

Thursday, 2 November 2023

1

2 (10.00 am)

3

Ms Teresa Medhurst (continued)

4

Mr Neil Rennick (continued)

5

LADY SMITH: Good morning and welcome back to Phase 8 of our  
6 case study hearings. Yesterday, we heard much helpful  
7 evidence from Teresa Medhurst and Neil Rennick. It was  
8 so good we've called them back to carry on today.

9

Seriously, this is really very, very helpful to have  
10 you both here.

11

If you're both ready, we'll pick up where we left  
12 off yesterday; is that all right?

13

MS MEDHURST: Yes, thank you.

14

MR RENNICK: Yes.

15

LADY SMITH: Thank you. Mr Peoples.

16

Questions from Mr Peoples (continued)

17

MR PEOPLES: Good morning, my Lady. Good morning.

18

Can I go back to Part B of the report? That's

19

SGV-000085423, at page 10. I think we had reached

20

a section which deals with slopping out and I think

21

I said I was going to resume there, so if I may do that.

22

It's paragraph 16, in Part B.

23

We're told that all children who were held in any of

24

the four establishments, Glenochil, Polmont, Barlinnie

25

and Longriggend, throughout the relevant period, that's

1 1930 through to 2014 for the purposes of this report,  
2 had to endure slopping out for most of that time.

3 I think it doesn't go to 2014.

4 MR RENNICK: Yes.

5 Q. 2007, perhaps, was the latest?

6 A. Certainly, in Polmont, 2007 was when slopping out ended.

7 Q. That was something that happened on a daily basis until  
8 the practice was ended.

9 I'm not going to labour this particular aspect, but  
10 it took a legal challenge to end the practice; is that  
11 correct? Napier v Scottish Ministers.

12 A. There was a legal challenge. There was -- the history  
13 was there was an understanding and an aim to end  
14 slopping out and to have satisfactory sanitation in all  
15 prisons. And what was progressing on that, the Scottish  
16 Government published an estate's consultation in 2002,  
17 and one of the key aims of that estate's consultation  
18 was to end slopping out through a combination of  
19 measures within existing prisons and the construction of  
20 new prisons. So that was in progress at the time that  
21 the Napier case was in progress and was found. But, as  
22 you say, slopping out continued on beyond that until  
23 2007.

24 Q. It had been the subject of criticism for quite  
25 considerable time, had it not, even before the legal



1 challenge?

2 A. Yes. There was a report in England and Wales on the  
3 riots in Strangeways that recommended sanitation should  
4 be in place in all prisons. That was specific to  
5 England and Wales, but the UN CPT also recommended, in  
6 the early 1990s, that slopping out should be ended.

7 Q. Maybe I could just -- I'm not going to go to this, but  
8 take it from me I've found it. It's in the overview,  
9 and it is to do with Barlinnie. I think it came from  
10 visiting committee records that were examined.

11 Can I just say this? In a file for the period  
12 between 1967 and 1984 -- and I think this particular  
13 entry is probably around the end of that period -- there  
14 is a reference to a Visiting Committee who presumably  
15 went to Barlinnie at that time, and I quote:

16 "The Visiting Committee makes no apology for  
17 returning to the subject of slopping out. We are  
18 unanimous that this barbaric practice had no place in  
19 an enlightened society and its perpetuation is degrading  
20 to staff and inmate alike. We refuse to believe that  
21 the cost of its abolition in Scottish institutions as we  
22 have heard on hearsay could exceed GBP 100 million."

23 There is a criticism of the practice.

24 A. Yes, and rightly so. We consider it was abusive to  
25 require children to slop out.

1 Q. You say that in the report.

2 A. And having looked at statements by Ministers in the  
3 period post-devolution, but prior to the outcome of the  
4 Napier judgment, they used the term "unacceptable".

5 Q. As you say in section 16, you say quite plainly that  
6 Scottish Ministers acknowledged that slopping out by  
7 children was abuse?

8 A. Yes.

9 Q. I think perhaps it puts the matters in context when --  
10 Barlinnie, I think slopping out ended after something  
11 like 122 years?

12 A. I didn't do the calculations. But, yes, that sounds  
13 right.

14 Q. Roughly. I'm trying to remember --

15 A. 1886.

16 Q. I think it was around about that duration?

17 A. Yes.

18 Q. So this abusive practice was on the go for a very, very  
19 long time?

20 A. Yes.

21 LADY SMITH: Neil, can you remind me what position Scottish  
22 Ministers adopted in the Napier case?

23 A. They opposed that it was a breach of the Convention  
24 rights of Mr Napier, and that was in the original case  
25 and in the appeal that followed that. But, as I say,

1           certainly there were statements by Ministers prior to  
2           that, saying that they accepted that the practice was  
3           unacceptable, but that was different from saying whether  
4           it was a breach of human rights.

5           Again, without being an expert, my understanding of  
6           the court case was that it wasn't specifically purely  
7           the slopping out that was found to be in breach. It was  
8           the wider context in which the slopping out was  
9           occurring that was the full abuse.

10   LADY SMITH: The context had been there a long time by then,  
11           I think, hadn't it?

12   A. Absolutely. We accept in response to the Inquiry that  
13           it was abusive.

14   MR PEOPLES: That makes it even more damning if it's the  
15           conditions in general, as opposed to one aspect of the  
16           conditions; would you not agree?

17   A. As I say, I wouldn't want to comment because in my  
18           understanding, there were a lot of specific factors in  
19           relation to that case around the individual, but that  
20           doesn't change the wider context, which was that it was  
21           unacceptable and it was abuse.

22   Q. I think for our purposes abuse doesn't -- to be  
23           characterised as abuse, something doesn't have to reach  
24           the threshold of Article 3 of the European Convention  
25           although in some cases it can do.

1 A. Yes, absolutely not. And none of the issues where we  
2 have acknowledged abuse within the report rely on  
3 a Convention breach (overspeaking).

4 Q. Yes, you have not applied the test of Article 3 in  
5 making these acknowledgements. You accept, just on its  
6 face, that what was said yesterday, the things we're  
7 looking at were either abuse or abusive practises,  
8 whether lawful or not --

9 A. Yes.

10 Q. -- at the time.

11 Indeed, if we go on, you develop that in fact in  
12 Part B, because if we look at paragraph 17, you say that  
13 the Scottish Ministers -- or the report says that  
14 Scottish Ministers have identified evidence of three  
15 historical punishments that were applied to children in  
16 custody which would constitute abuse; these were lawful  
17 punishments at the time?

18 A. I would need to double check that, but certainly they  
19 were abusive.

20 Q. I think that they probably were permitted by the rules,  
21 unless I'm much mistaken?

22 MS MEDHURST: No, they were.

23 Q. I'm not going through them in depth, but the three, we  
24 mentioned yesterday, which were regularly imposed over a  
25 lengthy part of the Inquiry's timeframe were: reduction

1 of diet, sleeping on a wooden guard bed and deprivation  
2 of a mattress. So these were the three that you have  
3 referred to in -- or have been referred to in the  
4 report.

5 I'll pass on to paragraph 18, where you tell us --  
6 although I think it's probably sufficient in general  
7 terms to look at what is said in Part B, you tell us:  
8 "Part D also provides five broad and interrelated  
9 examples of other practices, conditions and regimes  
10 which applied to individuals in custody (including  
11 children) at times throughout the relevant period."

12 You say that children should not have had to  
13 experience any of these practices, conditions or regimes  
14 which were either abusive or otherwise plainly  
15 unacceptable.

16 We don't need to trade definitions. I think we can  
17 say that to some extent there is some equivalence;  
18 whether you call them abuse or unacceptable, in broad  
19 terms is perhaps not the issue, is it?

20 MR RENNICK: Yes.

21 Q. So far as these are concerned, the examples have been  
22 provided in Part B, which the report points out are  
23 illustrative and not necessarily exhaustive. The first  
24 example given, in paragraph 19, on page 11, is the  
25 physical conditions of the buildings, which resulted in

1           inadequate living conditions.

2           The report tells us that these conditions were  
3           attributable to a number of factors, including  
4           antiquated infrastructure; limited space, with  
5           a consequent loss of privacy; poorly maintained  
6           buildings and, at times, low staff numbers.

7           These are all evident from the review that has been  
8           carried out, that these were factors that contributed to  
9           the state of affairs?

10          A. Yes.

11          Q. These weren't very transitory and fleeting periods in  
12           the timeframe we're looking at; these were regular  
13           factors that were referred to or commented upon during  
14           the timeframe we're looking at?

15          A. Yes.

16          Q. Is that fair to say?

17          A. Yes.

18          Q. The report goes on to say that this state of affairs did  
19           have impacts, including on physical health. By way of  
20           example there is reference to an Annual Report on the  
21           prison estate from 1968, which recorded an increase in  
22           communicable disease and infection, partly attributed to  
23           the age of the buildings, exacerbated by overcrowding.

24           Then it goes on: "Infestations of lice, cases of  
25           dysentery and diarrhoea were recorded at Barlinnie in

1 1970 and the need to rebuild its kitchen again was  
2 noted." By 1990, the accommodation scene at Barlinnie  
3 was still, I think, described as a disappointingly  
4 depressing one. I think that's in an HMIPS report, that  
5 that comes from.

6 It is said that while improvements were made in some  
7 areas, inadequate conditions subsisted into the 2000s  
8 and one might add there: and still do?

9 A. Certainly, the Chief Inspector of Prisons has commented  
10 over the period that she's been in place around  
11 conditions and specific issues within Barlinnie. Along  
12 with colleagues from the Scottish Prison Service, we  
13 agreed some remedial action around specific elements of  
14 that. So, yes, clearly we recognised that, that the  
15 conditions continued to be unacceptable, even into  
16 relatively recent times.

17 Q. And still are. Because she told us, in her view,  
18 Barlinnie and some other places, like Inverness, in her  
19 view, should be closed. But, at the moment, for various  
20 reasons that's not happening. Although there are plans,  
21 I understand, to close Barlinnie and substitute HMP  
22 Glasgow, but they seem to be -- that is certainly not  
23 going to happen in the immediate future, is it?

24 A. It's in progress. It's obviously a significant and  
25 complex project. There is a site identified and

1 purchased and work happening on that. But, yes, the  
2 construction of a new prison is a complex task and that  
3 work is ongoing.

4 Q. I think it's fair to say that there was a hope, perhaps,  
5 that HMP Glasgow would be up and running by now?

6 A. Yes.

7 Q. But it's not?

8 A. There are a range of reasons for that, related to  
9 identifying a suitable site and the issues. Obviously,  
10 the COVID had an impact more generally on work across  
11 the whole estate.

12 Q. I appreciate these things take time. I suppose we've  
13 already heard that Cornton Vale, it was recommended, I  
14 think by the Angiolini Commission in 2012, that it  
15 should close, but it didn't happen until 2023, this  
16 year.

17 A. Yes.

18 Q. It was replaced by HMP Stirling?

19 A. Yes, and incredibly pleased that HMP Stirling has opened  
20 and is operational. And, again, there are reasons why  
21 that took that length of time.

22 Q. I think peppered in the HMIPS reports -- and I won't go  
23 to them, but I think there are lots of expressions that  
24 are used about "deplorable", "appalling" conditions --  
25 in various prisons, including the ones that we're



1 looking at, the institutions?

2 A. Yes.

3 Q. One can find them on a regular footing?

4 A. Absolutely, and I think I mentioned earlier, the

5 estate's consultation that the Scottish Government

6 launched in 2002, that set out a range of proposals for

7 investment in the prisons' estate, which recognised that

8 need for additional development in our prisons, both in

9 terms of improving conditions and increasing capacity,

10 and that was reflected in a programme of work that

11 continued over a number of years.

12 Q. I'm just seeing, certainly in relation to Barlinnie,

13 there was certainly an HMIPS report about conditions in

14 B and C halls being deplorable and overcrowding was

15 nothing short of a national disgrace. Those are quite

16 strong comments?

17 A. Yes.

18 Q. I think in 2003 the Inspectorate had strong criticism of

19 dog boxes, which I think was repeated by the Committee

20 for the Prevention of Torture in various reports,

21 including one in 2019; is that correct?

22 A. Yes, and those have now been removed. But I acknowledge

23 the length of time that that took to be delivered, and

24 I also acknowledge fully -- I think it's fully

25 understood that the condition of the estate has

1 a significant impact on the experience of people within  
2 prison, alongside other factors.

3 LADY SMITH: In the case of the dog boxes; why did it take  
4 so long?

5 A. Again, my understanding is a number of different factors  
6 in terms of clearly HMP Barlinnie is a live operating  
7 prison, so any changes that had to be made had to be  
8 factored around the prison continuing to operate. There  
9 was investment happening in other parts of the estate,  
10 but there was agreement and eventually resources  
11 provided to allow for the dog boxes -- use that -- for  
12 the reception cells to be replaced.

13 LADY SMITH: I think they were widely known as "dog boxes".

14 A. Yes. It was used within the inspector's -- that phrase  
15 was used in the Inspector's Report and it was also  
16 mentioned in a CPT Report as well.

17 LADY SMITH: Neil, it may be you weren't directly involved  
18 at that time and you don't know the detail. I can  
19 understand you would have to work out how you carry out  
20 such a building project whilst the prison still has to  
21 keep operating and some people have to be kept in  
22 a particularly secure setting, when they come in they're  
23 going through the admission process and so on, but this  
24 was years, years, before it happened?

25 A. Again, looking back over the papers from previous times,

1       you can see a bit of that tension in the documentation  
2       of that choice between refurbishing existing, historic  
3       facilities and trying to move forward with replacing  
4       facilities as well. Again, you can see that general  
5       tension within the decisions around the prisons' estate  
6       and also the challenges of operating a live Prison  
7       Service, often facing challenges in terms of the  
8       available capacity that doesn't allow you to move people  
9       around very easily and the impact.

10   LADY SMITH: In the documents; is there any sign of  
11       recognition of the impact on the individual prisoners,  
12       the human element; that these people are going to carry  
13       on having to suffer this experience which had been  
14       condemned and condemned by the inspector again and  
15       again? Is there any indication of that?

16   A. I'm not sure about that specific one. Teresa may know.

17   LADY SMITH: Teresa knows.

18   MR RENNICK: But certainly in other areas, and again  
19       slopping out is an example that was strong. The wording  
20       in the estate strategy was that it was unacceptable,  
21       that 1,900 people were still experiencing slopping out  
22       in the early 2000s.

23   MS MEDHURST: Just to add to what Neil has described. One  
24       of the factors which was -- I suppose which couldn't  
25       have necessarily been anticipated to play out in the way

1           that it did, was the length of time that it did take to  
2           secure a site in the Glasgow area. That was not what we  
3           had experienced as a service previously in terms of  
4           identifying land for rebuilds and there were a lot of  
5           discussions and exchanges in the local area around land  
6           that was available and what was to be -- what was  
7           acceptable and also what was large enough, given the  
8           size and scale of the replacement project. And whilst  
9           that would normally take maybe a couple of years at  
10          most, it actually took about seven years, given the  
11          tensions around that negotiation, if you like.

12                 So it did take far longer than we would normally  
13          expect or anticipate. But, during that time, from  
14          an operational perspective, there were improvements made  
15          to ensure that the length of time anyone would  
16          experience those facilities was kept to a minimum, and  
17          I think --

18   LADY SMITH: What do you mean by that? "A minimum" would be  
19          how long?

20   A. So people that come in to reception, if you have, as in  
21          Barlinnie's case, large numbers of people flowing in to  
22          and out of Barlinnie on a daily basis, you would expect  
23          them to spend a bit of time in the reception area whilst  
24          others are processed, you need to prioritise people. So  
25          what the establishment did was ensure that at any time

1           nobody was spending any longer than an average of about  
2           20 minutes in one of those boxes and that they would be  
3           processed.

4           Now, even 20 minutes I accept -- but, as I say, it  
5           definitely would not have been anticipated at that time  
6           that it would have taken as long as seven years to  
7           secure an appropriate piece of land to rebuild on.

8   LADY SMITH: Thank you. Mr Peoples.

9   MR PEOPLES: I just have a few questions as well.

10           How long did it take, from start to finish, to  
11           replace Peterhead?

12   A. I'm sorry --

13   Q. Roughly. I'm not wanting exact. We talk about from the  
14           drawing board to construction and closure of the old  
15           site nearby; how many years are we talking about there?

16   A. I'm afraid I don't have that detail.

17   Q. Cornton Vale, as I say, we do know that the  
18           recommendation was 2012. Stirling, there wasn't --  
19           I think completed and opened until this year. We know  
20           that apart from Stirling there has been an initiative  
21           involving the creation of community custody units for  
22           women, probably at the more low risk end of the  
23           spectrum, in Dundee and in Glasgow, and they've opened  
24           up.

25           I don't know where that initiative came from, but

1           these two are examples of what you might term "small  
2           prisons", local prisons, if you like, in the community;  
3           has that in any way been influenced by how they do  
4           things in Norway, where they seem to favour small, local  
5           prisons?

6    A.   There was an international conference, symposium, if you  
7           like, in 2015 -- 2014/15, I think it was, 2015, which  
8           brought together a whole variety of international  
9           experience and expertise to help inform Scottish  
10          Government's position in relation to the design of the  
11          new facilities for women. I don't know if you want to  
12          say any more?

13   MR RENNICK: It's important to say that following the  
14          Angiolini Commission Report and its recommendations, the  
15          then Cabinet Secretary for Justice announced HMP  
16          Inverclyde would be built as a purpose facility for  
17          women. In 2015, the decision was taken by the new  
18          Cabinet Secretary for Justice that that was no longer  
19          the suitable model for females in custody. That  
20          decision was supported within Parliament and by key  
21          stakeholders, and that then led to the symposium that  
22          Teresa mentions and some significant work by the  
23          Scottish Prison Service in communication with ourselves  
24          and others. And in June that year, the Cabinet  
25          Secretary announced the new proposals for the female

1           custodial estate, including HMP -- I don't think it was  
2           called Stirling at the time, but what became HMP  
3           Stirling and the community custody units as a new model  
4           for the female custodial estate.

5           That was a new model, so part of the timing was  
6           required in terms of developing what the right approach  
7           was to both the new national facility and the community  
8           custody units and what they would offer and the types of  
9           female prisoners that they would support. So there was  
10          a significant amount of extra work that had to be done  
11          relative to other prisons and that was reflected. That  
12          was in progress when the pandemic happened and work was  
13          paused because of that and there were other factors that  
14          impacted as well.

15          There were a range of reasons why it took that  
16          length of time between the Angiolini Report and HMP  
17          Stirling opening this year.

18 MR PEOPLES: Just going back, it's maybe as good a time as  
19          any to raise it with you, the Norwegian prison system.  
20          We had evidence from Dr Andrew Mitchell, who I think had  
21          high praise for Halden maximum security --

22 LADY SMITH: Dr Alan Mitchell, on Tuesday this week?

23 MR PEOPLES: Yes. He mentioned Halden high security --  
24          maximum security prison in Norway, and seemed to be  
25          quite complimentary of how they did things there, and

1 the layout and the design. It seemed, I think, pretty  
2 enlightened to him in comparison to some of the places  
3 he's visited over the years.

4 But I also picked up -- and I'm not professing to be  
5 an expert on this -- I came across a reference to --  
6 from a person called Benko, I think it is, or an article  
7 in 2015, which seems to coincide with the year of the  
8 symposium that Norway's prison system was  
9 internationally renowned for having the world's most  
10 humane prison system.

11 Maybe sentiments like that were expressed at the  
12 symposium, I don't know. But it also suggested that  
13 Norway's approach to the prison system goes further than  
14 simply recognising that prisoners don't lose all their  
15 rights when they go into prison. It's quite the  
16 opposite. They retain all their rights, except their  
17 right of liberty. So their system and approach centres  
18 on the principle of normality, I think. That may have  
19 been said at the symposium. It states that the only  
20 right that is taken away from prisoners when they're  
21 incarcerated is their freedom, and that the idea is that  
22 you are trying to avoid institutionalisation and you are  
23 trying to reintegrate individuals who commit crime into  
24 the community as quickly as possible and siting local  
25 prisons, small local prisons in various parts of the



1 country, it facilitates that process and promotes  
2 desistance. I think we'll hear about that in your  
3 report, which is desisting from crime and that Norway  
4 has quite a low recidivism rate in comparison to some  
5 European countries, including Scotland.

6 The features of these systems were local Prison  
7 Services provided not by the service itself, but brought  
8 in by the community, the local community. Education,  
9 Social Services. Also, there was a general low  
10 incarceration rate as well.

11 So you are nodding, I think this is not a surprise  
12 to you. You have heard all this before, I'm sure,  
13 haven't you?

14 A. Yes, I have, Mr Peoples. The reason I'm nodding is  
15 because it does raise the need very much with the ethos  
16 surrounding the community custody units.

17 At the time the Cabinet Secretary announced the  
18 introduction of community custody units, because it was  
19 something new to us, we did spend a lot of time engaging  
20 with partners, because this is very much about embedding  
21 our community custody units within communities.

22 We also took a long time to analyse in depth the  
23 localities that our prison population came from, because  
24 the numbers of women are so small. It's not as  
25 condensed as the male population, but there were two

1 areas at that time, Dundee and the surrounding area, and  
2 Glasgow, which seemed to us to make really good sense  
3 for establishing our first two community custody units.  
4 Very much they've been designed and the approach and  
5 ethos has been around community engagement. And when --  
6 if you were to visit -- and you are very welcome if you  
7 would want to visit, yourself and Lady Smith and anyone  
8 else -- what you'll find is that there is a lot of  
9 engagement with community partners and they provide  
10 a lot of support and services. And it is with a view to  
11 ensuring that when women return to communities they have  
12 that continuity of support and service.

13 Q. Obviously then it's early days, but it does seem as if  
14 it's a positive development and is trying to go some way  
15 towards achieving the vision, if I could put it that  
16 way, that you tell us about in your report for people in  
17 custody.

18 That is no doubt a particular group that have  
19 benefited from this change, women in custody. I think  
20 I read somewhere that at least originally there was  
21 a proposal to have, perhaps, five community custody  
22 units and not necessarily all for females, for young  
23 offenders or adult males; is that still in the pipeline  
24 or is that under discussion, or is that seen as the way  
25 forward?

1 MR RENNICK: We have certainly not closed off the  
2 possibility of that. The decision was taken to see how  
3 the two community custody units operate in practice,  
4 learn the lessons from that, and then consider how that  
5 might be applied more widely, both in terms of the  
6 female population and potentially for men as well.

7 Yes, they're still relatively new. They opened last  
8 year, so we have a commitment to undertake  
9 an evaluation. That's already been built in, when the  
10 new facilities opened, that we would do an evaluation of  
11 those.

12 Q. They are not pilots though, are they?

13 A. No, they're not pilots. They're operating prisons  
14 caring for women just now.

15 Q. They don't have some sort of finite life; they are going  
16 to be running for the foreseeable future --

17 A. Yes.

18 Q. -- one would assume?

19 A. I suppose the only other thing I would say, again on --  
20 I can't remember off the top of my head whether the  
21 Norwegian Prison Service was represented at the  
22 symposium. There was certainly Canadian representatives  
23 there, people from the Netherlands. Part of the lessons  
24 from that and subsequent work is: you can't separate the  
25 Prison Service out from the wider justice system or the

1 wider welfare system and support system and health  
2 system as well. They are all part of a wider system.  
3 So, when you're looking at other international models,  
4 you can't just look at one element of it, you need to  
5 think that fits within -- more widely into approaches to  
6 criminal law.

7 Q. I follow all that. But, ultimately, on the face of it,  
8 it seems like an enlightened approach.

9 It may be one always gets the excuse when someone  
10 looks at something else: it works for Norway, but it  
11 couldn't work in a country like Scotland.

12 But you are not suggesting that is the case?

13 A. No, not at all. A significant part of our work over the  
14 last few years has been looking at other international  
15 models and evidence that suggests different approaches  
16 to justice. For example, there was some significant  
17 work a number of years ago looking at Finland, which is  
18 very successful in reducing its overall prison  
19 population. The Netherlands as well, for different  
20 reasons, has had success in reducing its prison  
21 populations.

22 So we have looked at those models. And I note that  
23 in her annual report, the Chief Inspector of Prisons in  
24 Scotland has pointed to the work on female offenders and  
25 young people as models that other countries might want

1 to look at as well.

2 Q. I think we know from -- that the new Blair House model  
3 has, perhaps, its origins, to some extent, in what  
4 happened in -- was it Scandinavian countries?

5 A. It started in Iceland, but it spread widely across  
6 Europe.

7 Q. So at least the service and the Ministers are prepared  
8 to look internationally to see evidence of what seems to  
9 work and looking at why it works and, to some extent,  
10 are incorporating some of these regimes and approaches  
11 in going forward; is that the case?

12 A. Yes, absolutely. That's not reduced post-Brexit.

13 Q. I suppose it's like wartime reconstruction. It's fine  
14 if you can start from scratch and rebuild a bombed city,  
15 but if you have an ancient estate it's quite  
16 a challenge?

17 A. Yes, and there's certainly a commitment part of the  
18 commitment that was made in terms of the estate's work  
19 has been looking at those Victorian prisons that we  
20 still have, in terms of particularly Barlinnie and  
21 Inverness in the immediate term to replace those.

22 Q. Going back to the 2003 report, if I may, from the  
23 Inspectorate, apart from strong criticism of "dog  
24 boxes", there was also, I think, criticism of young  
25 remand prisoners spending long periods locked in cells,

1 and that's a familiar theme over the years.

2 I think I have a quote here, which I took from the  
3 overview, that some prisoners, it was said at that time,  
4 live in conditions of which any civilised country should  
5 be ashamed. The Inspectorate was going pretty far?

6 A. Yes, and I would expect independent inspectors to be  
7 challenging in that way.

8 I have certainly taken a look at the most recent  
9 monitoring report for YOI Polmont and it's very positive  
10 about the opportunities that are available for young  
11 people in Polmont, in terms of activities outside the  
12 cell --

13 Q. Don't get me wrong, I'm not suggesting, and we can read  
14 the whole report and the Inspectorate does comment on  
15 improvements, developments and things she is  
16 complimenting. But I'm looking at something relevantly  
17 recent and very strong language, and it's very telling,  
18 isn't it?

19 A. Yes, absolutely.

20 Q. Going back to Part B, moving on to another example of  
21 an abusive or otherwise plainly unacceptable practice --  
22 it is found in paragraph 20 -- which is that it's the  
23 poor quality of the regime, so it's not just the  
24 condition of the buildings. It says there that  
25 situation imposed excessive or disproportionate controls

1 on the daily lives of children, that type of regime, and  
2 examples are given, for example, by unacceptably  
3 limiting or removing access to recreation and  
4 socialisation. A report on Longriggend from 1981 noted  
5 that the regime was:

6 "Completely negative and unnecessarily restrictive  
7 resulting in a level of boredom not previously  
8 encountered by inspectors."

9 1981, Longriggend, that's one example of a very poor  
10 regime, if that's the state of affairs?

11 A. Certainly reading it, that would not look like that  
12 would be helpful in terms of assisting young people in  
13 terms of moving forward.

14 Q. I suppose what strikes me when I read these things is  
15 that when that report arrived at the door of the  
16 Ministers and the officials in the Scottish Office, in  
17 the Scottish whatever department, Home and Health  
18 Department at that time, presumably, you do ask  
19 yourself: what on earth were they -- how were they --  
20 what -- how were they reacting? They surely couldn't  
21 have been comfortable reading language like that or  
22 expressions of view like that?

23 Yet it doesn't appear that these features and these  
24 regimes necessarily changed any time soon after 1981?

25 A. Obviously, I can't comment on what -- the views or

1 approaches. I can only comment on what we would do just  
2 now and we take -- (overspeaking) --

3 Q. Can I ask you to go back in time? If that had landed on  
4 your desk in 1981 -- we're not talking about the dark  
5 ages here -- what would you -- or what do you think, if  
6 someone sent that report to you today you would be  
7 horrified?

8 A. Yes. If the same approach as we apply now was applied  
9 at the time, then we would highlight that to Ministers  
10 and ensure that it was made clear that -- the  
11 seriousness with which the inspectors are raising those  
12 issues. The Cabinet Secretary just now would meet with  
13 the inspector and talk through that, and she would meet  
14 with the Chief Executive to talk through the actions  
15 being taken in response to that, or if there were  
16 actions for Government, to respond to that.

17 Absolutely, I would expect that to be responded to.

18 Q. You would expect a report like that, saying things like  
19 that, not to rest at official level with some  
20 correspondence with the establishment; that would go to  
21 ministerial level, wouldn't it, and be discussed at high  
22 level?

23 A. Yes. The Inspectorate reports to Ministers, so the  
24 Ministerial equivalent would be the person that would go  
25 to --



1 Q. There would be a submission I suspect --

2 A. -- the commissioner with advice from officials to  
3 help -- particularly target and help the -- well, the  
4 Cabinet Secretary, as it is now, make sure that she is  
5 aware of the particular concerns that are raised and we  
6 would do that. Although the full report is provided to  
7 the Cabinet Secretary.

8 Q. I suppose changing or improving prisons doesn't always  
9 command a great deal of popular support. People might  
10 think, "Better spend the money on the NHS", so it's  
11 maybe a difficult one to sell to the public and no doubt  
12 Ministers are political animals; so to some extent have  
13 decisions in the past been influenced by political  
14 considerations?

15 A. Ultimately, the decision is taken by Ministers. So,  
16 clearly, the Ministers are elected and would consider it  
17 is exceptionally difficult to look back pre-devolution  
18 and understand what decisions were being taken and how  
19 resources were being prioritised within the Government  
20 system as it operated at the time.

21 Certainly post-devolution, I think as I've mentioned  
22 before, relatively quickly within the life of the new  
23 Parliament and Government, there was a consultation on  
24 the future of the prison estate and that followed with  
25 some very significant -- hundreds of millions of pounds

1 of investment in the Prison Service and prison system to  
2 refurbish. So it wasn't the case that post-devolution  
3 investment in prisons was ignored or deprioritised.

4 Q. I'm not suggesting for one minute -- but I do question  
5 whether whatever vision and mission statements may have  
6 been circulating that the reality, even today, is  
7 a world apart from the vision and the aim of the  
8 service, in some respects.

9 There are improvements at places like Stirling, but  
10 there are places like Barlinnie. So the vision is  
11 a long way from being achieved?

12 A. Again, looking at the investment that's happened over  
13 time, since devolution there was a sustained process of  
14 investment. That's now moved on to a new phase, which  
15 started with the investment in the new female estate and  
16 is moving on to HMP Highland and HMP Glasgow as the  
17 next. So there is a phased process. We would all like  
18 that to be faster and impact sooner, and all our  
19 experience tells us that investing in new facilities  
20 improves not just the physical infrastructure, but the  
21 support that's available.

22 Obviously, there are other approaches you can take,  
23 and we're taking a different approach for under 18s,  
24 where we think the right approach is for them not to be  
25 in YOI at all and to be in other settings.

1 Q. I appreciate, particularly in the current climate, that  
2 money is tight and there's obviously all sorts of  
3 pressures to spend money in different areas of public  
4 service. But if you want to achieve the sort of vision  
5 that is set out in some of the documents you've provided  
6 to us, you have to put in the necessary investment and,  
7 on the face of it, it looks like that's a huge  
8 investment.

9           Yet there is no commitment, I suppose, at the  
10 moment, to back the vision with the level of investment  
11 that's required to achieve it; that is the situation as  
12 we speak today?

13 A. No, I'm not quite sure that's right. Certainly the  
14 Government published an infrastructure investment plan  
15 two years ago and that was refreshed last year in terms  
16 of the justice portfolio, which I was responsible for at  
17 the time. Investment in prisons was by far the largest  
18 element of justice capital investment.

19           Clearly, in the meantime, we have had a significant  
20 rise of inflation. We have had significant rises in  
21 costs of construction, not just for prisons, but for  
22 pretty much all areas of capital investment and we're  
23 having to -- we're working closely with Teresa and her  
24 team around that, but it is very challenging in any  
25 environment to ensure that sufficient resources are

1           there to take that forward.

2   Q. I think we know that some major infrastructure projects,  
3       dualling the A9, for example, it seems that that might  
4       be further off than people would have wished for and  
5       maybe it's the same with trying to modernise the prison  
6       estate for the 21st century, across the whole estate; is  
7       that the reality?

8   A. I'm very pleased to say I'm not an expert in any way on  
9       the A9 and the circumstances around that.

10           On the prison estate, I'm very proud of the work  
11       that Teresa and her colleagues did on the HMP Stirling  
12       and the two community custody units. Having visited one  
13       of the community custody units, I think they're hugely  
14       impressive environments. The thing that really struck  
15       me is the work of the staff there as much as the  
16       infrastructure, but we need to carry on that investment.

17   Q. Maybe I can just leave this by saying there is a lot  
18       more to be done?

19   A. Yes. As I say, in terms of young people and under 18s,  
20       that will clearly now switch into ensuring that the  
21       secure care settings are suitable and appropriate for  
22       them.

23   Q. Going back to Part B, to paragraph 20, six lines down  
24       the report goes on:

25           "There is evidence that children experienced limited

1 access to education as a result of, for example,  
2 financial pressures in the 1970s and early 1980s across  
3 the prison estate, which constrained educational  
4 opportunities."

5 To some extent we are looking at a period when some  
6 of the same considerations that apply today were in  
7 play; that there were restrictions on public  
8 expenditure, controls and to some extent, that no doubt  
9 influenced whether large projects could be funded, even  
10 improvement be funded. We seem to live in these  
11 situations periodically, where --

12 A. Again, I don't --

13 Q. (Overspeaking).

14 A. Absolutely it is clear from the evidence as set out here  
15 that budget issues impacted on the education that was  
16 available for young people and -- at that time.

17 At the current time, I'm not aware of anything that  
18 is restricting access to education for young people in  
19 YOI or in secure care. Obviously, I've seen education  
20 facilities within secure care and it looked very  
21 impressive, but --

22 Q. You don't need to be an historian to remember there was  
23 a degree of austerity in the 1970s and quite a lot of  
24 pressure. So, to some extent, that is reflected in how  
25 services are funded and resourced and what can and can't

1 be done?

2 A. It's a really important point to note that obviously  
3 budget decisions, the wider context, Government  
4 decisions, contributed to the abuse that children and  
5 young people experienced over the period that you are  
6 studying, and that's absolutely acknowledged. And  
7 Ministers have, unreservedly, apologised for that, both  
8 in terms of post-devolution and prior to that as well.

9 Q. As the former First Minister told us, in some contexts  
10 there is not a magic money tree. Although fortunately  
11 in one instance he managed to find one because he found  
12 some sort of unused allocation that could be used for  
13 certain purposes. But I suppose that's the point, we're  
14 talking about finite resources and there's no magic  
15 money tree. And aspirations and visions and goals are  
16 one thing, you can express them and we all can perhaps  
17 agree with the sentiments, but if you actually want to  
18 achieve real change, you have to put your money where  
19 your mouth is?

20 A. Yes. Although, again, for young people, part of what  
21 I would point to is that the change that's being made  
22 over time, in terms of reducing the numbers of young  
23 people over time, has not been delivered through massive  
24 investment in YOI or other facilities. In fact, not  
25 actually massive investment in the justice system. It's

1           been in changes in the support that's available for  
2           young people to try to keep them out of the justice  
3           system as a whole.

4           Absolutely agree that resources has an impact on  
5           what's delivered, but we can't just look at it in those  
6           terms. It's also about the practice and approach and  
7           policy that applies in terms of how we deal with young  
8           people.

9   LADY SMITH: Where a problem is identified, such as the  
10          inspector may flag up, isn't it also a question of  
11          always asking yourself whether you are doing everything  
12          that is possible to do the best on the basis of the  
13          financial resources you have?

14   A. Yes.

15   LADY SMITH: Because if you change practice on the basis of  
16          current financial resources, you may be able to achieve  
17          immediate beneficial change.

18   A. Yes.

19   LADY SMITH: I wonder if sometimes it's too easy to have the  
20          big vision, "This will make such a difference", whether  
21          it's a building or educational staff or programmes or  
22          whatever, "We do not have the money to do that at the  
23          moment". So it stops there.

24          Isn't that always a risk?

25   A. Clearly. But we operate within finite budgets and, as

1 Mr Peoples says, my Lady, you are having to make choices  
2 between different priorities and areas.

3 Certainly, over the last decade and more, since the  
4 publication of the Christie Report, there has been  
5 significant focus on trying to move resources towards  
6 prevention, massive investment in early learning and  
7 childcare, additional investment within education, as  
8 well. So those are priorities, but that doesn't stop  
9 our responsibility to also respond to recommendations in  
10 terms of prisons and that's certainly always the case  
11 that I make within Government.

12 LADY SMITH: And always asking: can we do better with what  
13 we have already?

14 A. Yes. I think you are absolutely right, my Lady, it's  
15 not always just about the resources. Often the  
16 blockages are: there are other factors that we have to  
17 work through as well.

18 LADY SMITH: Thank you. Mr Peoples.

19 MR PEOPLES: Can I just pick that up? I was going to deal  
20 with this perhaps later on, because I think we talked  
21 about ethos and values. I suppose that what we're being  
22 told in the report is, in very broad terms, the ethos  
23 and values of the organisation during the whole of the  
24 Inquiry timeframe have never really changed. The  
25 culture has to some extent changed. The approach to the



1 management of prisoners has changed. That has had  
2 consequences and it's not all been as a result of  
3 finding money that wasn't there before.

4 On the point her Ladyship asked you, if we go back  
5 to -- just so maybe I could see how this fits in, in the  
6 great scheme of things, and how much was money and how  
7 much it may have been other factors that have led to the  
8 state of affairs that is being acknowledged in Part B.

9 If I can just deal with that here, it's as good  
10 a time as any.

11 In terms of the model, there is a reference in the  
12 report to what has been described as the "dominant model  
13 in or around the mid-20th century" and perhaps one that  
14 endured for a bit longer, called the "treatment model".  
15 I think that is the expression used in the report.

16 I just wanted to ask, before I take us forward in  
17 time: what was intended by that expression?

18 To some extent, you could say that borstal and  
19 detention in theory were "training models". I'm not  
20 sure whether it's "training" rather than "treatment"  
21 now. What was meant by "training models was a dominant  
22 theory in perhaps the mid-20th century" and maybe for  
23 a time thereafter?

24 LADY SMITH: "Training" or "treatment"?

25 MR PEOPLES: The expression is "treatment", but I'm trying

1 to --

2 LADY SMITH: (Overspeaking).

3 MR PEOPLES: I was saying we can tell from the broad  
4 philosophy of borstals, even going back to the early  
5 20th century, it was meant to have some form of core  
6 component of training, rather than punitive detention.  
7 That was the philosophy.

8 MR RENNICK: Again, Teresa may come in, although it is  
9 certainly before her time. My reading, reading back  
10 over the history, is there were different philosophies  
11 applied to the borstals, the detention centres and the  
12 YOIs. They did not all operate the same regimes or  
13 necessarily accommodate the same young people at the  
14 same time. Although I imagine some may have moved  
15 between facilities. So there were different  
16 philosophies that applied to each of those settings and  
17 those changed over time, until they became amalgamated  
18 and YOIs being the only the model --

19 MR PEOPLES: Yes, in the 1980s when they got rid of --

20 MR RENNICK: -- the only model that was there.

21 Even back in the past there appeared to be a split  
22 between trying to provide education and training  
23 opportunities for young people and then other approaches  
24 were about dealing with the recidivism and trying to  
25 deal with that in different ways.

1 Q. So treatment might not be what we think about some sort  
2 of treatment in almost a healthcare sense. It was, for  
3 example, a detention centre, the philosophy, to use the  
4 colloquial expression, "short sharp shock treatment";  
5 that was a model in vogue between 1949 when detention  
6 centres came into being until they were abolished in  
7 1998. So that was a treatment model for short-term  
8 sentences for people who were believed to be perhaps  
9 often first offenders and if they had the "short sharp  
10 shock" they wouldn't come back?

11 A. It was certainly designed for short-term placement. So,  
12 again, without knowing the detail of how it actually  
13 operated in significant practice beyond what is  
14 reflected in the report, it was clear the intention was  
15 to try and quickly impact on a young person and that is  
16 not a philosophy that applies just now.

17 Q. The idea -- although I don't think it necessarily was  
18 reflected in practice -- was that you tried detention  
19 centre once and, if it didn't work, something else would  
20 follow.

21 I think we can see that from material that's in the  
22 report and elsewhere that that was the idea. I think  
23 some of our applicants have said that, too, that that's  
24 the first port of call when you want to put someone into  
25 some form of custodial environment, you might put them

1 in a detention centre.

2 If you thought that they needed some form of  
3 training, they were sentenced to borstal training,  
4 originally three years, latterly two. But you could get  
5 out if your behaviour was good, maybe out within nine  
6 months.

7 Then there was young offenders, which the idea was  
8 it could cater for a lot of people, short sentences,  
9 long sentences. So you would have a mix in young  
10 offenders that you wouldn't see in a detention centre or  
11 necessarily in a borstal. That was the idea, wasn't it?

12 A. Yes. I think, again, my personal reflection on reading  
13 through the paperwork is that all those environments  
14 could be, and were, abusive to young people. It wasn't  
15 that one was better than another and even ones that were  
16 designed for training had elements to them that were  
17 clearly abusive.

18 Q. Yes, I'm not suggesting anything to the contrary.  
19 I'm just saying that was the system, if you like, and as  
20 you have rightly pointed out, someone decided in their  
21 wisdom by the 1980s: let's not have three different  
22 types of custodial sentence for young people, let's just  
23 have a young offenders institution to which they can be  
24 sent if appropriate.

25 That's what really is the current system, is it not?

1 A. Yes.

2 Q. The difference going forward, if the legislation is  
3 passed, is that the group that would be in a young  
4 offenders institution would be aged 18 to 21, as opposed  
5 to age 16 to 21 generally. Although people under 16  
6 were in some of these places historically, as we know.

7 A. Yes.

8 Q. Unruly certificate cases where they didn't commit  
9 an offence, but they were so unruly, or judged to be,  
10 that they were put into SPS or prison establishments --

11 A. Yes.

12 Q. -- by the courts?

13 A. And I can't remember exactly, but certainly not in the  
14 last decade. I don't think there's been anyone under  
15 the age of 16 in a YOI over --

16 Q. I think it's right to say that the unruly certificate is  
17 thought, although it's not easy to necessarily work out,  
18 the actual power to do that may have disappeared in  
19 2010, perhaps. But, up until then, at least it was  
20 possible. Indeed we do see, I think, some of the people  
21 who have given evidence to this Inquiry saying they were  
22 in a prison when they were under 16?

23 MS MEDHURST: Yes.

24 Q. And they're saying they weren't convicted of anything?

25 A. Yes.

1 Q. They weren't on remand?

2 A. That was the case, yes.

3 Q. Leaving the "treatment model" behind and bearing in mind  
4 what you have just said about how there was  
5 a convergence of -- to a single setting institution in  
6 the 1980s. The 1980s was an unfortunate period for the  
7 service, I think. We spoke about this yesterday. It  
8 was a period of riots in various establishments and  
9 there were overcrowding and funding issues in that  
10 period, as in some other periods.

11 If I followed the progression towards the vision, if  
12 you like, in 1989, in the annual report, for the first  
13 time, there seems to have been something described as  
14 a "mission statement" to care for -- which included  
15 a statement to the effect that -- to care for prisoners  
16 with humanity. So we have the compassion, empathy,  
17 humanity being expressly stated in an annual report.  
18 I think that was the first time that was seen in such  
19 a report?

20 A. Yes, it was.

21 Q. I suppose -- and I'm sure this was something that we've  
22 heard -- in the 1980s, after the riots, there was  
23 a period when prison officers were perhaps going into  
24 prisons with riot gear on and being heavily tooled up  
25 with various equipment to quell any riots and there was,

1 obviously, a desire to bring back some degree of  
2 normality to the system?

3 A. There was a period between the mid-1980s, and it endured  
4 into the early 1990s, where there were significant  
5 incidents. And whilst staff wouldn't attend duty in  
6 protective gear -- protective equipment and clothing,  
7 nevertheless, during -- in particular establishments,  
8 during the course of their duties they may well have had  
9 to apply that protective equipment and be used and  
10 deployed to quell disturbances of rioting behaviour.

11 It could have been a flat, a hall, up to and  
12 including hostage takings at that time.

13 Q. Following the mission statement, clearly someone was  
14 thinking: we have to address this problem?

15 A. Yes, absolutely.

16 Q. The mission statement gives a sort of statement of  
17 intent about what you are trying to achieve: care for  
18 prisoners with humanity.

19 Because presumably, some of the prisoners rioted for  
20 a reason?

21 A. The conditions, I would suggest, at that time would not  
22 have given individuals, necessarily, much of a voice  
23 around both the conditions in which they were held nor  
24 the way in which they managed the sentences. So that  
25 disempowerment was prevalent at that time.

1 Q. And hopelessness as well, I suppose, for many. They  
2 didn't really see any great future, that they're stuck,  
3 perhaps, in conditions that are not particularly humane  
4 and there's not really much hope either and they don't  
5 have a voice?

6 A. That probably didn't apply across the whole estate. But  
7 there was an approach at that time which separated out  
8 those individuals that were deemed to be of most --  
9 highest risk, most dangerous, were located in Peterhead.  
10 Edinburgh prison was deemed to be a first offenders  
11 prison at that time, so it was mainly those who were  
12 coming into custody for the first -- on the first  
13 occasion.

14 So there was a degree of separation. But,  
15 nevertheless, things that we have spoken about earlier,  
16 such as complaints and plans for how people would manage  
17 their way through their sentences were certainly not as  
18 sophisticated as they developed or are nowadays. Policy  
19 documents that came thereafter were much more explicit  
20 about many of those things.

21 Q. Just talking about Peterhead; would young people under  
22 21 in those days have -- could they have ended up in  
23 Peterhead?

24 A. Not in those days, no.

25 Q. However dangerous they might be classified and however



1           much a problem they might be considered?

2   A.   Certainly, my recollection was that -- is that Peterhead  
3           was designated as an adult establishment. Even though  
4           the rules are much more explicit nowadays, even in those  
5           days, I -- it would have -- it would not have been the  
6           case, because it wasn't designated either as a detention  
7           centre or young offenders, and it would need to be.

8   Q.   The point is made at least that there's no legal  
9           impediment to having young people in the same  
10          establishment as adult prisoners, albeit it may be  
11          they're separated within that establishment. I think  
12          that's a point made in the report; that's still the  
13          position today, is it not, legally speaking?

14   A.   We have to designate. For example, when -- I'm trying  
15          to think -- when we were looking at the new HMP Stirling  
16          it had to be designated HMP and YOI, Young Offenders  
17          Institution Stirling, unless it is designated as a young  
18          offenders institution within the rules, then we can't  
19          allocate young people to those establishments. So  
20          that's why, at moment, there are only certain  
21          establishments which will hold under 21s.

22   Q.   Grampian is another?

23   A.   Correct. They are designated HMP and YOI Grampian.

24   Q.   Maybe it's a question I should have asked yesterday: in  
25          terms of young people on remand these days, whether

1           they're under 18 or over 18, there is no longer  
2           Longriggend, to which they can be sent, perhaps, from  
3           wherever they came originally or from whichever court  
4           they may have come -- can you just explain what the  
5           current situation is about remand -- young people on  
6           remand?

7           Where are they taken if they're remanded in custody  
8           by a local court, a Sheriff Court, for example?

9    A.   They'll be remanded to Polmont.  Every young person who  
10       is on remand, other than those young women who are in  
11       the Grampian region, they will be allocated to Grampian  
12       because they have that designation.  But everyone else  
13       will go to Polmont.

14   Q.   Say someone gets remanded by Glasgow Sheriff Court,  
15       a young person, male, that person would go to Polmont?

16   A.   Correct.

17   Q.   They wouldn't spend even a night in Barlinnie, as they  
18       did historically?

19   A.   No.

20   Q.   Are there different travel arrangements to take them  
21       from court?

22   A.   Yes.

23   Q.   We heard about the carousel arrangement.  When someone  
24       is on remand, they could end up basically going between  
25       the court, Longriggend, Barlinnie, in between for

1 perhaps a night, Polmont, perhaps, just depending on  
2 when the bus arrived and when it departed and so forth.  
3 It did seem a situation that perhaps could have been  
4 sorted out without vast cost?

5 A. In those days, the local establishments, such as  
6 Barlinnie, Edinburgh, Perth, would have been another  
7 one, would have accepted young people on remand. So  
8 they would have -- that would have been normal practice  
9 anyway.

10 But, as I say, practice has changed and we would no  
11 longer send, or allow, anyone who is under 21 to be  
12 remanded into the local prisons.

13 Q. Barlinnie historically then, the remand prisoners, young  
14 people; were they in a particular hall?

15 A. They would have been. I can recall my own experience,  
16 if that would be helpful, at Edinburgh, where there was  
17 one large hall and the young people were on one of the  
18 flats. They were remanded on -- it was one flat, but in  
19 a much bigger hall, where there were adult prisoners as  
20 well.

21 Q. So there is a hall with a number of levels?

22 A. Yes.

23 Q. And within a particular level or landing you would have  
24 a section for young remands?

25 A. Correct.

1 Q. But the whole hall itself had adult prisoners in other  
2 levels?

3 A. Yes, that would be it.

4 Q. There were degrees of interaction, presumably, or there  
5 could be?

6 A. There absolutely could be. Attempts were obviously made  
7 to keep people separate, but the layout and the  
8 facilities at that time would have made that  
9 challenging.

10 Q. Whereas if we go to an example that I think was  
11 mentioned yesterday, Blair House, that would effectively  
12 be a new hall that was built at Polmont in 2009/2010;  
13 that would be exclusively for under 18s?

14 A. Blair Hall was used exclusively for under 18s.

15 Q. So they wouldn't mix at all with adult prisoners?

16 A. There may have been times where they would mix with 18  
17 to 21-year-olds for activities. But Polmont being  
18 designated only a young offenders institution, there are  
19 no adults located there.

20 Q. For activities, you could end up being in a workshop  
21 with someone that was over 18?

22 A. Correct.

23 Q. Even if you are in Blair House?

24 A. Yes, that is correct.

25 Q. That is the way it was done?

1 A. Yes.

2 Q. We have the unfortunate case that we mentioned yesterday  
3 in Polmont, I think, of the 17-year-old sharing with  
4 a 20-year-old who has been convicted of rape.

5 We don't really know how the cell sharing played out  
6 in this case. Was that -- that person wasn't in Blair  
7 House obviously, because it wasn't constructed then?

8 A. No, that was prior to. The cell-sharing risk assessment  
9 process was introduced in 2005.

10 In 2008, there was a review undertaken, because the  
11 initial process only applied to first night in custody.  
12 The review in 2008 identified the need to apply the  
13 cell-sharing risk assessment every time there is  
14 a movement of individuals and that was introduced --  
15 I'm not sure if it was either towards the end of 2008,  
16 but certainly into 2009.

17 Q. It doesn't strike me that there's no connection between  
18 that and the incident?

19 A. I couldn't --

20 Q. It's reasonable to suppose that incident may have  
21 influenced that review?

22 A. I'm not sure how the review was conducted, but certainly  
23 that incident would have been known at that time.

24 Q. If what you're describing is when cell-sharing risk  
25 assessments were first introduced it was quite -- 2005

1 is the date you have told us?

2 A. Yes.

3 Q. But, before then, there wasn't that process in the  
4 system. Someone would just end up at one of these  
5 places being admitted as someone aged usually between 16  
6 and 21, they would go through a process of induction.  
7 But, from 2005 onwards, for the first night they would  
8 be in a single cell, but after that they could be in  
9 a shared cell?

10 A. They may even have been in a shared cell in the first  
11 night.

12 At that time, 2007/2008, probably before that, there  
13 was significant overcrowding within Scotland's prisons  
14 and that makes decisions around operational capacity  
15 really challenging. Keeping people safe becomes more  
16 challenging, particularly because you have got  
17 a significant churn during the day, and therefore trying  
18 to assess and people are allocated spaces where they are  
19 safe does come with increased risks.

20 Q. There would have been an assessment from 2005 onwards of  
21 some description?

22 A. Correct.

23 Q. If the assessment showed that there was some concern  
24 that the individual being assessed should not be  
25 sharing, even if there are pressures due to

1 overcrowding; would attempts be found to put that person  
2 in a single cell?

3 A. Yes, absolutely.

4 Q. But not every person having their first night would have  
5 the luxury of a single cell?

6 A. No. That's absolutely correct.

7 Q. If they spent a night in Barlinnie on the route to  
8 somewhere else, on remand, they would, if they were  
9 a first offender for example, going back to the dog  
10 boxes, go into the reception unit at Barlinnie and they  
11 would be processed and they would experience dog boxes?

12 A. Yes.

13 Q. They could be in with two or three different people in  
14 the box?

15 A. No, the dog boxes were used for individuals.

16 Q. I thought the report said that at times, although that's  
17 what they should have been, at times people were in  
18 a box that was designed for one. Sometimes there were  
19 two, three people. I think applicant evidence has told  
20 us that. They remember that state of affairs, and  
21 I think they were saying it was difficult for one person  
22 to sit down. So it was pretty crowded if you had three  
23 people?

24 A. My apologies. I was referring to the improvements that  
25 we had made.

1 Q. Is that right? Is that what could have happened in  
2 those days?

3 A. It could have happened in those days, yes.

4 Q. If that was your first experience of a custodial  
5 setting, it's probably bad enough to have to experience  
6 it at all. But if you have that and that's your first  
7 introduction, it's pretty terrifying and frightening, it  
8 would be for someone?

9 A. Very frightening and particularly for a child, yes,  
10 I would agree.

11 Q. Certainly one that's not been in that situation before.  
12 Some obviously get accustomed to a situation. They  
13 don't necessarily like it or tolerate it and they may  
14 still have fears about what may happen, but at least  
15 they know what the system is?

16 A. Exactly. Someone coming in for the first time will have  
17 fears and apprehensions because of the unknown, and that  
18 kind of experience would just have heightened those,  
19 absolutely.

20 Q. It doesn't -- the impression from the applicant  
21 evidence, and I think it was borne out with some of the  
22 evidence you found in the records, they weren't  
23 necessarily treated with kid gloves when they arrived,  
24 by the reception officers?

25 A. The receptions are incredibly busy places.



1 Q. I think I'm suggesting more than that. That perhaps  
2 there is a lot of shouting, swearing, ordering, and in  
3 some cases perhaps more than that, in terms of force  
4 being used. Because we even saw the Visiting Committee  
5 telling us what happened in 1935?

6 A. Exactly, yes.

7 Q. That although the governor was sceptical, people were  
8 being punched and kicked towards somewhere --

9 A. Yes.

10 Q. -- after they arrived at the institution?

11 A. Yes.

12 Q. I don't think that was confined to the 1930s, certainly  
13 not according to applicant evidence.

14 A. Yes. No, I fully accept that, Mr Peoples. I fully  
15 accept that.

16 Q. Following this through then, we get to a watershed  
17 moment, because you have mentioned -- the report  
18 mentions a number of times that there is then the  
19 publication, in 1990, of Opportunity and Responsibility,  
20 which was -- I think has been described as a new  
21 conceptual framework for management of people in  
22 custody. That's not just young people, but the  
23 management of everyone in custody?

24 A. Correct.

25 Q. It was underpinned -- I'm trying to work out what I have

1 taken from the report. Underpinned by the principles of  
2 Opportunity and Responsibility, and it is said that  
3 really was recognising the concept of the responsible  
4 prisoner, and that publication was in effect a vision of  
5 the sort of service that the Scottish Prison Service  
6 aspired to become, not how it was.

7 Just pausing there, in very simple terms; can you  
8 explain what the concept of the responsible prisoner  
9 entails?

10 A. So that was really about individuals having what we call  
11 a sentence plan, and through that sentence plan that  
12 they would create and devise with their personal  
13 officer, they could then make choices about how they  
14 wanted to step through their sentence, given their needs  
15 and risks, in order to better prepare them for release.

16 So it was about -- rather than designated -- what  
17 should happen to people, it was the first step, if you  
18 like, towards making a plan with a person and  
19 recognising that choice and people taking ownership of  
20 their sentence was the right thing to do.

21 Q. It's different from when you go in. I think some of the  
22 applicants have said of the old days that basically they  
23 couldn't have any say in matters. They were told what  
24 to do, how to do it, when to do it, and there was no  
25 freedom of any kind of choice and it was that sort of

1 structure?

2 A. Yes.

3 Q. Some structures being more militaristic than others, but  
4 that was the broad structure across the estate in their  
5 experience?

6 A. Yes.

7 Q. So they really never had to think for themselves. They  
8 were told what to think and do?

9 A. That's absolutely correct.

10 Q. You're now saying that the idea was in some ways --  
11 there was some form of -- I hesitate to use the word  
12 "care plan", because I suspect that was too early for it  
13 being seen as a care plan. But there was a plan and it  
14 involved -- there was involvement of the prisoner, so  
15 they had a voice, and there was a discussion about how  
16 they would serve their sentence. Of course, that's the  
17 responsibility element.

18 The opportunity -- of course, to make this work you  
19 have to make sure that if they want to do something,  
20 there are opportunities available?

21 A. That's correct.

22 Q. The idea was that you would create more opportunities,  
23 programmes, activities, purposeful activities, that  
24 would allow them to make choices that ultimately would  
25 benefit them and no doubt society when they were

1 released; is that okay? Did I understand that?

2 A. Absolutely correct. In the 1980s, there were things  
3 like mail bag sewing shops and I think -- sheds, sorry,  
4 my Lady. So big industrial areas where the tasks that  
5 people were being asked to undertake were mind-numbingly  
6 boring, is probably how I would describe them. But it  
7 kept people occupied.

8 There was a recognition that in actual fact keeping  
9 people occupied wasn't enough. What we needed to do was  
10 offer opportunities that would allow people to develop  
11 skills, experience and/or qualifications, that would  
12 help them when they returned to their communities again.  
13 That's where there was a lot of development of  
14 industrial-type wood sheds, engineering shops and things  
15 like that.

16 Q. Was there more emphasis on -- a number of the people  
17 that went in, their education levels were not  
18 particularly good. Some couldn't read or write, or do  
19 it very well. Was there more of an emphasis then on  
20 also traditional education, in reading, writing and  
21 traditional subjects? Or was that something that -- did  
22 that come later or did it ever come?

23 A. No. The education has always been available in one form  
24 or another, but what it morphed into, if you like, was  
25 a model whereby we went out to local colleges,

1 recognising that for an adult population that was  
2 a similar experience to that they would get in the  
3 community and similar types of qualification levels.

4 At one point, there was quite a fragmented approach  
5 with more local colleges being service providers on  
6 a contract basis to prisons, until at the moment we have  
7 one college who provides educational services across the  
8 whole estate.

9 The delivery, the landscape for those colleges, is  
10 absolutely around numeracy and literacy. But because of  
11 the population that we have, there are different levels  
12 that people can achieve and develop to, depending on  
13 their interests.

14 Q. Obviously, we are now getting to the era where no doubt  
15 this is reflected in terminology, that what you are  
16 looking for is not activity, but purposeful activity and  
17 meaningful activity, and that's what is envisaged by --  
18 if the inspector says, "We don't see much evidence of  
19 that", it doesn't mean the person is doing nothing, but  
20 it might be they're sewing mail bags or dismantling some  
21 sort of telephone or something of that order, and that  
22 was it?

23 A. Yes.

24 Q. But the intention was to do that. Is it too early,  
25 still, in the early 1990s and when this was starting to

1 kick in, to see education in the form of the types of  
2 things you mentioned yesterday, such as parenting  
3 skills, anger management programmes; was that still to  
4 come?

5 A. That was still to come, yes.

6 Q. That was no doubt seen as a natural development of  
7 this --

8 A. Yes.

9 Q. -- new concept that was being espoused in 1990, through  
10 the publication of Opportunity and Responsibility?

11 A. That's correct.

12 Q. Just to be clear, this wasn't a development that was  
13 designed necessarily just with young people; this was  
14 seen as an across-the-board change of direction --

15 A. Yes.

16 Q. -- in the management of people in custody?

17 A. That's absolutely correct.

18 Q. But it was a vision?

19 A. Yes.

20 Q. An early vision?

21 A. Yes.

22 Q. It wasn't called that, no doubt, but -- maybe it was,  
23 I don't know. Maybe that term is used. That's what it  
24 amounted to?

25 A. It was policy direction for the organisation at that

1 time.

2 I probably should clarify that because it was  
3 sentence management it was constructed and focused on  
4 convicted individuals and mainly directed at those on  
5 long-term sentences. That was partially in response to  
6 the riots and disturbances that we had experienced.

7 Q. That's quite important to remember, if we're trying to  
8 get the context and the development in the history, that  
9 this wasn't designed for necessarily short-term  
10 sentences, because it's quite difficult to do this for  
11 someone that's there for three months, for example, or  
12 six months even?

13 A. Yes.

14 Q. But, also, it's not also designed for a particular  
15 cohort, such as young people, because perhaps the way  
16 they're managed, as I think has subsequently been seen  
17 as the way forward, is their management may need  
18 different approaches to the management of adult  
19 prisoners, women prisoners, female offenders, if it's  
20 young males and so forth, and that's what has evolved  
21 from this, perhaps, starting point?

22 A. Yes. And very much, as I say, it did focus on male  
23 adults and it was in response to the disruption that we  
24 had experienced.

25 Q. I was trying to check last night. I think there's

1 reference to the introduction of the prison survey in  
2 the 1990, 1991 annual report, so that was -- it went in  
3 tandem with this?

4 A. Yes, absolutely.

5 Q. The purpose of that; was this a survey for individual  
6 establishments?

7 A. Yes. Every establishment was provided with the survey  
8 and the establishments adopted different approaches.  
9 But, in the main, the focus was on providing time and  
10 opportunity for individuals to fill in the survey and  
11 encourage them to do so in order that we could get or  
12 gauge a really good understanding of the temperature and  
13 the feedback from the populations that were in prison at  
14 that time.

15 Q. Including things like whether they felt safe and whether  
16 they had been assaulted, things like that?

17 A. Yes.

18 Q. Has this prison survey -- so I'm clear -- continued to  
19 this day?

20 A. We have been changing the prison survey over the last  
21 couple of years. We have not -- partly because of  
22 COVID, but we decided to look at the approach and  
23 whether or not there was something that we could do that  
24 would be a bit more meaningful around people's  
25 experience of custody and what makes a difference, as



1           opposed to just what are the conditions like at the  
2           current, present time.

3   Q.   What would make the difference as well as how things  
4           are?

5           The survey, in the early days, would no doubt to  
6           some extent get, from the prisoners' perspectives, their  
7           feelings and own experiences, according to them, in  
8           relation to certain aspects of prison life. But were  
9           they being asked in the early days: what would you like  
10          to see improved; or what would make you feel safer; or  
11          what would help to reduce bullying; or what would help  
12          to reduce the number of assaults that seem to be  
13          happening?

14          Were they asked things like that?

15   A.   That wouldn't have been -- that wouldn't have formed  
16          part of the survey. It was very much about gauging the  
17          temperature and then the service responding or each  
18          establishment of the service responding to the results  
19          of that, rather than going into more detail around what  
20          does that mean and, therefore, what do those in custody  
21          consider would affect change.

22   LADY SMITH: Teresa, can you tell me a little more about  
23          gauging the temperature; what do you mean by that?

24   A.   It is things about: how safe do you feel? How do you  
25          get on with the staff in your hall? How do you get on

1 with the peers in your location? How do you get on with  
2 the medical staff? What are the conditions like? How  
3 is the food? Is the temperature okay in your area that  
4 you are living in?

5 Very much about the sort of functional aspects as  
6 well as relational aspects, but from quite a blunt  
7 instrument. Tell us: do you think the relationships are  
8 good? Do you not think -- so there was a scale, but  
9 nevertheless it wasn't -- it didn't give you any of the  
10 qualitative information behind why people perceived  
11 things to be the way that they were perceived.

12 LADY SMITH: Was it being put to the prisoners on the basis  
13 of multiple choice on a scale for every answer?

14 A. Yes.

15 LADY SMITH: With no boxes to add their own information? Is  
16 that what you're telling me?

17 A. I think it was all quantitative rather than qualitative.  
18 I think early days it was. I'm not sure. I don't think  
19 it changed over the period of time, but I would need --

20 MR PEOPLES: That was the question I was going to ask. From  
21 introduction in the early 1990s through to the more  
22 recent changes that you have described, this wasn't  
23 a vehicle that was being used to -- not something to get  
24 feedback as to their experiences, but it wasn't used to  
25 gain some information as to what they would like to see

1           happen or what would make them safer; that wasn't what  
2           the prison survey has done over the years?

3   A.   No.

4   Q.   How is that done now then?

5   A.   So they --

6   Q.   To get that information, their own thoughts and views  
7           about what would make them safer or what would be  
8           an improvement to reduce any risk of bullying or  
9           assaults or whatever? How do you get that information,  
10          what the young people themselves think?

11  A.   So I think my colleague, Sue Brookes, mentioned the  
12          quality indicators, and I think the Chief Inspector may  
13          have mentioned them as well.

14                The quality indicators at Polmont were devised with  
15                the young people and with the staff group across a range  
16                of different areas in respect of the prison and how it  
17                operates.

18                That has been used to get feedback from the young  
19                people on their experience and to better understand what  
20                the impact has been in the areas that they think could  
21                be improved.

22                There are also -- there is also a forum -- and  
23                I can't exactly remember what it's called -- that's run  
24                by Barnardo's and CYCJ, so that is children and young --  
25  MR RENNICK: Children and Young People's Centre for Justice.

1 A. That's right. Too many acronyms, I'm sorry.

2 But they hold a forum for young people as well,

3 again to get an understanding of their experience and to

4 get their input on aspects of life within Polmont, to

5 look at where things can be improved.

6 Q. Just before we break, to finish this, that forum; is

7 that a regular thing?

8 A. Yes.

9 Q. How often?

10 A. I --

11 Q. It happens now?

12 A. It does happen now, yes.

13 Q. You have the quality indicators and feedback system and

14 those that are receiving that; is that the HMIPS?

15 A. No, that is for the management team at Polmont to

16 respond to and make change. I have no doubt that when

17 the Chief Inspector has gone into Polmont recently for

18 her inspection she will have looked at that and

19 commented on it as part of her report.

20 Q. That process of feedback is to management within the

21 establishment?

22 A. Yes.

23 Q. It's not to the audit team internally or to the

24 inspector? Although they might separately look at that

25 information or ask their own questions of the

1 prisoners --

2 A. Yes.

3 Q. -- on these matters?

4 A. The Chief Inspector certainly would.

5 But this is about senior teams and their staff group  
6 looking at ways of improving practice through regular  
7 engagement and feedback with young people.

8 LADY SMITH: Well, I think we'll break now for the morning  
9 break and sit again in about 15 minutes, if that will  
10 work all right for you. Thank you.

11 (11.32 am)

12 (A short break)

13 (11.50 am)

14 LADY SMITH: Neil, Teresa, are you ready for us to carry on?

15 MS MEDHURST: Yes, thank you.

16 LADY SMITH: Thank you very much. Mr Peoples.

17 MR PEOPLES: My Lady, can I just briefly return to the  
18 matter we were discussing before the break and the forum  
19 which is organised by the Children and Young People's  
20 Centre for Justice?

21 Is that something that's arranged for individual  
22 establishments on a regular basis?

23 A. That's run in conjunction with Barnardo's and only takes  
24 place in Polmont.

25 Q. I suspect I'm going forward with you, Teresa, on this

1 development, I'm trying to piece together how things  
2 have evolved. So we have been looking at the 1990s and  
3 the Opportunity and Responsibility framework or the  
4 management of people in custody.

5 We have noted that the prison survey was introduced  
6 in the early 1990s, and you have told us a bit about  
7 that and how you also now get feedback from people in  
8 custody, young people, through quality indicators and  
9 also the forum that we have just mentioned.

10 The 1990s was a period of what one might describe as  
11 considerable activity. There were new rules for prisons  
12 in 1994, which replaced rules that had been in place for  
13 some considerable time, going back to the 1950s,  
14 I think?

15 A. Yes.

16 Q. Then these rules, I think as we saw yesterday,  
17 contained, perhaps for the first time, a recognition  
18 that prisoners had rights, and that's a point made in  
19 the report.

20 I think around the same time, 1994, the Scottish  
21 Prison Service published charter standards statements,  
22 which, as I understand it, were standards that prisoners  
23 were entitled to from the service and those who were  
24 employed by the service; is that right, Teresa?

25 A. They weren't necessarily enshrined in law, but the

1 standards were there and every establishment was  
2 expected to achieve those standards.

3 Q. Around this time, as we spoke about yesterday, there was  
4 the creation of the SPS and executive agencies, which  
5 represented a departure from the traditional  
6 arrangements that had been in place before then.

7 Just in terms of that, I might just deal with it now  
8 because I don't think we covered this yesterday. In  
9 very brief outline, the predecessors of the Scottish  
10 Prison Service historically, if we go back, were  
11 starting in the 19th century and until 1928 with the  
12 Prison Commissioners?

13 A. That's correct.

14 Q. Until 1939 the -- it was the Prisons Department for  
15 Scotland that took over the role of the Prison  
16 Commissioners and then the Secretary of State, around  
17 the time of the outbreak of war, in 1939, took over  
18 responsibility for prisons. That was exercised in large  
19 measure through the Scottish Home Department and its  
20 successor departments and, in particular, the SHHD.

21 That was the situation until 1 April 1993, when the  
22 Prison Service was established as an executive agency?

23 A. That is correct.

24 Q. Around that time it had its first Chief Executive?

25 A. That's correct.

1 Q. I think, before then, there was someone within the  
2 department that was the director of prisons or some  
3 description of that type; is that right?

4 A. Yes. That sounds about right.

5 Q. Just before we go on with this development that we have  
6 been looking at, obviously we have been looking at four  
7 establishments in particular, Polmont, Glenochil,  
8 Longriggend and Barlinnie.

9 We know that the legal distinctions between  
10 detention centres, young offenders institutions and  
11 borstals were removed by 1988.

12 In terms of remand institutions, which held persons  
13 under 21, we're talking about people who were held  
14 before trial or between conviction and sentence, pending  
15 reports?

16 A. That's correct, yes.

17 Q. And that these remand institutions would also contain  
18 adult prisoners on remand. Longriggend would, would it  
19 not?

20 A. Longriggend contained some adults who were convicted,  
21 who were there to undertake the work activities, such as  
22 the cook house and laundry facilities. But that was the  
23 purpose they were there.

24 Q. Otherwise, would adults on remand go to somewhere else?

25 A. Adults on remand went to local prisons, not Longriggend.



1 LADY SMITH: Teresa, two things. One can you move that  
2 microphone a little nearer to you? It may be the angle  
3 that you need to adjust.

4 Separately, you mentioned that adults at Longriggend  
5 were there to undertake work activities; does that mean  
6 they were there during the day and elsewhere overnight  
7 or were they there all the time?

8 A. They were there all the time, yes.

9 LADY SMITH: For whatever period it had been decided to put  
10 them there, so they could do that activity; is that  
11 right?

12 A. They were mainly short-term offenders and I think they  
13 were selected for suitability. They were quite stable  
14 individuals and quite responsible, so they would be able  
15 to undertake the work activities without any disruption.

16 LADY SMITH: Thank you.

17 MR PEOPLES: Would these adults be held within Longriggend  
18 in a separate area from young remands?

19 A. There was a separate area, but the adult males were  
20 located in -- but within the establishment, if you like,  
21 so it wasn't entirely separate. Longriggend was  
22 an interesting mix of buildings, with corridors that  
23 connected the buildings. So you wouldn't necessarily  
24 have to go outside to move through the whole of the  
25 establishment. So the area that housed the adults would

1           have formed part of that -- those series of buildings.

2   Q.   So there would be a degree of contact between young  
3       persons and adults?  They could meet each other within  
4       the building?

5   A.   Yes, they could.

6   Q.   In terms of the work the adults were doing; was that  
7       work in workshops or kitchens or --

8   A.   There weren't workshops at Longriggend because it was  
9       a remand facility.  So it was laundry and cleaning and  
10      catering.

11  Q.   So they could have contact on a daily basis with young  
12      people who were moving about the place --

13  A.   Yes.

14  Q.   -- for one reason or another?

15  A.   Yes.

16  Q.   And the young people themselves I think, if they're on  
17      remand, were not doing very much other than being in  
18      their cells, but getting some exercise from time to  
19      time?

20  A.   There were two teachers who were employed to provide  
21      education and there was a gymnasium.  And what were  
22      called recreation rooms, but very limited in terms of  
23      activities, yes.

24  Q.   Just moving on from that -- again, I wanted to keep this  
25      short.  We have heard some evidence about these things

1 before, but we are looking at how things have evolved in  
2 more recent times. Before we came to the 1990s, the  
3 principal statute that still governs prisons in Scotland  
4 today, the Prisons Scotland Act 1989 was passed; is that  
5 right?

6 A. Yes, that is correct.

7 Q. Although there have been some amendments to it since  
8 then?

9 A. Correct.

10 Q. The current rules, which operate in relation to prisons  
11 and young offenders institutions, are the Prisons and  
12 Young Offenders Institutions Rules 2011?

13 A. Correct.

14 Q. These are the current rules?

15 A. Yes.

16 Q. I don't know who can answer this one. Are there any  
17 plans to change these rules?

18 MR RENNICK: They have been amended significantly since  
19 2011. So they're not the same rules.

20 MS MEDHURST: I understand that a number of people have  
21 identified a need to revise the rules. That is  
22 something we would like to do, but at the moment  
23 I wouldn't be able to give a timescale for that.

24 MR PEOPLES: They would benefit from, perhaps, a general  
25 revision?

1 A. We agree that they require to be updated and changed.

2 Q. So far as the service is concerned, it is accepted by  
3 the Scottish Ministers that they and the Secretary of  
4 State would have owed a duty of care towards prisoners  
5 throughout the period that we're dealing with?

6 A. Yes.

7 Q. That duty would include to take reasonable care to keep  
8 them in safe conditions?

9 A. Yes.

10 Q. We're discussing ethos, so I'll perhaps come back to  
11 that. And we're discussing changes to culture and  
12 practice, and I think it's accepted that there have been  
13 changes in the period we have been looking at.

14 I think it's clear from the evidence we heard this  
15 morning, and before and from the report, that the  
16 different types of establishments, borstals, detention  
17 centres, young offenders and remand institutions  
18 operated different regimes?

19 A. Correct.

20 Q. So whatever the overall ethos of the organisation, the  
21 ethos in individual settings of a particular type would  
22 differ in terms of, for example, the ethos of the  
23 detention centre was more militaristic, I think the  
24 report says, than the ethos of a borstal?

25 A. Yes, and that clearly was the intention at the time.

1           And I think the overarching ethos of the  
2           organisation, as you described earlier, Mr Peoples,  
3           really started to evolve and be much more explicit from  
4           the period at which we first drafted the mission  
5           statement, at the end of the 1980s and then into the  
6           1990s.

7    Q.   I suppose we can say, and indeed the report does say,  
8           and I think you've said in evidence, the organisation  
9           perhaps throughout the period has had a particular ethos  
10          and values. But, in a sense, the ethos of the  
11          organisation is different from the culture within the  
12          organisation, and the culture can no doubt vary from  
13          establishment to establishment; indeed there might be  
14          a culture in headquarters that's different from  
15          a culture in a particular institution.

16                 That can happen?

17    A.   Each establishment has got its own historical context.  
18           So whilst we are one organisation and everyone aspires  
19           to the overarching mission and values, and strategic  
20           direction of the organisation, nevertheless because of  
21           the particular historical elements to each  
22           establishment, how that then is translated and delivered  
23           may differ from site to site, and partly as well because  
24           of the population mixes on each site. So there are  
25           different populations and it will apply in different

1           ways necessarily because of that population.

2    Q.   I'm just trying to compare this with approved schools.  
3           In the rules for approved schools, there is  
4           an expression about how discipline would be maintained  
5           through the personal influence of the person in charge,  
6           and I suppose an expression of that type allows for  
7           a variety of influences and approaches to discipline and  
8           I think we'll -- you will probably have seen from the  
9           statements, even if it's not directly your area in  
10          giving evidence, that different approved schools  
11          operated in different ways, and headteachers and schools  
12          operated in different ways in exercising that influence.

13                 What I would just like to ask -- because I can't  
14                 see, really, any evidence in the report -- is whether  
15                 you came across anything that would suggest that there  
16                 were issues about the influence of those in charge of  
17                 the prisons, the governors that -- to put it short: did  
18                 you come across anything that questioned the suitability  
19                 of particular governors to be in charge of particular  
20                 institutions?

21    A.   There was no specific evidence to that particular issue,  
22           Mr Peoples.

23                 I think you highlighted the case from the 1930s,  
24                 where the individual in charge clearly didn't accept  
25                 what was being presented to him by a member of the

1           Visiting Committee. So, you know, it is clear from even  
2           those times that the individual who is in charge can and  
3           does have an influence.

4   Q. That's just the reality, isn't it?

5   A. Yes.

6   Q. If someone is there day to day and they're in charge, to  
7           some extent, how they operate will influence how others  
8           operate?

9   A. Yes, correct.

10  Q. I'm thinking I've seen one applicant statement that  
11           talks about having come across individuals at Barlinnie,  
12           a governor in particular and I think a principal  
13           officer, who clearly the applicant didn't perhaps --  
14           well, he had concerns about and he expresses them. He  
15           then said he went to Edinburgh where he encountered  
16           a different governor, whom he was much more  
17           complimentary about.

18           And he then says that at some point the governor he  
19           liked retired and the governor he didn't like was moved  
20           from Barlinnie to Edinburgh and he had some concerns  
21           because he ended up in Edinburgh.

22           Is that one way of -- depending on what he says  
23           about it and what his basis for that distinction is --  
24           being able to test whether there were issues of  
25           suitability about governors or about the way they

1 managed their individual establishments; that is one,  
2 presumably, method of --

3 A. Yes.

4 Q. -- assessing?

5 A. Yes. I would agree with that.

6 Q. I don't want you to name names, but would -- presumably,  
7 in any organisation people get reputations of one  
8 description or another, whether they're tough -- that  
9 may be a euphemism -- or that they're more enlightened  
10 or whatever. There is a spectrum. I take it that would  
11 be something that no doubt people would speak about from  
12 time to time, that you might find it harder if you were  
13 a prisoner in one place than if you were a prisoner in  
14 another?

15 A. Certainly in my experience, particularly of the 1980s,  
16 Barlinnie did have quite a reputation for being a hard  
17 prison to be in. And I didn't have personal experience  
18 of serving there, but certainly that was the reputation.  
19 And people did have reputations within the organisation.

20 You talk about people who are enlightened. I think  
21 you have had evidence from some individuals who have  
22 served in the service who would be deemed in that  
23 context. So there is a variability in terms of  
24 reputation. But the first question you asked: did we  
25 come across any evidence? And that's not something



1 I've come across, no.

2 Q. It's quite hard sometimes to come across such evidence.  
3 We were fortunate enough, in the context of approved  
4 schools, to find internal memoranda by inspectors of  
5 schools who, on point of retirement in one case, was  
6 able to put on paper his thoughts about the history of  
7 heads of approved schools over an almost 20-year period.  
8 It's fair to say it was less than complimentary of many  
9 of them. That wasn't something he put in any official  
10 report, but it was something in a file, a Scottish  
11 Office file, that recorded this for posterity.  
12 Fortunately, it was not destroyed because we have seen  
13 it for ourselves, and that was a contemporaneous  
14 assessment.

15 You haven't come across something like that, that  
16 someone has put their pen to paper --

17 A. No.

18 Q. -- on the history of governors of Scottish prisons?

19 A. If they have, they've not shared that with us, in the  
20 Scottish Prison Service. And somebody may have, but, as  
21 I say, not shared it as yet.

22 Q. You are not aware?

23 A. No, absolutely not.

24 MR RENNICK: Certainly, David Strang, when he completed his  
25 role as Inspector of Prisons, wrote a paper, a sort of

1 state of the nation paper on the Prison Service, but it  
2 wasn't a discussion of individual governors; it was more  
3 of an overview on the prison context and wider justice  
4 context.

5 MR PEOPLES: As far as establishments are concerned, it's  
6 not just the governor that might determine how prisoners  
7 are treated and handled and managed, and whether they're  
8 handled appropriately. A lot comes down to those who  
9 are in charge of the hall, whether it's a principal  
10 officer or senior officer, as well, so that's a factor?

11 MS MEDHURST: Yes. There are discrete areas within prisons  
12 that are run separately and they have a leader in  
13 charge, the terminology has changed over a number of  
14 years, but there is always someone who is designated in  
15 charge of that area.

16 That, in the residential areas, can change from  
17 shift to shift, so you wouldn't necessarily have one  
18 person there all of the time. But, yes, there are  
19 people who will be responsible for more -- smaller and  
20 more discrete areas. The governor is responsible for  
21 the whole prison.

22 Q. They perhaps have a measure of autonomy, in the sense  
23 that the governor won't be watching them 24/7 and they  
24 will have -- they can run their own ship, to an extent?

25 A. I wouldn't necessarily say that would be the case,

1           because governors and their senior teams are -- and  
2           particularly what I would call "unit managers", which  
3           are the first level of management, the management team,  
4           who are in civilian clothes. But they are expected to  
5           be in their areas every day. Governors should be around  
6           establishments on a regular basis, talking not just to  
7           staff, but talking to those in their care, and can very  
8           quickly assess and identify if things are not running in  
9           the way that they should be.

10    Q.   I'm thinking that Andrew Coyle, when he was a new  
11           Governor at one place, who came in with -- I think he  
12           would describe a fairly enlightened attitude to dealing  
13           with those who were in custody. He had an initial  
14           meeting with an officer who brought a person in and  
15           I think the officer did treat that prisoner in a certain  
16           way that he shouldn't have done, probably because that  
17           was the way he brought people -- I think the boy in  
18           question said something and he was dealt with in  
19           a certain way, and Andrew Coyle didn't like that and he  
20           spoke to the officer.

21           The impression we get from that, that's probably the  
22           way the officer would have done it with his  
23           predecessor's governor, but Andrew Coyle wanted it to be  
24           done differently. I think he said that the officer  
25           henceforth recognised that this was the way the new

1 governor wanted things done.

2 I don't think he excluded the possibility that when  
3 he wasn't around the officer would be capable of doing  
4 things his way, and that must be the case. If you are  
5 an officer, then if you know that the governor doesn't  
6 tolerate certain things in his presence, you'll not do  
7 them in his presence. But if you feel there are  
8 things -- scores to settle or do something in  
9 an unofficial way, you can find ways in a prison to do  
10 that, can you not?

11 A. The evidence from the period that you are relating to,  
12 particularly when Andrew Coyle first came into the  
13 service, I agree, and we have accepted, that the  
14 instances of abuse that we have discovered are likely to  
15 be greater than the evidence we have pulled forward or  
16 would suggest.

17 Nowadays, I would say that it is different, because  
18 there are a number of different methods that we can  
19 deploy to assess whether or not people are working  
20 outwith our values and the behaviours that we expect in  
21 relation to conduct and relationships from staff, yes.

22 LADY SMITH: Another interesting thing that Andrew Coyle  
23 said about that incident, which, as Mr Peoples has said,  
24 happened very early in his tenure there, was that he had  
25 the impression that the officer wanted to test him out

1 to see what reaction he would get from the governor.

2 I suppose that's something else that prison officers  
3 might have done; would they get away with this in the  
4 future or not or did they need to watch out for the  
5 governor finding out if they were behaving in that way?

6 A. Yes. At that time, that's something I think that would  
7 have been the case, but not something that I would  
8 recognise nowadays, that testing of people.

9 I can't think any time that has come up in recent  
10 years. That part of the culture, thankfully, is long  
11 gone.

12 LADY SMITH: Thank you. I'm pleased to hear that.

13 Mr Peoples.

14 MR PEOPLES: You have in recent times had information  
15 about -- an anonymous source about the way a particular  
16 principal officer, I think it was, was dealing with  
17 people under his charge; you are aware of that, aren't  
18 you?

19 A. Yes. And there are various means that we do have in  
20 place that would allow us to check that out.

21 Q. The fact it's been said, and maybe said more than once  
22 by the same source, is -- must cause you concern that,  
23 even if you think that's not the norm, there's  
24 an allegation that it does happen, even in recent times?

25 A. It would be naive of me not to think that we wouldn't

1 still get allegations, but our approach would be that we  
2 would investigate and the seriousness with which we  
3 would take those allegations is certainly different  
4 today than it would have been 30/40 years ago.

5 Q. That anonymous allegation, on the face of it, is coming  
6 from a member of staff or former -- it's difficult to  
7 say I think, is the situation; is that not right?

8 A. Yes.

9 Q. But that is under investigation at the moment?

10 A. Yes.

11 Q. Just this brief look at this before we go back to  
12 Part B. In terms of punishment, I suppose we have to  
13 remember, because we have been comparing approved  
14 schools and prisons, the report does tell us that many  
15 people who are in the custody of the SPS, or have been  
16 in the custody of the SPS over the period, had a care  
17 history, including time spent in approved schools and  
18 List D schools and successors?

19 A. Yes, that's correct.

20 Q. I think we have talked about the familiar journey from  
21 perhaps a children's home to an approved school,  
22 possibly a secure setting outwith the SPS and then time  
23 spent in custody, before 18?

24 A. Yes, that does appear to be the case.

25 Q. Indeed, also, the history of perhaps abuse both in the

1 community and before coming to the SPS, so we have that.

2 I think you've seen that, probably, in some of the

3 evidence that's been distributed in advance?

4 A. Absolutely, yes, correct.

5 Q. It doesn't seem to be isolated. It seems to be not

6 an uncommon journey, which is also -- which includes

7 abuse along the way in one or more institutions?

8 A. Yes.

9 Q. Unlike approved schools and children's homes, corporal

10 punishment as such was not permitted in penal

11 establishments holding young people under 18; is that

12 correct?

13 A. Yes, that's correct.

14 Q. For the whole of the period, going back to 1930. I know

15 you could be flogged judicially, but no doubt there are

16 other punishments that I don't want go into. But, in

17 the broad sense, I don't think the rules permitted

18 corporal punishment?

19 A. There was no reference to corporal punishment, no.

20 Q. But there were other punishments that were lawful?

21 A. Yes.

22 Q. The report explains that some of them are considered to

23 be unacceptable and/or abusive punishments?

24 A. Correct.

25 Q. That is a distinction. So there is perhaps not the same

1 opportunity under the guise of corporal punishment to  
2 inflict some form of physical abuse; is that --

3 A. Yes.

4 Q. At least, that should be the case, so that someone might  
5 be forgiven, if they were a first offender, for  
6 thinking: well, I left the approved school system, so  
7 I'm safer than I was in that system. Because they don't  
8 punish people, therefore there is no using corporal  
9 punishment, so therefore there is less chance I'm going  
10 to suffer some form of physical abuse.

11 You might think someone could think that, if they  
12 knew the difference?

13 A. Possibly, if they knew the difference.

14 Q. I suppose as the applicant evidence shows, and some of  
15 the evidence here shows, that isn't the reality?

16 A. Yes, that's correct.

17 Q. Before I go on, oversight, we did talk about yesterday  
18 and you told us internal oversight of AAUs and the audit  
19 system. Just before we go back to the 1990s, there was  
20 the external oversight of prisons as well, the Visiting  
21 Committees until 2015 and now the Independent Prison  
22 Monitors since then?

23 A. Correct.

24 Q. There is also the inspector of prisons until the early  
25 1980s, who was part of the department, but it's been



1 Her -- now His Majesty's Inspectorate of Prisons since  
2 the early 1980s and that's an additional form of  
3 oversight.

4 There is also now the international oversight in the  
5 form of the CPT, the Commission for the Prevention of  
6 Torture?

7 A. Correct.

8 Q. So there are a number of mechanisms. I suppose --  
9 I don't think we covered this, but we're now in an era,  
10 are we not, where there are perhaps more organisations  
11 that seek to protect prisoners' rights and safety, just  
12 organisations that exist to make sure that they are  
13 treated well? That's something that perhaps in the past  
14 was less obvious. We have a lot of organisations that  
15 you have to deal with who have interest in the welfare  
16 of prisoners; is that correct?

17 A. Yes, that is correct.

18 Q. That's an additional form of protection that's available  
19 to them?

20 A. Yes, I would agree with that.

21 Q. The bodies that have an interest like that; are they  
22 free to visit institutions to check for themselves?

23 A. I've probably not had many requests for people to come  
24 and visit, but there certainly would not be a problem  
25 with that if they chose to request to do so.

1 Q. You also have the forum you mentioned, the CYCJ forum,  
2 which gives prisoners or young people an opportunity and  
3 who are in detention to voice their concerns or their  
4 issues?

5 A. There are also far more organisations and bodies that  
6 come into prisons now than has ever been the case.  
7 Statutory services such as social work, and the links  
8 with them are far stronger for individuals than they've  
9 ever been, I think.

10 But, in addition to that, a lot of third sector  
11 organisations that work with us, that provide services  
12 and support to individuals, including throughcare for  
13 young people. And they will put on a variety of  
14 services and supports that people will want to engage  
15 with, either prior to or on release.

16 Q. There are perhaps more people watching over the service  
17 and looking after the interests of those whose liberty  
18 has been taken away?

19 A. Yes.

20 Q. Than this --

21 A. Has been in the past. Absolutely, I would agree.

22 Q. Before I go back, I was going to refer -- we had been  
23 talking about prisoner surveys before the break and what  
24 was asked of prisoners. I think you explained, it  
25 wasn't the type of survey that would elicit the things

1           that a forum might do, the CYCJ forum or the quality  
2           indicator process might do?

3   A.   Yes.

4   Q.   Just as, I think, I picked this up from the overview,  
5           a 1999 young offender prisoner survey, I think for  
6           Glenochil. What that survey disclosed was that  
7           20 per cent of young offenders feared for their safety  
8           at some point in their stay in prison and over  
9           two-thirds alleged they'd been physically assaulted  
10          while in a Scottish prison. And that one in ten stated  
11          they'd been assaulted whilst in young offenders  
12          institution. It may be that is Glenochil itself, I'm  
13          not sure.

14                 That's the sort of thing that was being brought out  
15                 by surveys.

16   A.   Yes.

17   Q.   There is an example in 1999, where at least  
18           a significant proportion have experienced treatment that  
19           they ought not to have experienced --

20   A.   Yes.

21   Q.   -- if it was a safe environment?

22   A.   Yes, that's absolutely correct.

23   Q.   Indeed, I picked one out, but I suspect there are  
24           others. I haven't gone through them all. But we'll see  
25           from time to time, I think, there are more recent

1 surveys which suggest that prisoners, in general terms,  
2 young people, feel quite safe?

3 A. I think certainly over recent years we have obtained  
4 survey results which would suggest that by far the vast  
5 majority of those in our care do feel safe. But you've  
6 also got the Chief Inspector of Prisons and those  
7 reports going back quite a number of years as well, that  
8 usually there are positive comments about the  
9 relationships between staff and those in our care and  
10 they also -- all of the chief inspectors, I think, have  
11 commented on safety in individual prison inspection  
12 reports and their assessment of safety.

13 Q. You take comfort that whatever was said in 1999, that  
14 certainly in more recent times the sort of material and  
15 the reports you've received have painted a different  
16 picture --

17 A. It has shifted significantly.

18 Q. -- of the general state of affairs?

19 A. Yes, absolutely. Thank you.

20 Q. Can we perhaps go back to what we were discussing about  
21 the evolution and developments?

22 We have been discussing the 1990s and the new rules  
23 and the charter of standards expected by prisoners.

24 Then the next development that might be particularly  
25 significant is in 2000; is this something called

1 "Intervention and Integration"?

2 A. Yes.

3 Q. Was that something that focused on key themes of  
4 protecting the public and reducing offending?

5 A. Yes, it was.

6 Q. I think it was described in the report of a launch of  
7 a new vision. Ten years on, there is another new  
8 vision. So can you just tell us about that? Is that  
9 specific to one group or is that across the estate, all  
10 prisoners?

11 A. Again, it was developed mainly with adult male convicted  
12 prisoners in mind. At that time the focus was still  
13 very much on the bulk of the population being adult  
14 males and, therefore, it was focused very much with them  
15 in mind.

16 Q. Can I put it this way: if Opportunity and Responsibility  
17 was perhaps a new operating model; was there anything  
18 dramatically different in Intervention and Integration,  
19 even if it was focusing on these key themes of  
20 protecting the public and reducing offending? Was there  
21 anything different or at odds with the principles of  
22 Opportunity and Responsibility or was it just  
23 a continuation of the process?

24 A. It was designed to build on Opportunity and  
25 Responsibility and it certainly didn't negate it.

1       Because those principles around managing somebody's  
2       sentence have continued. What it did was put slightly  
3       different context around ensuring that there was still  
4       a focus and recognition that our role is to protect the  
5       public and to reduce risk. So it gave just a slightly  
6       different emphasis.

7   LADY SMITH: Mr Peoples, is this drawn from a particular  
8       part of SGV, with the numbering ending 423 or is it one  
9       of the others SGVs?

10  MR PEOPLES: I think this is probably in Part C of the  
11       report. I'm just drawing from various parts just to try  
12       to get the big picture, if I may. We can find the  
13       reference.

14  LADY SMITH: Would it be helpful to have any of this on  
15       screen?

16  MS O'NEIL: My Lady, I think it's in Part A.

17  MR PEOPLES: I'm just trying to get the picture, so unless  
18       you feel the need to see or look at something, I hope  
19       I don't have to go to it. I'm just trying to see how  
20       things evolved. We can all read the report and no doubt  
21       we can read the particular document, but I'm just seeing  
22       if I can make sense, because there is a lot of material  
23       that's been produced in the last 20/25 years and  
24       I suppose I'm trying to see what the significant  
25       milestones were in that journey.

1 A. It was an iterative process in terms of policy evolution  
2 and this was, I suppose, the next phase, but it was  
3 about -- it didn't negate Opportunity and  
4 Responsibility. It was designed to build on that and  
5 take us further forward.

6 LADY SMITH: Mr Peoples, for my benefit: can you just tell  
7 me where the section on Intervention and Integration is?  
8 If you can do that quickly. If not, I'll get it from  
9 you later.

10 MR PEOPLES: Can I perhaps pick that up at a later point?

11 I was going to have a quick look through the other  
12 sections, but I'll probably take too long to find the  
13 precise reference. I think there is mention of it in  
14 various parts of the report, but if I can come back to  
15 you on that.

16 LADY SMITH: That would be fine. Thank you.

17 MR PEOPLES: Just taking matters forward from there, in 2010  
18 there were two developments that I picked up in the  
19 report, one was the development by the Scottish Prison  
20 Service of its strategy framework for the management of  
21 young people in custody, which I think the report  
22 explained was to take account of the GIRFEC principles.

23 There, for the first time, is a strategy that is  
24 specifically directed towards a particular group, young  
25 people in custody and how they're to be managed; is that

1 one of the first?

2 A. Yes, it is.

3 Q. Obviously, the background to that is to some extent the  
4 GIRFEC approach and the principles that were, I think,  
5 being articulated in the late 2007/08 or thereabouts.  
6 I'm not exactly sure of the date, but maybe Neil can  
7 help us?

8 MR RENNICK: Date of?

9 Q. GIRFEC.

10 A. It was 2004.

11 Q. Thank you.

12 This was a development that to some extent flowed  
13 from that. It's perhaps, as well, an awareness of the  
14 UN Convention on the Rights of the Child, because  
15 I think that was becoming much more prominent in  
16 people's thinking; is that right?

17 MS MEDHURST: That is correct. There was much more  
18 joined-up working. Scottish Prison Service had a part  
19 to play in the approach to children and it was  
20 recognised that we should be included in some of the  
21 developmental work that was ongoing at that time. So  
22 there were a number of initiatives that flowed from that  
23 that were sponsored by Scottish Government.

24 Q. Is that also a sign that increasingly there is  
25 a recognition, whatever the legislation said about young



1 people between 16 and 21, there was within that group  
2 people who were seen internationally as children?

3 A. There was a growing recognition, yes.

4 Q. Therefore, they had to be looked at as a distinct group?

5 A. They weren't -- from a policy perspective, not  
6 necessarily. That's why the policy at that time was for  
7 young people. But certainly a growing recognition and  
8 understanding and appreciation, and that's why when  
9 Blair House opened --

10 Q. 2009/2010?

11 A. Yes. That's why the decision was taken to move 16 and  
12 17-year-olds into Blair.

13 Q. This goes back to the point we discussed when looking at  
14 the expression, "young people in custody"; it's  
15 traditionally meant those under 21?

16 A. Correct, that's right.

17 Q. It's not the distinction between children and the 18 to  
18 21s, which is the basis of these publications; it's just  
19 looking at all the under 21s?

20 A. That's correct.

21 Q. As you say, there were developments that recognised  
22 there were, within that group, children and you mention  
23 Blair House as an example?

24 A. Yes, that's correct.

25 Q. In the same year, 2010, I think the report tells us that

1 the Conduct Investigation Unit, CIU, was established as  
2 an independent body.

3 It's an investigative body within the SPS; is that  
4 right?

5 A. That's correct. For staff.

6 Q. Does that investigate gross misconduct allegations?

7 A. It's only gross misconduct allegations that are taken on  
8 by the Conduct Investigation Unit.

9 Q. If there is an investigation required to deal with, say,  
10 an alleged inappropriate restraint or an alleged assault  
11 by staff -- no, an alleged assault by staff could be  
12 a gross misconduct matter?

13 A. Yes.

14 Q. Say it was an inappropriate restraint; would that be a  
15 gross misconduct matter?

16 A. It would depend on the circumstances. So, within our  
17 Code of Conduct Policy, it's the decision of the  
18 governor to determine at what level the code will be  
19 entered, depending on the circumstances. So he'll look  
20 at -- he or she will look at the presenting  
21 circumstances and make a decision. But, even once  
22 they've made that initial decision, the ability to move  
23 up or down the scale still exists.

24 Q. So there's quite a flexible process?

25 A. Yes.

1 Q. What we have to understand is that not all complaints  
2 and allegations by prisoners about staff, even if they  
3 might be characterised as potentially abusive, would  
4 necessarily go to the Conduct Investigation Unit. There  
5 is a decision to be made before then?

6 A. Yes, there is a decision to be made.

7 Q. That's largely down to the governor?

8 A. That is down to the governor, yes.

9 Q. But one development that I think you told us about, and  
10 we can see a bit more if we go back to Part B at some  
11 point, the system now caters for verbal complaints?

12 A. Yes, that's correct.

13 Q. Whereas historically, whatever route you chose it tended  
14 to require some form of written complaint. Whether you  
15 went to the Visiting Committee or whether you went to  
16 the governor, or whether you went to the Secretary of  
17 State or even if you went to the police?

18 A. Yes. In days gone by, yes, that is correct.

19 Q. You recognise now, in the report, that was a barrier?

20 A. Yes, absolutely that was a barrier.

21 Q. For some prisoners it would have been a considerable  
22 barrier?

23 A. And that's why a verbal complaint and some of the  
24 complaints avenues that I described earlier, which are  
25 much more direct in terms of picking up a telephone and

1 making a complaint directly to various bodies, makes it  
2 much more accessible for people to raise complaints of  
3 concern, yes.

4 Q. Because Dr Alan Mitchell, in giving evidence, one of the  
5 things he did say to us was: an effective complaints  
6 system is a good safeguard in the prevention of  
7 ill-treatment, but the system must be -- I think he  
8 explained effective and accessible system. I think it  
9 has to be designed with the potential complainer in  
10 mind, otherwise it's not going to be used or effective  
11 in practice?

12 A. Yes.

13 Q. Do you agree you have to try to achieve that?

14 A. The complaints system should absolutely be accessible.  
15 I would agree with that.

16 Q. My concern, despite -- no doubt you will say you think  
17 the current system meets these requirements?

18 A. We have already scoped out some early work around  
19 changes that we consider may be appropriate for young  
20 people in particular. So there is consideration being  
21 given to having something different for young people,  
22 given the nature of their circumstances and the  
23 understanding that we have now around their histories  
24 and backgrounds.

25 Q. I think the specific incidents that you have included in

1 appendix 1, parts 1 to 3, I think one of the points that  
2 we picked up yesterday was that very few of these took  
3 the form of any formal complaint under the formal  
4 complaints system, very few of these incidents that were  
5 recorded. They didn't come through a complaint by the  
6 individual prisoner.

7 A. Sorry, yes, that's correct.

8 Q. It wasn't the system that uncovered these for you --

9 A. Yes.

10 Q. -- it was through other -- the incident reporting  
11 system, insofar as it logged incidents that brought  
12 these cases to light?

13 A. Yes, that's correct. There are complaints made about  
14 staff through the complaints process, and there are some  
15 of those attributable to Polmont at the moment. So  
16 there are complaints that are raised in various ways,  
17 but specifics of yesterday was about complaints in  
18 respect of assaults or physical violence, and not many  
19 of those have come through that complaints process.

20 Q. But these allegations were made or recorded as  
21 an incident of that type?

22 A. Correct.

23 Q. And had the person that was allegedly assaulted made  
24 a complaint they would have gone through the formal  
25 systems?

1 A. Yes.

2 Q. But it didn't. Therefore, something deterred them from  
3 using that route?

4 A. So I suppose what I would say is, that we -- it's been  
5 identified by staff, then the individual doesn't need to  
6 complain because obviously we're referring the matter to  
7 the police anyway. So there isn't a necessity on the  
8 individual's part to formalise that complaint.

9 As I say, there are other complaints that are raised  
10 about staff, but it's mainly about behaviour and  
11 attitude.

12 If there was a complaint raised through the  
13 complaints process about assault, it would be  
14 immediately moved into police and a formal investigation  
15 would be set up under our discipline process.

16 Q. I hear what you say about it in saying there's no  
17 necessity. But, even in the ones that were observed and  
18 generated an incident and some form of investigation,  
19 and sometimes a referral to the police, where the  
20 referral issue came up, it seemed that some of them  
21 didn't want to pursue the formal route for whatever  
22 reason.

23 There might be a concern or an issue there, might  
24 there not, as to whether they do really feel they want  
25 to go down the formal complaints route? And, therefore,

1           you need to know why there's any reluctance to use that.

2           I think you told us, yesterday, that the complaints  
3           process, as described, wasn't used greatly or something  
4           along these lines. You don't have a huge number of  
5           complaints under the formal system from prisoners, have  
6           you?

7    A. There are statistics that are kept. I did look at them  
8           the other day, and comparative establishments to the  
9           population that currently exists in Polmont, the  
10          complaints being generated were relatively similar in  
11          terms of numbers. But I accept, I think, a number of  
12          points have been made around the perceptions of whether  
13          or not the complaints process is effective, and  
14          particularly for young people, and that's why we have  
15          initiated some work around both accessibility, but also  
16          the way that the complaints process is structured in  
17          order to meet young people's needs.

18   LADY SMITH: Teresa, do I understand you to have been just  
19          telling me about how things are now in the current  
20          system so far as whether a complaint would need to be  
21          lodged or not?

22   A. In relation to whether or not somebody has experienced  
23          physical --

24   LADY SMITH: No, in relation to whether it would be followed  
25          through in the way it would have been done through the

1 investigations process you talked about?

2 A. So anybody who raises a complaint -- so they can raise  
3 it at the moment verbally or in writing. They can also  
4 access the governor directly through part of the process  
5 which is confidential, and that requires the person --  
6 the person is given an envelope, they seal it, and then  
7 it goes directly to the governor and nobody else sees  
8 it.

9 LADY SMITH: That is the current system?

10 A. Yes.

11 LADY SMITH: Just going back to where Mr Peoples started,  
12 looking at information you had picked up from records  
13 that wasn't coming through a complaint having been made,  
14 but an incident being mentioned. At that time; do you  
15 know whether prisoners were being asked whether they  
16 wanted to lodge a complaint?

17 A. I would think that the position would have been there  
18 wouldn't have been an expectation that they would lodge  
19 a complaint, but they would not have been debarred. But  
20 I don't --

21 LADY SMITH: I wasn't suggesting that. If it was the  
22 position that it wouldn't have been taken through a more  
23 rigorous process -- let me describe it that way --  
24 unless a complaint triggered it, I just wondered whether  
25 that raises the issue of whether a check should have



1           been being made with prisoners, whether they did want to  
2           go down that route, rather than sitting back waiting for  
3           them to do it?

4   A. No, I accept your point, Lady Smith, yes.

5   LADY SMITH: Thank you. Mr Peoples.

6   MR PEOPLES: We had reached 2010 in this little journey of  
7           development.

8           I think the next significant or very significant  
9           moment was 2013. There was a report of the SPS  
10          organisational review called Unlocking Potential,  
11          Transforming Lives. If I'm not mistaken from the  
12          television, that's what you see when you get photographs  
13          of the outside of Polmont, is it, a large sign to that  
14          effect?

15   A. That's correct, yes.

16   Q. That was a report of this organisational review, which  
17          proposed a comprehensive review of the structure and  
18          function of the organisation.

19          I think I've seen somewhere that says it relaunched,  
20          and that was the word used. The organisational mission,  
21          the vision and values, and introduced seven strategic  
22          priorities, including:

23                 "Developing a person-centred asset-based approach."

24          I suppose to the outsider one questions: we have had  
25          a mission statement in 1989 and a new conceptual

1 framework in 1990, another vision in 2000, and we're  
2 having a relaunch of mission, vision and values in 2013.

3 It might not give the outsider cause for confidence  
4 that things are moving in the right direction.

5 Why the need to relaunch a vision that's only  
6 13 years old or so?

7 It's now 23, if we go back to 1990.

8 There is a worry that there is continually  
9 production of documents that are described as visions,  
10 strategies, mission statements and so forth, but you are  
11 asking yourself: well, what's actually happening to try  
12 to achieve the vision?

13 Everyone can write down something that sounds  
14 fantastic, but why the need to relaunch, for example?  
15 Why use that expression? Does it mean it's faltered?

16 A. So I think -- I don't know if Neil wants to come in on  
17 this one as well?

18 But prisons continually evolve and change, and part  
19 of that is because society continually evolves and  
20 changes. And the purpose of prisons, plus a lot of the  
21 development of research and evidence, so the asset-based  
22 approach was based, really, and grounded within the  
23 desistance theory that was emerging at that time by --

24 LADY SMITH: What theory was that?

25 A. Desistance. So prominent academics of the time who were

1 engaged with us in prisons and the work that was  
2 undertaken by the review team took account of the  
3 prevailing theoretical basis around criminal behaviour  
4 and the factors that contributed to that, as well as the  
5 approach that should be taken to better prepare people  
6 for release and reduce the risk whilst they're in  
7 custody.

8 I think as time has evolved and the population has  
9 evolved and changed, but also the theoretical basis  
10 within the academic world has evolved and changed.  
11 Therefore, it's right for the organisation to stay at  
12 the forefront of that theory and ensure that our  
13 practice reflects current evidence and research within  
14 both society in Scotland, but more broadly.

15 I'm not sure if you want to add?

16 MR RENNICK: Only to say I think Teresa has captured it  
17 exceptionally well. As someone who was within the  
18 justice system, but not in prisons at the time that is  
19 exactly what it felt like.

20 It felt like it was an evidence-based approach  
21 during both an experience within the SPS and externally,  
22 within society more widely, and that it genuinely  
23 influenced the approach and policies within the SPS.

24 MR PEOPLES: Forgive me, I'm not going to be professing  
25 an expert on desistance theory, but I did have a look at

1           it before asking about this matter and the impression  
2           I get is that desistance theory has been around for  
3           quite a long time, well before 2012.  Albeit there were  
4           different views about what the essential components  
5           parts of desistance were that would cause a person to  
6           desist from crime; whether it was something they had to  
7           do and make a choice or whether it was to do with  
8           external factors, like age or a stable relationship, or  
9           stable employment or perhaps, better still, employment  
10          they enjoyed, rather than just employment.  So there  
11          were all sorts of things going on.

12                 It has quite a long history, desistance theory.

13                 But I did pick up -- and no doubt you will confirm  
14                 if I'm wrong, or tell me if I'm wrong -- that around the  
15                 time of the 2013 review, which was based on desistance  
16                 theory, there had been quite a bit of work done by  
17                 Professor Fergus McNeill of the University of Glasgow.

18  MS MEDHURST:  That's correct, yes.

19  Q.  He was then, and I think still is, at the Scottish  
20          Centre for Crime and Justice Research, as well as being  
21          a professor of criminology and social work at the  
22          University of Glasgow, and he was writing quite a lot on  
23          this subject.

24                 I had the impression when I read this that his work  
25          and thinking was -- along with perhaps

1 Professor Beth Weaver, it was another name I came  
2 across, they had written together -- their work was  
3 influential. And perhaps the production of Unlocking  
4 Potential, Transforming Lives in this relaunch; would  
5 I be wrong?

6 A. There were a number of academics that the SPS had  
7 engagement with at that time. The names that you have  
8 mentioned would definitely have been included, but there  
9 were others as well.

10 Obviously, whilst I appreciate that desistance  
11 theory has been around for a while and evolving,  
12 nevertheless there were a lot of new publications at  
13 that time, which I think were recognised as being  
14 references that should be included in our reworking of  
15 the vision for the SPS.

16 Q. I think, in fact, if I can help you, Professor McNeill  
17 and Beth Weaver produced in 2010 a report:

18 "Changing lives, desistance research and offender  
19 management."

20 Which was a literature review, which was  
21 commissioned by the National Offender Management  
22 Service, NOMS at that time, which is now the HM Prison  
23 and Probation Service, which is the executive agency of  
24 the Ministry of Justice responsible for delivery of  
25 Prison Services in England and Wales?

1 A. Yes.

2 Q. Am I getting it right?

3 A. Yes.

4 Q. The equivalent agency down south had commissioned  
5 a literature review that produced this work in 2010,  
6 which very much looked at desistance theory and the  
7 various views about the theory and what were the core  
8 components. They produced this, and also  
9 Professor McNeill with others were producing other  
10 works. I think I've come across one in 2012:  
11 "How and why people stop offending, discovering  
12 desistance."  
13 There were a number of significant publications at  
14 the time --  
15 A. Absolutely.

16 Q. -- that presumably did feed into this review or this new  
17 and relaunched vision; is that right?

18 A. Yes, that is correct.

19 Q. If I picked it up correctly from my research,  
20 Professor McNeill was invited to take part in a -- or be  
21 part of a review board redesigning the -- I think it was  
22 put by him or on his behalf -- to redesign the operating  
23 philosophy and approach around desistance principles; do  
24 you recall that?

25 A. Yes, I do.

1 Q. He was actively involved --

2 A. Yes, he was.

3 Q. -- in redesigning what is called the operating  
4 philosophy?

5 A. Yes.

6 Q. So we have that.

7 Again, that's not, if I understand it, a report  
8 that's necessarily focused specifically on children in  
9 custody or even young people in custody?

10 A. It wasn't specifically focused on any one particular  
11 population, no.

12 Q. It's just on the general issue of desistance --

13 A. Yes.

14 Q. -- and what works, at least within the prison setting,  
15 to advance the cause of desistance?

16 A. Correct.

17 Q. And see if you can learn lessons about: what do you do  
18 with them in prison?

19 A. Yes.

20 Q. As well as what you do with them outside of prison?

21 A. Yes.

22 Q. Then I think the first direct vision, if I may say so,  
23 was in 2014:

24 "The vision for young people in custody."  
25 In December 2014, which has recently been updated in

1           2021; was that a more specific vision for young people  
2           in custody?

3   A.   Yes, following on from the strategy framework, that  
4           vision, yes, is really -- established the first  
5           completely separate descriptor of what we wanted to  
6           achieve for young people in custody.

7   Q.   Young people there being under 21?

8   A.   Yes, that is correct.

9   Q.   It took until 2018, which some might find surprisingly  
10          late in the day, to find the first Child Protection  
11          Policy within the service that applied to young people  
12          in custody, as opposed to people who might visit the  
13          prisons.

14                There was an earlier protection policy, but it  
15          wasn't to do with young people in custody; is that  
16          right?

17   A.   Yes, that is correct.

18   Q.   That's the first direct policy on child protection --

19   A.   Yes.

20   Q.   -- for children in custody?

21   A.   Yes.

22   Q.   Is that right?

23   A.   Yes, that is correct.

24   Q.   Is that the current policy?

25   A.   I think the current policy may be getting reviewed and



1 updated.

2 Q. The reason I'm taking you through this, is just it might  
3 be thought that it took a long time to get round to  
4 a Child Protection Policy. I'm sure many other  
5 organisations were -- at least had such policies in  
6 place long before 2018?

7 LADY SMITH: You are nodding your head, Teresa; do you  
8 agree?

9 A. I don't know what other organisations had in place, but  
10 clearly, given our obligations to children, 2018 does  
11 seem later in the day than it probably should have been,  
12 yes.

13 MR PEOPLES: If GIRFEC started in 2004 or thereabouts, we're  
14 talking 14 years on.

15 A. Yes.

16 Q. I think by 2018, if I'm not mistaken, the concept of  
17 corporate parenting was fairly firmly established as  
18 well?

19 A. It was, that's correct.

20 Q. The SPS was a corporate parent?

21 A. Yes, we are.

22 LADY SMITH: And many organisations regarded the mid-1990s  
23 as the watershed, when they had to start thinking  
24 proactively in terms of child protection and child  
25 protection policies.

1 A. Yes.

2 LADY SMITH: Mr Peoples, would that be a convenient point to  
3 stop for the lunch break?

4 MR PEOPLES: Yes.

5 LADY SMITH: We'll do that just now and I'll sit again at  
6 2 o'clock.

7 (1.00 pm)

8 (The luncheon adjournment)

9 (2.02 pm)

10 LADY SMITH: Welcome back. Are you both ready for us to  
11 carry on?

12 MS MEDHURST: Yes.

13 LADY SMITH: Thank you. Mr Peoples.

14 MR PEOPLES: My Lady, before I go back to Part B, I was  
15 asked for some references, so I'll just give them now.

16 LADY SMITH: Thank you.

17 MR PEOPLES: In relation to the "Treatment Model" in Part A,  
18 that is SGV-000085432, the reference is there, pages 23  
19 to 24.

20 LADY SMITH: Thank you.

21 MR PEOPLES: The mission statement of 1989, page 22 to 23.  
22 The 1990, "Opportunity and Responsibility", page 25;  
23 pages 29 to 30; pages 99 to 100.

24 The reference to the 2000 document "Intervention and  
25 Integration", page 26, pages 30 to 31.

1           The reference to "Unlocking Potential", 2013,  
2           "Transforming Lives", and "Vision for Young Persons in  
3           Custody" in 2014, there are various pages that are  
4           relevant, pages 33 to 34; 100 to 103. The "Vision for  
5           Custody" is page 81 as well.

6           There is also reference, although I didn't mention  
7           it other than in passing, 2021, "Vision for Young  
8           People", it's at page 103/104.

9           If one wants a reference to Blair House and the  
10          background to that, pages 13 to 14.

11          "Granting of Rights" by the 1994 rules is page 16.  
12          Then so far as other references are concerned, the  
13          "Child Protection Policy", in particular 2018, we have  
14          to go to Part C, which is SGV-000085427. There is  
15          a reference to it at page 11, but there is a fuller  
16          reference at page 47.

17          There is a reference to the "Young Person's Estate  
18          Learning and Development Strategy", which is a recent,  
19          I think, revision of some of these policies, 2020, which  
20          is at pages 12 to 13, which I think is perhaps the most  
21          recent statement.

22          The general information about policies in relation  
23          to caring of children can be found between pages 44 and  
24          56 of Part C. I think there is obviously some reference  
25          there to some of the policies we discussed, so hopefully

1           that will help you.

2   LADY SMITH: Thank you very much. That's all in the  
3           transcript now for anyone who wants to follow it.  
4           That's helpful. Thank you, Mr Peoples.

5   MR PEOPLES: If I could now go back to Part B, if I may. We  
6           were dealing, at page 11, SGV-000085423, at  
7           paragraph 20, and I think I can pass on from that  
8           section.

9           The third example of a practice or condition or  
10          regime which was either abusive or otherwise plainly  
11          unacceptable is overcrowding.

12          I'm not going to labour this one. It's accepted,  
13          I think, that there is ample evidence of overcrowding  
14          existing at all four institutions, from time to time.  
15          Indeed, it is said in section 21, overcrowding has been  
16          an extensive and recurring issue across the prison  
17          estate throughout the relevant period, although the  
18          extent and scale varied in each establishment over time,  
19          and I think that is sufficient for these purposes.

20          We can certainly see particular references to the  
21          problem of overcrowding, but I'm not going to labour  
22          that or take you to them today. I think if we want to  
23          find them, there is plenty of them.

24   MR RENNICK: Yes.

25   MR PEOPLES: We see, in section 22, there are some

1 references there. I don't think it is necessary for me  
2 to go through that section with you here today. We have  
3 it in front of us and we have the report to read for  
4 ourselves.

5 The only point that one might make is the impact of  
6 overcrowding. I think it's said that there it could  
7 contribute to issues such as potential neglect of  
8 individuals, deprivation of privacy, absence of basic  
9 amenity and indignity, and limit opportunities to engage  
10 in activities, including work and training. Also, young  
11 people -- children and young people spending long  
12 periods locked in their cells. That has been some of  
13 the consequences that are documented?

14 A. Yes, a number of the reports, particularly Inspectorate  
15 reports make clear the wider impact that overcrowding  
16 has on the operation within the establishments.

17 Q. The fourth example, on page 13, at paragraph 23, is  
18 children experiencing a lack of privacy as a result of  
19 unacceptable practices, conditions and regimes which  
20 were in place. The examples given are the holding  
21 cubicles being too small. Dog boxes, as they're  
22 colloquially known, and I think we discussed that before  
23 lunch. I'm not going to go over that again in any  
24 depth, other than to say, as we heard from  
25 Dr Alan Mitchell, when he gave evidence this week, that

1 matter was raised as recently as 2019 in the CPT Report  
2 following a visit to five prisons in Scotland in 2018.  
3 I think you have now said that subsequent to that,  
4 relatively recently, these dog boxes were removed; is  
5 that right?

6 MS MEDHURST: I think the overall programme of work was  
7 concluded this year, but that included an extensive  
8 refurbishment of the healthcare facilities as well.

9 Q. The fifth example of abuse or unacceptable practices is  
10 in the context of isolation and segregation. I think  
11 you make clear that in principle isolation and  
12 segregation per se is not necessarily an abuse or indeed  
13 contrary to -- at least according to current case law,  
14 contrary to the European Convention of Human Rights.  
15 I think that is the position, and I think it's the  
16 position that's articulated here. But I think it's  
17 accepted that -- and indeed if I just read, it says:

18 "Throughout the relevant period, isolation and  
19 segregation were subject to varying degrees of control  
20 and oversight. Scottish Ministers therefore acknowledge  
21 that children will have historically experienced  
22 isolation and segregation practices and/or conditions  
23 that were abusive or otherwise unacceptable."

24 Clearly, it depends on the circumstances and  
25 context. But there are examples where it is accepted by

1 the Ministers and the service that what happened could  
2 be characterised as abusive or otherwise unacceptable;  
3 is that right?

4 MS MEDHURST: In some circumstances that's the case, and  
5 particularly with the information that we have now about  
6 young people and the impact of isolation on young  
7 people, then, yes, we would accept that.

8 Q. I think you will be aware that Dr Chiswick gave evidence  
9 about the situation in 1985, which prompted his report  
10 and calls for quite radical changes because of the  
11 impact. I think we had a similar sentiment for the  
12 1990s from Dr Alan Mitchell this week, who was a GP who  
13 was a prison doctor as well?

14 A. Yes.

15 Q. That was their view from a healthcare professional  
16 standpoint; that it really didn't serve the interests of  
17 the persons who were kept in the sort of conditions that  
18 were described as safe cells in those days?

19 A. I think that there are two things. One is safer cells  
20 or safe cells, as they were described then. The other  
21 is the use of segregation.

22 Q. Yes, as such, it doesn't have to be because of some sort  
23 of perceived risk of suicide. Obviously, isolation can  
24 happen for a variety of reasons --

25 A. Yes.

1 Q. -- I think that's the point you're making?

2 A. Segregation would be used in particular circumstances,  
3 and the segregation area may be used in circumstances  
4 where somebody is on a rule 41 for medical reasons.  
5 Whereas safer cells are used for those individuals who  
6 are being managed at risk of suicide, so there is  
7 a degree of separation.

8 Q. These are situations where you have a medical issue.  
9 A mental health issue could require a person to be put  
10 in some form of isolation from others, so removed from  
11 their association?

12 A. Yes, that's correct.

13 Q. There could be other situations, such as isolation for  
14 punishment?

15 A. Correct, yes.

16 Q. There could also be, I suppose -- and I think you said  
17 this yesterday -- isolation for care and protection  
18 reasons?

19 A. Yes, that's correct.

20 Q. Where people are separated from the main hall?

21 A. Yes.

22 Q. Indeed, I think Dr Chiswick's report identified there  
23 were those who perhaps could be assessed clinically as  
24 suicide risks genuinely, and others who appeared to have  
25 sought refuge by using that explanation to remove



1 themselves from the main hall. They feared for their  
2 safety, for one reason or another, and therefore what  
3 they said was, "I'm feeling suicidal" or  
4 "I'm contemplating taking my life", and they would be  
5 removed from the mainstream for that reason?

6 A. Yes, that certainly could be the case.

7 Over the last number of years we have categories of  
8 individuals who are kept separate, those who are usually  
9 offence protections. So it's normally sexual offences  
10 that we require to keep separate from the mainstream  
11 population because of the risks associated with trying  
12 to mix them in the mainstream.

13 But there are areas in most prisons now which we  
14 would consider are appropriate for what we call  
15 non-offence protections. They are invariably used for  
16 individuals who are living in fear of being within the  
17 mainstream for a variety of reasons, whether that be  
18 reasons that have -- they've brought with them from  
19 communities, in terms of enemies and past demeanours, or  
20 whether or not it's because of activities or actions  
21 that have led to them requiring some degree of  
22 separation whilst in custody.

23 Q. I think there are, in this specific instance, it was  
24 identified that perhaps some sort of continuing problem  
25 from the community, such as trying to settle a score,

1           for example --

2   A.   Yes.

3   Q.   -- has caused problems and there had to be separation of  
4       individuals for that reason?

5   A.   Yes, we very often get that.

6   LADY SMITH:  Teresa, when you talk about you are required to  
7       keep some prisoners separate from the mainstream and you  
8       use the word "separate"; do you mean isolation?

9   A.   No, what I'm talking about, my Lady, is that there are  
10      areas within halls.  So particularly the new halls are  
11      flatted, so it's not the traditional open halls that you  
12      may have seen on TV.  But they're flatted halls, so  
13      we're able to section them off much more easily.

14           So you could have a section on one flat, which was  
15      designated for non-offence protections.  So they would  
16      still have association, they would still be able to  
17      engage in activities, but they would be located  
18      separately for their own protection.

19   LADY SMITH:  Thank you.

20   MR PEOPLES:  I'm not sure how that works.  If they need  
21      protection against some person or persons in the same  
22      institution, I can see that they can be separated,  
23      perhaps, when they're in their own space, but if they're  
24      also engaged in meaningful activities that will involve  
25      association, presumably, not just with staff, but with

1 other people in detention?

2 A. We would try and arrange activities for them that are --  
3 were able to keep them separate.

4 There are a number of different ways that we manage  
5 those individuals. It does put additional pressure,  
6 though, on the purposeful activity that's available, but  
7 we would still try and offer a range of activities to  
8 all -- they would still be able to use the gymnasium,  
9 for example. They would still be able to access  
10 education and/or the library. There would be separate  
11 sessions when we know that would be safe for them.

12 There are other things we can do, such as if it is  
13 somebody within that establishment, then we can offer  
14 a move to another establishment, where they will feel  
15 safe and be able to be located in mainstream. Equally,  
16 we undertake regular reviews to identify whether or not  
17 the circumstances have changed and, therefore, they can  
18 return to mainstream quite safely.

19 Q. There is a range of possibilities?

20 A. Yes.

21 Q. Presumably the reason for protection may be something to  
22 do with a particular place and the particular people in  
23 the place at that time. Or, I suppose in the case of  
24 sex offenders, there is a general problem, generally in  
25 the prisons, if someone knows that someone has committed

1 an offence, particularly a certain type of offence?

2 A. Yes. And we have particular areas in a number of our  
3 prisons that are designated for sex offenders, and what  
4 that allows us to do in terms of the scale and quantity  
5 then of the individuals is ensure that we can offer  
6 a reasonable regime to all of the populations located  
7 there.

8 Q. Going back in time, and I think this is what -- to give  
9 examples, you have given one example in paragraph 24,  
10 found in the records, where solitary confinement took  
11 place it appears in some sort of underground cell and,  
12 in one instance, as a result of an individual failing to  
13 shave his beard, was the basis of solitary confinement.  
14 It seems pretty harsh?

15 A. I would agree with that, yes.

16 Q. I think we saw records. I can't remember with whom we  
17 discussed this. Where there seemed to be, maybe,  
18 an applicant where there was a requirement each day,  
19 maybe in a detention centre, for all young men to shave?

20 A. The detention centre, as it was described I think by  
21 yourself earlier, Mr Peoples, a "short sharp shock". So  
22 it does appear to have been quite austere.

23 Q. But I think this person hadn't started shaving.

24 A. Right.

25 Q. But they still felt there was a requirement that they

1 had to go through that exercise in the morning. It  
2 wasn't just a case of they were exerting their freedom  
3 to have a beard. I think that was that context.

4 A. Yes.

5 Q. Whatever the background to this; that wouldn't happen  
6 today?

7 A. Absolutely not.

8 Q. I think you have explained that there are checks and  
9 balances to ensure so far as possible that isolation and  
10 segregation only occurs in appropriate circumstances and  
11 environments and you have told us about that.

12 I think you are just there making the point that it  
13 can be justified and it doesn't necessarily conflict  
14 with rights under the Convention?

15 A. Yes.

16 Q. I think there have been attempts to challenge the  
17 general principle of whether you can confine young  
18 people in isolation for whatever reason. I think that  
19 failed. There was a recent -- a relatively recent case  
20 in the Supreme Court on that.

21 A. I mean --

22 MR PEOPLES: Don't worry --

23 LADY SMITH: You may be right, Mr Peoples. It's not  
24 immediately coming to my mind.

25 MR PEOPLES: I think there have been some attempts, but

1 I think -- at least the court's views based on the  
2 jurisprudence was that was a step too far in terms of  
3 the current wisdom in the Convention.

4 A. Certainly in practical terms. And hopefully that will  
5 come through from the Chief Inspector's recent  
6 inspection of Polmont. But the practice of segregation  
7 in Polmont means that there are many occasions now when  
8 there is nobody in segregation, and when that has to be  
9 applied, it is applied for the shortest time possible.

10 Q. What you are saying is, so far as Polmont is  
11 concerned -- and I know we only have few people under  
12 18, but looking at the whole population there, there's  
13 not many instances of segregation in recent times?

14 A. Yes. We use it as sparingly as possible.

15 Q. What you say in paragraph 25 relates to children under  
16 16. It is said that they have been specifically  
17 excluded from what is called cellular confinement since  
18 1994. But, unfortunately, as you tell us, Scottish  
19 Ministers, as a result of this review exercise, have  
20 identified 13 instances affecting seven children in the  
21 period 1997 to 2005, where there was some form of  
22 misapplication of the prison rules, or perhaps policy,  
23 which have resulted in children under 16 receiving  
24 punishments of cellular confinement.

25 It is said that Scottish Ministers acknowledge that

1           this is entirely unacceptable, should not have happened,  
2           and unreservedly apologise.

3   A.   Yes.

4   Q.   Whatever the policy, these are instances -- and not just  
5           one -- where for one reason or another the policy hasn't  
6           been complied with?

7   A.   Yes, that's correct.

8   Q.   The next question that was asked in this section was the  
9           basis of assessment as to the extent and scale of abuse.  
10          I can perhaps take this relatively short.

11           It is said on page 14, paragraph 1, under (iii),  
12          that it is fully accepted that the records that have  
13          been identified, recovered and reviewed for the purposes  
14          of the report will not reflect the actual extent and  
15          scale of abuse suffered by children at the four  
16          establishments, and it's likely that the extent and  
17          scale of abuse is much greater than the reviewed records  
18          depict.

19   A.   Yes, absolutely.

20   Q.   The report provides suggested reasons for that state of  
21          affairs, of why it will not fully reflect the actual  
22          scale or extent of abuse.  Perhaps we can just look at  
23          these briefly.

24           Paragraph 2, first of all: "Abuse may not have been  
25          detected or reported and may have occurred in areas

1           outwith the sight of officers or (after its  
2           introduction) CCTV. Scottish Ministers accept that many  
3           incidents of abuse will have gone undetected."

4           Did I ask you yesterday, and were you able to answer  
5           me, when CCTV was introduced? If I did -- we can find  
6           out. If that's a matter --

7   A. I can't recall you asking me.

8   LADY SMITH: I don't think you did, Mr Peoples.

9   MR PEOPLES: I'm asking now. You need to perhaps check that  
10          one?

11   A. Yes.

12   Q. Perhaps you could do that for us. That would be  
13          helpful. I think we discussed body cameras yesterday.

14   A. Yes, we did.

15   Q. Perhaps I missed that one when we were discussing it.

16           Paragraph 3, giving explanations or reasons why  
17          there may be some degree of underreporting or lack of  
18          detection:

19           "Those in custody sometimes resort to measures that  
20          are purposefully intended to evade the attention of  
21          prison officers and inadequate living conditions  
22          increase that risk."

23           I suppose if you are sharing a cell, for example?

24   A. Yes.

25   Q. And there are periods when you will not be under



1 observation?

2 A. That is correct.

3 Q. That would be one example?

4 A. Yes.

5 Q. I suppose it's not just those in custody that could be  
6 applied to. Those who look after those in custody, you  
7 could make the same point?

8 A. Yes, absolutely.

9 Q. They could find ways, as we discussed earlier today, if  
10 they were minded?

11 A. Yes, they could.

12 Q. Then we have what, I suppose, we could call prison  
13 norms:

14 "Incidents are not sometimes reported because of  
15 a reluctance by those in custody to report violence, for  
16 fear of repercussions and social stigma. This fear has  
17 been recognised by the World Health Organisation, which  
18 found that 'violence in prisons is often clandestine  
19 because of the fear of reprisal when it is reported'."

20 I suppose that is not so much "don't grass", that is  
21 more: I'm fearful of what will happen if I make some  
22 form of formal complaint.

23 I get -- whatever the nature of that complaint and  
24 whoever it is directed against. I certainly think we  
25 have heard another context where children might say:

1 well, I didn't say anything because I wasn't sure what  
2 would happen if I stayed in the same institution. It  
3 could have made matters worse or I could have gone to  
4 somewhere that was worse still than the place I was in.

5 I suppose that's perhaps one reason why there might  
6 not have been the same degree of reporting, because you  
7 are not in control of your environment?

8 A. Yes, that's correct.

9 Q. Or indeed in control of what happens once you make  
10 a disclosure?

11 A. That's correct.

12 Q. There is also I think -- I don't know, maybe you deal  
13 with it there or perhaps later. There's also this  
14 general norm about: you don't grass on a fellow inmate?

15 A. Yes.

16 Q. Whatever the circumstances, you say you fell or some  
17 other reason, rather than explain what sometimes is  
18 self-evident?

19 A. And that does still happen, yes.

20 Q. The population have to co-exist and they also may know  
21 each other from the community?

22 A. Yes, they do.

23 Q. There may be people who are part of the same group or  
24 people in the community who are to some extent at odds  
25 with each other. So there are a lot of factors in play?

1 A. Yes, there are. There are many complexities and many  
2 layers to the relationships.

3 Q. It's not just the prison dynamics and the closed  
4 environment?

5 A. Correct, yes.

6 Q. Going on, another contributory reason may be:

7 "An anti-authoritarian societal attitude may be more  
8 prevalent in those who have committed crimes, including  
9 children in custody, making them less likely to seek  
10 resolution through the institution's formal procedures."

11 I suppose we have observed in the incidents that we  
12 have talked about, there weren't too many people using  
13 the formal complaints procedures we have spoken about  
14 this morning.

15 But there is also maybe the other point, that people  
16 who go to places, even if they're places of confinement  
17 and containment, if they have a background that  
18 authority does things to them, including abuse; then is  
19 it hardly surprising that they have an attitude that  
20 they don't trust adults and people in authority, even if  
21 they come to a new setting?

22 A. Yes, and that's, I think, why it's really important to  
23 offer, in custody, a range of different types of  
24 engagement and relationships with different bodies,  
25 including staff and others who come into the prison, to

1 try and create that -- or improve that level of trust.

2 Q. Even if you build a degree of trust in the relationship  
3 in general terms, a much better one than historically,  
4 it doesn't follow that even if you have a degree of  
5 trust in that person and confidence that you'll tell  
6 them everything, particularly certain matters,  
7 particularly a complaint about treatment. So it's not  
8 just a given: just get the trust and you'll get the  
9 disclosure?

10 A. No, absolutely not. But I think that's why it's  
11 recognised through the prison monitors, particularly  
12 Barnardo's youth workers. In Polmont, the type and  
13 level of engagement is quite different and the  
14 relationships are quite different, so you would hope to  
15 build some degree of trust that would allow that kind of  
16 disclosure to happen.

17 Q. I think in society, in general, it says that if young  
18 people have something they want to say they may say it  
19 to their friends using various modern means of  
20 communication, but they won't necessarily tell their  
21 parents or people in "positions of authority"?

22 A. Yes. I do think that's why, in particular, there have  
23 been some developments in Child Mental Health Services  
24 around using approaches that are better connected with  
25 young people, because they do tend to use technology and

1           are more willing to disclose through those types of  
2           avenues than possibly others.

3   Q.   That is also how you -- what you use to make your  
4           complaint or disclosure?

5   A.   Yes.

6   Q.   That has to be factored in nowadays.  It's not just the  
7           traditional means, either of just word of mouth to  
8           an adult or putting it on a piece of paper?

9   A.   Yes.

10  Q.   There may be other ways that they want to express  
11           themselves.

12           You mentioned confidential complaints process, where  
13           in some ways it can go to the governor on a confidential  
14           basis.  I think the governor then decides if it is  
15           really a confidential matter and can deal with it in  
16           a certain way.

17           Is there anything equivalent to a ChildLine or  
18           helpline that people can simply anonymously say: this  
19           place is problematic.  I'm not wanting to say anything.

20           But they just want to voice a concern without coming  
21           forward in person?

22  A.   The telephones in cells have access to the Samaritans  
23           and they also have free access to the Chief Inspector's  
24           team, so those calls can be made freely.

25  Q.   From the cell?

1 A. Yes.

2 Q. Or we would call it a room these days. I don't know,  
3 you tell me.

4 A. Either.

5 Q. I think in some places, I've read they like to call it  
6 by the name "room", rather than "cell". But it's still  
7 locked?

8 A. Yes. It is still locked, yes.

9 Q. From the outside?

10 A. Correct.

11 Q. But you now say that at least they have this telephone  
12 that has access, free access, to the Inspectorate and --

13 A. Samaritans.

14 Q. If they feel they want to make contact?

15 A. Yes.

16 Q. Is a typical room or cell now, apart from having this  
17 facility for young people; what else do they have? Do  
18 they have access to computers, where they can send  
19 things by email or other means?

20 A. During the early stages of the pandemic, we were able to  
21 introduce mobile phones, and that was quite  
22 a significant shift for us in prisons, quite a sea  
23 change. From that, we have then -- we have rolled out  
24 in-cell cabling across the whole estate that allows us  
25 to put the in-cell telephony in place. So this is hard

1       wired, but it also allows us the capability to introduce  
2       other technology. We're still working on what that  
3       other technology will look like and what the  
4       capabilities will be, but it's certainly our intention  
5       to be able to provide access to in-cell services, such  
6       as learning products and healthcare, as well as move the  
7       transactional tasks that staff currently do online as  
8       well.

9                So, for example, things like menu choices,  
10       complaints, that kind of thing would be able to be done  
11       online, as opposed to the current way, which is by  
12       paper, paper-based mechanisms.

13   Q. Is this a closed system? In the sense they can't simply  
14       send an email across the world or look up any site they  
15       want.

16   A. There will be security measures that we'll have to put  
17       round about the functionality and the accessibility, and  
18       that's in development as we speak.

19   Q. I don't know what they do in Norway. No doubt it's  
20       a good question to ask them, whether they have these  
21       facilities and how much freedom they have, other than  
22       the loss of liberty, to communicate with the wider  
23       world?

24   A. There are several areas of good practice, including  
25       Southern Ireland as well, where I think they are further

1 advanced than us and we are looking to learn from them.  
2 But there will be some ministerial considerations that  
3 we'll need to take account of as well.

4 Q. Do all young people now in Polmont still have a mobile  
5 phone?

6 A. No, the mobile phones were withdrawn when we put the  
7 in-cell telephony in place.

8 Q. When they did have them; could they call anyone?

9 A. There are restrictions on the numbers that they can  
10 call, and there are still safeguards around a message  
11 that is played at the start. So if the person who is  
12 receiving the call doesn't want to receive it, then they  
13 don't have to.

14 Q. Could they call any number in theory?

15 A. No. There are approved numbers, so there are --

16 Q. It's preset in some way that they can only own certain  
17 numbers?

18 A. Yes, yes, they give us -- I can't remember if it's  
19 something like ten numbers, up to ten numbers that they  
20 provide and then we would apply them to the phone and  
21 they can phone them at any time.

22 Q. Are the conversations recorded?

23 A. Yes, they are.

24 Q. So they can be monitored?

25 A. Yes, they can be monitored.



1 Q. Do the young people know that?

2 A. Yes, absolutely.

3 Q. Going on back to page 15 of Part B, I'm not going to  
4 labour paragraph 6, but it's a point you've made before,  
5 that in terms of the formal records not all forms of  
6 abuse would necessarily be recorded. They'd probably  
7 look at the principal forms or anything associated with  
8 them, physical and verbal abuse. So we couldn't be  
9 confident that would record the whole of potentially  
10 relevant instances of abusive behaviour, conduct or  
11 whatever?

12 A. I would agree, yes.

13 Q. There is a section that's headed:  
14 "Inadequate complaints procedure."  
15 In Part B, in this section. It's more looking  
16 I think, I suppose, to the response to complaints. At  
17 paragraph 7, it says:  
18 "Scottish Ministers have identified evidence of  
19 failures in the handling of complaints against staff."  
20 I think it's further elaborated in Part D. We can  
21 look just now at what is here. It says:  
22 "It appears that in the past complaints were  
23 required to be made in writing by the child making the  
24 allegation, which is not the practice today."  
25 I think you have told us about that:

1            "This is likely to have contributed to  
2            underreporting of abuse."

3            Obviously, you have mentioned here, again, that  
4            there is evidence underreporting did occur due to fear  
5            of repercussions from staff.

6            So the requirement for writing has been removed now,  
7            but it's recognised it was a barrier?

8            A. Yes.

9            Q. Particularly a barrier to some people whose abilities to  
10            put some form of complaint into writing due to  
11            difficulties of reading and writing is --

12            A. Absolutely, I would agree with that, yes.

13            Q. We have some evidence that people had to get help to  
14            fill in some sort of form if they were looking to make  
15            some written complaint?

16            A. Yes, that's correct.

17            Q. Sometimes it might be a fellow prisoner that would have  
18            done that, if they were minded or prepared to do so?

19            A. It would depend on who the young person was comfortable  
20            asking and getting support from. But, certainly, we are  
21            more proactive around those individuals who we know or  
22            understand require additional support.

23            Q. We have discussed this -- this is paragraph 8 -- the  
24            service did not have a formal policy on whistleblowing,  
25            the formal mechanism for staff to report wrongdoing

1 before 2004. So I'll not go over too much of that,  
2 again.

3 It's mentioned that there was an obligation before  
4 then on staff to report abuse and impropriety under the  
5 earlier regime. There is reference there to the Borstal  
6 Scotland Rules 1950, rule 95 providing that: "Every  
7 officer shall at once report to the governor any breach  
8 of these rules or any abuse or impropriety which may  
9 come to his knowledge."

10 I must say, when I read that provision, it struck me  
11 that was more to report some sort of breach or  
12 impropriety on the part of those being looked after  
13 rather than some other member of staff. But I'm no  
14 doubt open to persuasion. But it just seemed I wasn't  
15 sure that was perhaps the intention behind the rule in  
16 1950. I would be -- I think I'd need convincing.

17 A. I think I would struggle, given it's 1950, Mr Peoples,  
18 to offer a perspective on that.

19 Q. But you see what I'm saying?

20 A. I understand what you're saying completely.

21 Q. The rules were there really so much for the officers as  
22 for the people who were being trained in the borstal.  
23 I'm not saying they weren't conduct rules, but that one  
24 doesn't strike me at first blush as something that was  
25 putting a clear obligation on an officer: if you see

1           your fellow officer do something, such as assault  
2           an inmate, then your obligation, statutory obligation is  
3           to report it.

4           That's something we can no doubt consider.

5           I suspect you didn't find many examples of someone  
6           who read it that way doing so?

7   A.   We didn't find any examples.

8   Q.   Yes.

9   LADY SMITH:  So far as whistleblowing is concerned, I see  
10          that some six years passed between the legislation,  
11          which was 1998, and the formal policy that you refer to  
12          in paragraph 8; is that right?

13   A.   That is correct.

14   LADY SMITH:  Six years, it seems like quite a long time.

15   A.   I'm not sure why that would be the case.  I'm trying to  
16          think.

17          Yes, not quite sure why that would be the case.

18          I think the organisation at that time, in terms of  
19          HR and HR support, we had moved from a position where  
20          that was previously, prior to the organisation becoming  
21          an executive agency, had really been provided by the  
22          Scottish Home and Health Department and it was only --  
23          we were only moving towards a position where every  
24          establishment -- and in our headquarters that capacity  
25          was developing and being built up, so that may have

1           prevented that being developed sooner.

2   LADY SMITH:   So it may have had to wait until there was  
3           an overall review of all your HR policies, I suppose,  
4           then?

5   A.   Yes.

6   LADY SMITH:   Thank you.   Mr Peoples.

7   MR PEOPLES:   If I move on to page 17 of Part B, which is  
8           concerned with acknowledgement of systemic failures.

9           The question asked there was:

10           "Does the organisation/establishment accept that its  
11           systems failed to protect children cared for at the  
12           establishment between 1930 and 17 December 2014 from  
13           abuse?"

14           The response is, at paragraph 2:

15           "The Scottish Minister accepts that, at times, their  
16           systems failed to protect children accommodated at the  
17           four establishments throughout the relevant period."

18           Going on, question 5 follows that one up by asking  
19           what the organisation's assessment of the extent of such  
20           systemic failures were, or was.

21           In response to that question, we see in paragraph 1:

22           "It is fully accepted that the records identified,  
23           recovered and reviewed by Scottish Ministers for the  
24           purpose of this report will not reflect the actual  
25           extent of individual system failures."

1           The point is then made:

2           "In addition, the limited information available  
3           within the records themselves makes it difficult to  
4           identify specific systems which failed, the reasons for  
5           such failures, and the extent to which such failures  
6           impacted upon the ability of Scottish Ministers and  
7           their predecessors to protect children in their care.  
8           As such, Scottish Ministers cannot assess the full  
9           extent to which systems failed in the time period under  
10          investigation by the Inquiry."

11          Pausing there, I suppose that to an extent is  
12          an indictment on the records as well?

13         A. Yes, yes.

14         Q. They don't provide sufficient information to be able to  
15          assess this and answer that question?

16         A. Yes.

17         Q. I think it's fair to say that as a result of this  
18          exercise to some extent it's been illuminating for you.  
19          I know it's been a long review, has it not?

20         A. Certainly, there are areas that we are now aware of that  
21          we wouldn't have been aware of previously. So you're  
22          absolutely right, Mr Peoples. And improvements that we  
23          can and will be making.

24         Q. I suppose as well the point may be made, because I do  
25          seem to remember when we did Scottish Government how --

1 and this is isn't in the context of the Scottish Prison  
2 Service; it's to do with allegations of abuse in  
3 approved schools.

4 I think the initial position of the Government in  
5 refusing an inquiry was that there didn't seem to be  
6 a lot of evidence of any widespread problem, albeit this  
7 Inquiry has been set up to see if that was correct.

8 It now proves -- it's now been shown, from evidence  
9 and findings, that's not the situation and abuse has  
10 been widespread in a lot of settings that we're looking  
11 at. I think you will probably agree when I come to this  
12 that that's equally true of the prison setting?

13 A. Yes, that's correct. In one of the areas -- and we  
14 touched on this yesterday -- was about the capabilities  
15 of PR2, and there was a not-called PR1, which is why  
16 I was confused yesterday. It was called Spin, so there  
17 was a precursor.

18 Q. Spin?

19 A. And please don't ask me why it's now called PR2 from  
20 Spin, and it wasn't Spin 2.

21 But Prisoner Records System 2, as it stands, has  
22 been in existence for some time and we are currently  
23 accelerating some work around case management, online  
24 case management, to improve our records management,  
25 because we recognise that there are some gaps.

1 Q. Also, it's a recognition of the value of the information  
2 that's kept and captured, as long as it's also  
3 reviewed --

4 A. Yes.

5 Q. -- periodically and regularly because there is not much  
6 point in having it unless you use it?

7 A. Yes.

8 Q. That's what big organisations are doing these days.  
9 It's a major industry now.

10 A. Yes. No, there is a lot of data that we are unable to  
11 access in any meaningful way at the moment because of  
12 the way that the record system is set up. And it's  
13 partly because it's historical and partly because it's  
14 outdated, and that's why the case management system, the  
15 new one, will be so critical, to capture a lot of the  
16 qualitative data that we would want to be able to  
17 assess, that it currently doesn't.

18 Q. I think I put to another witness about the value of  
19 an extensive review of the surviving and available  
20 records. I suppose that this exercise that you've  
21 conducted proves that point; that there was available --  
22 had someone carried out this exercise at any point in  
23 recent times, there was the means to come up with this  
24 evidence and these acknowledgements, but that wasn't  
25 done until the Inquiry asked the exercise be done in



1           this way.

2           It's not a case of saying the evidence wasn't there.  
3           It wasn't made known to those who needed to know. It's  
4           there and some of it still exists. Unfortunately, some  
5           of it doesn't.

6   A. Yes, and I would approach still evolving and developing,  
7           but nevertheless is far more grounded in evidence and  
8           utilising the evidence that we have, both within the  
9           organisation, but also looking more broadly at research  
10          to better understand our approach and better understand  
11          the population and their needs.

12   Q. I suppose you don't have the problem that they had  
13          historically, before electronic record systems: where do  
14          I keep all these papers and what do I do with them? And  
15          I can get rid of them?

16   A. Yes. The paper-based systems still exist in some areas,  
17          but clearly we want to have electronic systems in, which  
18          are much safer and don't take up huge amounts of  
19          storage.

20   Q. I would have thought that even though there are data  
21          protection rules, legal rules, which may to some extent  
22          constrain what you can keep, given the functions you  
23          perform -- without professing to be able to say chapter  
24          and verse -- I would have thought that you could justify  
25          the retention of quite a lot of data if it's relevant to

1 the performance of the service going forward?

2 A. That will certainly be one consideration that we will  
3 ensure informs both the case management structure as  
4 well as the data capture that we want to be able to draw  
5 on as we move forward to improve our practice.

6 Q. I think it's been shown, certainly by the social  
7 historians who have looked at this, like  
8 Professor Levitt, it is amazing what you can find if you  
9 scrutinise and analyse data?

10 A. Yes.

11 Q. Whether on paper or electronically?

12 A. Yes.

13 Q. You can put the whole picture together, rather than just  
14 saying: well, you're not seeing the wood for the trees?

15 A. Yes. I think it's incumbent on all large organisations  
16 to set out both a rich data capture that helps inform  
17 the approach to better evidence the value that can be  
18 provided, both within the organisation as part of  
19 service delivery, but also for the investment in the  
20 organisation as well.

21 Q. You go on to deal, at paragraph 2, on page 17 -- posing  
22 an interesting philosophical question of whether or not  
23 a particular system fails depends on what is regarded as  
24 a system. But I think you don't rest it there and try  
25 to seek refuge in that great dilemma, because you say:

1           "Scottish Ministers recognise a number of factors  
2           could contribute to, or themselves be regarded as, a  
3           failure by a system."

4           Then you seek, in the paragraphs that follow, to  
5           provide examples:

6           "Where it's known that particular systems fail to  
7           protect children from particular harms, accepting that  
8           these examples are not exhaustive."

9           Perhaps we can look at those briefly, if I may.  
10          Page 18. In dealing with, I think, a heading:

11          "Physical, sexual and verbal abuse."

12          It says there's been identification by the Scottish  
13          Ministers of a number of system failures in their  
14          opinion which may have caused or contributed to  
15          physical, sexual and verbal abuse. It's acknowledged  
16          that these failures may also have led to elements of --  
17          can I just call that emotional abuse, rather than NPPE?  
18          Which is a bit of a mouthful. We know how it's defined.  
19          We have seen it earlier.

20          Looking, firstly, under the heading of:

21          "Staff complaints."

22          It says:

23          "Scottish Ministers recognise that an effective  
24          complaints system depends on the absence of barriers to  
25          reporting and confidence that complaints will be taken

1 seriously and acted upon appropriately. There is  
2 evidence of failings in the system for the handling of  
3 complaints about staff."

4 I think then there is one example given, or at least  
5 a number of examples, but there is an example given in  
6 paragraph 5 from the early 1990s, and it says:

7 "With regard to the making of a staff complaint by  
8 a child, there is a reference in Part D to two  
9 allegations of assault made by a child in custody at  
10 Polmont against a member of staff in 1990 and 1991.  
11 Neither were reported to the police for further  
12 investigation and the child was advised by staff that  
13 for the police to be notified, the allegation would need  
14 to be put in writing."

15 As you point out, that is not required today and one  
16 can make a verbal complaint. So that reflects the  
17 historical position, writing is key?

18 A. Yes, it was in those days.

19 Q. Then, in paragraph 6, and you have made this point  
20 earlier, until 2004 there was no formal mechanism  
21 allowing staff to confidentially complain about actions  
22 or conduct of colleagues until the introduction of the  
23 whistleblowing policy in 2004 that has been recently  
24 updated in 2019.

25 Then, in paragraph 7, the report goes on:

1 "Scottish Ministers acknowledge there was a failure  
2 of the system for complaining about staff. It should  
3 not have been necessary for any child to put a complaint  
4 in writing."

5 That is basically the same point, I think, the  
6 example illustrates. It says, towards the foot of  
7 page 18, paragraph 7:

8 "It is accepted that these failings may have  
9 discouraged individuals from making complaints about  
10 staff and/or made it more likely that staff's actions or  
11 conduct fell below the expected standard."

12 Had there been an effective system at that time,  
13 that could or may have reduced prevalence of these types  
14 of abuse?

15 A. Yes, that is accepted.

16 Q. Another systemic issue that was identified is in  
17 relation to police reporting. We have had some  
18 evidence, you have told us a bit about that. Basically,  
19 the point you are making there is that -- particularly  
20 with reference to the JAS Report and the incidents that  
21 were looked at, that there has been identified an  
22 underreporting of abuse to the police in situations  
23 where there ought to have been some form of report, and  
24 that's been addressed now by the requirement that all  
25 allegations of criminal activity or suspected criminal

1 activity should be referred to the police as a matter  
2 of course?

3 A. Yes, that's absolutely correct.

4 Q. In the foot of paragraph 9, it's accepted that  
5 shortcomings in the system for raising complaints led to  
6 an underreporting of abuse to the police. Of course, as  
7 we discussed yesterday, the police are, in this context,  
8 independent of the service?

9 A. Yes, absolutely. The police will take forward  
10 a separate investigation and that is a matter that's  
11 entirely for them.

12 Q. On page 20, Part B, there is a heading:

13 "Linked prisoner domain system."

14 This is the system that allows the service to record  
15 links between prisoners, either association or indeed if  
16 they are enemies, so it informs prison management  
17 decisions and ensures individuals who are required to be  
18 kept apart are separated.

19 What the failing identified has been since the  
20 system was introduced was it was not always updated when  
21 it should have been, particularly in the period  
22 following its introduction, from 2001 to 2005.

23 That could possibly have had a bearing -- adverse  
24 bearing on cell-sharing risk assessments if they were --  
25 in 2000 and --

1 A. 2004 or 2005.

2 Q. They would have later on, because I don't think it was  
3 confined to the period before 2005 that there was  
4 underreporting -- sorry, there was failure to link to  
5 the system.

6 We're not talking that this problem was exclusively  
7 before 2005. Would there have been instances where the  
8 system -- there were no links made?

9 A. So the --

10 Q. I think the way -- if we read on, I think you see from  
11 paragraph 11 that it says:

12 "Most of the 93 incidents identified within the  
13 response occurred prior to 2005 after which time, out of  
14 four establishments, only Polmont held children in  
15 custody. The SPS database indicates that five out of  
16 the 24 incidents after 2005 led to the Linked Prisoner  
17 Domain being updated."

18 Whereas only 21 of the 69 incidents before then led  
19 to updating of the Linked Prisoner Domain. So, in both  
20 periods, there was a failure, albeit lesser -- to  
21 a lesser extent after 2005?

22 A. The Linked Prisoner Domain -- and I wasn't able to  
23 answer this properly yesterday -- but that is on PR2,  
24 and this is the keep separate system that we talk about.  
25 So Linked Prisoner Domain equates to keep separate.

1           That is on PR2.

2           As with any system, staff have to input the  
3 information. So there will, unfortunately, be times  
4 when things are not updated as they should be, due to  
5 staff error and particularly at times when the  
6 organisation is under pressure due to overcrowding, then  
7 it does make it more difficult for staff to update all  
8 the transactional tasks that they're required to do,  
9 because of the pressure that's on them at that time.

10           I appreciate that that's not acceptable, but  
11 nevertheless it would be -- I can't say that there would  
12 never be a time when mistakes or errors weren't made  
13 because it's based on a requirement for staff to input,  
14 and people do make mistakes.

15 Q. It is an age old problem, isn't it? Because people are  
16 expected to record so there is an audit trail and people  
17 can see things happening and review things, but at the  
18 same time they have the pressures of work, and they're  
19 trying to balance both.

20           I certainly can recall from a hospital inquiry,  
21 where one of the problems in the hospital was that staff  
22 didn't always feel they had the time to do the recording  
23 that was necessary to allow a full picture to be  
24 recorded and move on, because they had to go on to the  
25 next crisis or emergency.



1           It is a practical problem, but it's important,  
2           nonetheless, that the record is made?

3   A.   Yes.   Absolutely.   Staff do know and understand the  
4           importance and how it improves the running of their  
5           area, the prison.   So they understand all of that.  
6           Because what you don't want is continual disruption by  
7           people who shouldn't be coming into contact with one  
8           another, doing so and resulting in fights or verbal  
9           altercations or whatever.

10           Staff understand that it absolutely contributes to  
11           the safe operation.   It gives them stability and ensures  
12           that they're safe as well, because clearly they're not  
13           then intervening to prevent fights from escalating.

14           That is done as a matter of routine.   It's accepted  
15           as safe practice and good practice.   But, as I say, it  
16           would be folly of me to say that there are not mistakes  
17           or errors made because it is --

18   MR PEOPLES:   Just to finish off --

19   LADY SMITH:   One thing, Mr Peoples, you used the expression  
20           "hospitals inquiry", for the avoidance of doubt I take  
21           it you were referring to the Vale of Leven Hospital  
22           Inquiry, not the current Scottish Hospitals --

23   MR PEOPLES:   No.   Just in case anyone wanted to pick that  
24           particular point up.   It's a general point that's come  
25           up over the years, that people say: I have my duties to

1 do, but I have my paperwork to do.

2 And it's the age old argument: I wish I had more  
3 time to do front line work and less time to do the  
4 paperwork that's associated.

5 As you have explained, you have to do both to make  
6 the system safer and more effective.

7 A. Correct.

8 Q. Just to say, before we finish on this section,  
9 paragraph 12, it says:

10 "Had the system been properly utilised in this  
11 period it is more likely at least that prisoners at risk  
12 of conflict would have been kept separate and perhaps  
13 fewer peer-on-peer incidents of abuse would have  
14 occurred."

15 That is the consequence of not carrying out this  
16 system in the intended way.

17 I think that takes --

18 LADY SMITH: Would that be a good place to break? We'll  
19 have short afternoon break just now and I'll sit again  
20 after that. Thank you.

21 (3.00 pm)

22 (A short break)

23 (3.11 pm)

24 LADY SMITH: Welcome back. Are you ready for us to carry on  
25 now?

1 MR RENNICK: Yes.

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

3 MR PEOPLES: My Lady, can I just return briefly to a point

4 I should have asked you about in relation to barriers to  
5 an effective complaints system?

6 One thing that I think can be picked up from time to  
7 time in the complaints system is that prisoners making  
8 complaints which were not upheld might sometimes find  
9 themselves charged with making a groundless complaint  
10 and disciplined themselves. It's hardly an incentive to  
11 put your hat in the ring and see what happens. If you  
12 face that prospect: I thought I was the complainant and  
13 I end up being the person disciplined for making that  
14 complaint.

15 A. The charge was repeated and groundless complaints, so  
16 clearly there would need to have been more than one  
17 complaint.

18 Nevertheless, Mr Peoples, I accept what you say. It  
19 would deter individuals from raising complaints and  
20 particularly more than once.

21 Q. If you kept making the same complaint, and let's suppose  
22 hypothetically it was correct, against the same officer  
23 who continued to deny it and his colleagues didn't  
24 suggest otherwise, then the risk was, in that scenario,  
25 even if you know yourself it's correct, that you face

1 a charge and possibly some form of discipline as a  
2 consequence?

3 A. Yes, that's correct.

4 LADY SMITH: Picking up on that, it's the expression  
5 "groundless" that's troubling, isn't it?

6 A. Yes.

7 LADY SMITH: It would be quite different if one could be  
8 satisfied it was a malicious complaint, but that's a  
9 completely different set of circumstances. Maybe the  
10 complaint wasn't established. It doesn't mean that it  
11 was malicious or is worthy of punishment?

12 A. Yes, absolutely, Lady Smith. I completely accept that.

13 Where we have moved to, though, is a position  
14 whereby we accept that it is better for people to make  
15 complaints, regardless of how many and how often, and we  
16 don't have any policy in place to debar people from  
17 raising complaints, either on the same issue a number of  
18 times or a complaint every day or several every day.

19 We do have people who do complain quite regularly,  
20 and we recognise that as actually a good way for people  
21 to use the system and to vent through the system, rather  
22 than vent in other ways.

23 MR PEOPLES: Maybe that's why in the criminal justice  
24 system, generally speaking, people are not allowed to  
25 make reference to previous convictions when someone

1 pleads not guilty and goes to trial, because of the  
2 dangers of making assumptions.

3 It's not the same, but there is a certain  
4 similarity; if you make repeated complaints, it doesn't  
5 follow that the next one might not be one that ought to  
6 be considered seriously?

7 A. That's correct. As I say, that's why we have shifted  
8 considerably to a position whereby we accept people do  
9 have the right to complain and should.

10 Q. Moving on, in Part B, to page 21, the next heading is:

11 "Lack of adequate sanitation, slopping out."

12 We've talked about this. The failure is not so much  
13 the existence of the system of slopping out, but the  
14 failure to remove that system from the regime. There  
15 should have been some alternative to that much earlier  
16 than happened?

17 MR RENNICK: Yes.

18 MR PEOPLES: Maintenance of buildings and infrastructure.

19 Well, the system as was, no doubt there are examples of  
20 things being done, but I think as we discussed earlier,  
21 there were times when things were not done that perhaps  
22 ought to have been done, but didn't happen for whatever  
23 reason.

24 So the system as it was, ultimately, produced  
25 a state of affairs where there were inadequate living

1 conditions, conditions which in some cases were  
2 described as "deplorable", "appalling" and so forth.

3 MS MEDHURST: That is accepted, Mr Peoples.

4 MR PEOPLES: I suppose that if we go back to prisoners'  
5 rights, they do have the rights to a certain standard of  
6 living and living conditions as a matter of basic right?

7 A. Yes.

8 Q. "Quality of regime" is the next one, on page 21. We  
9 have been through this before. One of the identified  
10 systemic failings is a lack at times of purposeful  
11 activity for those that were held in custody. There is  
12 an acknowledgement, at paragraph 18, by the Scottish  
13 Ministers that the quality of the historical regime in  
14 place for children within custody was poor. I think we  
15 have discussed that that can have adverse effects on  
16 mental health and other consequences --

17 A. Yes.

18 Q. -- for those affected in that way.

19 Indeed, some might say it's singularly unfortunate  
20 that those that may have suffered most from the quality  
21 of the regime are those that were on remand, in  
22 particular those that were untried?

23 MR RENNICK: That was the concern raised by the  
24 Inspectorate.

25 MR PEOPLES: In one sense, they were the most disadvantaged,

1 because at least if you were in a young offenders and  
2 you'd been sentenced, it may not always have been  
3 purposeful activity, but there was some form of activity  
4 at least and more time out of cell. Whereas remand  
5 prisoners were often spending long periods in cells,  
6 doing very little. For young people, I think  
7 Dr Mitchell said, who are full of energy, it's not  
8 exactly the best state of affairs.

9 MS MEDHURST: Yes. I would agree with that.

10 MR RENNICK: Obviously, for some remand prisoners they were  
11 in for relatively short periods of time, but others were  
12 in for extended periods of time.

13 MR PEOPLES: They weren't all just in for two weeks and out  
14 again. Even if you have two weeks doing very little --

15 MR RENNICK: Particularly if you are new in the custodial  
16 environment.

17 MR PEOPLES: Then there is an attempt, if we go to page 22,  
18 to answer the question:

19 "What is the organisation's explanation for these  
20 various systemic failings?"

21 This echoes, in paragraph 1, what was said at the  
22 beginning of this section, that given the level of  
23 information within the records, particularly in relation  
24 to historical systems, it's difficult to identify  
25 specific reasons for any particular system failing.

1       Indeed, it's not clear from the records what the  
2       practice was in early years to address complaints about  
3       staff. There is quite a lot of gaps in knowledge --

4   A. Yes, that is the case.

5   Q. -- that the records do not fill. But, that said,  
6       there's an attempt to identify a number of factors which  
7       may have, at least in some cases, caused or contributed  
8       to the system failures and examples are given.

9       There was evidence of situations where there were no  
10      formal processes or procedures, and whistleblowing is  
11      one example of that. The lack of a policy until 2004.

12      Inadequate recruitment standards or practices, and  
13      the example given is in 1990. There was a staff notice  
14      issued regarding ongoing security checks for all staff  
15      after an officer was found to be serving with  
16      undisclosed convictions.

17      Then there is another contributor, could have been  
18      inadequacies or inconsistencies in the provision and  
19      quality of training. One example is given that at  
20      Longriggend in 1997 -- this is footnote 85 --  
21      an unacceptable deficiency in the area of staff personal  
22      development was reported and inspectors considered this  
23      area to be inadequate.

24      So this is the training issue that features.

25      Another is insufficient oversight of staff and



1 children. The example given is the HMIPS in its 1998  
2 report, saying that at Polmont at the time there was no  
3 national strategy or policy or integrated approach  
4 across establishments relating to management of young  
5 people. So that was raised.

6 Another is poor record keeping, together with  
7 outdated practices and poor conditions and regimes. So  
8 we have been through some of the examples of that  
9 earlier today.

10 If we go on to page 23, at paragraph 3, it is said:

11 "Whilst specific explanations cannot be identified,  
12 Scottish Ministers acknowledge that where systems have  
13 failed, it is likely to have been the result of  
14 a culmination [combination? Accumulation? I'm not sure  
15 "culmination" is the word I would use] of the factors  
16 that are outlined above."

17 It may be accumulation or combination is probably --  
18 would you agree? Something along those lines?

19 MS MEDHURST: Yes.

20 MR PEOPLES: I don't want to put words in the report, but

21 I think it is a more apt -- would you agree?

22 MR RENNICK: Yes.

23 MS MEDHURST: Yes.

24 MR PEOPLES: So moving on to page 24, there is a section

25 there which is headed:

1            "Acknowledgement of failures and deficiencies in  
2            response to abuse or allegations."

3            And there, in answer to the question whether there  
4            were such failures, Scottish Ministers acknowledge, in  
5            (i), that there were failures and deficiencies in the  
6            response to abuse and allegations of abuse of children  
7            at the four establishments in the time period between  
8            1930 and 17 December 2014.

9            Again, the question is asked -- the next question,  
10           (ii), what the organisation's assessment of the extent  
11           of such failures and response is. I think it echoes  
12           a similar position in relation to other questions in  
13           this section. It's likely that the deficiency in  
14           responding, or otherwise failing altogether to respond  
15           to abuse or alleged abuse is much greater than the  
16           records reviewed would suggest.

17           The Scottish Ministers cannot be certain of the full  
18           extent to which failures and deficiencies occurred, but  
19           they certainly did occur, is the position I think being  
20           taken.

21           Then the point is made I think -- it's paragraph 2,  
22           under (ii), historical records are often less detailed  
23           than follow-up action, if there was any, and they are  
24           often less complete than records from recent times.

25           So we can't be confident about what the response

1 was, therefore we cannot form a judgment whether it was  
2 adequate or not.

3 It should have been possible from the records that  
4 exist on the matter that that can be ascertained?

5 A. The records are incomplete, and we accept that, and  
6 therefore it is difficult to determine, given that the  
7 recording procedures at that time were less robust.

8 Q. Often -- I think the same point is made at paragraph 3,  
9 where follow-up action of some description is described.  
10 It's usually something general, to the effect that some  
11 investigations have been carried out and perhaps  
12 a finding that abuse occurred or did not occur, but it's  
13 difficult, it is said, to discern from the records how  
14 extensive the investigation was, if it was adequate, and  
15 in many cases even the verdict or outcome itself is  
16 uncertain?

17 A. I think, certainly in terms of investigation, you  
18 mentioned earlier, Mr Peoples, the establishment of the  
19 Conduct Investigations Unit. That was in recognition of  
20 a need to improve and drive consistent standards in the  
21 most serious of cases, which are gross misconduct cases,  
22 and there was unanimous support for that across the  
23 organisation. Because they were the most serious there  
24 should be dedicated resource that was trained and  
25 supported to be able to deliver effective investigations

1           that would then be returned to the governor for  
2           adjudication.

3    Q.   It is important -- these days it would be important that  
4           you do know what was done and what perhaps the findings  
5           were -- not "what perhaps".  What the findings were and  
6           what the reasons for the findings were; you would expect  
7           that in the modern era?

8    A.   Yes, absolutely.

9    Q.   There are examples of deficiencies in response.  I think  
10           we hark back to the famous 1935 case to show certainly  
11           one notable example of a deficient response, if ever  
12           there is one of the governor.

13           Over the page, on page 25, there is reference to  
14           a gross misconduct disciplinary interview in 2005 that  
15           suggests inmates involved in a particular incident in  
16           Polmont withdrew complaints against staff as:

17            "It is possible that staff seeking to support their  
18           colleague asked the young offenders to say nothing.

19            "I think it more probable that the young offender  
20           witnesses were more concerned about their future at  
21           Polmont and how staff might respond to them giving  
22           evidence against a colleague."

23           I suppose it doesn't matter which of these  
24           possibilities, the fact remains that they withdrew the  
25           complaint, and whichever version, it's not an ideal

1 state of affairs --

2 A. No, absolutely not.

3 Q. -- if they make the complaint and then they withdraw  
4 it?

5 A. Nowadays, I would expect that the complaint would be  
6 made, would be taken seriously and fully investigated.

7 Q. You do say -- or this report says, at page 25,  
8 paragraph 5, there are examples of when the Government  
9 clearly responded, whether adequately or inadequately,  
10 to abuse and allegations of abuse.

11 One of the examples that's given is the Chiswick  
12 Report of 1985. It's fair to say they did set up a form  
13 of inquiry, but I suppose, again, the issue is the  
14 adequacy of the response.

15 It was maybe a good thing to set it up, but, as  
16 Dr Chiswick told us how the response went down, it was  
17 basically like a lead balloon, and the radical proposals  
18 fell on deaf ears and I don't think were really  
19 resurrected fully until around 2000, when there was  
20 a strategy that echoed more closely what he had in mind.  
21 It took 15 years, and there was an attempt to say that  
22 he went beyond what he was asked to do and he made  
23 recommendations about wide reform and he shouldn't have  
24 done so.

25 I think it was clear, from his evidence, that he had

1 paperwork showing that he was told he was entitled to do  
2 that at the time. But in Parliament it was suggested  
3 that he had gone beyond what he was asked to do.

4 Maybe that's an example of the political  
5 considerations that come into play. A good example of  
6 sometimes how these can get in the way of what ought to  
7 be done in terms of reacting to a very significant  
8 report and finding out about a state of affairs dealing  
9 with mental health issues in prison?

10 MR RENNICK: Yes. Certainly reading the summary and the  
11 final conclusions and recommendations of the report, it  
12 was interesting to see how many of those resonated with  
13 later policies that, as you say, emerged from the 2000s  
14 onwards.

15 MR PEOPLES: There didn't seem to be the political will at  
16 that stage to endorse them and run with them.

17 I think we explored certain reasons why that might  
18 be so, given the climate of the day, the political party  
19 of the day, and the sentiments, perhaps, within  
20 Parliament and perhaps even outwith Parliament. But,  
21 whatever the reason, it's not a situation that was well  
22 handled in terms of response.

23 A. It's very clear reading the Secretary of State's  
24 statement at the time that he did not accept all of the  
25 report recommendations and ...

1 Q. In terms of explanations for failures or deficiencies in  
2 the response on page 26, again, to be helpful, I think  
3 the report attempts to set out possible causes or  
4 explanations for deficiencies in response.

5 The first being -- this is paragraph 1, on page 26:

6 "The attitude of governors and staff clearly has  
7 a bearing on whether there is a response to abuse and  
8 allegations of abuse and, if there is a response,  
9 whether it is adequate or not. If the culture of the  
10 organisation is not right, then there will be failures  
11 and deficiencies in responding."

12 That is the first point.

13 "Secondly, having the right reporting and  
14 information sharing systems in place to respond to abuse  
15 and allegations of abuse is necessary, as is ensuring  
16 staff use those systems properly; that is important in  
17 identifying the need for follow-up action and the  
18 oversight of action taken. Thirdly, wider governmental  
19 infrastructure priorities and associated budgetary  
20 constraints may have impacted upon the physical  
21 condition of the prison estate and the ability to  
22 upgrade or maintain it in a timely manner."

23 I suppose that's harking quite close to what  
24 I've been -- a slightly different point, but I suppose  
25 that's, to some extent, the perennial issue of

1 resources, to do the things that need to be done. That  
2 is to an extent, perhaps, being suggested in that,  
3 priorities, budgetary constraints. But there's also the  
4 point I made about the political will, depending on the  
5 nature of the proposed reform and the context of the  
6 day?

7 MR RENNICK: Yes. And, again, reading through inspection  
8 reports, there are a range of different factors that  
9 impact on the services available and the quality and, at  
10 its worst, resulting in abuse.

11 Q. This is all very well, but if I go back to being my  
12 humble person in a borstal or a detention centre,  
13 whether in the 1995 or 1985, it's not much consolation  
14 to me to be told, "I'll explain to you, bereft of these  
15 reasons, why you are still in the conditions that you're  
16 living in", is it?

17 A. Yes.

18 Q. It provides an answer, but not an answer I'm sure  
19 they'll be happy to hear?

20 A. No, it's very difficult at this date to try and analyse  
21 back what choices were being made at the time. It's  
22 very clear from the evidence that's available that  
23 conditions were not adequate.

24 Q. One of the things that this Inquiry was set up to do,  
25 and what people wanted, was to know whether this



1 situation or abuse was allowed to happen. I think  
2 whether you like the explanations, you want to find out  
3 what they were so far as can you do. To some extent, I  
4 think you were seeking in this report to at least give  
5 some pointers as to why the situation may have been as  
6 described in these various records and reports?

7 A. And to acknowledge that information was available that  
8 raised concerns about (overspeaking) at the time.

9 Q. Yes, yes, but not information that saw the light of day  
10 necessarily?

11 A. Not always.

12 Q. It's in the records, the Government records, and it was  
13 there and available, but it wasn't necessarily what the  
14 public would be hearing or indeed what those who were in  
15 prison would be hearing. There would be -- we have seen  
16 evidence, for example, of people visiting prisons and  
17 visiting care homes and seeing what great work they're  
18 doing, what a fine job they're doing, and no doubt  
19 that's for public consumption.

20 But, as I said, this morning, with the history of  
21 heads example in the 1960s, an inspector of approved  
22 schools was writing about how bad the situation was  
23 privately, but that wasn't disclosed to the public.

24 To some extent, we see echoes of that in some of  
25 these records, that things weren't really very good,

1           because inspectors' reports have been published, but  
2           before then inspection reports were not published  
3           routinely. I think that's correct, isn't it, before  
4           1980?

5   A. I'm not sure, I would have to check that.

6   Q. I think I'm right in thinking that it was only after the  
7           establishment of the Inspectorate that the practice --

8   A. Yes, that's true. The Inspectorate didn't exist before  
9           then, of course.

10   Q. It would be departmental inspectors, similar to Approved  
11           School Inspectors who were SED.

12   MS MEDHURST: Yes.

13   Q. There is a section, at page 28, headed "Changes".

14           I'm not going to take you through this in too much  
15           length because I think we have discussed some of the  
16           changes and developments earlier today. I'll just  
17           perhaps run through it briefly.

18           Clearly the point is being made here that there have  
19           been changes to address some of the deficiencies, the  
20           past deficiencies and issues and systemic problems.  
21           It's said in terms that since devolution there have been  
22           a number of significant changes designed to reduce risk  
23           of prisoners, including children, experiencing abuse and  
24           to improve the lives of those who remain in custody.

25           Of course, paragraph 2, on page 28, is the

1 significant change in -- is the reduction in the number  
2 of children being accommodated. We have been through  
3 that. That is the direction of travel. We now have  
4 five at the moment --

5 MR RENNICK: Yes.

6 Q. -- in SPS custody.

7 Page 29. There is a recognition that while there  
8 has been improvement more must be done. This is again  
9 echoing what the Care Review Promise was asking for in  
10 the commitment of Ministers to support the removal of  
11 young people under 18 from the prison estate. I think  
12 you have told us about where we are with that and what  
13 the Government's position is on that. I'll not take  
14 that further at moment.

15 Perhaps when we meet again you can give us  
16 an update, if there's been any change, if you could?

17 You have obviously -- we spent a bit of time on this  
18 earlier today, about the development of the organisation  
19 over the relevant period, including the various visions,  
20 mission statements, frameworks and so forth, so I'm not  
21 going to go back over that again.

22 You make the point, at paragraph 4, on page 29, that  
23 policy and practice continues to develop. I suppose  
24 that's as it should. But I think there is some way to  
25 go to perhaps achieve the full aims of the vision.

1           You may not want to put it in precise terms, but it  
2           sounds like what you have said, not necessarily for  
3           children and young people to the same extent as maybe  
4           some others in the group, because the vision applied to  
5           everyone in prison, and I appreciate we are not here to  
6           look at everyone in prison, but you would say least so  
7           far as young people are concerned, under 18, we're  
8           getting nearer a solution to the -- some of the  
9           difficulties?

10       A. Yes, a completely different vision in terms of not being  
11       in YOI at all.

12       Q. The vision is we'll not have them here at all, and we're  
13       trying to achieve that very quickly?

14       A. Yes.

15       Q. On page 30 -- again, I'm not going to go back through.  
16       We've looked at the steps to address system failures and  
17       we can see examples of that in paragraph 5 and I think  
18       we have discussed quite a number of these already today.  
19       Unless you feel there is anything you want to add, then  
20       it's there to be read. I think we have covered most of  
21       that on page 30. Thirty-one, we've discussed some of  
22       the matters earlier today, and 32, the developments in  
23       the past 10 or 20 years and so forth.

24                Just one thing, there is on page 32 however, control  
25       and restraint. I just want to be clear, I understand --

1 I think it was perhaps Sue Brookes who told us about  
2 this -- there is currently a review of control and  
3 restraint and a pilot project that's under way at  
4 Polmont?

5 MS MEDHURST: There are two pilots currently operating. One  
6 at Polmont and one at HMP and YOI Stirling. The  
7 intention is to extend the pilot to include a male adult  
8 establishment as well. So, yes, they are currently  
9 running and being evaluated.

10 Q. Perhaps when you return we might get some update on that  
11 and maybe a little more information about what is  
12 involved, if we could. I think it would be helpful to  
13 know. I think it suggests that it's, generally  
14 speaking, to try and remove pain-inducing forms of  
15 restraint which are currently permitted under the  
16 current restraint manual and policy?

17 MS MEDHURST: It's not just about removing pain. It's also  
18 about helping staff understand why people behave in  
19 distressed or violent ways, to better understand some of  
20 the research and evidence surrounding that, and also to  
21 include a formal review process after every application  
22 of restraint. That involves talking about the young  
23 person who has been restrained, as well as speaking to  
24 the staff and looking at ensuring that either you  
25 improve the practice of the staff or you improve the

1 actual pilot itself, so it's an ongoing iterative  
2 learning process.

3 Q. You are possibly trying to reduce the incidents of  
4 restraint completely by more training and trying to find  
5 alternatives that would avoid the situation arising in  
6 the first place. You are trying to, if it's necessary,  
7 use techniques that would not involve infliction of pain  
8 that are currently permissible. So that's also being  
9 considered as well, is it?

10 A. It is about ensuring that we don't apply pain as far as  
11 possible. But also, as you indicated, Mr Peoples, it is  
12 about improving learning and understanding, not just  
13 about violence or distressed behaviours and why that  
14 occurs, but also where we have individuals whose  
15 behaviours exemplify that on a more frequent basis to  
16 better understand that individual. And also put in  
17 place measures and supports to help that individual  
18 through those -- to prevent those distressed periods  
19 occurring in the future.

20 Q. Historically, if someone kicked off, to use the  
21 colloquial expression, there was fairly summary justice  
22 in terms of putting them somewhere until they calm down  
23 and not necessarily look at the underlying reasons why  
24 they might have behaved like that in the first place,  
25 whether through prison conditions or conditions before

1 coming into custody?

2 A. There would always be engagement with an individual, but  
3 certainly not in the structured way we're doing at the  
4 moment. This is quite a significant shift in our  
5 practice.

6 Q. At page 33, we have been through a number of these  
7 changes, cell-sharing risk assessments and various  
8 policies. We heard about restorative justice from  
9 Sue Brookes and how that came about when she was at  
10 Polmont. Obviously, we have the Child Protection Policy  
11 that was introduced in 2018, on page 33. There is  
12 reference to that.

13 Over the page, 34, it's rehearsing what we have  
14 already been discussing, the identification of examples  
15 of system failures and they're described again, and  
16 obviously the change to the system of slopping out.

17 The provision of separate accommodation for children  
18 at Polmont in 2010; that is mentioned in 34. We have  
19 been there as well.

20 Also the much wider range of support services and  
21 purposeful activity available to young people. I'm not  
22 doing an injustice to the report, but there is a huge  
23 list of programmes that you gave and we certainly are  
24 aware of that, so we can see from that the range of  
25 activity now, which I suspect you will be able to

1 confirm would not have been the range of activity  
2 available in previous decades?

3 MS MEDHURST: No, it wouldn't have been available, and  
4 certainly not -- we have focused a lot on Longriggend  
5 today, but it certainly wouldn't have been available at  
6 that time in that type of establishment.

7 Q. There has been a transfer -- this is page 35 -- of  
8 healthcare services to the NHS. There is more perhaps  
9 social work involvement, Social Services, Local  
10 Authorities and others, with those in custody and also  
11 other groups as well that no doubt assist in giving them  
12 support.

13 One matter that was raised, but I don't know whether  
14 you can confirm that Dr Mitchell said was to some extent  
15 he perceives at times since this transfer of healthcare  
16 services in 2011 that there may be at times tensions  
17 between prison staff and healthcare staff who operate in  
18 this joint environment.

19 I don't know whether that's your experience or  
20 whether you have heard, that's been reported back, that  
21 there can be differences as to the way they work and  
22 think, and the way they want to manage situations; are  
23 you aware there's anything of that nature that at least  
24 needs to be looked at?

25 A. My assessment of that would be, Mr Peoples, that



1 relationships on the ground operationally, between NHS  
2 staff and SPS staff, generally tend to be very good.  
3 Where there are tensions are where there are resource  
4 pressures on either organisation.

5 Equally, I think from some of the work that's been  
6 undertaken recently, there is some evidence as well of  
7 a lack of understanding around demarcation with regard  
8 to roles and responsibilities, and there is some work  
9 being progressed in relation to that.

10 Q. In fairness, Dr Mitchell was an advocate of the move in  
11 an earlier stage to teamworking, where the prison doctor  
12 didn't have to take all the management decision, for  
13 example, of people who were on some sort of suicide risk  
14 and were wearing body belts. So he welcomed that and  
15 the change. It was a team effort, people discussed it  
16 as a team and took appropriate decisions and made  
17 appropriate assessments.

18 He was just saying that at least there's always,  
19 perhaps, aspects of that sort of merger that can lead to  
20 tensions. You have obviously described there can be  
21 situations where perhaps it may be down to demarcation  
22 and perhaps resource issues as well. So it's not  
23 necessarily an ideal situation, but it's a better  
24 situation than before?

25 A. Yes, absolutely.

1 Q. The tragedy of this could be said to be that all these  
2 recent developments and measures are coming for children  
3 and young people in custody at a time when at least  
4 a section of them are to be taken out of the system.  
5 It's a welcome development, but I suppose some might say  
6 it would be more welcome if the children had been taken  
7 out of the system, 10, 15, 20 years ago, rather than  
8 trying to keep them in the system and improve their lot?

9 MR RENNICK: There's clearly been a lot of development in  
10 terms of the understanding. As you have said earlier on  
11 children's rights, but also around the fact that it  
12 supports young people within the criminal justice  
13 system.

14 Equally, a lot of the benefits that are identified  
15 here, and have been identified both by the Inspectorate  
16 and the prison monitors, those aren't limited to young  
17 people aged under 18. They apply to the population  
18 within the YOI, so those would continue on after the  
19 (Care and Justice) Bill --

20 Q. Yes, that is a point that Sue Brookes made. While one  
21 could make the argument they should have taken the  
22 children out, these improvements that have been  
23 described will benefit young people as a class?

24 A. Yes.

25 Q. Those from 18 to 21 who will stay in the system --

1 A. Yes.

2 Q. -- if they require custody?

3 MS MEDHURST: Just in addition to that, what I would add is  
4 that the learning that we take, both from the young  
5 person's strategy and the women's strategy, will also  
6 inform the strategy for adult men. You can see that in  
7 the introduction of pain-free restraint and the pilots  
8 we are now moving to male adults establishments, so it's  
9 not being held solely within that population.

10 MR PEOPLES: I think Sue Brookes said at least the  
11 preparatory work that was done to look at understanding  
12 why women offend was quite considerable and drove these  
13 changes and models and bespoke policies. That exercise  
14 is still at an early stage for adult prisoners, is it  
15 not? Male.

16 A. It's been more of an iterative process, and what we're  
17 trying do at the moment is not only understand the  
18 drivers around the male adult population, but also use  
19 the experience and learning from women's strategy and  
20 the young person's strategy to better inform the work we  
21 do with male adults.

22 Q. Just finishing with this part, it's acknowledged, on  
23 page 5, that the scale of abuse is likely to be much  
24 greater than the records disclose.

25 On that, on any view, without trying to put

1 artificial numbers, given the overall numbers we talked  
2 about at the beginning of yesterday, abuse in the prison  
3 setting was widespread?

4 A. We have accepted there has definitely been  
5 underreporting. So, therefore, the assumption that  
6 I think we can reasonably make is that it was far  
7 greater than the extent to which we have been able to  
8 evidence and provide evidence to the Inquiry.

9 Q. If I suggest, would it be fair to say, on the basis of  
10 available evidence, it's fair to conclude that many  
11 children in the prison system will have experienced  
12 abuse of one kind or another between 1930 and 2014?

13 A. Given the nature of the physical estate, overcrowding,  
14 some of the prison rules and the conditions, I think  
15 that would be a fair assessment.

16 Q. If one is being -- if one was looking at it very  
17 sharply, one could say until slopping out by children  
18 ceased, all children in the prison system suffered some  
19 form of abuse, because slopping out was abuse?

20 A. Yes.

21 Q. Many suffered poor living conditions?

22 A. That's correct.

23 Q. So --

24 A. We accept that, yes.

25 Q. Also what the review shows is that there was knowledge

1 of this state of affairs on part of the State. It's  
2 just that that knowledge hasn't been collected together,  
3 reviewed and analysed in the way you've done to produce  
4 these acknowledgements now, but evidence was available  
5 and the knowledge was there?

6 A. Yes.

7 MR RENNICK: There was both evidence and what we have  
8 discussed in terms of record keeping, the lack of it, as  
9 well as ...

10 LADY SMITH: Sorry, you said evidence and?

11 MR RENNICK: A lack of evidence in some places where  
12 evidence wasn't recorded.

13 LADY SMITH: And you are content to draw the inference from  
14 that, that there's nothing there that contradicts the  
15 proposition that Mr Peoples has put to you about many  
16 children suffering abuse?

17 A. Yes.

18 LADY SMITH: Thank you.

19 MR PEOPLES: I said I might take you to the specific  
20 incidents in appendix 1, but I'm conscious of the time.  
21 I don't think it's necessary because we can read those  
22 and I think they are -- they give a history of  
23 complaints and to what extent they were -- how they were  
24 dealt and the information available, in terms of what  
25 happened in each case.

1           So far as the specific incidents, can I say this:  
2           the specific incidence in appendix 1, parts 1, 2, and 3,  
3           are a collection of the cases that were identified.

4           I think there was around 145, if I counted  
5           correctly. These are for the period 1990 to 2014.  
6           There are specific complaints or incidents. I think  
7           "incidents" is a better word that occurred at Barlinnie,  
8           Glenochil, Longriggend and Polmont in that period drawn  
9           from incident reports and records that were available  
10          for the purpose of the review.

11          Can I just say this, without going to the specifics  
12          of examples: there are some broad points that come out  
13          of it and one is that the incidents were mainly  
14          involving one inmate complainer and one or more inmate  
15          perpetrators. That tends to have been most of the  
16          cases. There are some incidents or complaints involving  
17          allegations against staff, but they're very much in the  
18          minority.

19 MS MEDHURST: Yes, that's correct.

20 Q. What the complaints that have been selected involve are  
21          very often alleged assaults on one inmate by one or more  
22          inmates. These take place in a variety of places, in  
23          cells, in holding areas, on the football pitch, during  
24          recreation, some in the shower area, and they could  
25          involve a variety of methods of assault, punching,

1           kicking, the use of an implement. It seems that  
2           although snooker cues and snooker balls have legitimate  
3           purposes snooker cues can be used as weapons and have  
4           been, as the example shows. One method that has been  
5           used is putting a snooker ball inside a sock to use as  
6           a weapon, so there are examples like that. So that's  
7           the sort of thing that can happen, and there are lots of  
8           fights over time.

9   MS MEDHURST: Yes.

10  MR PEOPLES: Generally speaking -- and this may reflect the  
11           group that was selected -- the complainer is younger  
12           than the alleged perpetrator, sometimes by a few years.  
13           I think we have the very bad example of the 17-year-old  
14           being raped in the cell by the 20-year-old, who was  
15           convicted and got 15 years.

16           Generally, the complainer seems to be the younger  
17           party for whatever reason. In some instances, there is  
18           a clue from intelligence why they might have been preyed  
19           upon, but not often. There are not lots of explanations  
20           of the background?

21  A. No.

22  Q. In some cases, perhaps, I think it's the majority, there  
23           is no reference on the records to the matter being  
24           reported to the police, though it clearly involved  
25           criminal activity. I think that's a point you have made

1           already?

2    A.   Yes.

3    Q.   Therefore, it appears that many of the incidents were  
4           dealt with internally by the governor; is that right?  
5           Or at least internally?

6    A.   So there would be a report made out to the governor and  
7           a charge laid against the individuals who had  
8           perpetrated the violence and that would be dealt with by  
9           the governor.  But I think I said yesterday that the  
10          matter would be referred to the police and the governor  
11          could decide to defer an outcome until the police  
12          investigation had concluded.

13   Q.   I'm not going to Part D, but to some extent it expands  
14          on this, but I don't think we need to because we have  
15          seen enough.  If we want to go to the pre-1990 period,  
16          then to some extent you have given examples over time of  
17          incidents involving people in detention generally  
18          involving other people in detention as the alleged  
19          assailants.

20                We have discussed this earlier.  There is very few  
21                things about staff being recorded, although there are  
22                some.  The ones involving staff tend to involve  
23                allegations, perhaps, of assault or in some cases there  
24                are cases of allegations about inappropriate strip  
25                searching or contact during strip searching, which you



1           can find in the report as well?

2    A.   Yes.

3    Q.   One of those cases, you comment the incident report  
4           doesn't suggest it was perhaps handled as well as it  
5           should have been because it may not have gone to the  
6           police?

7    A.   That is correct.

8    Q.   That is one in 1990 or so?

9    A.   Yes, yes. That is one that would definitely be referred  
10           to the police now.

11   Q.   I just wanted to finally ask you about this: training  
12           was something that was raised, and you tell us in the  
13           report about training over the years, and the first  
14           staff training college in Scotland opened in 1970?

15   A.   That's correct.

16   Q.   At Polmont? As of 1985, a full-time training officer  
17           had been established in all prison institutions. But  
18           would I be fair in saying that report, based on the  
19           references you have seen about training and what has  
20           been said in inspection reports, as to the effect that  
21           staff training was not, or not always, given the  
22           priority it ought to have received for various reasons,  
23           pressures of work, shortages of staff, overcrowding,  
24           whatever?

25   A.   Yes, that can impact on training and staff availability

1 for training.

2 Q. One matter that took me slightly by surprise when I read  
3 it was -- it said in the report there are no formal  
4 qualifications required to apply for the role of prison  
5 officer, including presumably officers with  
6 responsibility for children in custody. So is that  
7 still the position; that you can apply without any form  
8 of qualifications?

9 A. The decision was taken to remove the qualifications  
10 because we wanted to improve diversity within the  
11 organisation and encourage social mobility, and it was  
12 felt that these could potentially be barriers. However,  
13 we do have the cognitive ability tests that I referred  
14 to yesterday on both verbal and numerical reasoning, and  
15 there are people who unfortunately -- because we do have  
16 formal SVQs, four of them, which they need to achieve  
17 during the initial training period, should they not  
18 succeed in achieving those, then the probationary period  
19 would be terminated.

20 But, no, there are no formal qualifications  
21 required.

22 Q. In contrast to the Social Services workforces, social  
23 workers, care workers, residential care workers, they do  
24 have at least a regulator, the SSSC; there is no  
25 equivalent for the prison workforce?

1 A. No, there isn't.

2 Q. Another point, I think we have heard evidence that I  
3 think it was Dr Mitchell, who said that if you compare  
4 the intensity and level of training of prison officers  
5 in the UK, Scotland no doubt and south of the border,  
6 it's very much more limited and restricted than, say the  
7 training for being a prison officer in Norway. They  
8 have much more intensive training before they are let  
9 loose on the prison population.

10 Is that the case or have you researched that?

11 A. There has been -- there was extensive work done around  
12 2016/2017, both to modernise the college and with a view  
13 to introducing a diploma qualification, that formed part  
14 of an offer to the staff group which included a change  
15 in working conditions and, unfortunately, that didn't  
16 succeed.

17 However, the ambition for the organisation is still  
18 to improve the training offer by moving towards  
19 a diploma for prison officers.

20 Q. I get the idea that unions can no doubt be influential  
21 in whether there are significant changes to terms and  
22 conditions and you have to take them on board no doubt  
23 and get approvals and agreements in place. But at least  
24 you have tried so far, but you haven't perhaps got that  
25 sorted out yet?

1 A. That didn't succeed in 2018, as I say, but our ambition  
2 is still to move to that position.

3 Q. Is there still a Scottish Prison Officers' Association?

4 A. Yes.

5 Q. Is that still the main body?

6 A. Prison Officers' Association Scotland because they are  
7 now affiliated with the union in England.

8 Q. Is that the main union?

9 A. That is the main prison officers' union in Scotland,  
10 yes.

11 Q. Are most officers members of that union?

12 A. Yes, they are.

13 Q. It's a highly unionised environment?

14 A. It is. That is correct.

15 Q. Very well. Lastly, just on the effectiveness of  
16 training; do you accept that training is not just about  
17 content and its relationship to the job. That is  
18 obviously important. To be effective it has to be  
19 delivered in a way and in a form that will ensure it is  
20 absorbed, retained, and most importantly applied and  
21 I'm just wondering: what is the current mechanism to  
22 ensure that prison staff in practice are not only  
23 applying, but constantly applying what they've learned  
24 through their training, if the training is appropriate?

25 You mentioned a bit about this earlier, but I wasn't

1 entirely clear how that is done to make sure it is  
2 applied?

3 A. Through any of the training that's delivered there is  
4 always an evaluation at the end and for some elements of  
5 it there is an assessment of the learner's understanding  
6 of the training that's been provided by a questionnaire  
7 at the end to test out certain elements.

8 That is applied to some of the training for the  
9 ongoing, I suppose, performance management in relation  
10 to how that training is delivered through the role as  
11 prison officers, then that's through our appraisal  
12 system, and there are formal -- there should be monthly  
13 conversations with staff and the line manager and formal  
14 reviews at the six months and the yearly stage.

15 Q. One can probably find studies and research saying people  
16 go to training courses and can tick the boxes to say  
17 they understand what they've learned, and they go back  
18 to their workplace and don't apply the training.  
19 They've done the course, so they can tick that one off.  
20 That is the CPD's professional development, but we go  
21 back to what we do in practice?

22 A. I suppose in practical terms, if there are people who  
23 are not applying the processes, the practice, then that  
24 will come to light through a variety of means and should  
25 be addressed by the line manager through those monthly

1           conversations.

2   Q.   Recently, in other walks of life, there has been a rapid  
3       growth in e-learning, even among the Scottish  
4       Government; is it used by the SPS?

5   A.   We do use --

6   Q.   Largely or just as ...?

7   A.   There are refreshers on our platform and those  
8       refreshers are normally e-learning on an annual basis.

9   Q.   Has anyone researched how effective that method of  
10      learning is?  If you leave it to the staff to do  
11      e-learning, which involves self-learning at a distance  
12      perhaps?

13  A.   To be honest, I'm not sure I can answer that question at  
14      this stage, but I could come back on that.

15  Q.   It's just because I think that is to some extent quite  
16      a common method of trying to teach people on how to  
17      learn and improve their skills?

18  A.   Yes.

19  Q.   I'm conscious of the hour, I think I've asked all the  
20      questions I need today.  I'm sure if I have any I can  
21      pick them up when we meet again and you can deal with  
22      the points.  But thank you very much for the time that  
23      you've devoted today and yesterday to responding to my  
24      questions.

25           I think, lastly, I understand that you may want to

1           add something of your own, so with her Ladyship's

2           permission --

3   LADY SMITH: Absolutely. Please go ahead.

4   MS MEDHURST: Thank you very much, I appreciate the

5           opportunity.

6           I would like to make an apology and it's an apology

7           to all those children who have been subjected to abuse

8           whilst accommodated within a prison setting.

9           It is clear and it is accepted by me, and by the

10          Scottish Prison Service, that children who were

11          committed to prison establishments that were operated by

12          SPS, or its predecessors, were abused.

13          Children were subjected to physical abuse, sexual

14          abuse, psychological abuse and emotional abuse. They

15          had to endure slopping out, were subject to punishments

16          that were abusive and they experienced other practices,

17          regimes and conditions that were abusive or otherwise

18          plainly unacceptable.

19          I apologise unreservedly to those children who were

20          abused and to their families. I also recognise, accept

21          and apologise for the undoubted and subsequent impact

22          that the abuse will have had on the physical, emotional

23          and psychological well-being of those children, both

24          during and long after their departure from prison

25          custody.

1 I am determined and resolute to learn from the  
2 experience of survivors and the work of this Inquiry.  
3 I will carefully consider the evidence presented during  
4 this phase of hearings and I remain committed to  
5 ensuring that the Scottish Prison Service takes all  
6 steps that it can to care for and to protect from harm  
7 not only children and young people, but all of those  
8 committed to our care.

9 Thank you.

10 MR RENNICK: My Lady, Mr Peoples, I fully endorse the  
11 specific apology that has been expressed by  
12 Teresa Medhurst, the Chief Executive of the Scottish  
13 Prison Service, for the abuse experienced by children  
14 accommodated in prison settings.

15 As Director General for Education and Justice, for  
16 completeness, I also endorse the apology provided by  
17 Janie McManus, Strategic Director for Scrutiny, on  
18 behalf of Education Scotland.

19 With reference to Scotland's prisons, it's been  
20 clear in the evidence that we have provided and  
21 discussed today, that the factors that resulted in  
22 children being accommodated in prison settings and the  
23 harm experienced by those children in those settings did  
24 not exist in isolation from the operation of the wider  
25 justice system and the decisions taken by Government and



1 policies set by Ministers.

2 I apologise for the contribution that Government  
3 decisions and the action of officials made to the abuse  
4 experienced by children accommodated in prisons and YOI  
5 settings.

6 The current Scottish Government has set the ambition  
7 for no under 18-year-old to be accommodated in a prison  
8 or young offenders institution and I have committed that  
9 we are happy to update your Ladyship on the progress of  
10 that legislation through the Parliament.

11 Whatever setting children are accommodated in now  
12 and in the future, it is absolutely essential that they  
13 have access to appropriate support and are safe from any  
14 form of abuse.

15 Thank you.

16 LADY SMITH: My thanks to both of you for that. My thanks  
17 also for everything you've given us in your oral  
18 evidence yesterday and today, and before that in the  
19 extensive documentation you have provided, including  
20 your detailed responses to our Section 21 notices.

21 I'm sure that others will have been working hard on  
22 the analysis that contributed to that as well and  
23 drafting that went into it. Please pass on my  
24 acknowledgement of that and my thanks to them, because  
25 I recognise this is the result of some impressive

1 teamwork.

2 I'm now able to let you go for moment. Thank you.

3 MS MEDHURST: Thank you.

4 MR RENNICK: Thank you.

5 (The witnesses withdrew).

6 LADY SMITH: Mr Peoples.

7 MR PEOPLES: That is all the evidence for today, my Lady

8 I'm pleased to say.

9 We will have further oral evidence tomorrow from  
10 those who we call applicants. There will be evidence  
11 from two applicants tomorrow and, if time allows, there  
12 will be some evidence read in from applicants who have  
13 provided written statements.

14 That is the plan for tomorrow, hopefully.

15 LADY SMITH: Excellent. Well, I'll rise now and sit again

16 at 10 o'clock tomorrow morning for that evidence. My

17 thanks to everybody.

18 (4.12 pm)

19 (The Inquiry adjourned until 10.00 am

20 on Friday, 3 November 2023)

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