.

6 Q. And they didn't do it --

7 A. Yes.

8 Q. -- or at least you weren't convinced that they were
9 going to do it either?

10 This is in the context of a recently appointed head
11 of school. Is this the head who engagement had been
12 carried out with?

13 A. There was a previous head and then there was a new head
14 as well, so there was two.

15 Q. All right.

16 Do we see on page 2 the second paragraph there:

17 "The current Child Protection Policy does not take
18 into account recent legislation and national guidance,
19 such as GIRFEC and the 2014 Act. A number of policies
20 in place to protect young people from harm are dated and
21 need to take account of national guidance. The school
22 needs to ensure that self-evaluation activities include
23 a focus on safeguarding and child protection in order to
24 identify what is working well and areas for
25 improvement."

1 Then in the next paragraph we see that there is
2 a variety of plans, but reading short, third sentence,
3 however the school has too many different kinds of plans
4 leading to an overly bureaucratic process. Plans are
5 not always individualised and don't always demonstrate
6 how they will improve outcomes for young people. Risk
7 assessments don't fully reflect specific risks of young
8 people, particularly in relation to information and
9 communication technology.

10 We note in the next paragraph that staff have
11 recently participated in child protection training.

12 I think we can see there perhaps more clearly than
13 in previous reports that the concerns really did focus
14 around safeguarding, child protection and so on.

15 What was to be done with this school, given the
16 apparent failure to do what was asked of it in the
17 run-up to the inspection?

18 A. In the case of this school we then had to advise that --
19 we then put in certain conditions on this school to make
20 changes within a set period of time. That wasn't taken
21 forward and then ultimately this school closed.

22 Q. All right.

23 Just on last page, I think there is a section
24 entitled:

25 "What happens next."

1 It is said that there was going to be liaison with
2 the Board of Governors regarding improvement and there
3 is to be a return within six months. HM Inspector will
4 work closely with the school before the further
5 inspection.

6 But you are telling us that there were also formal
7 conditions imposed on the school?

8 A. The conditions were because they weren't responding,
9 particularly around the safeguarding and of the ICT.
10 Ultimately both ourselves and the Care Inspectorate we
11 then were getting communication from the school that it
12 may be closing, it may not be closing and it became very
13 confusing, but ultimately the school closed.

14 Q. All right.

15 If we wanted to see the conditions in detail that
16 were imposed, would we find those in the summarised
17 inspection findings?

18 A. No. They would come from the Registrar of Independent
19 Schools.

20 Q. We'd have to look at their records?

21 A. Yes.

22 Q. All right.

23 LADY SMITH: Do you not keep copies of conditions --

24 A. We would have copies, but it -- we wouldn't put it in
25 our summarised inspection findings.

1 LADY SMITH: It wouldn't go in your inspection findings but
2 you would have them in your records? Thank you.

3 MR SHELDON: Thank you, my Lady.

4 Moving on, paragraph 23, this is Scottish Ministers'
5 enforcement action. I think we see that there are
6 different statutory regimes for public and grant-aided
7 schools on the one hand and independent schools on the
8 other.

9 In essence, are the bones of the processes the same?

10 A. Yes.

11 Q. There can be conditions or ultimately revocation of
12 a licence or a registration; is that right?

13 A. Yes.

14 Q. That deals with paragraphs 23 and 24.

15 There are then a series of sections, 25, 26 and 27,
16 dealing with registration of a proposed school.

17 25, there's liaison with the Registrar where there's
18 to be registration, where conditions have been imposed.
19 Applications to increase numbers or to change location
20 or indeed request for professional advice from the
21 Registrar as part of a condition of concerns.

22 26 then deals with preregistration visits. It's
23 noted that the preregistration process is the same for
24 all independent schools and that would include a tour of
25 the school, review of suitability of school security and

1 so on.

2 Then at 27 you tell us something about
3 post-registration inspections. Is this an essential
4 part of the process? It should be seen almost as
5 a probation process, that the school is registered, it
6 has opened and there is then an inspection within nine
7 months of it being opened?

8 A. Yes, because in the pre-registration period all the
9 staff may not have been recruited and there won't be any
10 pupils in the school. That's why we want to go back in
11 nine months, once there are pupils there.

12 Q. I see that. Yes.

13 In the post-registration inspection then we're back
14 to the How good is our school? framework, so it is just
15 the same process essentially?

16 A. Yes.

17 Q. Albeit that it's a particular context for the inspection
18 that's taking place.

19 Paragraph 28, you talk about the consequences of
20 adverse findings by inspectors, page 23.

21 If there is a finding that the school is not
22 providing sufficient quality of education then there
23 will be continued engagement. I think we have seen that
24 process in some of the inspection reports that we have
25 looked at.

1 There can then be a second visit, as with Harbour
2 Point, to review progress and the extent and nature of
3 any further inspection activities will depend on the
4 findings of post-registration inspection.

5 If conditions are attached to the registration then
6 there is still continued engagement. Can you just tell
7 me a little bit about that process of engagement? What
8 does it actually physically involve? What are the
9 inspectors doing in engaging with the school?

10 A. That is similar to what we have seen in other examples.
11 It will be almost a further inspection. We would say we
12 would come back and we will expect this to have taken
13 place and we'll produce another report. It might be
14 that a policy is not in place, so we may ask for the
15 policy to be put in place and again submitted to us as
16 well.

17 Q. I think you said to us in relation to Harbour Point
18 actually that there were the two inspections that we've
19 seen the reports of, but I think you were saying also
20 that there was contact between -- there was additional
21 contact. I'm curious to know how that works. Is this
22 the inspector picking up a telephone and saying: how are
23 you getting on with this? Are they actually turning up
24 to the school? How does that work?

25 A. There are two areas.

1 If it is purely a document that needs updated, then
2 we may receive the document and in the case of
3 independent schools, because the registration process is
4 done through the Registrar, the Registrar will ask for
5 submission of particular documents.

6 If it's an area that we need to see like staff
7 understanding of a policy or we need to see learning and
8 teaching, then we will go in and carry out a visit to
9 the school.

10 Q. Thank you.

11 Paragraph 29, you are talking about inspectors
12 working with the Care Inspectorate. HMI and the Care
13 Inspectorate recognised the complementary nature of
14 their respective inspection functions and aim to avoid
15 duplication to limit the regulatory burden where
16 possible.

17 That's a formal duty, I think you tell us at 29.2,
18 under the 2010 Act?

19 A. Yes.

20 Q. But there is specific provision for joint inspections.
21 At the foot of that page, page 23, you tell us that the
22 joint inspection means an inspection carried out by two
23 or more relevant scrutiny bodies.

24 That could be HM Inspectors and the Care
25 Inspectorate or others, HMI and HMIPS for example, is

1 that a joint inspection or is that an --

2 A. I think it's an assisted inspection. It's more commonly
3 ourselves and Care Inspectorate.

4 Q. In fairness, I think you go on to look at that briefly
5 in the report and we'll come to that.

6 Page 24, 29.3, you say that inspectors and the Care
7 Inspectorate may carry out what is known as shared
8 inspection activity. This is where there is
9 a co-ordination of dates of inspections and visit the
10 establishment at the same time?

11 LADY SMITH: But that's different from a joint inspection?

12 A. Yes, it's different from the joint inspection.

13 LADY SMITH: That is something you decide between
14 yourselves --

15 A. Yes.

16 LADY SMITH: -- not something that Scottish Ministers have
17 directed you to do?

18 A. Yes.

19 LADY SMITH: Thank you.

20 MR SHELDON: Thank you, my Lady.

21 Yes, I think that is the distinction that you are
22 seeking to make in the report there.

23 You note in that paragraph that in 2019 HM
24 Inspectors and the Care Inspectorate engaged in a shared
25 inspection activity. Was this in relation to a school

1 called Daldorch House?

2 A. It was.

3 Q. What prompted the idea of having a shared inspection in
4 that instance; do you recall?

5 A. So I don't recall this one, but usually it would be
6 where we were both planning to inspect the school in the
7 same year and we would co-ordinate the dates so that we
8 carried it out together. It doesn't always align, but
9 that is what we aim to do.

10 Q. Sure. This was a school which was coming up for
11 inspection anyway?

12 A. Yes.

13 Q. It was decided to share the duties, as it were?

14 A. Yeah.

15 Q. If we can look at that, please. This is a full model
16 inspection, isn't it? It's SGV-000102948. We can see
17 even just from the number of pages it's a much longer
18 document than the shorter ones that we have looked at so
19 far?

20 A. This is a summarised inspection findings document, there
21 would be a shorter version that went with this.

22 Q. All right.

23 This is the SIF that we have seen there is a link to
24 it in the shorter letters that you showed us earlier on?

25 A. Yes.

1 Q. This is summarised inspection findings from Daldorch
2 House, 12 November 2019. That is the date of the report
3 rather than the inspection itself, is it?

4 A. Yes, that would be the date of publication.

5 Q. Just to be clear in relation to these inspections that
6 we looked at earlier, Harbour Point, Al Qalam and so on,
7 there would be a document of this length and detail to
8 go along with those inspections as well?

9 A. Yes.

10 Q. All right.

11 Page 2 of this document, we note that Daldorch House
12 is an independent residential school opened in 1998 and
13 operated by the National Autistic Society. It provides
14 education and care for children and young people between
15 eight and 21 years, all the learners have a diagnosis of
16 an autistic spectrum condition and associated complex
17 additional support needs, and it's located in Catrine in
18 East Ayrshire.

19 That's the purpose of the school. I just want to
20 look at some aspects of this and some issues, perhaps
21 issues of concern, that were flagged up in the
22 inspection.

23 If we can look please at page 8 first of all. We
24 note there that the school submitted its self-evaluation
25 information related to child protection and

1 safeguarding, that was discussed with relevant staff.

2 In addition, inspectors examined a sample of
3 safeguarding documentation. At the time of the
4 inspection areas for development were agreed with the
5 school and representatives from the National Autistic
6 Society. That seems quite a short section on
7 safeguarding. Would one normally expect to see more
8 than that?

9 A. In this particular school we wouldn't -- depending on
10 what it was, if we felt it would identify children and
11 younger people or put children and young people at any
12 risk at all, then we wouldn't put that into a published
13 report.

14 What we would have is we would have a document as
15 part of the safeguarding that would outline the areas
16 that would be signed by ourselves and also signed by the
17 school and the action that was required to take that
18 work forward.

19 Q. Right.

20 Just going over the page, please, to the section
21 titled:

22 "Ensuring well-being, equality and inclusion."

23 LADY SMITH: I don't think this page was actually giving us
24 to what you were referring to a moment ago. Is this the
25 right document?

1 MR SHELDON: SGV-000102948. It should be Nuix page 9.

2 (Pause)

3 It's clearly a different document. I am sure it's
4 my fault that there is a problem with the numbering.

5 (Pause)

6 I'm sorry, my Lady, I think the document that's on
7 the screen is an extract of the full document and I had
8 thought that the full document was in the bundle, but it
9 may not be.

10 LADY SMITH: Maybe it's not.

11 MR SHELDON: If my Lady would give us perhaps two minutes to
12 see if we can sort it.

13 LADY SMITH: Let's do that, if we can get it. Let's do it
14 now.

15 MR SHELDON: I don't have a great deal more, my Lady.
16 I would think at the most half an hour, I hope less than
17 that.

18 LADY SMITH: That's fine.
19 Two minutes to try to find the document.

20 MR SHELDON: Thank you.

21 LADY SMITH: Sorry, Janie, hopefully we will get there.

22 (4.00 pm)

23 (A short break)

24 (4.15 pm)

25 LADY SMITH: Mr Sheldon.

1 MR SHELDON: My Lady, thank you.

2 That was longer than the promised two minutes, but

3 ...

4 LADY SMITH: We have found it?

5 MR SHELDON: With some IT sleight of hand I think we have
6 managed to sort the issue.

7 LADY SMITH: Good. Let's go.

8 MR SHELDON: Janie, we were looking at the Daldorch House
9 report, the shared inspection report.

10 We looked at a section on safeguarding and next to
11 page 9. This is a section on ensuring well-being,
12 equality and inclusion.

13 Second-last bullet point on the page:

14 "Staff work hard to understand young people's
15 behaviour and plan support strategies. The emphasis is
16 on the least restrictive approaches and regular training
17 and reflection supports this. Young people are
18 successfully developing self-regulation skills."

19 Reading short:

20 "Keeping themselves and others safe. The school
21 needs to revisit the use of seclusion for young people.
22 All incidents involving seclusion need to be document
23 reviewed and reflected upon."

24 Is this suggesting really that seclusion was being
25 used too often, certainly for a particular group of

1 young people?

2 A. So it could suggest a couple of different areas and
3 leading on is that where they are using seclusion, that
4 they're not documenting it well enough, reviewing it and
5 reflecting on it. When we are saying for a few young
6 people, that may be one or two young people.

7 This would go in the summarised inspection findings,
8 because it's something that we would expect the school
9 to continue to improve upon and depending on what the
10 grade was and I think for this one the grade was "good",
11 so we would say there were some areas that they need to
12 continue to improve on, but overall there are important
13 strengths in the school's work.

14 Q. I think my point was just that it's perhaps not clear
15 from those last two sentences what the problem actually
16 is, or indeed whether there are two separate problems.

17 There is certainly the issue of documentation, but
18 the way those two sentences are structured I think
19 suggests that seclusion is being used too often for
20 a certain group of young people. Would you accept that
21 or is that not what that is trying to say?

22 A. I would need to double check on that with the team who
23 was doing that. I think it might be worth saying the
24 summarised findings document is predominantly for staff
25 in the school. At the end of the inspection there is

1 a very detailed oral feedback that is given to the staff
2 and this then supports the staff in taking the work
3 forward, with having -- it has the documentation of the
4 oral feedback that has been given as a prompt to help
5 them improve.

6 LADY SMITH: This needs to be understood by people who may
7 not have been there at the oral feedback, doesn't it?
8 As an outsider reading this, I can't tell from that,
9 Janie, what it was that was happening that needed to
10 stop, and needed to be reflected on and revisited. Do
11 you understand what I mean?

12 A. Yes.

13 LADY SMITH: There is a lot of very high-level language, but
14 the story isn't there. Do you think there is a way of
15 working that in?

16 A. Yes, and there is -- and where we try to -- so we try to
17 work on our clarity and using plain English wherever we
18 can. It may be that we don't want to identify
19 particular individual young people. It may be there
20 could have been more detail put into it. I would need
21 to look into this one a bit more to see.

22 LADY SMITH: If you really want to help staff be better in
23 the future, I just wonder it might be more helpful to
24 tell them a bit more about what it was that was
25 happening, that these expert outsiders coming in saw and

1 felt needed to stop and change.

2 A. Yes.

3 LADY SMITH: Mr Sheldon.

4 MR SHELDON: Thank you, my Lady.

5 Moving on then to another issue. It's over the
6 page, page 11, this is a section headed:

7 "Raising attainment and achievement."

8 It's just to look very briefly at the first bullet
9 point. It's noted that most young people are making
10 satisfactory progress in literacy and numeracy, but the
11 last two sentences again of that bullet point are:

12 "Expectations of what a minority of young people can
13 achieve is too low. They need to be challenged further
14 with their learning in order to make better progress
15 with their literacy and numeracy."

16 In a sense, Janie, does this seem to be almost
17 a continuation of what we saw earlier on in relation to
18 schools like St John's, Geilsland, where all they're
19 given is vocational learning. Here is another school
20 where expectations are low, too low?

21 A. I would say that in terms of the breadth of the
22 curriculum that we have seen a change in terms of the
23 shift from not only have a vocational education.

24 In this particular school, giving the grade of
25 satisfactory, we would say that, yes, children are

1 getting a range of activities and they are making
2 progress, but they could be achieving much more.

3 Q. All right. Thank you.

4 Moving on please to page 14. The page number on the
5 document is 13, but it's 14 in Nuix I think. This is
6 a section headed "Care Inspectorate evidence".

7 Again, looking at the key question of how well do we
8 support children, second paragraph down, last two
9 sentences:

10 "Some staff found it difficult to motivate young
11 people and had low expectations of their capacity for
12 progress. Staff however recognised individuality and
13 celebrated achievements. Family contact was supported
14 ..."

15 Again, there is a suggestion there that staff are
16 really not giving -- I'm not sure how you put it --
17 enough recognition to young people, underestimating them
18 in other words. Is that a fair way of putting that?

19 A. This particular element of the summarised inspection
20 findings is the Care Inspectorate evidence from looking
21 at the care accommodation aspect of it. Rather than the
22 education taking place in the school.

23 Q. All right.

24 This is Care Inspectorate evidence and we see that
25 there is various grades given there, the Care

1 Inspectorate grade, "adequate".

2 Are those grades applied by the Care Inspectorate?

3 A. Yes.

4 Q. Does Education Scotland have any say in that or any
5 input?

6 A. No.

7 Q. All right.

8 LADY SMITH: On the use of the grade "adequate", Janie,
9 I heard from SSSC, I think, that adequate isn't good
10 enough. Would you agree?

11 A. In our gradings we don't use the term adequate. We look
12 at satisfactory and we say satisfactory is basic level
13 of provision, but is it good enough? No, it's not good
14 enough.

15 LADY SMITH: Satisfactory is not good enough?

16 A. No, it's not good enough.

17 LADY SMITH: Adequate's not good enough.

18 A. No.

19 LADY SMITH: Thank you.

20 Mr Sheldon.

21 MR SHELDON: Given what you say about the Care Inspectorate
22 grading and the lack of inputs from Education Scotland,
23 I don't want to labour this, but just to look at one
24 more passage. It's on page 15 Nuix, document page 14.

25 We see in the last paragraph, last larger paragraph

1 on that page:

2 "Daldorch House is situated within a secure
3 perimeter fence, which helps to keep young people safe
4 and reassures their families concerning safety. The
5 doors to houses have electronic locks ..."

6 Reading short:

7 "Many of the features of Daldorch campus are
8 designed to keep young people safe. For example,
9 perimeter fence and locked outer gates, fob doors,
10 locked cupboards and so on. Such safeguards were
11 documented in restriction of liberty review documents,
12 but were not cited as guardianship powers in individual
13 guardianship orders made under the Adults with
14 Incapacity (Scotland) Act. As such, there was no legal
15 authority for some of the physical restrictions
16 currently in use."

17 These measures that were being taken apparently were
18 in that sense illegal; is that right? Is that really
19 what that's saying?

20 A. From that I wouldn't -- because it's the Care
21 Inspectorate evidence of the accommodation element of
22 it, and not necessarily the school element ... so it's
23 difficult for me to comment.

24 Q. Sure.

25 LADY SMITH: Can you remember to use the microphone, Janie,

1 you are drifting away from it.

2 A. Sorry.

3 MR SHELDON: Again we see the Care Inspectorate grade is
4 adequate for that, albeit that we know that that means
5 "inadequate" in essence.

6 That's of some interest.

7 I think that's all that I want to look at from that
8 inspection report.

9 Perhaps just to finish it off, if we look briefly at
10 page 16. We see that there are certain requirements
11 made at the foot of that page. It's document page 15,
12 Nuix 16.

13 The requirements, I think they just reflect some of
14 the issues that we have seen about restrictions of
15 liberty and so on. So that's just reflecting that
16 potential illegality that we saw earlier.

17 Setting that aside, and going back to your report,
18 this is page 24, at paragraph 30. You have a paragraph
19 there about the previous regime about integrated
20 inspections, and that was under the 2001 Act.

21 Paragraph 31, page 25. You have a paragraph about
22 link inspectors. I think we have heard quite a bit
23 about that today, so I don't think we need to dwell on
24 that.

25 Paragraph 32, the role of inspection in detecting

1 and preventing abuse.

2 You say, 32.1:

3 "Inspection of schools [reading short] is designed
4 to provide external evaluation and report on the quality
5 of education provision."

6 32.2:

7 "The current model of inspection, including within
8 residential and secure, is not designed or intended to
9 identify or detect individual instances of child abuse
10 and HM Inspectors do not have a remit to investigate
11 safeguarding or child protection concerns."

12 32.4:

13 "During every inspection, inspectors evaluate
14 arrangements for safeguarding and child protection."

15 I think we have been looking at some examples of
16 that:

17 "This in itself may be viewed as a catalyst for
18 schools to ensure the arrangements for safeguarding,
19 including child protection, are appropriate."

20 And:

21 "Where an inspection identifies a school as having
22 significant weaknesses, HM Inspectors will report that
23 the ... proprietor needs to take action."

24 Again at 32.5 you mention the use of quality
25 improvement frameworks, such as 'How good is our

1 school?'

2 Page 26, paragraph 33, you note changes to
3 safeguarding approaches.

4 You say that over time, 33.1, inspectors have
5 strengthened approaches to evaluating child protection.

6 We see that there have been a number of 'How good is
7 our school?' documents over the years.

8 At 33.3 you mention the national guidance for child
9 protection.

10 Can we take it from this that the approach to
11 safeguarding, HMI's approach to safeguarding, is
12 influenced by and depends on, to some extent, national
13 policies and developments in thinking about child
14 protection issues?

15 A. Yes.

16 Q. For example, you say in 33.5, to reflect changes to the
17 national guidance for child protection in 2014 there was
18 a stronger focus on potential abuse, such as the use of
19 inappropriate physical intervention.

20 You note, at 33.7, that professional learning for
21 inspectors has developed over time and you note the
22 various training requirements on inspectors and the
23 induction requirements as well.

24 Just the last sentence of 33.7:

25 "Self-evaluation activities by HM Inspectors inform

1 future safeguarding and child protection training
2 needs."

3 Just to clarify that with you, is that
4 self-evaluation of the inspectors themselves or is it
5 self-evaluation of establishments being undertaken with
6 the inspectors?

7 A. It's sort of two-fold.

8 (1) where we gather views from inspectors around how
9 confident they feel, is the training enough and we
10 update our training accordingly.

11 (2) but we'll also use any examples that we've had
12 over time, where one team has been involved in
13 a particular situation and we use those internally
14 almost as mini case studies to share with others, so
15 that we're sharing learning and doing lessons learned
16 from that to keep everyone updated.

17 Q. All right.

18 This is a form of reflective practice, as it were?

19 A. Yes.

20 Q. Finally, Janie, you have a section on the role of HM
21 Inspectors in Young Offenders Institutions.

22 There is a background paragraph, which I think we
23 needn't look at in any detail.

24 But you note that it's His Majesty's Chief Inspector
25 of Prisons who is required to inspect the prisons and

1 Young Offenders Institutions.

2 You note, 34.3, there is a particular standard of
3 the HMIPS inspection framework, so they are inspecting
4 frameworks too I think we take from that. Is that
5 right?

6 A. Yes.

7 Q. Standard 6 requires that all prisoners and young
8 offenders are encouraged to use their time
9 constructively. Does that include educational
10 opportunities?

11 A. Yes, educational opportunities and access to a library,
12 access to fitness as well.

13 Q. Thank you.

14 Paragraph 35, you tell us a little bit more about
15 the HMIPS inspection framework. Although you note, at
16 35.2, that strictly Young Offenders Institutions are not
17 education establishments as defined under the 1980 Act
18 and HM Inspectors, working with HMIPS, use the HMIPS
19 inspection framework to evaluate those opportunities.
20 So they're using HMIPS's framework not your education
21 framework in that context?

22 A. That's correct.

23 Q. All right.

24 Does that cause you any concerns? Is the HMIPS
25 framework different and, if so, how from your framework?

1 A. No, it doesn't cause us concern because it's another
2 inspectorate that we would have close working with and
3 at the point we are developing frameworks they would
4 have sought our advice, particularly around the
5 standard 6, which is related to the education element of
6 it. So it doesn't cause us concern.

7 Q. All right.

8 At paragraph 36 you tell us something about the
9 contribution of HM Inspectors to the inspection of YOIs.
10 Again, you have a memorandum of understanding, so is
11 that a similar document to the one can with the Care
12 Inspectorate?

13 A. Yes.

14 Q. That sets out a framework for co-operation and
15 information exchange.

16 The specific training for HM Inspectors from HMIPS
17 as to how they're expected to contribute, can you just
18 tell us a little more about that, please? What sort of
19 training is that? Is this, as it were, educational
20 training or is it training to work in a prison
21 environment?

22 A. It's more training to work in a prison environment.

23 Q. All right.

24 At 36.3 you note that there are various activities
25 carried out. HM Inspectors visit relevant areas,

1 including classrooms and libraries. But HM Inspectors
2 have to be accompanied at all times during these
3 inspections by, I presume, prison officers, is that
4 right?

5 A. Yes.

6 Q. So there's no one-to-one meeting with young offenders?

7 A. No, we wouldn't have.

8 Q. Do HM Inspectors have the opportunity to talk to young
9 offenders, to chat to them?

10 A. Yes. We'll have the opportunity to talk to them in
11 learning activities that they're undertaking or some of
12 their other activities as well, so we'd have
13 opportunities to talk to them.

14 Q. How about informally at meal times or something like
15 that?

16 A. No, we don't. We wouldn't have that opportunity.

17 Q. All right.

18 I think really the last point that you make in the
19 report is about safeguarding. You make the point at
20 37.1 that HM Inspectors do not inspect safeguarding
21 arrangements. I think we understand that is a matter
22 for HMIPS, is that right?

23 A. Yes.

24 Q. At paragraph 38 you indicate that there is, I think,
25 a process or a procedure for reporting safeguarding

1 concerns to the Chief Inspector. Is that right?

2 A. Yes.

3 Q. That would be done in discussion and consultation with
4 HMIPS?

5 A. Yes.

6 Q. But you note that HM Inspectors would keep a record of
7 any safeguarding matters?

8 A. Yes.

9 Q. Even although they're not technically a matter for you
10 in the sense that they otherwise would be?

11 A. Yes, that's correct. We would keep our own record of
12 it, that we had reported it.

13 MR SHELDON: Thank you very much.

14 Just over the page there is a final paragraph about
15 reform, but I think we have looked at that, so I think
16 I can finally stop talking at you and asking questions.

17 My Lady, do you have any questions for Janie?

18 LADY SMITH: I have nothing further. I think I've given you
19 a hard enough time already, Janie.

20 Thank you very much indeed for everything you have
21 given us today. I'm really grateful to you, both for
22 what you have given us in writing and coming here to
23 explain what we have asked you to explain.

24 I think we can now let Janie go, is that right?

25 MR SHELDON: We can, my Lady.

1 LADY SMITH: Janie, thank you. Do feel free to go.
2 A. Thank you.
3 (The witness withdrew)
4 LADY SMITH: Tomorrow morning we move to the prisons,
5 I think?
6 MR SHELDON: We are back to Mr Peoples, my Lady, and some
7 evidence about prisons. I think we have a witness,
8 Sue Brookes, and a read in.
9 LADY SMITH: In the afternoon?
10 That was all I knew about being planned. I'm glad
11 there aren't any late surprises.
12 Thank you for that.
13 I'll rise now until 10 o'clock tomorrow morning.
14 (4.40 pm)
15 (The Inquiry adjourned until 10.00 am on
16 Friday, 29 September 2023)
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