

Friday, 21 June 2024

1

2 (10.00 am)

3 LADY SMITH: Good morning. Today we turn to the final
4 submissions in Chapter 6 of our case study looking into
5 all forms of secure and similar care for children. That
6 means that Dr Guthrie's representation and Loaningdale's
7 representation have the opportunity to make such
8 submissions as they wish to do.

9 Mr Sheldon, just to allow you to introduce matters
10 first of all.

11 MR SHELDON: Yes, my Lady.

12 As my Lady says, this is the final day of Chapter 6
13 of our case study. We do I think have submissions from
14 Mr Haywood for Dr Guthrie's and Mr Macpherson for
15 Loaningdale.

16 LADY SMITH: Thank you very much.

17 Thank you.

18 Mr Haywood, good morning.

19 Closing submissions by Mr Haywood

20 MR HAYWOOD: Good morning, my Lady.

21 My Lady, Dr Guthrie's schools have a long history.
22 The Boys' school began in 1887 and the Girls' school in
23 1903. They closed in 1985 and 1986 respectively. It
24 would serve little purpose to here repeat further
25 aspects of the history of the schools. That was done in

1 documentation before the Inquiry, in the Association's
2 opening statement made last September and over the past
3 few weeks. It's been provided during the evidence
4 that's been placed before the Inquiry.

5 LADY SMITH: Just going back to when the schools were
6 founded, 1887 for the boys and 1903 for the girls. Am
7 I right in thinking that when they were founded they
8 were not residential initially; is that correct?

9 MR HAYWOOD: I believe that's the case, my Lady.

10 LADY SMITH: They were in the Old Town or somewhere around
11 there, I think, before, as matters progressed, they
12 moved to a site further out and were able to provide
13 accommodation for children as well.

14 MR HAYWOOD: Yes.

15 LADY SMITH: Yes. Thank you.

16 I take it you don't have a date for when they became
17 residential?

18 MR HAYWOOD: I don't have that before me, my Lady.

19 LADY SMITH: It's not critical, Mr Haywood, but it would be
20 interesting to have it if somewhere you had a date for
21 that. It helps us track for how long they've been
22 providing residential accommodation for children.

23 MR HAYWOOD: That will be checked, my Lady, and that will be
24 provided.

25 LADY SMITH: Thank you very much.

1 MR HAYWOOD: After the schools closed, the proceeds from the
2 sale of the properties were placed into trust. Since
3 then, 1987, the Association has functioned only as
4 a grant-giving organisation.

5 The Association has no employees. The trustees
6 engaged the services of Azets, who act as the
7 administrators for the Association, dealing with all
8 matters that are required of a secretariat.

9 The Inquiry heard of the engagement of a researcher
10 at an early stage of the Inquiry process, but then more
11 thorough investigation was undertaken by an archivist
12 employed for that purpose.

13 The schools' records are held at the National
14 Records of Scotland. There is some material with Azets,
15 but the bulk of it is obviously at the National Records
16 of Scotland.

17 At the conclusion of the evidence given by the Chair
18 of the Association, my Lady observed that it stood out
19 that the Association had been given a number of
20 extensions to the time limits that had been set for
21 formal requests made by the Inquiry to it. Counsel to
22 the Inquiry put it to the Chair of the Association that
23 it had not been particularly forthcoming with
24 information at certain stages of the process.

25 The Chair of the Association gave an unqualified

1 apology, my Lady, and to the extent that any criticism
2 is directed to advisers, I also apologise.

3 LADY SMITH: Thank you.

4 MR HAYWOOD: My Lady, I wish to say that the Association has
5 never intended to be unco-operative, nor disrespectful
6 to the Inquiry and nor has its advisers. It's
7 appreciated that many organisations before the Inquiry
8 will find themselves as no longer a going concern, as it
9 were, in the sense that their current operations may not
10 be a continuation of the institution under
11 investigation.

12 Nevertheless, the Association wishes it said that
13 it's embarked upon the collection of information without
14 the benefit of anyone within it having an institutional
15 knowledge from the time when the schools were actually
16 operating.

17 If the early work it undertook for the Inquiry was
18 not what it could have been, then it is hoped that this
19 was corrected by the engagement of an archivist, whose
20 evidence was also provided to the Inquiry.

21 The Inquiry will have judged for itself what an able
22 witness the archivist was and she has, in recent days,
23 given further assistance to the Association as it has
24 sought to provide the Inquiry with further records.

25 My Lady, that took some time, but that additional

1 information was provided yesterday.

2 LADY SMITH: Thank you.

3 MR HAYWOOD: The evidence before the Inquiry revealed the
4 shocking extent, nature and impact of physical, sexual
5 and emotional abuse suffered by pupils at the schools.
6 The Chair of the Association has followed the evidence
7 and when reflecting on it during her own evidence, she
8 several times described it as 'awful' and 'dreadful'.

9 She also referred to the incredible bravery of the
10 witnesses who had come before the Inquiry with their
11 evidence. The schools fell seriously short of the care
12 and protection that should have been provided to
13 children.

14 It's difficult to comprehend, indeed it cannot be
15 comprehended, how at an individual level such abuse and
16 cruelty could have taken place, but from what was
17 demonstrated by the evidence, worse still was that it
18 seemed that in certain instances the abuse and the
19 cruelty to children was known by others to have occurred
20 and yet little or nothing was actually done about it.
21 That is shameful.

22 I've said already that by 1986 the schools had
23 closed. That statement's not made with a view to
24 disassociation from the terrible things that happened.
25 During her evidence to the Inquiry, the Chair of the

1 Association confirmed that the Association considered
2 that it retained responsibility in the historic context
3 for what happened in the schools.

4 As indicated, the Chair has followed the evidence
5 before the Inquiry and has in no way sought to detach
6 the Association from the legacy of the schools, even
7 though they have not functioned for almost 40 years.

8 The grant money that the Association dispenses today
9 comes from the proceeds of the sale of the schools, and
10 in that sense every pound it gives is a legacy of the
11 schools.

12 LADY SMITH: What do you mean by that?

13 MR HAYWOOD: One can't detach what happens today from the
14 history of the Association with the schools and that the
15 funding that's given by this organisation comes from
16 income from property at which atrocities occurred.

17 LADY SMITH: Yes, and it's so far been going to people who
18 were not the targets of those atrocities.

19 MR HAYWOOD: Absolutely --

20 LADY SMITH: Is that correct?

21 MR HAYWOOD: Absolutely, my Lady, but it's still going to
22 children and perhaps the next comment -- I hope that the
23 next comment I make tries to give some context to that.

24 I appreciate that it's perhaps in a different
25 context, but I quote the words of James Baldwin and

1 would suggest that they are apposite:

2 'History is not the past. It's the present. We
3 carry our history with us. We are our history.'

4 I hope by presenting those words to the Inquiry that
5 it's a recognition that the Association with the past
6 cannot be removed.

7 LADY SMITH: Does Dr Guthrie's Association recognise that
8 today, as we know from our applicants alone, there are
9 people alive who suffered abuse when they were in the
10 residential supposed care of Dr Guthrie's, and, so far
11 as I'm aware, none of them have been the recipients of
12 what you refer to as legacies of the past?

13 MR HAYWOOD: That's accepted, my Lady.

14 LADY SMITH: I see. Thank you.

15 MR HAYWOOD: If I can turn to what the Association does
16 today.

17 It exists to give grants to organisations and in
18 particular to small charities, devoted to the care and
19 welfare of children and young people in Scotland who are
20 living in deprivation and around 70 organisations
21 benefit annually from these funds, which are reported to
22 have long-lasting, positive impacts on young people.

23 As a volunteer-run grant-making organisation, the
24 Association still strives to follow Dr Guthrie's
25 original 19th century vision, where he sought to change

1 the societal norm that saw children as commodities.

2 Instead he strove for children to be seen as those in
3 need of protection and nurture.

4 LADY SMITH: Education was his first priority, wasn't it?

5 He had a real justified concern that there were children
6 in Edinburgh who were receiving no education at all.

7 MR HAYWOOD: Yes, my Lady.

8 The schools were founded on that vision and
9 undoubtedly were meant to operate on exemplary
10 principles. But as the evidence before the Inquiry has
11 shown, abuse and cruelty came to exist within the walls
12 of places that had been designed for the very opposite.
13 That is a tragedy.

14 It is still Dr Guthrie's original vision that the
15 Association strives to meet through its purpose, as it
16 makes grants that help young people who are in need.
17 But inescapably, whilst the virtue and the goodness of
18 Dr Guthrie's vision is part of the Association's DNA, so
19 too is the awful truth that's come through the evidence
20 of abuse and cruelty within the schools.

21 The Association faces up to that dissonance of both
22 of these realities, as it continues to seek to do good
23 for vulnerable children and young people in Scotland.

24 It wishes to offer a heartfelt apology once again to
25 all those who have suffered,

1 Thank you, my Lady.

2 LADY SMITH: Thank you, Mr Haywood.

3 Turning now to Loaningdale School. I would invite
4 Mr Macpherson to address me.

5 When you're ready, Mr Macpherson.

6 Closing submissions by Mr Macpherson

7 MR MACPHERSON: Thank you, my Lady.

8 As your Ladyship is aware, Mr Knox, the current
9 Chairman of Loaningdale School Company, was present in
10 person or online to hear all of the evidence led
11 regarding Loaningdale School. And indeed he is present
12 again today, my Lady.

13 Mr Knox gave evidence on 11 June. He's grateful for
14 your Ladyship's understanding of the position he and the
15 Company are in, responding as they must to the Inquiry's
16 investigations into the school without having had direct
17 involvement with it while it was open.

18 There is evidence before the Inquiry in the form of
19 statements from some who were children at the school and
20 who describe abuse taking place there. I should at the
21 outset confirm what Mr Knox said in his own evidence on
22 11 June, that having seen this evidence both he and the
23 Company accept that children may have been abused at
24 Loaningdale. This is a matter of profound regret for
25 those that are currently involved with the Company.

1 The next thing I should say is that the Company
2 recognises that its original response, in particular the
3 Section 21 answers, could have been considered more
4 carefully at the time. I hope the Inquiry will
5 appreciate why the answers were mostly 'no' or 'not
6 applicable', but the Company accepts that perhaps if it
7 had taken advice at the time or entered into further
8 dialogue with the Inquiry it might have been possible to
9 respond in a more helpful way.

10 It may be fair to say that when the Inquiry first
11 contacted the Company its managers had not previously
12 considered the extent to which they were, in fact, the
13 successors of those involved with running the school.

14 The Inquiry has heard from Ann Matheson and
15 Bill Whiteside, who were directly involved with the
16 school as a trustee and as deputy headmaster
17 respectively. It has the written evidence of the board
18 member, Hazel Gourlay. The Inquiry has heard that the
19 school was seen as offering an alternative to the more
20 traditional model at other residential schools. The
21 school seems to have been run on the basis of giving
22 much more freedom to the children who were resident
23 there. While there may have been benefits arising from
24 that, it seems also to have brought its own problems.

25 LADY SMITH: It was inevitably risky in that there were

1 aspects of the way it was being run that were frankly
2 experimental, seeing if the children could run certain
3 aspects of it for themselves, for example. It was not
4 necessarily going to work, but in fairness, for many
5 years, with a good head, much that was positive was
6 achieved, I can see that.

7 MR MACPHERSON: The word 'experimental' runs throughout the
8 evidence, my Lady, and I appreciate your Ladyship's
9 comments about that.

10 LADY SMITH: Yes.

11 MR MACPHERSON: Indeed, as your Ladyship says, the evidence
12 does indicate, in particular from the three individuals
13 who worked at the school, much that might be said to
14 have been positive and indeed even from --

15 LADY SMITH: From some of the applicants, yes.

16 MR MACPHERSON: I don't propose to comment further on the
17 evidence, my Lady. As your Ladyship is aware, no one
18 presently with the Company has direct knowledge of the
19 school as it was prior to its closure in 1989 or 1990.
20 What is to be made of all of the evidence is entirely
21 a matter for your Ladyship.

22 As the Inquiry is aware, the Company exists solely
23 as a charity managing and dispersing funds. It does so
24 for the benefit of children and young people. I hope
25 the Inquiry will accept that whatever findings it makes

1 about the school while it was open, its remaining assets
2 will be put to good use.

3 LADY SMITH: What do you mean by that, Mr Macpherson?

4 MR MACPHERSON: I mean in the general sense, my Lady, given
5 its purposes and of course I've heard what my Lady has
6 said to Mr Haywood.

7 My Lady has heard also Mr Knox's evidence about
8 dealing with those and indeed claims and I appreciate
9 not matters directly for your Ladyship in this context,
10 but I hope my Lady can be assured that there is
11 an intention to, as Mr Knox said, deal with those who
12 have come forward with complaints about the way they
13 were dealt with.

14 LADY SMITH: I do appreciate that, Mr Macpherson, and noted
15 it at the time.

16 MR MACPHERSON: I appreciate -- my wording expressed there
17 is in general.

18 LADY SMITH: Thank you.

19 MR MACPHERSON: Then, finally, I can update the Inquiry on
20 the further investigations that Mr Knox undertook to
21 make when he gave evidence on 11 June.

22 He has since then visited the current owner of
23 Loaningdale House. He was told by the owner that there
24 were no records remaining in relation to the school. He
25 understands that none were found when the current owner

1 took occupation.

2 He has enquired with the National Records of
3 Scotland. They provided him yesterday with a list of
4 records that relate to a number of institutions,
5 including Loaningdale, and which are concerned among
6 other things with discipline and management.

7 LADY SMITH: Do you have any more detail than that as to
8 what sort of documents they found for example?

9 MR MACPHERSON: No, my Lady. All I have seen is the list,
10 which I think the Inquiry solicitor has, and it appears
11 to me at any rate that these may include documents which
12 the Inquiry may already have, but I think investigations
13 are ongoing to try and identify whether there is
14 anything that the Inquiry does not have.

15 LADY SMITH: That is helpful that something has been
16 uncovered. Thank you.

17 MR MACPHERSON: I appreciate that, my Lady, thank you.

18 Then, just finally, Mr Knox also made contact again
19 with Dr O'Brien of the Mitchell Library and with His
20 Majesty's Inspectorate, but he has not so far received
21 a response and as soon as he does the Inquiry will be
22 updated.

23 LADY SMITH: Thank you.

24 MR MACPHERSON: My Lady, it just remains for me to reiterate
25 that the Company appreciates the importance of the

1 Inquiry's work. The welfare of children and young
2 people is at the core of what the Company seeks to do
3 and it is grateful for the opportunity to take part in
4 this chapter of the Inquiry and hopes that its
5 involvement might be of some assistance.

6 Thank you, my Lady.

7 LADY SMITH: Thank you very much, Mr Macpherson.

8 Mr Sheldon.

9 MR SHELDON: My Lady, that does draw to a close the oral
10 part of these hearings.

11 My Lady, the next chapter, Chapter 7, will commence
12 unusually on a Monday, Monday, 1 July, and run for two
13 weeks.

14 Once again, Ms Forbes and I will be conducting the
15 hearings. These are hearings into three establishments,
16 Bellfield, Cardross Park and Calder House, all of which
17 started life as remand homes and became so-called
18 assessment centres with the advent of the 1968 Act.

19 LADY SMITH: Yes.

20 All of which, particularly Bellfield and
21 Cardross Park, we have touched on in passing with some
22 applicants in other chapters, but this is an opportunity
23 to look at them in a little more detail than we have
24 done already.

25 MR SHELDON: Yes, my Lady, yes.

1 LADY SMITH: Thank you very much.

2 Thank you all for your assistance today.

3 I'll rise now and will not sit again until 1 July.

4 (10.23 am)

5 (The Inquiry adjourned until 10.00 am on

6 Monday, 1 July 2024)

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