

OPUS 2

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Scottish Child Abuse Inquiry

Day 21

October 31, 2017

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1 Tuesday, 31st October 2017
 2 (10.00 am)
 3 Opening remarks by LADY SMITH
 4 LADY SMITH: Good morning. I'm Lady Smith. I'm chair of
 5 the Scottish Child Abuse Inquiry and I welcome you to
 6 the continuation of phase 1 of our public hearings. To
 7 any of you who have not been here before, I hope you
 8 have been able to find your way round the hearing suite
 9 and make yourselves comfortable, but if you have any
 10 queries please don't hesitate to speak to a member of
 11 the Inquiry team.
 12 Also, it remains important to me that any member of
 13 the public who wants to attend, listen to and watch our
 14 public hearings feels able to do so. That can be done
 15 here in the hearing room or by watching the screen in
 16 the sitting room outside the hearing room, when it is
 17 available.
 18 Also, anyone who wants to follow the evidence but
 19 isn't able to be here in person will be able to do so
 20 each day by viewing a transcript of the day's
 21 proceedings on our website. That's also where we will
 22 continue to publish any updates of the arrangements for
 23 hearings, including witness schedules, so please do
 24 check it regularly. Updates will also continue to be
 25 tweeted. Our Twitter account details are on the

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1 website; they are @scottishcai.
 2 During the part of this phase that we heard about
 3 earlier in the year, evidence was led in relation to
 4 three particular areas. Firstly, the nature, extent and
 5 development of the state's role in and responsibility
 6 for children in residential care, including foster care.
 7 Secondly, the history and governance of various
 8 organisations that provided care for children on
 9 a residential basis. And, thirdly, the background to
 10 and reasons for the formation of survivor groups.
 11 In this part of the phase we will be continuing to
 12 hear evidence in relation to the state's role in and
 13 responsibility for children in residential care in
 14 particular. Due to, amongst other things, the
 15 non-availability of a key witness, we won't be able to
 16 complete this phase until some time in the first quarter
 17 of next year. But as you may already be aware, we will
 18 be starting phase 2 during which we will embark on the
 19 first of our case studies at the end of November.
 20 That's all I have to say just at the moment and I'm
 21 going to pass over to senior counsel to the Inquiry,
 22 Mr Colin MacAulay. Mr MacAulay.
 23 MR MacAULAY: Yes, good morning, my Lady. There are two
 24 preliminary issues before we launch into the evidence
 25 that I propose to lead today.

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1 There are two new core participants who are
 2 appearing today, that's Police Scotland and the
 3 Care Inspectorate. My learned friend,
 4 Ms Van Der Westhuizen, appears for the Police Scotland
 5 and Mr McClure appears for the Care Inspectorate and
 6 perhaps they can make themselves known to your Ladyship.
 7 LADY SMITH: Yes. I see Ms Van Der Westhuizen; good
 8 morning. I'm just looking for the Care Inspectorate --
 9 MR MCCLURE: Good morning, my Lady.
 10 LADY SMITH: Good morning.
 11 MR MacAULAY: The second preliminary issue relates to a
 12 matter that Mr Anderson on behalf of the Good Shepherd
 13 Sisters wishes to raise. I understand that Ms Van
 14 Der Westhuizen, on behalf of Police Scotland, wishes to
 15 respond to that.
 16 LADY SMITH: Mr Anderson?
 17 Statement by MR DAVID ANDERSON
 18 MR DAVID ANDERSON: Yes, my Lady, good morning.
 19 My Lady, your Ladyship's enquiry offered this
 20 opportunity to make a further statement by way of
 21 an update following the statement given by or on behalf
 22 of the Good Shepherd Sisters on 12th July 2017.
 23 LADY SMITH: Yes.
 24 MR DAVID ANDERSON: In the course of that statement
 25 your Ladyship raised with me a matter which had not

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1 previously been brought to my notice; this was the
 2 conviction of a person for serious offences against
 3 children, certain of which occurred while he was
 4 employed at the Ladymary School in Colinton. The
 5 Inquiry has heard that this was an establishment with
 6 which the Good Shepherd Sisters were involved up until
 7 1979.
 8 LADY SMITH: Yes, the matter had been widely reported in the
 9 press, Mr Anderson, at the time of the conviction.
 10 MR DAVID ANDERSON: Yes, my Lady.
 11 I have been advised by the Inquiry team that I'm not
 12 permitted to name this individual in this statement.
 13 LADY SMITH: No; I have a restriction order that still
 14 applies to that.
 15 MR DAVID ANDERSON: Yes. There are some points which I have
 16 been asked to make on behalf of the Good Shepherd
 17 Sisters in relation to the events of the 12th July 2017
 18 and I have been asked to update your Ladyship on the
 19 position and that's what I propose to do now, if I may?
 20 LADY SMITH: Please do.
 21 MR DAVID ANDERSON: First of all, after discussion with
 22 those instructing me from the firm of McSparren
 23 McCormick, it is clear to me and to them that the
 24 investigation and prosecution of this individual wasn't
 25 brought to their notice either.

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1 Your Ladyship raised this matter with me as I was
2 about to make a submission as to the position adopted by
3 the congregation in respect of the acknowledgement of
4 abuse.

5 In her evidence, Sister Rosemary Kean had not
6 offered any such acknowledgement on the basis that all
7 she was aware of was the trial of two elderly sisters
8 who had been acquitted following a prosecution. Now,
9 the tenor of the submission which I had intended to make
10 was as to the rationality of that position in our
11 society where we respect the verdict of juries .

12 My Lady, just as the Sisters consider that verdicts
13 of acquittal are respected so they must, and they do,
14 respect the verdict of guilt in respect of this
15 particular individual. The Sisters must and they do
16 therefore acknowledge that abuse of at least one child
17 took place in this particular establishment. The
18 Sisters are appalled and dismayed at this and, as stated
19 in Sister Rosemary's supplementary statement submitted
20 to your Ladyship, they acknowledge that they failed in
21 their duty to protect a child in their care. For that,
22 my Lady, they apologise.

23 LADY SMITH: Thank you.

24 MR DAVID ANDERSON: The Sisters acknowledgement, my Lady,
25 that given the serial offending by the individual

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1 concerned, his victims may not be restricted to one
2 child in their care. The Sisters have no further
3 information in this respect but they ask that if such
4 information is held by the Inquiry, or indeed elsewhere,
5 this is brought to their notice.

6 It must be pointed out my Lady, for the avoidance of
7 any doubt, that Sister Rosemary Kean gave her evidence
8 without any knowledge of the investigation into this
9 individual, his prosecution nor his conviction. If
10 there is any suggestion, perhaps made elsewhere, that
11 she attempted to conceal matters from the Inquiry or
12 gloss over this in her evidence, that suggestion is
13 strongly refuted.

14 LADY SMITH: No. I suppose, in fairness to you,
15 Mr Anderson, there was reference to knowledge of
16 enquiries into allegations made just about
17 contemporaneously with the events that were the subject
18 of these charges, from which it might be inferred that
19 what was being remembered was investigation at the time
20 being made into complaints by at least one of the
21 complainers in what is now a series of convictions.

22 MR DAVID ANDERSON: Yes, my Lady. That's something I'm
23 going to come to deal with in just a moment.

24 Just to finalise this point, the Good Shepherd
25 Sisters state for the record that they were given no

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1 notice whatsoever of the prosecution of the individual,
2 the investigation into him by either the prosecution or
3 the defence. They understand that on the prosecution
4 side of things my learned friends representing
5 Police Scotland can confirm this that the Sisters
6 weren't contacted during the investigation .

7 It is obviously not appropriate to make a similar
8 request of the defence in that matter but, as
9 I understand it, no representative of the Sisters was
10 called as a witness for the defence in the trial .
11 That's as far as we can go in that respect.

12 So what I submit, my Lady, is clear is that
13 Sister Rosemary gave her evidence in complete ignorance
14 of the ongoing proceedings against this individual .

15 Following the 12th July 2017, the Sisters submitted
16 three further documents to the Inquiry. These were
17 updated versions of the parts A and B and parts C and D
18 questionnaire response and an additional statement made
19 by Sister Rosemary Kean on behalf of the Congregation.

20 Obviously the Congregation took legal advice as to
21 the procedural steps they ought to undertake in light of
22 the developments on the 12th July, but the terms of
23 these document, my Lady, are the Sisters ' own words and
24 their content isn't filtered by their lawyers.

25 Your Ladyship's enquiry has these documents and, as

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1 I understand it, they now form part of the evidence. On
2 that basis, I don't propose to go through these
3 documents in detail, but there are two matters which
4 I would like to address. It is not necessary for
5 your Ladyship to have these documents before her for
6 this purpose.

7 LADY SMITH: Yes.

8 MR DAVID ANDERSON: First of all, the Congregation would
9 wish to make clear that Sister Rosemary Kean did not at
10 any time work with the individual concerned at the
11 Ladymary School or elsewhere. The Congregation have
12 ascertained that this individual was employed in another
13 establishment until 1974, after which he was employed at
14 the Ladymary School. It is noted on the additional
15 statement that by this time Sister Rosemary had entered
16 the God Good Shepherd Convent and was living in London.
17 She did not work at Ladymary School at the same time as
18 this individual .

19 Second, and this was the point your Ladyship raised
20 with me and I hope I can provide some clarity to it, in
21 the additional statement, and for the transcript this is
22 on page 2, paragraph 5 of that the Congregation makes
23 a statement based on an understanding that there were
24 two complainers in the prosecution who were relevant to
25 the Ladymary School --

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1 LADY SMITH: By the time of the trial there were two
2 surviving complainers; one was deceased by then.
3 MR DAVID ANDERSON: However in terms of complainers relevant
4 to the Ladymary School, in terms of the indictment which
5 I have seen, there is one complainer who is relevant in
6 that prosecution.
7 LADY SMITH: Yes.
8 MR DAVID ANDERSON: What the Congregation go on to state in
9 the additional response is they have no way of knowing
10 if the allegation discussed in the section D response,
11 which is what your Ladyship is referring to, pertains to
12 this victim or another victim.
13 That response was submitted in short order after the
14 12th July and, after further looking into the matter and
15 on sight of the indictment, the Congregation has had the
16 opportunity to consider this point and they are able to
17 state that the allegations discussed in the part D
18 response do not relate to the same complainer and the
19 same victim —
20 LADY SMITH: I see. So that was somebody else in the 1970s?
21 MR DAVID ANDERSON: Yes. What follows from this, my Lady,
22 is that this individual is convicted of offences against
23 one person who was in the care of the Ladymary School,
24 and while the Sisters are now aware that one other
25 person made complaints against him historically. And

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1 there's a process which is described in the part D
2 response, and after that process a decision was made
3 that those complaints weren't well founded. Given
4 what's now known about this man, the Congregation
5 obviously must question whether that process was flawed
6 and the complaint may well indeed have been well
7 founded. That this process could have been flawed is
8 a matter of deep regret to the Congregation.
9 My Lady, it may be that the Inquiry knows more of
10 this than the Congregation does, but the Sisters are
11 presently without any further information to enable them
12 to assess this matter further. But they do acknowledge
13 that it stands to reason that this complaint may be of
14 substance.
15 There's one other matter which I have been asked to
16 highlight on behalf of the Congregation, my Lady.
17 Sister Rosemary gave some evidence as to the practical
18 rules in terms of the treatment of children in their
19 care. After careful consideration of this, the Sisters
20 have asked me to advise your Ladyship that this document
21 was in fact known to every member of the Congregation
22 and was regularly used in meetings with lay staff.
23 My Lady, the Good Shepherd Sisters in their closing
24 statement to phase 1 made clear that they deplore the
25 abuse of children in any form and that they are happy to

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1 assist the Inquiry in any way required of them. Those
2 points are reiterated now.

3 Unless I can assist your Ladyship further, I have
4 nothing further to add in relation to this statement.

5 LADY SMITH: Thank you for that Mr Anderson. No further
6 questions.

7 MR DAVID ANDERSON: I am grateful, my Lady.

8 LADY SMITH: Ms Van Der Westhuizen, for the police, I think
9 there's something that you wish to say, no doubt, in the
10 light of the explanation that Mr Anderson has provided
11 about the state of knowledge of the order at the time.

12 MS VAN DER WESTHUIZEN: Indeed, my Lady. The statement is
13 being made at the request of the Inquiry and relates to
14 the individual to whom Mr Anderson has already referred
15 and who was convicted on the 29th June 2017 and who was
16 subsequently sentenced on 27th July 2017 —

17 LADY SMITH: Ms Van Der Westhuizen, can I ask you to make
18 sure you are speaking into the microphone. I can just
19 hear you, but of course people everywhere need to hear
20 you and so the microphone has to pick you up. (Pause).
21 That's much better thank you.

22 MS VAN DER WESTHUIZEN: Would your Ladyship like me to start
23 again?

24 LADY SMITH: No. I think your introductory comments
25 hopefully in general came across but if you can carry on

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1 speaking at that distance from the microphone that would
2 help.

3 MS VAN DER WESTHUIZEN: Indeed, my Lady.

4 The statement refers to the individual who was
5 convicted on 27th June 2017 and who was then
6 subsequently sentenced on 27th July 2017 to ten years'
7 imprisonment and that was for offences committed at the
8 Convent of the Good Shepherd Ladymary Residential School
9 in Edinburgh and at two other institutions.

10 The statement — in the statement I will simply
11 refer to the individual concerned as "the accused". For
12 the purposes of this statement, my Lady, information
13 regarding the Police Scotland investigation has been
14 provided by the Inquiry officer, who carried out the
15 investigation, and has also been obtained through
16 an examination of the contents of the Inquiry file by
17 a detective sergeant who is involved with
18 Police Scotland's response to the Scottish Child Abuse
19 Inquiry.

20 The Inquiry officer who carried out the relevant
21 investigation is a detective constable with
22 Police Scotland who has completed 20 years of police
23 service. At the time of the investigation, he was
24 working within the Public Protection Unit at Edinburgh
25 investigating reports of historic sexual abuse.

12

1 My Lady, Police Scotland understands that during
2 December 2012 one of the three complainers in the
3 subsequent trial, who I will refer to in this statement
4 as Mr X, began attending a counselling service for
5 persons who were historically sexually abused. During
6 those counselling sessions he disclosed non-recent
7 sexual abuse that he had experienced at a number of
8 residential establishments at which he had resided as
9 a child. A member of staff of that service then
10 contacted Police Scotland on his behalf.

11 On 15th April 2013, the Inquiry officer was
12 appraised of the circumstances of the Inquiry and he was
13 provided with the statements of Mr X. In those
14 statements, Mr X had reported that whilst he was a child
15 resident at the Convent of the Good Shepherd Ladymary
16 Residential School in Edinburgh he had been sexually and
17 physically abused by a member of staff who he named as
18 the accused.

19 The Inquiry officer involved my Lady was aware that
20 in historic cases of sexual abuse it is extremely
21 difficult to prove a case without witnesses or further
22 victims being identified. He therefore undertook
23 protracted enquiries both before and after the accused
24 was charged in an attempt to trace historic school
25 records, historic social work records and any possible

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1 witnesses.

2 Those enquiries my Lady were hampered by the fact
3 that the Convent of the Good Shepherd Ladymary
4 Residential School no longer existed in Edinburgh so he
5 was unable to contact them directly. He therefore
6 attempted to trace the historic school records through
7 a number of organisations tasked with the retention of
8 records but none of those were able to provide him with
9 any of the records.

10 As part of those enquiries he contacted the City of
11 Edinburgh Council, but he was informed that they had not
12 kept any records relating to the relevant school or its
13 pupils. He also contacted the Scottish Catholic
14 Archives, but they were unable to provide him with any
15 records of the relevant school and they advised him that
16 they did not hold records for the Order.

17 However, in an email, the archivist at the Scottish
18 Catholic Archivist suggested that Cora in Bishopton
19 might have information since the order of the Good
20 Shepherd Sisters in Glasgow had moved from Dalbeth to
21 Bishopton. So the Inquiry officer contacted Cora but
22 was advised they had no connection to Edinburgh.

23 But the email sent by the archivist also made
24 further suggestions recording the possible location of
25 the relevant records and that included an address for

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1 the Good Shepherd Convent in Staplehurst, Kent, together
2 with an email and telephone number.

3 In the Inquiry record, handwritten on that email,
4 next to the address in Kent, are the words "old folks '
5 home" and above the phone number is a corrected version
6 of the phone number and the words "no such number".

7 LADY SMITH: So what did that relate to? Did it relate to
8 the number that the police had used or to the number
9 that was being provided by --

10 MS VAN DER WESTHUIZEN: My Lady --

11 LADY SMITH: -- whoever altered envelope.

12 MS VAN DER WESTHUIZEN: -- it may refer to both.

13 Unfortunately, the Inquiry officer concerned doesn't
14 recall making -- he has identified the handwriting as
15 his own, it appears to be his, but he doesn't
16 specifically recall making those notes on the email. So
17 presumably it refers to either or both of those numbers.

18 Clearly, I think there was potentially a digit out
19 on the number that had been given and I think an attempt
20 was made to add a digit in that would reflect the
21 correct code, as far as I understand, but neither of
22 those appeared to be the correct number.

23 In addition, my Lady, there is also an automated
24 undeliverable message which is in response to an email
25 apparently sent by the Inquiry officer to the email

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1 address he had been given. So clearly the attempt there
2 had also been unsuccessful.

3 But, my Lady, I would add that at the time of the
4 investigation, the primary purpose of trying to make
5 contact with the Order would have been to recover
6 records linked with that investigation, rather than to
7 discuss the investigation with anyone from that Order.

8 In this regard, the Inquiry officer can't recall
9 whether or not he actually spoke to anyone at the Good
10 Shepherd Sisters, but what he is certain is that, even
11 if he did have a conversation or contact with someone
12 within the Order, it would only have been to ask
13 specifically whether records of the school were in
14 existence and that he would not have gone into details
15 of the case with that person or made a disclosure to
16 them.

17 LADY SMITH: So he thinks there might have been contact?

18 MS VAN DER WESTHUIZEN: My Lady, he doesn't know. He
19 doesn't think there was.

20 There is evidence of him attempting to have made
21 contact but he doesn't recall specifically making
22 contact and, even if he had, my Lady, he wouldn't have
23 discussed -- it simply would have been to request where
24 the records were, he would not have disclosed what the
25 nature of the enquiry was with the person he spoke to.

16

1 LADY SMITH: I'm a little puzzled by that because one might
 2 have thought, with this timescale, they might have
 3 wanted to find out if there was anyone still in the
 4 Order who might have been working at the school at same
 5 time as the accused, but obviously you have no
 6 instruction about that, judging by what is in the
 7 statement.
 8 MS VAN DER WESTHUIZEN: No, my Lady, I think the evidence is
 9 there is no evidence of current risk at that point,
 10 which was 40 years after the events of the --
 11 LADY SMITH: I was not thinking about risk; I was thinking
 12 about gathering evidence for the prosecution
 13 Ms Van Der Westhuizen.
 14 MS VAN DER WESTHUIZEN: Indeed, my Lady.
 15 Clearly, my Lady, attempts were made but he doesn't
 16 recall speaking to them and it appears that although
 17 those attempts were made it is not clear that contact
 18 was in fact made. But according to the Inquiry officer,
 19 he would not have disclosed in any event to the Order
 20 the sensitive nature of that enquiry.
 21 LADY SMITH: Anyway, without going into the detail of the
 22 remainder of the investigations, I see from the
 23 statement that various blind allies were gone down.
 24 MS VAN DER WESTHUIZEN: There were various blind alleys and
 25 extensive attempts --

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1 LADY SMITH: I don't know whether, Ms Van Der Westhuizen,
 2 you have tried simply Googling the name of this order,
 3 because within about 60 seconds one can find contact
 4 details for the Order. One could, for example, be
 5 directed to the charity's office website south of the
 6 border and Sister Kean's name is there. A whole host of
 7 information is available at one's fingertips through the
 8 services of Google.
 9 MS VAN DER WESTHUIZEN: My Lady, I Googled and I came up
 10 with an Order that wasn't the Good Shepherd Sisters --
 11 LADY SMITH: There are two: one has a similar name, there is
 12 an Anglican Order, but there is a lot of information
 13 about the Catholic order and, judging by the fact that
 14 the police went to Cora and the Scottish Catholic
 15 Archives, they had at least found out this was a
 16 Catholic order not the Anglican order.
 17 MS VAN DER WESTHUIZEN: My Lady, within the file there was a
 18 Google search, but it wasn't for the order in question.
 19 But in any event, my Lady, if your Ladyship does
 20 wish, I can go into the details of the further
 21 investigation.
 22 LADY SMITH: I don't doubt the veracity of what I'm told:
 23 various attempts were made and they couldn't get in
 24 touch with the Order or any satisfactory information
 25 from them. I should perhaps at this stage just air

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1 a concern I have that there would have been no interest
 2 on the part of the police at least letting the Order
 3 know that they were looking into what was happening at
 4 the school for which the Order was responsible for
 5 a number of years in the 1970s.
 6 One would have thought that there would be
 7 recognition on the part of the police that a responsible
 8 organisation would want to know about that without going
 9 into the details of the allegations, but that they were
 10 looking into it, quite separately from any interest they
 11 may have in relevant witnesses.
 12 MS VAN DER WESTHUIZEN: Again, my Lady, at the point of the
 13 investigation, the primary concern would have been in
 14 relation to getting into contact with the Order, would
 15 have been to recover the historic records and/or to
 16 disclose if there was any current risk, which at that
 17 point there wasn't.
 18 But in any event, my Lady, as I have already said,
 19 it does appear from the available information that the
 20 Order knows the Good Shepherd Sisters were not contacted
 21 by Police Scotland during the investigation in relation
 22 to the accused or since, although it is apparent that
 23 attempts were made to locate them purely as part of the
 24 efforts to locate the historic records for the Ladymary
 25 Residential School.

19

1 Again, as I have already said, my Lady, the primary
 2 purpose of trying to contact the Order, in any event,
 3 would be to recover the records linked to the
 4 investigation and not to discuss the circumstances of
 5 the accused or the investigation of somebody from the
 6 Order and that investigation led to the accused
 7 subsequently being convicted and sentenced to ten years'
 8 imprisonment.
 9 LADY SMITH: Thank you very much.
 10 Mr MacAulay.
 11 MR MacAULAY: My Lady, the plan now is to move on to the
 12 evidence.
 13 Just to indicate what the programme is for the week,
 14 the first witness I propose to call will be
 15 Mrs Mackenzie and I will call her in a moment. Later
 16 today, Mr Skinner will be called to give evidence.
 17 Tomorrow, Professor Norrie makes a return visit, and
 18 then on Thursday, possibly spilling into Friday, will be
 19 Mr Dolan and Professor Levitt.
 20 My Lady can I then call Mrs Katharine Mackenzie --
 21 LADY SMITH: Thank you --
 22 MR MacAULAY: My Lady I understand that my learned friend
 23 Mr McClure, on behalf of the Care Inspectorate, may have
 24 a brief opening statement to make. I have overlooked
 25 that.

20

1 LADY SMITH: Yes, Mr McClure.
 2 Opening statement by MR McCLURE
 3 MR McCLURE: Yes, my Lady.
 4 The statement which I would propose to make on
 5 behalf of the Social Care and Social Work Improvement
 6 (Scotland), which is known as the Care Inspectorate, is
 7 a statement of a general nature and it does not relate
 8 to the matters discussed thus far this morning.
 9 My Lady, Social Care and Social Work Improvement
 10 (Scotland), which, as I have said, is known as the
 11 Care Inspectorate and which I propose to refer to in
 12 those terms for the purposes of this Inquiry, is
 13 responsible for inspecting standards of care in
 14 Scotland. It regulates and inspects care services to
 15 ensure that they meet the required standards and to help
 16 or compel them to improve if necessary. The
 17 Care Inspectorate also carries out joint inspections
 18 with other scrutiny bodies to ascertain how well
 19 different organisations in local areas are working to
 20 support adults and children.
 21 It seeks to ensure that social work, including
 22 criminal justice social work, meets high standards.
 23 Across all its work it provides independent assurance
 24 and protection for people who experience care, their
 25 families and carers and the wider public. In addition,

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1 the Care Inspectorate plays a significant role in
 2 supporting improvements and the quality of care in
 3 Scotland.
 4 The Care Inspectorate was established on
 5 1 April 2011 by section 44 of the Public Services Reform
 6 (Scotland) Act (2010). In terms of section 102 of that
 7 Act, it is the statutory successor to the Scottish
 8 Commission for the Regulation of Care, which was known
 9 as the Care Commission.
 10 The Care Inspectorate has the general duty of
 11 furthering improvement in the quality of social services
 12 and must act in accordance with the following principles
 13 which are set out at sections 45.2 to 45.5 of the 2010
 14 Act.
 15 They are: the safety and wellbeing of all persons
 16 who use or are eligible to use any social service or to
 17 be protected and enhanced; the independence of these
 18 persons is to be promoted; diversity in the provision of
 19 social services is to be promoted with a view to those
 20 persons being afforded choice and good practice in
 21 provision of social services is to be identified,
 22 promulgated and promoted.
 23 The Care Inspectorate has sought and been granted
 24 leave to appear at this part of phase 1 of the Inquiry
 25 hearings, given that the Inquiry will hear evidence from

22

1 Professor Norrie relating to the regulatory regime which
 2 the Care Inspectorate is charged by statute with
 3 implementing.

4 The Care Inspectorate carries out a number of
 5 functions in relation to care services of the type with
 6 which this Inquiry is concerned. These functions are
 7 described in Professor Norrie's report and in other
 8 documents before the Inquiry, but the
 9 Care Inspectorate's principal functions can be
 10 summarised as follows.

11 Registration. The Care Inspectorate considers
 12 applications to register for persons who propose to
 13 provide care services including care homes, residential
 14 accommodation associated with schools, secure
 15 accommodation, and fostering services.

16 Inspection. The Care Inspectorate carries out
 17 inspection of care services registered with it in
 18 accordance with an inspection plan approved by the
 19 Scottish ministers.

20 When inspecting, the Care Inspectorate may exercise
 21 a range of statutory powers, including the power of
 22 entry, the powers to inspect, copy and remove records
 23 and other documents, and the power to require
 24 information.

25 Reports of inspections are publicly available and

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1 are published on the Care Inspectorate's website.

2 Complaints. The Care Inspectorate receives and
 3 investigates complaints about care services registered
 4 with it.

5 Enforcement. The Care Inspectorate has enforcement
 6 powers, including the power to attach additional
 7 conditions to registration and to issue notices
 8 requiring specified improvements, failure to comply with
 9 which may lead to cancellation of registration.

10 Where persons would otherwise be at serious risk to
 11 their life, health or wellbeing, the Care Inspectorate
 12 may apply to the sheriff for an order cancelling
 13 registration.

14 The Care Inspectorate welcomes this Inquiry and the
 15 opportunity to participate in it. The Care Inspectorate
 16 is committed to assisting the Inquiry in any way that it
 17 can and has already provided significant volumes of
 18 documentation from its records to the Inquiry.

19 The Care Inspectorate recognises that there is no
 20 place for complacency where the protection of vulnerable
 21 children is concerned and, as a learning organisation,
 22 hopes that this Inquiry will identify ways in which it
 23 might make changes or improvements to its practice, to
 24 better protect vulnerable children and others in our
 25 society.

24

1 Unless I can assist my Lady with anything further,
 2 that concludes my opening statement.
 3 LADY SMITH: That's very helpful. Thank you, Mr McClure,
 4 I have no questions.
 5 MR MacAULAY: My Lady, apologies for that false alarm. Can
 6 I then call Mrs Mackenzie.
 7 LADY SMITH: Mrs Mackenzie, could I ask you to stand up just
 8 for a moment. Let me apologise for that false start; we
 9 had something to finish first of all. I would like you
 10 to take the oath please.
 11 MRS KATHARINE MACKENZIE (sworn)
 12 Questions from MR MacAULAY
 13 LADY SMITH: Thank you. Please sit down and make yourself
 14 comfortable.
 15 Mr MacAulay.
 16 MR MacAULAY: My Lady. Mrs Mackenzie, are you Katharine
 17 Simpson Mackenzie?
 18 A. Yes.
 19 Q. I understand that you are in the position of providing
 20 some insight to the Inquiry of your experiences as
 21 a children's officer in the 1950s and the 1960s.
 22 A. That is right.
 23 Q. Indeed, the reason why you are here today is that in
 24 June of this year you wrote a letter to Lady Smith --
 25 A. Yes.

25

1 Q. -- indicating that you had this sort of experience as
 2 a children's officer in the 1950s and 1960s?
 3 A. Yes.
 4 Q. Your precise age, Mrs Mackenzie, may be classified
 5 information but am I right in thinking you are in your
 6 early 90s?
 7 A. Yes.
 8 Q. In your letter to Lady Smith you pointed out some
 9 concerns you had at the time when you were a children's
 10 officer?
 11 A. Yes.
 12 Q. I think after the letter you were interviewed by members
 13 of the Inquiry team.
 14 A. Yes.
 15 Q. You provided a statement?
 16 A. Yes.
 17 Q. You have in front of you a folder, Mrs Mackenzie, with
 18 a copy of that statement in the folder. So if it is
 19 helpful to you to use the statement as an aide-memoire
 20 then please feel free to do so.
 21 Can I then start close to the beginning and ask you
 22 about your academic qualifications. I believe you
 23 obtained a degree in mathematics.
 24 A. Yes.
 25 Q. That was at Cambridge University in 1948; is that

26

1 correct?
 2 A. Yes.
 3 Q. What length of course was that?
 4 A. What?
 5 Q. How long was the course?
 6 A. Three years.
 7 Q. Even at that time, had you some desire to work with
 8 children?
 9 A. Yes, I had always wanted to work with children.
 10 Q. Had you had any experience, prior to completing your
 11 degree, with working with children?
 12 A. I had done various holiday jobs with children.
 13 Q. Then how did you seek to advance your desire at that
 14 time once you had graduated?
 15 A. I applied to the English Home Office childcare course.
 16 Q. And were you accepted onto the course?
 17 A. They said that I hadn't got the right experience and
 18 I had to do a year in anything I liked that was
 19 relevant, so I did a year of social work at
 20 Edinburgh University.
 21 Q. Were you living in Scotland at that time?
 22 A. Yes.
 23 Q. That year then did you obtain any qualification?
 24 A. No, I just did classes. I didn't want to do the
 25 two-year course because they said that one year was

27

1 sufficient to get me onto the childcare course.
 2 Q. Indeed, is that what you did?
 3 A. Yes.
 4 Q. Where was that course being held?
 5 A. In Edinburgh University.
 6 Q. The childcare course --
 7 A. That was in Nottingham.
 8 Q. I think you tell us in your statement that you went to
 9 Nottingham University for a year in 1949 and finished
 10 the course in 1950?
 11 A. That is right.
 12 Q. Was there a particular reason why you went to Nottingham
 13 and did not, for example, take the course in Scotland?
 14 A. There wasn't a course in Scotland at the time, and
 15 I applied to the English Home Office and they gave me
 16 a place at Nottingham.
 17 Q. What was the nature of the course? Can you give me some
 18 understanding as to what it involved?
 19 A. Lectures in child development and child abuse and
 20 anything to do with children in care.
 21 Q. What you say in your statement, which I found
 22 interesting, and this is towards the bottom of the first
 23 page of the statement, is that:
 24 "I remember discussing with other students that it
 25 was not so much what we had learned but rather our

28

1 attitude had changed. We looked at things from
2 a different angle.”
3 I wondered what you meant by that.
4 A. Well one just -- I don't really know, I just was sort of
5 looking at the problem from a different perspective at
6 the end of the day.
7 Q. And what was the change in perspective do you think?
8 A. I think really looking at the problem of any individual
9 child rather than children in general.
10 Q. In that context then did you find the course to be
11 a useful course?
12 A. Yes, very useful.
13 Q. Can you tell me how many students -- can you remember
14 how many students were actually on the course at that
15 time in the 19 --
16 A. I think there were about ten of us.
17 Q. After you had completed that course, what then did you
18 do?
19 A. I then applied to various -- any vacancies that turned
20 up in Scotland I applied and I was -- I got the job of
21 children's officer in Roxburgh.
22 Q. You tell us in fact in your statement that your first
23 job as a children's officer was at Roxburgh
24 County Council, as it then was.
25 A. That is right.

29

1 Q. That was in 1951?
2 A. Yes.
3 Q. You had an interview for the job?
4 A. Yes.
5 Q. You provided references?
6 A. Yes.
7 Q. Was there any interest in your qualifications at that
8 time?
9 A. No. No.
10 Q. Were you asked about your qualifications?
11 A. Oh, yes.
12 Q. I think in your statement you mention that another two
13 people were interviewed for the job.
14 A. Yes.
15 Q. But they had no qualifications?
16 A. No.
17 Q. And the Chairman of the Children's Committee at that
18 time you mention was a Baroness Elliot; is that right?
19 A. Baroness Elliot, yes.
20 Q. You tell us in your statement that she was determined to
21 have a trained person.
22 A. That is right.
23 Q. Were the other two person who applied not trained in the
24 way you were?
25 A. They had no training at all.

30

1 Q. Did you receive any training from Roxburgh
2 County Council?
3 A. No.
4 Q. What then was your official title when you took up the
5 job?
6 A. I was a children's officer for Roxburgh County Council.
7 Q. Did you have to report to the Children's Committee?
8 A. Yes.
9 Q. Was the background at this time that the Children's Act
10 (1948) had been passed and had set up a system whereby
11 there would be Children's Committees and children's
12 officers?
13 A. Yes.
14 Q. So you had come in on the back of the change in the
15 legislation?
16 A. Yes.
17 Q. Can you tell me a little bit about what your
18 responsibilities were?
19 A. What?
20 Q. What your responsibilities were?
21 A. I was responsible for the welfare of all the children in
22 care and for deciding what children required to come
23 into care and all the arrangements made for them.
24 Q. Were you supervised by anyone at this time?
25 A. No.

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1 Q. What sort of size of county council was Roxburgh at that
2 time? What size was it? Was it quite a small council?
3 A. Quite small.
4 Q. How many were working with you in your own department?
5 A. Nobody, just me.
6 Q. So were you in charge then, if I can put it that way, of
7 all the children that were either placed in care or may
8 have to go into care?
9 A. Yes.
10 Q. So far as placing a child in care, what sort of points
11 would you have in mind if you were going to place
12 a child in care?
13 A. Every child was different. Why they did it was at the
14 request of the parents or sometimes you had to get
15 a court order to take them away from their parents.
16 Q. And did you have a particular preference as to how you
17 would place the child in care? By that I mean would you
18 look at a children's home or would you seek to place the
19 child as a boarded-out child?
20 A. Every child was different. I had a lot of long-term
21 foster mothers and I had a small band of short-term
22 foster mothers who would take children for a short time,
23 perhaps while their mother was ill, and then I had a
24 children's home in Hawick.
25 Q. You tell us there was a children's home in Hawick. You

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1 also had children placed in other children's homes; is
 2 that right?
 3 A. Yes, unfortunately.
 4 Q. We will come onto that. Had these children been placed
 5 in these homes by you?
 6 A. No.
 7 Q. You certainly mention I think what was known as The
 8 Orphan Homes of Scotland, which was known as Quarriers.
 9 A. Yes.
 10 Q. That was one establishment that you were required to
 11 visit; is that correct?
 12 A. Yes.
 13 Q. So far as boarding out with foster parents would be
 14 concerned, in the main can you say if that boarding out
 15 was to local foster parents or not?
 16 A. Mostly.
 17 Q. But some exceptions to that?
 18 A. Yes, there was an exception. There was a child that
 19 I wanted away from the area and the children's officer
 20 up in Banff found a foster home for me for that child.
 21 Q. Can you remember why you wanted the child out of the
 22 area?
 23 A. No.
 24 Q. Don't worry.
 25 So far as visiting the children that you were

33

1 responsible for, can you give me an understanding as to
 2 how often you would go to visit the children?
 3 A. It varied very much with the child, but I went at least
 4 twice a year.
 5 Q. And how would you arrange that? I mean how would you
 6 organise the visit?
 7 A. I'm afraid I just turned up and hoped for the best.
 8 Q. You tell us in your statement in fact that you made
 9 a point of trying to see the children on their own; is
 10 that right?
 11 A. Quite often, yes.
 12 Q. How would you set about doing that?
 13 A. I would waylay the child on their way home from school.
 14 You know, I would be waiting for them out of school and
 15 offer them a lift home. In that way I was able to talk
 16 to them themselves. I wouldn't do that until I got to
 17 know the child.
 18 Q. But would you also speak to the foster parents --
 19 A. Oh yes.
 20 Q. -- when you were dealing with foster parents?
 21 A. Yes, yes.
 22 Q. What about inspecting the home itself?
 23 A. Well, I would do that before I placed a child, but once
 24 I placed the child I very seldom went round the bedroom
 25 again.

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1 Q. So if we go back a step then to before you placed the
 2 child, would you pay a visit to the proposed foster home
 3 and see what it was like?
 4 A. Yes, yes.
 5 Q. And was that your normal practice? Would you do that in
 6 every instance?
 7 A. I would go once or twice to get to know the foster
 8 mother before I sent the child there. I tried to get to
 9 know her a bit.
 10 Q. Over time, did you say you would build up a team of
 11 foster parents that you would get to know?
 12 A. Yes.
 13 Q. In your statement, this is on page 4, in paragraph 11,
 14 if you want to turn onto that, you tell us that the
 15 Boarding Out Regulations said that:
 16 "Every child was supposed to be visited by a member
 17 of the Children's Committee once a year".
 18 You say that did not happen?
 19 A. No.
 20 Q. So was the only person who did visits yourself?
 21 A. Yes, I sometimes took a member of the committee really
 22 just to keep them interested.
 23 Q. So that did happen on occasion?
 24 A. Yes.
 25 Q. But they went with you, not on their own?

35

1 A. Yes, oh no.
 2 Q. When children were boarded out, did you keep in contact
 3 with the family of the child?
 4 A. Yes.
 5 Q. Can you help: how would you do that and what would you
 6 do?
 7 A. Well, every case was different. I mean in some cases
 8 you wanted to encourage the parents to prepare for the
 9 child to come back again. In others you had to help
 10 them to -- you tried to help them to improve so that
 11 they could have their children back, tried to help them
 12 with their problems.
 13 Q. That was your aim?
 14 A. Yes.
 15 Q. If we now turn to page 5 of the statement, and
 16 paragraph 15, if we look at that. I'm looking at
 17 paragraph 15 where you are talking about the Home
 18 Department.
 19 A. Yes.
 20 Q. You tell us there that the Home Department, they also
 21 had an inspectorate?
 22 A. Yes.
 23 Q. Where was the Home Department based?
 24 A. Sorry?
 25 Q. Where was the Home Department Inspectorate based? Can

36

1 you tell me where they were located?
 2 A. St Andrew's House -- I can't remember.
 3 Q. In Edinburgh?
 4 A. Yes.
 5 Q. What contact did you have with them?
 6 A. Again it depended on the inspector; there was one who
 7 was very good and very helpful and another one who was
 8 not very helpful.
 9 Q. You give an example here of having a row with the
 10 Chief Inspector because, without any warning, they would
 11 land up at a foster home saying that they were
 12 an inspector and the foster mother would get upset.
 13 A. Yes.
 14 Q. You remember that incident?
 15 A. Yes.
 16 Q. What was your general impression of the Home Department
 17 Inspectorate?
 18 A. I only saw the man in charge, a Mr Corner; he didn't
 19 know very much about childcare.
 20 Q. On that same page in your statement, you are asked some
 21 questions about awareness of abuse when you were at
 22 Roxburgh County Council. I think you tell us you didn't
 23 have any worries about any of the children that were
 24 boarded out by you.
 25 A. Nothing major.

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1 Q. But did you have any occasion to remove a child from
 2 either a foster parent in particular?
 3 A. No, not as far as I remember. It was a long time ago.
 4 Q. That's what you say in your statement, you don't
 5 remember removing any child that had been boarded out.
 6 A. No.
 7 Q. So far as dealing with children and their siblings would
 8 be concerned, did you have any policy in relation to
 9 siblings when you were seeking to place children?
 10 A. Well, you tried to keep them together. I mean it is
 11 quite easy if there are just two of them, but more
 12 difficult if there were more.
 13 Q. That's what you sought to do, keep them together?
 14 A. Yes, yes. On the whole, if there were three children in
 15 a family, they tended to be in our little children's
 16 home in Hawick.
 17 Q. Can you remember what the numbers of residents were for
 18 the local children's home, how many would it
 19 accommodate?
 20 A. I think ten. It was quite a small --
 21 Q. It was small. You tell us about an incident that
 22 involved Nazareth House in the Lothians.
 23 A. Yes.
 24 Q. I think you went to Nazareth House.
 25 A. The first thing I had was a telephone call from a doctor

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1 in a hospital who said that they had admitted a child
 2 suffering from malnutrition and he was not prepared to
 3 let this child go back to that environment.
 4 Q. Had this child been at Nazareth House?
 5 A. Yes.
 6 Q. Was this a child for which Roxburgh County Council was
 7 responsible?
 8 A. That is right, she and her brother were there.
 9 Q. So what did you do?
 10 A. I took the children to a small children's home in
 11 Hawick.
 12 Q. So they didn't go back?
 13 A. They didn't go back there no.
 14 Q. Did you visit Nazareth House?
 15 A. Yes.
 16 Q. On one occasion or more than one occasion?
 17 A. On more than one occasion while they were still there.
 18 Q. Were there other children then who had been placed there
 19 by Roxburgh?
 20 A. No, they were the only two I had.
 21 Q. So had your visits been there while they were still at
 22 Nazareth House?
 23 A. Yes.
 24 Q. And what was your impression of Nazareth House?
 25 A. Pretty awful. I mean you arrived and the children

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1 rushed up and clutched you round the knees, which is --
 2 only children who are not getting enough attention would
 3 do that to a complete stranger.
 4 Q. But once you had taken the two children away from
 5 Nazareth House, then was that the end of your contact
 6 with Nazareth House?
 7 A. That is right, yes.
 8 Q. You tell us, Mrs Mackenzie, that you left Roxburgh
 9 County Council in 1953.
 10 A. Yes.
 11 Q. So you had been there for approximately two years?
 12 A. Yes.
 13 Q. What did you do after that?
 14 A. I went to Angus County Council. It was a bigger area --
 15 Roxburgh had no help at all. Not even secretarial help.
 16 I mean, I used to have to count the boarding-out
 17 allowances and to register the envelopes and post them.
 18 I did everything from the very bottom. But in Angus
 19 I had a secretary who looked after me.
 20 Q. And again you took up the job as children's officer?
 21 A. Yes.
 22 Q. I think you tell us in your statement that you were the
 23 only woman who applied for the job.
 24 A. Yes.
 25 Q. But three other men applied for the job?

40

1 A. Yes.
 2 Q. You were told something about why you were being
 3 interviewed; is that right? Do you remember? Well what
 4 you say in your statement at page 7, paragraph 23, that
 5 you were told that:
 6 "I was only being interviewed because the Scottish
 7 Home Department said they must interview me because
 8 I was the only trained applicant."
 9 Do you remember that?
 10 A. Yes.
 11 Q. But that they were intending to give the job to the
 12 assistant welfare officer who was one of the three other
 13 applicants?
 14 A. Yes.
 15 Q. But in fact you got the job?
 16 A. Yes.
 17 Q. Can you tell us a little bit then about your
 18 responsibilities at Angus County Council?
 19 A. Well, I was responsible for all the children in care and
 20 for deciding who came into care and who went out and ...
 21 Q. So a similar sort of position as before?
 22 A. Yes.
 23 Q. But were you dealing with more children now?
 24 A. Yes.
 25 Q. Again, looking to the nature of the care, were most of

41

1 the children for Angus children who had been boarded out
 2 with foster parents?
 3 A. Yes.
 4 Q. But were there also children who had been boarded out to
 5 children's homes?
 6 A. Yes.
 7 Q. I mean, if we look again at your statement, just to get
 8 the background to this, this is on page 7. The page
 9 numbers are at the top of the page and it is
 10 paragraph 25.
 11 You give us a number in fact of the children in
 12 care. You say there were over a hundred children in
 13 care.
 14 A. Yes.
 15 Q. The visiting was similar to what you had done before; is
 16 that correct?
 17 A. Yes.
 18 Q. You would see the children what about twice a year,
 19 something along those lines?
 20 A. It depended on the child, yes.
 21 Q. You talk about a big children's home in Montrose run by
 22 the County Council. You say you managed to close that.
 23 A. Yes.
 24 Q. Can you tell me a little bit about that and what
 25 happened there.

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1 A. Well, it was a home that had been opened in what --
 2 I think it had been a cottage hospital at one time and
 3 the staff lived in one house and the children lived in
 4 a sort of extended building. It wasn't very
 5 satisfactory.
 6 Q. What did you --
 7 A. There were too many children for the number of staff, so
 8 I closed the extension and just turned -- the house that
 9 the staff had lived in, I turned that into a small
 10 children's home.
 11 Q. How did you manage to close the extension?
 12 A. I just closed it. I don't know what the County Council
 13 did with it afterwards.
 14 Q. But did that mean the numbers in the -- what was left,
 15 were reduced to what had been there before?
 16 A. Yes.
 17 Q. So you were left with a small type of cottage home?
 18 A. Yes, just a cottage home.
 19 Q. Did you think that was more satisfactory?
 20 A. Yes.
 21 LADY SMITH: Sorry, you closed the bigger building, the
 22 extension building, but retained the building that had
 23 previously been occupied by staff --
 24 A. Yes.
 25 LADY SMITH: -- and moved some children into that to provide

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1 a cottage type --
 2 A. I reduced the number of children before that.
 3 LADY SMITH: Then the other children were placed --
 4 A. It just became a cottage home.
 5 LADY SMITH: -- elsewhere? I see.
 6 MR MacAULAY: But the other children, would you have boarded
 7 them out with foster parents or --
 8 A. Yes, most of them.
 9 Q. You tell us in your statement, Mrs Mackenzie, that you
 10 also had children who were placed at Aberlour Orphanage.
 11 A. Yes.
 12 Q. And you have already mentioned Quarriers as well.
 13 A. Yes.
 14 Q. Did Angus County Council have children placed at
 15 Aberlour and Quarriers?
 16 A. Certainly at Aberlour. I can't remember if there were
 17 still children at ... I honestly don't remember that.
 18 Q. We will come onto that. But so far as Aberlour was
 19 concerned, you tell us that was a huge orphanage.
 20 A. What?
 21 Q. It was a large orphanage.
 22 A. Yes, yes.
 23 Q. What was your attitude to children being in that sort of
 24 establishment?
 25 A. I didn't like it.

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1 Q. Why not?
 2 A. Well, it was an unnatural sort of life, you know, to
 3 live with lots of children away from your own family.
 4 Q. Well, do you remember your first visit to Aberlour?
 5 A. No.
 6 Q. Let's see if we can prod your memory in reference to
 7 your statement, Mrs Mackenzie. If you turn to page 8 of
 8 the statement and paragraph 28.
 9 A. What did I say?
 10 Q. I think you begin by saying:
 11 "I remember the first time I went to
 12 Aberlour Orphanage. I said I was coming ..."
 13 You say that you were pushed into a large boardroom
 14 with a large table and that then the children were
 15 marched in and stood to attention. Do you remember that
 16 now?
 17 A. Yes.
 18 Q. Tell us about it and what happened on this occasion.
 19 A. It was in January so I thought -- I mean I had never
 20 seen these children before, I was a complete stranger to
 21 them, so I started asking them what they got for
 22 Christmas, and the first boy said, "Please, miss, a pair
 23 of gloves". I said that's, "Oh, that's nice, what did
 24 you get?" "Please, miss, a pair of gloves", and after
 25 they said that three times I had to change the

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1 conversation and I still don't know whether they were
 2 pulling my leg or not.
 3 Q. You also say there in the next paragraph that you got to
 4 know the naughty children.
 5 A. Yes.
 6 Q. I think you said you rather approved of children being
 7 naughty.
 8 A. Well, it showed a little gumption, yes.
 9 Q. There was an episode, I think, you tell us about that
 10 involved the local public house owner and the return of
 11 bottles.
 12 A. Yes. The local pub owner said to the man in charge of
 13 the orphanage -- he was a bit worried about the staff at
 14 the orphanage because there were so many empty bottles
 15 of alcohol being returned and of course it was
 16 discovered that the boys at the orphanage had climbed
 17 over the wall into the yard behind the pub, pinched the
 18 empty bottles and taken them round and got pennies for
 19 them, which I thought showed a lot of initiative.
 20 Q. Another episode you tell us about is in connection with
 21 visits by Highland Tours to Aberlour.
 22 A. Visit by what?
 23 Q. Visits by Highland Tours, by tour guides.
 24 A. Yes.
 25 Q. Can you tell us about that?

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1 A. It was just on the tourist trail and all the buses that
 2 went round the Highlands called at the orphanage and the
 3 sort of naughty boys who might disrupt the visit used to
 4 be locked in the gym so they didn't upset them. I mean,
 5 one boy said to me, they locked us in the gym and they
 6 walked along the corridor, where there was a window into
 7 the gym, and looked at us, and they treated us like
 8 animals at the zoo, so we all pretended to be monkeys.
 9 He got into terrible trouble and of course I just
 10 laughed.
 11 Q. But I think you also tell us that there was a collection
 12 by the orphanage, so that they would actually made some
 13 money --
 14 A. Yes, they made some money out of the tourists, yes.
 15 Q. Over the period you are working with Angus
 16 County Council, did you visit Aberlour on a number of
 17 occasions?
 18 A. Yes.
 19 Q. Can you tell us a little bit about the regime then.
 20 What about their approach to siblings, for example,
 21 during the period you were involved? Were siblings kept
 22 together or not?
 23 A. I can't remember the sort of detail very much. Yes,
 24 brothers and sisters were kept together.
 25 Q. If we look at --

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1 A. Wait a minute. Aberlour ... I can't remember if it was
 2 Aberlour or the Orphan Homes. They were kept in
 3 houses -- they moved at different ages, so when you were
 4 small, you were in one home, and then you went into
 5 another home when you were five, and then you went into
 6 another home when you were ten, so you were constantly
 7 changing your house mother.
 8 Q. If we go to your statement on page 9, and this is
 9 paragraph 32, if you look at your statement, there is
 10 a suggestion there that, so far as Aberlour was
 11 concerned, that:
 12 "Siblings were not together very much in the
 13 orphanage."
 14 A. No but they were encouraged to see each other at
 15 weekends -- Sundays, I think, it was.
 16 Q. Okay. You also tell us that the parents would manage to
 17 visit children.
 18 A. Hardly any. It was far too far away from them.
 19 Q. It was not the easiest place to get to?
 20 A. No, absolutely.
 21 Q. I should perhaps have taken from you how long you spent
 22 at Aberlour and I think you tell us in your statement
 23 you are there from 1953 to 1964 -- I'm sorry, how long
 24 you stayed at Angus County Council. You started in 1953
 25 and I think you stopped in 1964; is that correct?

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1 A. I can't remember offhand. If I said it there that --
 2 Q. That's what you say in your statement. Just over ten
 3 years or so; is that about right?
 4 A. 11 years --
 5 Q. 11 years?
 6 A. Yes.
 7 Q. Can I ask you about what you tell us in your statement
 8 about consent forms at Aberlour Orphanage.
 9 A. Yes.
 10 Q. You set this out on page 9 of the statement. If you go
 11 on to page 9, what you tell us begins at paragraph 33
 12 and goes into paragraph 34.
 13 A. Yes.
 14 Q. You became aware of the fact, I think, that when
 15 children were admitted to the orphanage, that mothers,
 16 for example, had to sign a consent form; is that
 17 correct?
 18 A. Yes.
 19 Q. What was the position?
 20 A. They signed a form agreeing that they would leave the
 21 child there until the child was 16. Regardless of the
 22 circumstances, they had to sign this form.
 23 Q. What was your attitude to that?
 24 A. My attitude was it completely had no legal force at all
 25 and I went round to see all the parents and the ones who

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1 could have them, had them returned to them. I mean they
 2 were delighted, as were the children.
 3 Q. Yes.
 4 A. But so many of the circumstances had changed and they
 5 had a perfectly good home for the children, so they got
 6 them back.
 7 Q. Did the parents think that they had to leave the
 8 children there until they were 16?
 9 A. Well, they had signed a form saying they would leave
 10 them there and I said, this form has no legal force at
 11 all.
 12 Q. As a result of your action, were a lot of children
 13 discharged from the home?
 14 A. Yes.
 15 Q. You also mention in your statement The Orphan Homes of
 16 Scotland, Quarriers, that we touched upon already.
 17 I think you did tell us that there were children placed
 18 there by Angus County Council.
 19 A. Yes.
 20 Q. What was your attitude to that?
 21 A. I just never liked these large orphanages.
 22 Q. If we turn to page 10 of your statement, you tell us
 23 a little bit about the set up at Quarriers at
 24 paragraph 37 and in particular that it was different
 25 because there were cottages there --

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1 A. Yes.
 2 Q. -- and that you would have a couple looking after
 3 a number of children.
 4 A. Yes.
 5 Q. Is that right?
 6 A. Yes.
 7 Q. I think you thought ten or 12, and your position was, if
 8 it had been five or six, it might have been all right;
 9 is that right?
 10 A. Yes.
 11 Q. So far as the consent forms position, again, was that
 12 the same position at Quarriers as had been at Aberlour?
 13 A. Yes, the parents had had to sign a form leaving the
 14 children there until they were 16.
 15 Q. And did you raise that matter then with parents?
 16 A. Well I just -- if the parents were able to have the
 17 child, I just said to the home, "These children are
 18 going home". Nobody ever questioned that at all.
 19 Q. You have already, I think, made clear your view on the
 20 large orphanages. By the time you had left Angus
 21 County Council, did Angus County Council have any
 22 children at Quarriers?
 23 A. No.
 24 Q. You would go and see children at a place like Quarriers
 25 and visit the children. How did you find these visits?

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1 Were they helpful to you?
 2 A. Yes, they were quite co-operative. They were doing
 3 their best -- the best job they could in the
 4 circumstances.
 5 Q. But so far as the children would be concerned, to what
 6 extent would they know you?
 7 A. Well they got to know me eventually, you know, as after
 8 about two years I had been several times.
 9 Q. So you would develop a rapport over a period of time?
 10 A. No, not very much.
 11 Q. Again, so far as awareness of abuse either at Aberlour
 12 or Quarriers is concerned, I think you tell us that you
 13 were not aware of children being abused --
 14 A. I was not aware.
 15 Q. -- at these places.
 16 A. No.
 17 Q. I think your position is that it was wrong to have so
 18 many children in such large establishments.
 19 A. Yes, yes.
 20 Q. Do you know what the thinking behind the signing of the
 21 consent form was?
 22 A. I think the idea was that if you took a child from
 23 a Glasgow slum and looked after it, you didn't want it
 24 to return to the Glasgow slum. I can't think of any
 25 other reason why they would do that.

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1 Q. That's indeed what you say in your statement. If we
2 turn to page 11 of your statement at paragraph 42.
3 Towards the bottom of the page you set out there
4 exactly what you have just told us. You also say that
5 Glasgow in particular sent -- boarded out children all
6 over the country.
7 A. Yes.
8 Q. When you tell us, towards the bottom of that page, and
9 I will just read what's in your statement:
10 "It was said that they would fill a van with
11 children and take them up to the Highlands and knock on
12 doors and say 'How many can you take?'"
13 A. Sorry which paragraph is this?
14 Q. This is paragraph 42.
15 A. Yes, yes.
16 Q. At the very bottom. I will read it again:
17 "It was said that they would fill a van with
18 children and take them up to the Highlands and knock on
19 doors and say, 'How many can you take?'"
20 A. Yes.
21 Q. Where does that information come from?
22 A. It was sort of general gossip at children's officers'
23 conferences.
24 Q. Just on that actually, you have mentioned children's
25 officers' conferences; were there regular conferences?

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1 A. Yearly conferences.
2 Q. So this was the sort of conversation, if you like, that
3 might occur?
4 A. Yes. I mean the gossip that went round the conferences
5 was, "Have you heard Glasgow is boarding out by
6 helicopter these days?"
7 Q. That presumably was a joke was it --
8 A. Oh yes, meant as a joke.
9 Q. Turning to page 12 of your statement then,
10 Mrs Mackenzie, where you have a section dealing with the
11 Home Office Inspectorate, if you turn to page 12 of the
12 statement, that's at paragraph 44.
13 A. Yes.
14 Q. You do tell us that if you thought a child was being
15 abused, then you think you would have spoken to the
16 Home Office Inspectorate about it.
17 A. Would I?
18 Q. That's what you suggest at paragraph 44.
19 A. Yes, yes.
20 Q. Although I think you tell us that they didn't have any
21 training in childcare as far as you know --
22 A. No, they didn't.
23 Q. You also say in paragraph 45 that:
24 "None of the children's officers were trained in
25 childcare either."

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1 You were trained?
2 A. Yes.
3 Q. When you make that statement, are you talking about
4 other children's officer in other counties?
5 A. Yes, in other counties in Scotland. There was no
6 Scottish training for childcare officers at that time.
7 Q. Do you know what training the other childcare officers
8 had then?
9 A. Most of them had none. There were two who had a basic
10 social work certificate and there was one who had --
11 I think she was a psychologist, but otherwise they had
12 just been promoted from being one of the welfare
13 officers to becoming children's officer.
14 Q. You do say a lot of them were very nice people.
15 A. Oh yes.
16 Q. But didn't have the training --
17 A. No.
18 Q. -- that you had?
19 A. Yes.
20 Q. So far as the children's homes that were run by the two
21 councils that you worked for were concerned, you say
22 that you didn't carry out any formal inspections of
23 these establishments?
24 A. No, I was just in and out all the time.
25 Q. So you knew what they were like?

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1 A. Yes.
2 Q. And you would speak to the staff and the children?
3 A. Yes.
4 Q. Can I just ask you about the keeping of records then,
5 Mrs Mackenzie.
6 A. Yes.
7 Q. Let's look at both Roxburgh and Angus. Did you keep
8 records for each child for which the local authority was
9 responsible?
10 A. Yes.
11 Q. What sort of information would be kept in the records?
12 A. Well, you front-sheeted all the details about their age
13 and things that didn't change, and then the other sheets
14 were records of anything that happened to them, you
15 know, if they had gone into hospital, or any visits that
16 I made, I would record them.
17 Q. Would you be recording the progress of the child in
18 care?
19 A. Yes.
20 Q. Let's look at Roxburgh to begin with; do you know what
21 happened to these records?
22 A. No idea.
23 Q. Where were they kept; do you remember?
24 A. In a filing cabinet in my office.
25 Q. And Angus?

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1 A. The same.
 2 Q. Would you have a rota to let you know when a visit to
 3 a child might be due?
 4 A. No.
 5 Q. So how would you know when to go and visit a child?
 6 A. I just knew -- there weren't that many children -- one
 7 just knew it was time to go.
 8 Q. But so far as going back to the records, I take it you
 9 don't know what happened to any records that you kept.
 10 A. I have no idea.
 11 Q. When you visited places like Aberlour and Quarriers, did
 12 you see any records there in connection with the
 13 children?
 14 A. No.
 15 Q. Do you remember if you had to sign a visitors' book, for
 16 example, for either of these establishments?
 17 A. I don't think so. I don't remember.
 18 Q. But in any event, I think by the time you left in 1964,
 19 there were no children from Angus in Quarriers?
 20 A. No.
 21 Q. What happened Aberlour?
 22 A. Aberlour? It closed.
 23 Q. Can you tell me about that? Do you know how it came to
 24 be that Aberlour closed?
 25 A. Well, they had a new man in charge who agreed with the

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1 chairman and myself that orphanages like that were no
 2 longer the right thing to do and arrangements were made
 3 for all the children to go elsewhere and it was closed.
 4 Q. So you had some input into that decision?
 5 A. Yes.
 6 Q. And the chairman -- was that the chairman of --
 7 A. Yes, the chairman was a friend of my mother's, I knew
 8 her very well, and she agreed with me. So it was just
 9 closed. That money went to -- I think it was a boy's
 10 hostel in Aberdeen just for working boys from the
 11 country area around Aberdeen so they could stay there
 12 during the week and go home at the weekends.
 13 Q. You have already told us, Mrs Mackenzie, you left your
 14 job in Angus in 1964 when you got married and went to
 15 live in England; is that correct?
 16 A. Yes, that is correct.
 17 Q. It is right to say, I think, that you didn't continue to
 18 work in social work.
 19 A. No, only voluntarily.
 20 Q. But you became a magistrate?
 21 A. Yes.
 22 Q. I think you were also on the Children's Panel in
 23 England; is that right?
 24 A. Yes.
 25 Q. You also had other commitments. For example, you were

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1 on the management committee at Turner's Court, which was
 2 a farm school for teenage boys.
 3 A. Yes.
 4 Q. You kept your interest in children?
 5 A. Oh yes.
 6 Q. You also, I think, said you did some voluntary work as
 7 well.
 8 A. Yes.
 9 MR MacAULAY: Well, thank you very much indeed,
 10 Mrs Mackenzie, for your evidence today. I'm just going
 11 to mention to her Ladyship that, so far as I'm aware,
 12 my Lady, no questions have been submitted for
 13 Mrs Mackenzie.
 14 LADY SMITH: Thank you very much.
 15 Could I just check whether anyone who has not
 16 submitted questions has any matter that they would wish
 17 to raise? No?
 18 Mrs Mackenzie, I'm very grateful to you both for
 19 taking the initiative to get in touch with the Inquiry
 20 and providing us with so much clear information. We
 21 can't thank you enough for being prepared to come along
 22 today. Thank you.
 23 A. Thank you.
 24 LADY SMITH: Thank you.
 25 I think we could take the break now, Mr MacAulay.

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1 It is just after 11.15 am and perhaps if we resume --
 2 Mr Peoples, it is you up next -- at about 11.45, would
 3 that work well for the next witness?
 4 MR PEOPLES: Yes.
 5 LADY SMITH: Very well. We will break now for the morning
 6 break and sit again at 11.45 am please.
 7 (11.20 am)
 8 (A short break)
 9 (11.45 am)
 10 LADY SMITH: Mr Peoples.
 11 MR PEOPLES: My Lady, the next witness is
 12 Professor Angus Skinner.
 13 PROFESSOR ANGUS SKINNER (affirmed)
 14 Questions from MR PEOPLES
 15 LADY SMITH: Thank you. Do please sit down and make
 16 yourself comfortable.
 17 A. Thank you.
 18 MR PEOPLES: When you are ready, Professor Skinner.
 19 A. I am ready, thank you.
 20 Q. Your full name is Angus Mackinnon Cumming Skinner?
 21 A. That is correct.
 22 Q. And I think that you are 67 years of age?
 23 A. I am.
 24 Q. And you are now retired?
 25 A. I am.

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1 Q. Generally speaking at least .
 2 A. Generally speaking.
 3 Q. For the purposes of this Inquiry, you have already
 4 provided the Inquiry with a written witness statement
 5 which will be evidence before the Inquiry. If I could
 6 perhaps ask you to have that in front of you. I think
 7 there is a file there. For the purposes of the
 8 transcript the reference is WIT.003.001.0635. You may
 9 see the statement come up in front of you on the screen
 10 but there's also a hard copy for your use.
 11 A. I have a hard copy, that's fine. There's nothing on my
 12 screen.
 13 (Pause)
 14 LADY SMITH: Still nothing?
 15 A. I have nothing on the screen but I do have the
 16 statement.
 17 LADY SMITH: Are you comfortable with proceeding on the
 18 basis of using the hard copy, if you need it, at the
 19 moment and see if we can sort this out?
 20 A. I'm entirely comfortable.
 21 LADY SMITH: Thank you very much.
 22 MR PEOPLES: I'm assuming others can see the statement;
 23 I haven't checked.
 24 LADY SMITH: It is all right on everybody else's screen, is
 25 it?

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1 MR PEOPLES: Yes, I think everybody else can see it.
 2 LADY SMITH: Everybody else can see it but poor
 3 Professor Skinner is being deprived of it. We will try
 4 and sort it out.
 5 MR PEOPLES: If I can proceed with Mr Skinner.
 6 LADY SMITH: Please.
 7 A. Yes.
 8 MR PEOPLES: If I can take you to your statement and deal
 9 with some background information on your qualifications
 10 and professional career.
 11 You tell us, I think, in paragraph 2 of the
 12 statement that you, after graduating from
 13 Edinburgh University with a degree in social
 14 administration, then went to London and there graduated
 15 with a postgraduate degree in social work in 1972.
 16 A. That is correct.
 17 Q. Then, and if I can take this relatively short, in
 18 paragraph 2 and following, you worked in the social work
 19 field in various roles both in England and Scotland
 20 thereafter; is that correct?
 21 A. That is correct.
 22 Q. I think, just picking up one or two of the posts you
 23 held, you were, for a time in the 1970s, for a number of
 24 years, you were the social work team leader in Leith.
 25 A. Yes.

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1 Q. Then, moving to the 1980s, you worked for a time with
 2 Lothian Regional Council and held the position of social
 3 work area team leader in the Pilton area.
 4 A. That is correct.
 5 Q. I think one of the things you actually tell us about
 6 that period in your working life is that while you were
 7 there, in that capacity, you had reduced the number of
 8 children in care in Pilton by 50%.
 9 A. We did.
 10 Q. Was that --
 11 A. Sorry?
 12 Q. Was there a particular reason why the numbers reduced
 13 during that period?
 14 A. Because we concentrated on the alternatives for them in
 15 the best development of their childhood.
 16 Q. Was that a time in the 1980s when perhaps there was
 17 a move away from residential childcare to other forms of
 18 care, some in the community itself and some in foster
 19 care?
 20 A. Indeed. There was a significant shift away from
 21 residential childcare to foster care, but also to
 22 kinship care or care by relatives outwith the immediate
 23 nuclear family. And also more focus on support for the
 24 nuclear family in order to sustain them in that setting
 25 of their birth.

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1 Q. I think we might come back to this a little bit when we
 2 look at a report that you did in 1992 where I think you
 3 did record that change and the effect it had on the
 4 numbers in care and the number of care institutions. We
 5 can maybe revisit that in due course.
 6 But looking again at your working life, after
 7 a short period as a divisional director for combined
 8 services in Lothian which was, as you said, a managerial
 9 role, you then moved to Borders Regional Council where
 10 you were deputy director of social worker at the time.
 11 A. That is correct.
 12 Q. Was that during the 1980s mainly?
 13 A. Yes, I think I was there -- it was during the 1980s.
 14 Q. I think in 1991 we were told by your statement that you
 15 then went to the Scottish Office in about 1991 and
 16 became Chief Social Work Adviser.
 17 A. Yes.
 18 Q. The following year I think you became Chief Social Work
 19 Inspector, which was a separate role?
 20 A. That was a separate role but -- so there were two roles
 21 and it was consciously designed as that.
 22 Q. I will maybe come back that because you deal with that
 23 in your statement.
 24 Just looking at the chronology if I may, you held
 25 these two posts I think for -- in the order of about

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1 15 years; is that correct?
 2 A. Yes. I retired from the Scottish Executive, as I think
 3 it was then called, in 2005.
 4 Q. So your period in these two roles would span from about
 5 1991 through to 2005?
 6 A. Yes.
 7 Q. Just so far as other matters are concerned, I think that
 8 you tell us in your statement that in 1992 you carried
 9 out a review of residential care and childcare in
 10 Scotland, and produced a report which is entitled
 11 "Another Kind of Home".
 12 A. That is correct.
 13 Q. Just for the transcript, because I think we will come
 14 back to this report, we have it as part of the Inquiry
 15 documentation at LIT.001.001.1795 through to 1928.
 16 I don't think we need to put that up at the moment, but
 17 I will come back to that report if I may.
 18 I think you also tell us in your statement that,
 19 apart from that report, you were also the author of
 20 a number of major service reviews; is that correct?
 21 A. That is correct.
 22 Q. If I can look for the moment at your role or your
 23 functions both as Chief Social Work Adviser and as Chief
 24 Social Work Inspector. Can you confirm that, as part of
 25 your functions in these two roles, you provided advice

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1 to ministers, government ministers?
 2 A. I did.
 3 Q. So a significant element of both posts was the advisory
 4 element?
 5 A. Yes.
 6 Q. The advice in general terms concerned social work
 7 legislation policy and practice; would that be a fair
 8 description?
 9 A. Yes.
 10 Q. So far as the role of Chief Social Work Adviser is
 11 concerned, I think you tell us in your statement that
 12 that post was created around about the time of the
 13 Social Work (Scotland) Act (1968).
 14 A. Yes I think it was possibly created shortly before that
 15 but I don't have the details of that but it would be
 16 around that time.
 17 Q. Around that time there was also another group which
 18 features in your statement called the Social Work
 19 Services Group. That was also, I think, created around
 20 the time of the 1968 Act.
 21 A. Yes.
 22 Q. And which was largely concerned with the implementation
 23 of the provisions of that legislation?
 24 A. Yes. It must have been created before 1968 because it
 25 performed a significant role in the passage of that

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1 Act/ bill .
 2 Q. You tell us something about both your predecessors and
 3 successor in the post of Chief Social Work Adviser.
 4 I think your immediate predecessor, when you took over
 5 in 1991 as Chief Social Work Adviser, was a person
 6 called David Caldwell?
 7 A. Colvin.
 8 Q. Do we have the wrong name?
 9 A. It is C-O-L-V-I-N.
 10 LADY SMITH: Colvin?
 11 A. Colvin.
 12 MR PEOPLES: Sorry, my apologies. I think in the statement
 13 we have prepared in paragraph 5, at 0635, it states it
 14 was David Caldwell but you are telling us it is Colvin,
 15 C-O-L-V-I-N?
 16 A. Yes.
 17 Q. I'm grateful.
 18 A. My apologies. I missed that when I saw the ...
 19 Q. And I think that in the same paragraph, paragraph 5 on
 20 page 0636 of your statement, you tell us that your
 21 successor, presumably around 2005, was Alexis Jay.
 22 A. That is correct.
 23 Q. And prior to taking up the post that you were
 24 relinquishing at that time, she had been a director of
 25 social work in West Dumbartonshire?

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1 A. That is correct.
 2 Q. She had spent her whole career as a local authority
 3 social worker?
 4 A. Indeed.
 5 Q. And I will just add for completeness, about paragraph 5,
 6 you tell us that she was a great supporter of social
 7 work departments and I think that the significance of
 8 that comment will perhaps become apparent in due course
 9 when you -- I think you made some observations on social
 10 work departments. We will maybe come to that.
 11 A. Both those things are true.
 12 Q. You have told us that in 1992 you became the Chief
 13 Social Work Inspector in addition to your role as Chief
 14 Social Work Adviser. I think in paragraph 6 of your
 15 statement, on page 0637, you tell us a little bit about
 16 that and say that:
 17 "A body known as the Social Work Services
 18 Inspectorate was established at that time and [you]
 19 became the Chief Inspector of the Social Work Services
 20 Inspectorate."
 21 A. That is correct.
 22 Q. What you tell us, I think, taking it shortly, was that
 23 that inspectorate was simply created by what you
 24 describe as an executive decision or simply by ministers
 25 and it had no statutory basis as such, it was just

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1 created as a post.
 2 A. It was just created as a post and as an organisation and
 3 there was no statutory basis to that. In the Local
 4 Government Act of 1996, I think -- 1994, thank you --
 5 Q. Local Government (Scotland) Act?
 6 A. In the Local Government (Scotland) Act there was then
 7 mention of inspectors of the Social Work Services
 8 Inspectorate.
 9 Q. Can I just get a little bit of context for this. What
 10 was the Social Work Services Inspectorate survived, if
 11 I can put it that way, until -- is it around 2001? --
 12 when its inspection functions were taken over by what we
 13 know as the Care Commission; is that roughly correct?
 14 A. It is not quite correct, no. The Care Commission was
 15 established and it brought together the inspectorial and
 16 regulatory functions held by local authorities, of which
 17 there were 32. It was our intention, on a policy basis,
 18 that the functions of the Social Work Services
 19 Inspectorate held in government should in time transfer
 20 to the Care Commission. Whether that should be phased
 21 in once the Care Commission had established its base by
 22 bringing together the people who had previously worked
 23 in 32 different organisations.
 24 Q. I see, so the inspectorate that you headed up was still
 25 in existence when you retired?

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1 A. It was still in existence when I retired.
 2 Q. But since your retirement its functions have been taken
 3 over -- I think initially by the Care Commission and
 4 then by the Care Inspectorate since 2011?
 5 A. That is correct.
 6 Q. So far as the inspectorate that was formed in 1992 is
 7 concerned, can I just find out a little bit about that
 8 body that you were heading up. Did it consist of a team
 9 of Scottish Office inspectors?
 10 A. Yes.
 11 Q. And in terms of responsibilities, at least for part of
 12 its existence, you tell us, I think in paragraph 9, that
 13 your inspectors had a responsibility for inspecting
 14 secure accommodation and you give us an example of the
 15 accommodation at Kerelaw.
 16 A. That is correct. That had existed prior to the
 17 establishment of the Social Services Inspectorate.
 18 Q. Who was carrying out the inspection functions prior to
 19 the creation of then inspectorate on behalf of the
 20 social government?
 21 A. Two social work advisers within what was the social work
 22 advisory service.
 23 Q. Within Scottish Government?
 24 A. Within Scottish Government.
 25 Q. Was it your idea to create an inspectorate at that time

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1 in 1992 or was that something that had already been in
 2 the pipeline?
 3 A. It had been discussed by many people. I discussed it at
 4 length with the minister, Michael Forsyth and he was
 5 keen to see it established and did so.
 6 Q. What was the main thinking behind replacing the advisers
 7 within this advisory service with an inspectorate? Can
 8 you recall?
 9 A. Well, there's two main things really. One was that
 10 there was growing concern about the position of
 11 children's services in Scotland, really arising from the
 12 Orkney Inquiry, and subsequently a child abuse case in
 13 Ayrshire. And it was felt necessary to -- for
 14 government itself to have a firmer grasp of what was
 15 going on in practice on the ground and the inspectorate
 16 was a way of trying to establish that.
 17 Q. You tell us that there was responsibility for secure
 18 accommodation, but in contrast -- and this is found
 19 I think in paragraph 9 of your statement -- inspection
 20 of residential care establishments other than secure
 21 accommodation was, in 1992, the responsibility of local
 22 authorities who had their own inspection units, is that
 23 the --
 24 A. They had their own. They had different names for what
 25 those units were called but basically they had.

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1 Q. So there was a team of inspectors at local level and you
 2 had your own inspectorate at central government level?
 3 A. That is right.
 4 Q. And you were each inspecting different types of
 5 establishment?
 6 A. Yes, the local authorities -- anybody running a care
 7 establishment for children had to register that with the
 8 local authority who then had to agree or disagree with
 9 its registration, or approve or disprove its
 10 registration, and then also annually conduct inspections
 11 of it.
 12 Q. Would I be right in thinking that, in large measure,
 13 inspection of what I call residential care
 14 establishments in general was principally the
 15 responsibility of local government but in the case of
 16 secure accommodation it was the specific responsibility
 17 of central government through its inspectorate?
 18 A. That is correct.
 19 Q. You mentioned the Local Government (Scotland) Act (1994)
 20 and I think in your statement you tell us that you
 21 suggested to ministers that, as part of the reforms of
 22 local government, there should be a statutory
 23 requirement for a chief social work officer position
 24 within each local authority to provide oversight.
 25 A. Yes. There was a concern -- I certainly had

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1 a concern -- that with the -- local authorities were
 2 going to make their own decisions about how to organise
 3 their services. That was part of the thrust of the
 4 policy behind the Act. I had a concern that there were
 5 certain human rights issues involved in social work
 6 services, particularly in relation to mental health, but
 7 also in relation to the deprivation of liberty of
 8 removing children from their family situation and that
 9 those needed to be overseen -- not necessarily managed,
 10 but overseen by a professional social worker.
 11 Q. I think that your recommendation was accepted and was
 12 built into the legislation ; is that right?
 13 A. It is in the legislation , yes. Different local
 14 authorities interpreted that provision in different
 15 ways. For some it was a way of having a professional
 16 who had managerial responsibility for the services in
 17 totality . That wasn't necessarily the intention but it
 18 was absolutely open to them to do so. Others
 19 interpreted it as having a professional who had
 20 oversight of the quality of the care being provided and
 21 the decisions being made.
 22 Q. Just so that we have a general picture of the situation ,
 23 between the passing of the 1968 Act, the Social Work
 24 (Scotland) Act, and the changes made by the Local
 25 Government (Scotland) Act (1994), in general terms did

1 we have, at local level , social work departments headed
 2 up by a director of social work and social work
 3 committees?
 4 A. There was a statutory requirement to have a social work
 5 committee and they all had directors of social work but
 6 that wasn't actually a statutory requirement to my
 7 recall .
 8 Q. Looking at perhaps the front line during that period,
 9 1968 to 1994, would there be also people who would be
 10 perhaps described as children's officer who were
 11 carrying out the day-to-day functions with a team of
 12 social workers and others?
 13 A. Sorry I didn't quite follow the question.
 14 Q. I was just trying to see -- we have the committees which
 15 were the statutory requirement and we have the directors
 16 of social work who were at the top of the structure in
 17 terms of social work. Below that level, in terms of
 18 those who were in day-to-day dealings with children in
 19 care and others requiring social services, what was the
 20 situation? Who were the personnel so far as children
 21 were concerned?
 22 A. They were all under the social work committee. So the
 23 social work committee brought together responsibilities
 24 that had previously been held by the children's officer ,
 25 and some of the mental welfare provisions, and in

1 Scotland uniquely the probation service and prison.
 2 Q. So would it simply be social work committees, a director
 3 of social work and social workers performing
 4 functions --
 5 A. Most --
 6 Q. -- and the children's officer would have disappeared?
 7 A. The children's officer were amalgamated what became, for
 8 most authorities , social work departments. Some had
 9 slightly different titles .
 10 Q. So far as the Chief Social Work Adviser and Social Work
 11 Services Group are concerned, you give us a little bit
 12 of the history of that and you have told us that they
 13 were both created around the time of the 1968 Social
 14 Work (Scotland) Act.
 15 Just so that we are clear, the Social Work Services
 16 Group, I think you tell us, was a group of "main line
 17 civil servants", I think is the description that you
 18 use --
 19 A. Yes.
 20 Q. -- with no professional background in social work
 21 necessarily .
 22 A. They didn't have any professional background in social
 23 work.
 24 Q. Whereas you and the staff that you managed under the
 25 social work services advisory role were professional

1 social workers?
 2 A. Under the advisory role they were all professional
 3 social workers and had always been.
 4 Q. So far as your inspectors were to look at the -- the
 5 Social Work Services Inspectorate was concerned, they
 6 were inspectors, what were their qualifications and
 7 background, the ones you headed under that role?
 8 A. The inspectors were all professional social workers. We
 9 did also employ, or have seconded in, some occupational
 10 therapists from time to time.
 11 Q. So far as your relationship with the Social Work
 12 Services Group is concerned, I think you tell us -- and
 13 I can perhaps take this short from your statement --
 14 that the Social Work Services Group within the Scottish
 15 Government at the time had three divisions , one of which
 16 was concerned directly with children's services .
 17 A. That is correct .
 18 Q. Therefore, so far as children in care were concerned,
 19 you, as Chief Social Work Adviser, and your team would
 20 work closely with the Social Work Services Group and in
 21 particular the children's services division of that
 22 group?
 23 A. Yes. We worked closely with all three divisions because
 24 obviously our people who were working in the criminal
 25 justice field worked closely with the criminal justice

1 division and our people working closely in the care of
 2 elderly or people with disabilities worked closely with
 3 what, most of the time, is called the community care
 4 division .
 5 Q. But as far as children were concerned, the main division
 6 within the group would be the children's services
 7 division?
 8 A. The children's services division and I had a team of
 9 inspectors and advisers initially who focused solely on
 10 that children service's division .
 11 Q. I think, in terms of the reporting division, to take
 12 this shortly again, I think as Chief Social Work Adviser
 13 you reported, in terms of structure, to the head of the
 14 Social Work Services Group who was a senior civil
 15 servant; is that right?
 16 A. Yes, I reported to him on managerial issues and -- bread
 17 and rationing, if you like . I didn't have any
 18 accountability to him for professional judgements,
 19 though we discussed many issues closely together.
 20 Q. I think you tell us, in any event, that you had a direct
 21 line, if you required it, to the ministers .
 22 A. Yes. That was very rarely used. In fact the only
 23 really significant occasion it was used was in the
 24 advice -- on the creation of the role of the chief
 25 social work officer for each local authority.

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1 Q. In practice, if you were offering advice that might
 2 ultimately feed into policy development decisions taken
 3 by ministers, how would it operate in practice? Would
 4 you be reporting up to the Social Work Services Group
 5 and presenting advice in that way?
 6 A. Not always, no. Generally we took responsibility in
 7 collaboration and if the main piece of work had been
 8 done by me or my staff, then we would simply put up the
 9 advice to ministers. If it had been done by the main
 10 line civil servants, then they would, but we kept each
 11 other closely informed so it was a matter of
 12 collaboration and good communication rather than
 13 anything else .
 14 LADY SMITH: Were you the people that were involved with the
 15 implementation of the policy, if I can put it that way?
 16 I can see that the Social Work Services Group had policy
 17 responsibilities to give advice directly to the relevant
 18 minister as to what policy changes might need to be
 19 made. But then, at your side, you are people who were
 20 professionally qualified in social work, who knew about
 21 the delivery of social work services, and were involved
 22 in supervising at all what was happening?
 23 A. We did, I suppose, two things when we started. One was
 24 to provide guidance in general on the implementation of
 25 policy . So if there was, you know, a policy development

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1 then we would provide -- when I started in whenever it
 2 was, 1991, there were two types of guidance being issued
 3 from the Scottish Office in relation to social work
 4 service matters. One was policy guidance, which came
 5 from one of the three divisions under the social
 6 services group, and the other was practice guidance
 7 which came from the Social Work Advisory Service.
 8 I was unhappy with that division because I felt that
 9 it led to confusion and that there was a possibility of
 10 local authorities or a professional kind of saying,
 11 "That's not what I'm being told". I felt things should
 12 be brought together, that there should be -- if there
 13 were disagreements to be had, we should have them in
 14 what was then the Scottish Office and not let them out
 15 in public, if that makes --
 16 LADY SMITH: I see.
 17 MR PEOPLES: I think you deal with that matter, if I could
 18 just take it from you, in paragraph 24 of your
 19 statement. You mention this division of responsibility
 20 as between the Social Work Services Group and what's
 21 called the Central Advisory Service. I think that was
 22 the official name for the service that you were Chief
 23 Social Work Adviser, who you were the head of; is that
 24 right?
 25 A. That is correct.

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1 Q. You tell us there, I think, that policy guidance was
 2 provided by the group, the Social Work Services Group,
 3 and that would be guidance presumably to local
 4 authorities, voluntary bodies and others who were
 5 involved in the provision of care services?
 6 A. Yes.
 7 Q. And that, so far as your central advisory service was
 8 concerned, your responsibility was practice guidance.
 9 As you said, you didn't favour that division of
 10 responsibility for the reasons you have told us.
 11 A. Yes, that is right .
 12 Q. Just to be clear, was that division maintained
 13 throughout your time?
 14 A. No, we ended the division between policy guidance and
 15 practice guidance because I and the head of the social
 16 services group and the three heads of the divisions
 17 agreed that was the best way forward.
 18 Q. Can you give us an idea of when that happened? You took
 19 up the post in the early 1990s; was it shortly after or
 20 was it some time after?
 21 A. It was quite shortly after . It was possibly after 1992.
 22 It wouldn't have been long after 1992.
 23 Q. Can we take it that if we see in due course in this
 24 Inquiry examples of guidance coming from central
 25 government to local authorities, voluntary organisations

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1 and so forth, that, whether it is policy or practice,
2 that shortly after you took up your two roles that that
3 sort of guidance was something you were directly
4 concerned with, your team?

5 A. The team?

6 Q. The Central Advisory Service.

7 A. The Central Advisory Service spent quite a lot of its
8 time preparing and issues practice guidance and then
9 running training events and seminars in order to
10 promulgate that kind of ...

11 Q. Just so that -- in simple terms, the role of the Chief
12 Social Work Adviser and his Central Advisory Service
13 could perhaps be put, in broad terms, as to advise
14 ministers in the way you have described and, secondly,
15 to provide guidance to those at local level who were
16 providing services.

17 A. Well, yes, that is correct.

18 Q. Would that be its main functions?

19 A. Yes, that is correct.

20 Q. So far as the inspectorate is concerned, that was set up
21 in 1992. Was it different from the Central Advisory
22 Service that you headed, the Social Work Services
23 Inspectorate?

24 A. Yes, it was a different --

25 Q. And it had a team of inspectors within it, within the

1 inspectorate. It had an inspection function and you
2 have told us it was for inspection of secure
3 accommodation.

4 A. It had always had -- the inspection of secure
5 accommodation had been with the Central Advisory Service
6 since certainly 1968 and presumably it was children's
7 officer before that. What happened when we set up the
8 Social Services Inspectorate was that it began to
9 inspect services in a more general way so that we would
10 inspect a local authority's social work services as
11 a whole without any particular focus necessarily on
12 residential childcare.

13 We also -- and this does become quite relevant later
14 on I think -- we did also conduct some investigations of
15 individual cases which had come to the public or
16 political attention or concern. By and large, however,
17 we did not. We left the investigation of case --
18 individual cases substantially with local authorities
19 and expected them to get on with those.

20 Also, we had made a decision -- we agreed with
21 policymakers that we would not deal with complaints. So
22 people could complain to us but obviously we would have
23 to respond on the basis of whatever was said but we were
24 not setting up a complaints managing service.

25 Q. If there was a complaint about services then was that

1 something that would be dealt with at local level?

2 A. It would be dealt with at a local level. So our
3 principles throughout really were that whatever could be
4 dealt with at a local level, should be dealt with at
5 a local level and only if that seemed not to be working
6 would we, in any individual cases, step in.

7 Q. Just picking up on that point, if I can. If we can look
8 at page 0665 of your statement at paragraph 70 -- and
9 I don't want to take this in detail -- but I think you
10 there, in that paragraph, give examples of where the
11 inspectorate that you headed stepped in in local
12 issues --

13 A. Yes, that is right.

14 Q. -- and carried out a review. Sometimes a review that
15 was in addition to the local review if you were not
16 satisfied with what had been done as part of the local
17 review?

18 A. That would be true in each of the three cases I have
19 mentioned.

20 Q. I don't think we need to go into the detail of that but
21 I think what you are saying is that, yes, what we
22 locally see as case reviews would be conducted locally
23 and that was the way, in policy terms, it was done but
24 there were times when, if you were unhappy with what was
25 produced or felt there was concerns, you could institute

1 or recommend a review by your inspectorate and that that
2 happened from time to time?

3 A. Yes.

4 Q. In that sense at least there was central oversight of
5 what was happening at local level --

6 A. Yes.

7 Q. -- but it was limited oversight, I suppose.

8 A. It was limited oversight. I mean, obviously we couldn't
9 oversee all the individual inspections or investigations
10 that were being conducted at a local level; there were
11 too many. But those that were of particular note for
12 one reason or another, we would look at in more detail
13 and would require the local authority to send us a copy
14 of any reports conducted. Indeed, in the Caleb Ness
15 case, again we took a close interest in that and in fact
16 were very instrumental in its instigation.

17 Q. So you could either be involved in instigating a local
18 inquiry or indeed, if you were unhappy with a local
19 inquiry, you could conduct your own inquiry and
20 investigation and you did both from time to time?

21 A. Yes, we did both from time to time.

22 Q. Just on the inspectorate, you have told us it had
23 an inspection function and how that had replaced the
24 previous inspection arrangements from 1992 onwards. Did
25 it also have a policy function in terms of developing or

1 making some sort of contribution to the development of
 2 policy at central government level.
 3 A. Yes, we developed our close liaison with the three
 4 divisions and with some other people within the
 5 Scottish Executive and the easiest way to describe this
 6 is to describe the physical arrangements. When
 7 I started in 1991, we had two floors in Jeffrey Street,
 8 where we were. The Social Services Group -- the three
 9 divisions were on one floor and the Central Advisory
 10 Service was on another floor and I thought it would be
 11 better if we integrated the two groups so that our
 12 advisers were sitting close by the relevant division
 13 that they were working closely with.
 14 As that -- as things developed thereafter, there was
 15 more integration with the Health Department and the
 16 Justice Department and we then relocated many of our
 17 staff so that they were actually physically based in the
 18 Justice, Health and Education Departments in order to be
 19 working more closely with --
 20 Q. A more integrated arrangement so far as you were
 21 concerned?
 22 A. It was a more integrated arrangement. It was a bit
 23 spreadeagled in that there wasn't any longer a Social
 24 Services Group but I thought that was quite a good
 25 thing.

1 Q. So the group itself began to disappear?
 2 A. Its functions became relocated. It was developed -- in
 3 particular with the development of the CommuniCare
 4 policy following the Griffiths report, a huge amount of
 5 focus was placed on the integration of health and social
 6 care. In order to achieve that it was important that
 7 those staff within the Scottish Office, as it then was
 8 -- the Executive as it then was, were physically working
 9 closely with colleagues from other disciplines in health
 10 and community care.
 11 Q. Could you put a date on that for when that sort of
 12 integration occurred? Are we talking of the 1990s, the
 13 mid-1990s or later?
 14 A. From about 1999 onwards.
 15 Q. Is that post devolution?
 16 A. It started before devolution. It did increase with
 17 devolution.
 18 LADY SMITH: Sorry, are you saying the Social Work Services
 19 Group ceased to exist as a body --
 20 A. Eventually --
 21 LADY SMITH: -- about that time?
 22 A. About that time, yes.
 23 LADY SMITH: So what they were doing in terms of policy
 24 advice to ministers went to the individual departments
 25 that had an interest in provision for children, the

1 three you referred to, is that --
 2 A. With children's services it became integrated within the
 3 education department. With community care services for
 4 older people and disabled people, staff became
 5 integrated in the health department.
 6 LADY SMITH: I see.
 7 A. For criminal justice they became integrated into the
 8 Justice Department.
 9 MR PEOPLES: Was that a better arrangement so far as you
 10 were concerned?
 11 A. Yes, I thought it was.
 12 Q. Did that avoid the problem or the potential problem of
 13 inconsistency if different groups are dealing with the
 14 same matter in different ways, like policy, practice,
 15 guidance and so forth?
 16 A. Yes, we had different concerns about consistency. One
 17 was concerned about consistency within the
 18 Scottish Office -- Scottish Executive as it then was.
 19 It was important that we could get that consistency by
 20 close working between the various professionals and
 21 civil servants involved. We also had concerns about the
 22 consistency of local regulation and inspection from --
 23 you know, we had moved from 12 local authorities to
 24 32 local authorities and that was difficult to maintain.
 25 That was a significant feature in our thinking behind

1 the creation of the Care Commission, that that would
 2 bring about gradually a consistency of approach for any
 3 children's home or older person's care service, or
 4 whatever, in whatever part of Scotland.
 5 Q. So you had concerns about consistency both within
 6 government and consistency at local level particularly
 7 after the 1994 Act reforms and the way in which you --
 8 or one of the ways in which you sought to address that
 9 was partly the internal changes and arrangements that
 10 you described within Scottish Government and another was
 11 to set up bodies such as the Care Commission that would
 12 bring consistency across the board at local level; was
 13 that the thinking?
 14 A. Yes, that was the thinking. As part of that, because
 15 local authorities had full autonomy to decide how to
 16 manage and organise their services and so they no
 17 longer -- several of them no longer had social work
 18 departments and hence they would have different
 19 arrangements for their children's services or older
 20 people's services or whatever. That is what also led to
 21 this proposal to have a chief social work officer with
 22 professional oversight of those services, particularly
 23 because of the human rights issues involved.
 24 LADY SMITH: When you are talking about the human rights
 25 issues, you referred earlier to the removal of the child

1 from home and I can see it is correct to talk in terms
 2 of loss of liberty if, for example, a child is going
 3 into secure accommodation, perhaps because of
 4 a children's hearing decision that they need compulsory
 5 measures of care. But do you also have in mind
 6 Article 8 and the right to family life and looking at
 7 that from a child's perspective?
 8 A. Absolutely. It is also important to remember that
 9 another feature of that, of course, is the emergency
 10 admissions which would not necessarily go to
 11 a children's hearing until after the event.
 12 LADY SMITH: The place of safety, of course.
 13 A. The place of safety and also mental health issues.
 14 LADY SMITH: Yes.
 15 A. So the statute requires, I believe, that an opinion from
 16 an approved social worker is given before a compulsory
 17 admission to hospital on mental health grounds but
 18 according to a newspaper report I read last week, only
 19 in about 50% of cases that does that happen.
 20 LADY SMITH: Thank you.
 21 MR PEOPLES: That would concern you, I suppose?
 22 A. Yes.
 23 Q. In terms of functions, did there come a time when the
 24 Social Work Services Inspectorate concentrated on its
 25 inspection function and no longer had a prominent role

1 in the formation of policy? Do you recall a time when
 2 that happened around 2004, where the minister I think --
 3 I have in mind the ministerial statement that I have
 4 read, following a report into problems with a particular
 5 local authority and its social work services. I think
 6 the minister at that point said that he had planned to
 7 revamp the inspectorate and allow the inspectorate that
 8 you headed up to focus on inspection activity and
 9 transfer any functions on policy formation to some other
 10 part of government --
 11 A. Yes.
 12 Q. Do you recall that?
 13 A. There was a significant strengthening of that focus at
 14 that time.
 15 Q. On the aspect of inspection?
 16 A. On the aspect of inspection, yes. But that didn't mean
 17 that the inspection or the inspectors did not still work
 18 collaboratively with others in the formation of policy,
 19 but there simply wasn't the same focus, yes.
 20 Q. Perhaps putting it another way, there was a greater
 21 focus on inspection --
 22 A. Yes.
 23 Q. -- because it was thought that that was where the effort
 24 should be concentrated in light of experience at local
 25 authority level?

1 A. Yes. Yes. I think, if I'm following you correctly,
 2 this is Mr Peacock, and his phrase I think was, "I want
 3 to draw a line in the sand here and shift it up".
 4 Q. Because he had a concern, I think, about services at
 5 local authority levels following a prominent report
 6 about a particular council?
 7 A. Yes, there was.
 8 Q. Before I -- so far as the inspectorate is concerned, can
 9 I just take this from you: one thing you do make clear
 10 at paragraph 26, in terms of -- so far as the Social
 11 Work Services Inspectorate is concerned, is that
 12 inspectorate did not have any responsibility for
 13 hospitals which provided long-term care for children or
 14 indeed for boarding schools.
 15 A. No, it had no responsibility for them.
 16 Q. And it had no responsibility, I think you also say, for
 17 the inspection of foster homes.
 18 A. It had no responsibility for the inspection of foster
 19 homes except in relation to inspection of the local
 20 authority's whole services. So it would take those into
 21 account, but it did not inspect individual foster homes
 22 nor was there any intention to do so.
 23 Q. But is the point you are making there that although
 24 there is no responsibility for inspection, your
 25 inspectorate, and indeed the Central Advisory Service,

1 would have provided advice to local authorities about
 2 various services and these could include areas like
 3 foster care?
 4 A. Indeed. And did so.
 5 Q. And did so. So one might see, if one was trying to find
 6 examples, for example, practice or policy guidance to
 7 organisations running residential childcare
 8 establishments which would emanate from either your
 9 inspectorate or the Social Work Services Group when it
 10 was in existence or the Central Advisory Service, would
 11 that be fair?
 12 A. Yes. After we had brought together the distinction
 13 between practice guidance and policy guidance, that
 14 became, in my mind easier to both understand and to
 15 implement.
 16 Q. Can I now take you back to something we touched on at
 17 paragraph 5 about social work departments. I can maybe
 18 deal with it at this point.
 19 I think you express certain views on what you
 20 describe as social care services at paragraphs 20 to 23
 21 of your written statement. That is at 0642 through to
 22 0644; do you see that?
 23 A. One second. Yes.
 24 Q. Again, I don't want to take this at too much length but
 25 am I correct in understanding that it is your view that

1 any person at any time, whether adult or child, may
 2 require social care services?
 3 A. That is correct.
 4 Q. So you should not start, in your view, that there are
 5 certain groups for whom there is a requirement for
 6 social care services and for whom social work
 7 departments were invented; is that correct?
 8 A. That is correct.
 9 Q. Is that putting it in a nutshell?
 10 A. That is putting it in a nutshell and that's what
 11 I always thought.
 12 Q. Is that a view that some of your colleagues in social
 13 work did not share necessarily?
 14 A. Quite a lot of them did not share that view.
 15 Q. Would that include your successor as Chief Social Work
 16 Adviser?
 17 A. I don't know what her view is now.
 18 Q. What was her view then?
 19 A. Her view then was that she wanted to see social work
 20 departments reinstated on a statutory basis.
 21 Q. What was the thinking that she had on that matter?
 22 A. She thought social work departments were the best way to
 23 provide these services to people.
 24 Q. Just taking this a little bit further, my understanding
 25 is that while you believe in a universal social care

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1 service, if I can put it that way, which is open to all,
 2 you do not believe in what might be termed a unified
 3 social care service, a universal service but not
 4 a unified social care service.
 5 Can I give as an example the one you gave in your
 6 statement that, for example, if you have a child with
 7 complex needs, it is your view that what you need in
 8 that situation is a person with expertise in that area
 9 and not a generic social worker.
 10 A. That is my view. It is one that I advanced as strongly
 11 as I could and quite publicly in the reform of social
 12 work education, but not successfully.
 13 Q. We will come to that because I think you do deal with
 14 that in more length in your statement.
 15 Essentially, that's part of the thinking that you
 16 have, to try and perhaps be more specialised within
 17 social care services?
 18 A. There are kind of three things here and we probably
 19 shouldn't conflate them entirely. One is that, I think,
 20 that social work services, in their modern form, as it
 21 were -- and by that I mean since 1968 -- may apply or be
 22 essential for any person from any part of society at
 23 a different time in their life or may not be. And in
 24 that sense that they are universal in the same way
 25 education is universal. It doesn't mean to say that

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1 everybody goes to school every day, but it is
 2 nonetheless universal service.
 3 The other side of that part of the argument, which
 4 I think is important, is if you don't do that, then the
 5 great danger, which I think was fallen into, is the
 6 creation of stigmatisation of those people who do have
 7 to make appeals for this service. I thought that was
 8 a very old-fashioned way of conceiving of these services
 9 and it was that that I was particularly concerned to
 10 avoid.
 11 Q. So if it was seen like the National Health Service, so
 12 the National Social Care Service, it would not carry
 13 this stigma? People will go to the doctor and will not
 14 feel embarrassed by walking through the door, but if you
 15 have something that seems to be seen as being created
 16 for a particular group in society, there will be
 17 a stigma if you walk in the door?
 18 A. That was always my thinking of it and that was certainly
 19 my experience of it.
 20 Q. It was borne out by what you thought was the experience
 21 and how people perceived --
 22 A. My experience of those services organised as social work
 23 departments, and to an extent social services
 24 departments in England where I also worked, was that was
 25 the effect that they were having, and I thought that was

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1 deleterious for the wellbeing of the people they were
 2 trying to serve.
 3 Q. How would that have affected the quality of care of the
 4 people that might use the service, including children in
 5 care?
 6 A. I think they are more reluctant to avail themselves of
 7 the support and services that could be made available.
 8 Q. Now, just --
 9 A. I think it is more complicated than that actually.
 10 Q. Sorry --
 11 A. But basically --
 12 Q. Am I oversimplifying?
 13 A. No, not really.
 14 Q. Can I take you to this as well. You mentioned
 15 Kilbrandon at paragraphs 22 to 23. You tell us -- and
 16 I think it is well known -- that one of its principal
 17 recommendations was to create a unique system of
 18 Children's Hearings --
 19 A. Yes.
 20 Q. -- and also a field agency to support the work of the
 21 Children's Hearings. In practice, that support was
 22 provided post 1968 by the social work departments with
 23 social workers.
 24 A. That is correct. That was not the intention of the
 25 Kilbrandon Committee.

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1 Q. That was what I was wanting to take from you: Kilbrandon
2 recommended a special social and education division
3 within the Education Departments and authorities, but
4 that did not happen.

5 A. That did not happen.

6 Q. So those who wanted the generic social work department,
7 which was aimed at, as you saw it, a particular group in
8 society prevailed?

9 A. They did.

10 Q. If I could pass on to something that's of direct concern
11 clearly to this Inquiry, and you deal with it starting
12 at paragraph 27, which is the abuse of children in care
13 and you deal with that in that paragraph and the
14 paragraphs that follow.

15 I would just like you to deal with that at this
16 stage, if I may. I think, by way of introduction, you
17 were asked to address the question whether during your
18 time as Chief Social Work Adviser and Chief Social Work
19 Inspector you considered there was a problem with abuse
20 of children in care. I wonder if you could read that
21 one out for us, paragraph 27, what your response to that
22 question was when you gave your written statement?

23 A. Right:

24 "In relation to the inquiry area, during my time as
25 Chief Social Work Adviser and inspector, and whether

1 I considered there was a problem with abuse of children
2 in care, it is a difficult matter to reflect on, but it
3 was clear at the time that there was abuse in children's
4 homes, I had no doubt about that, and that there was
5 more abuse than was being addressed and that we were not
6 being consistent across our operation or across the
7 country in bringing this matter out, or helping it
8 become disclosed. By 'becoming disclosed' I mean by
9 getting children to feel empowered to speak about it and
10 to say that this is not acceptable, and for families,
11 but also for staff, to recognise it."

12 Q. The next paragraph deals with the report "Another Kind
13 of Home" that we referred to at the beginning of your
14 evidence. Can you help us with what you are saying
15 there because I think one of the matters that is taken
16 up in paragraphs 28 and 29 is what you were being told
17 by your inspectors who were part of the inspectorate and
18 what they were reporting to you and you refer to the
19 expression "roughhousing". Can you just help us with
20 the point you are making there?

21 A. Well, the point I'm making there is, obviously, care of
22 children, not just children in residential care, but
23 care of children in any setting does involve physical
24 contact of some kind. Hopefully that's always in
25 a loving and contextually appropriate manner and

1 process.

2 Some of that can take the form of play, and so it
3 should. The notion that there should be no physical
4 contact between staff who were responsible for caring
5 for children and the children, I think, is a false one.

6 However, I think it is extremely difficult to
7 clearly draw the line between what is play and a good
8 human interaction and what, for the child, might be
9 experienced in a different way. So the crucial point is
10 how well does the member of staff recognise what the
11 child's actual experience is, not what the member of
12 staff thinks the child might be feeling or thinking. So
13 that in a perfectly innocent way a member of staff might
14 engage in horseplay or -- what did I call it there --

15 Q. Roughhousing?

16 A. I mean the same thing. That the child may not feel able
17 to express their views or the member of staff may not be
18 sufficiently trained or sensitive to the cues of picking
19 up what's actually going on with this child's emotional
20 state. I think that's quite a difficult thing to do
21 which is why my focus has consistently been on the
22 qualifications and training of staff as being vital to
23 a good quality service.

24 Q. I think we will come back to how this was a main theme
25 of your report, "Another Kind of Home", to try and

1 improve the qualifications and status of residential
2 childcare workers --

3 A. Yes.

4 Q. -- and to get them to see things from the perspective of
5 the child.

6 A. Absolutely.

7 LADY SMITH: It sounds as though you are looking for
8 appropriate empathy --

9 A. Appropriate empathy, yes.

10 LADY SMITH: -- properly informed by the context, being the
11 child has come into care in circumstances which are
12 likely to be traumatic, simply from the fact that they
13 have been taken from their own home.

14 A. Yes, and the fears of what their future now hold.

15 LADY SMITH: Yes.

16 MR PEOPLES: I think you deal with that at later parts of
17 your statement, and I will come back to that if I may,
18 about some of the things you think have to be done if
19 children do go into care and some of the important
20 considerations that have to be borne in mind. I will
21 come back to that, if I may, and also the issue of
22 training.

23 At paragraph 30, you give us an interesting
24 observation that when you went to the Scottish Office in
25 1991, you tell us that there was still in existence

1 a circular providing guidance to List D schools on the
 2 thickness of the trousers that should be worn if
 3 corporal punishment was being administered. I think you
 4 expressed the view in the statement it was not
 5 acceptable for that still to be there. I think that is
 6 against the background that corporal punishment had
 7 been -- had ceased or was prohibited from the mid-1980s
 8 or thereabouts; is that correct?
 9 A. That is correct. The circular was still in existence
 10 and, to that extent, effective if somebody wanted to
 11 follow it. But it wasn't -- it was just a matter of
 12 spring cleaning really to remove it.
 13 Q. But does it say anything about those that had
 14 responsibility, that they hadn't done the
 15 spring-cleaning by the time you took office?
 16 A. I'm not sure how to answer that question. What I can
 17 say is that when I took office there was vast volumes of
 18 guidance which were -- had not been revised or looked
 19 at.
 20 Q. For some time?
 21 A. For some decades. One of the first tasks that
 22 I undertook with my advisers, and in collaboration with
 23 the divisions, was to reduce that guidance by at least
 24 50%.
 25 Q. So you want to do the spring cleaning and get rid of the

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1 guidance that's no longer applicable, you also want,
 2 presumably, to simplify the guidance that you don't have
 3 an overload of guidance?
 4 A. Absolutely.
 5 Q. Was that something you were trying to achieve when you
 6 took up this post of --
 7 A. I was, I was. I mean it seemed to me that a lot of this
 8 guidance was unread and unused --
 9 Q. Do you think you --
 10 A. -- by (inaudible) extent.
 11 Q. Do you think you succeeded in the 15 years you were in
 12 the two roles?
 13 A. I think I made substantial inroads but I wouldn't claim
 14 anything more than that.
 15 Q. Just staying on paragraph 30, if I may, on page 0646,
 16 I think you make the point there, as a more general
 17 point, that:
 18 "Having guidance on restraint discipline and
 19 sanction is important to give children maximum
 20 protection from abuse."
 21 Is that your view?
 22 A. What did I say?
 23 Q. Sorry, it is about five lines from the bottom of
 24 paragraph 30 on page 0646:
 25 "Having guidance on restraint, discipline and

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1 sanction is important to give children maximum
 2 protection from abuse."
 3 Is that your view?
 4 A. That's my view. I think it is very important to have
 5 the distinction between these different matters, that
 6 restraint, discipline and sanction are not the same
 7 thing.
 8 Q. Can you just explain the distinction?
 9 A. Well, I think there are times when a child needs to be
 10 restrained for their own protection, or possibly the
 11 protection of others, and that that needs to be done in
 12 an appropriate way.
 13 I think the question of discipline is quite
 14 different and has nothing to do with restraint. We all
 15 need discipline and it can mean many different things.
 16 So there should be discipline about this is, what you
 17 can do, and this is what you can't do, and if you do
 18 this that you cannot, you are not allowed to do, there
 19 will be consequences.
 20 Sanctions are a different matter about punishment,
 21 which is kind of, you did this and therefore the
 22 consequences are going to be severe, and in some way
 23 there will be some kind of element of punishment, if you
 24 like.
 25 Q. Do you think the distinction you articulated was one

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1 that was well understood by those who were involved in
 2 the care of children historically?
 3 A. Not as well as it should, in my view, have been.
 4 Q. When you wrote "Another Kind of Home", was that
 5 something that you detected from the visits you made to
 6 the establishments that you looked at, that this
 7 distinction wasn't always well understood?
 8 A. Apart from in relation to roughhousing, I don't know
 9 that we focused on it that much except in one or two
 10 discussions with some heads of homes.
 11 Q. One of the points I think you were asked about in your
 12 written statement -- and maybe you could take it just
 13 from me at this point -- was that when you did write the
 14 review "Another Kind of Home", am I right in thinking
 15 that its central focus was not on a problem of abuse of
 16 children in residential care?
 17 A. No. Its central focus was on the quality of the care.
 18 Abuse was not a particular focus. It wasn't that
 19 I wasn't aware that there was abuse in children's homes,
 20 but I readily admit that I greatly underestimated its
 21 extent at that time.
 22 Q. If we go to your statement again at paragraph 31, you
 23 say:
 24 "Abuse is an extreme form of disrespect, if you
 25 like. I can put that slightly differently perhaps:

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1 unless there is an empowered relationship with the child
 2 which involves an appropriate acknowledgement of their
 3 need for loving relationships, then abuse will occur.”
 4 What do you mean by that, the empowered relationship
 5 and the appropriate acknowledgement of the need for
 6 loving relationships, if you don't have these then abuse
 7 will occur? What had you in mind when you said that?
 8 A. Well, what I had in mind was that if a child is in
 9 a caring relationship with someone -- with anyone
 10 really, this applies in families as well, so it could be
 11 anyone, but if they are in that caring relationship
 12 which is intended to help them grow and develop as
 13 a person in their own right, and not least with the
 14 capacity to love and be loved and to understand what
 15 love is not and to understand how to find safety away
 16 from abuse, then these things are essential, I think, to
 17 the development of any child and the need to therefore
 18 be part of the care that's provided in a residential
 19 care establishment as well as in a foster care
 20 establishment or at home.
 21 Q. Do you think the point you are making there was
 22 historically one that was well understood by those
 23 involved in the provision of residential childcare --
 24 A. No, I don't --
 25 Q. -- either at the senior level or indeed at the coalface,

1 if you like?
 2 A. I think at the coalface there were some people who were
 3 doing fantastic jobs with a great deal of care and
 4 attention and, in that sense, love or empathy however
 5 you want to describe it, but they were more of the
 6 exception than the rule. I think in policy terms the
 7 matter was not properly understood.
 8 LADY SMITH: I'm interested in your expression "empowered
 9 relationship". Tell me a bit more about that.
 10 A. What I mean by that is that the child should feel some
 11 sense that they have some power in this relationship,
 12 that it isn't all just one way. You know, clearly the
 13 power balance is not equal, but if the child does not
 14 feel that they have some power, then I don't think they
 15 can fully engage in the relationship, which I think is
 16 crucial to the changes that are necessary for the
 17 development of their life skills.
 18 LADY SMITH: Can you give me an example of the way in which
 19 you assist a child to feel that they are empowered in
 20 the relationship?
 21 A. That they are listened to, that they have some choices
 22 that are made -- sometimes even if they are bad choices,
 23 that they are not necessarily overruled. Each situation
 24 is unique and different. But listening to and being
 25 treated with respect.

1 LADY SMITH: Yes, thank you.
 2 MR PEOPLES: I'm conscious of the time. Perhaps just one
 3 point I could just take before we finish on this
 4 point -- and I will come back to it maybe after lunch --
 5 is that I think one of the things you bring out in your
 6 statement, and we will look at this and you have already
 7 touched on it, I think, a couple of times is not just
 8 the empowered relationship but the need for appropriate
 9 relationships between children in care and the staff who
 10 care for them and indeed others that they -- including
 11 their parents and family.
 12 So there's a need I think you would say for
 13 appropriate relationships to be created to give them
 14 this empowered relationship that you feel is necessary
 15 to make the system work and to give them the protections
 16 that they are entitled to; is that right?
 17 A. Absolutely. I mean the best example of this, I think,
 18 is -- you asked earlier on about observations that we
 19 might have had as we went around children's homes in
 20 producing "Another Kind of Home". But the biggest
 21 single thing that stuck out to me certainly was the
 22 number of homes that we went to where the staff spent
 23 more of their time in the staff room and not with the
 24 children. If that is the case then the children will
 25 feel at least a bit abandoned in a situation in which

1 they are already feeling significantly at risk. The
 2 difficulty for the staff was that they didn't actually
 3 know what to do. They didn't have the skills or the
 4 training to engage with the children in ways that could
 5 have had a positive developmental effect.
 6 Q. It's also got the flavour of being a them--and--us
 7 situation?
 8 A. It does, absolutely.
 9 Q. Very much. And did that seem to be the picture
 10 generally when you prepared the report in 1992?
 11 A. We looked at -- we went to several hundreds of homes and
 12 some of them were terrific and the care and skill of the
 13 staff was great; in the majority it was not.
 14 MR PEOPLES: I wonder if that's a convenient point; I have
 15 a bit to go.
 16 LADY SMITH: It is just coming up to 1 o'clock and I think
 17 we will need a break at this point, Mr Peoples.
 18 We will break now for the lunch break,
 19 Professor Skinner, and my plan is to break until
 20 2 o'clock.
 21 Thank you very much.
 22 (1.00 pm)
 23 (The luncheon adjournment)
 24 (2.00 pm)
 25 LADY SMITH: Professor Skinner, I think we have now got your

1 screen reliably working.
 2 A. You have indeed.
 3 LADY SMITH: I hope that's of some help to you. I'm sorry
 4 there was a problem earlier on.
 5 A. Not at all.
 6 LADY SMITH: Mr Peoples, when you are ready.
 7 MR PEOPLES: Professor Skinner, good afternoon.
 8 Can I ask you to go back to your statement,
 9 WIT.003.001.0647, under a sort of general heading of
 10 abuse and ask you to go to paragraph 32. Essentially,
 11 I think what you were asked to address in that
 12 paragraph -- and indeed I think in subsequent
 13 paragraphs -- was the issue of the nature and extent of
 14 abuse of children in care and your state of knowledge
 15 about that issue at the time that you held the positions
 16 of Chief Social Work Adviser and Chief Social Work
 17 Inspector.
 18 Can I ask you again to read out paragraph 32 which
 19 provides the answer you gave in your written statement.
 20 A. Okay:
 21 "In terms of my view of the nature and extent of
 22 abuse of children in care, and whether I'm able to form
 23 a view of the scale of the problem, I have said that
 24 I have had to cause to reflect on that quite a lot.
 25 I saw my task as being to assist in developing a high

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1 quality of care for children looked after by the state.
 2 Part of my job was to have a picture of how things were
 3 on the ground. I saw my task as being to assist, to
 4 advise ministers, and assist in developing a high
 5 quality of care for children who were being looked after
 6 by the state. I was aware that there was, obviously,
 7 abuse of children, some in care and some not. I saw
 8 that within the context of the overall quality of care
 9 that was being provided. So I had a concern about the
 10 fact that the furniture was dreadful, windows were
 11 broken, smashed and left for months. I was aware of
 12 abuse when I saw it in that context and vastly
 13 underestimated how much there was. I think absolutely
 14 vastly and I put my hand up to that, I can say no more
 15 than that. I don't know how much I underestimated it,
 16 but not a day goes by when it doesn't appear and some
 17 other revelation comes forward and that concerns me.
 18 I don't think that I was alone in underestimating the
 19 extent of abuse and, in particular, underestimating the
 20 evil intent and the duplicitous cover up."
 21 Q. I suppose the question is begged: why do you think you
 22 and others, as you see it, vastly underestimated the
 23 scale of the problem? Have you any thoughts on that now
 24 looking back?
 25 A. I think we just didn't believe that there could be so

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1 much. I don't think it was a lack of openness to seeing
 2 it; it was a lack of openness in the way care was being
 3 provided and issues arising from care coming up or
 4 outside the closed homes.
 5 This is particularly true of homes which were in
 6 isolated positions on their own -- Quarriers, of course,
 7 is a good example of that because a well-endowed estate,
 8 as it were, very good quality building, provision and
 9 all the rest of it, but cut off entirely from its
 10 surrounding community. It is that isolation, I think,
 11 that meant that a lot that should not have been going on
 12 went on undetected and certainly unreported up the line.
 13 LADY SMITH: Professor Skinner, when you use the term
 14 "abuse", what do you have in mind?
 15 A. I have in mind physical and sexual abuse and also
 16 emotional abuse, if it is of an extreme kind.
 17 LADY SMITH: When you talk in terms of "vastly
 18 underestimating", that would seem to suggest that at the
 19 time you recognised that there were some problems that
 20 could be described as problems of abuse; have I got that
 21 right?
 22 A. Yes, absolutely.
 23 LADY SMITH: Can you give us some examples of what you
 24 recall recognising at the time was going on?
 25 A. I have to rack my brain for examples.

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1 LADY SMITH: The types of things?
 2 A. Well, physical abuse we were aware of and there were
 3 incidents of that. Then there was steps taken in
 4 relation to those by the registration and inspection
 5 authority. Sexual abuse was becoming more of a concern
 6 but it was still not nearly as great a concern as it has
 7 become today.
 8 LADY SMITH: How did you, and if I can call them this, your
 9 people become aware of the existence of physical abuse
 10 and the existence of sexual abuse at that time?
 11 A. Well, cases came to light which revealed -- Orkney is
 12 a particular example. It is a slightly awkward one
 13 because it is not -- I don't think most of us -- and I
 14 sat through most of the Orkney Inquiry sittings and
 15 received their papers each day. But I think we
 16 thought -- most of us working in the field thought that
 17 this was not a typical case, when in fact there was
 18 a great deal more abuse happening in more less
 19 well-known families and circumstances.
 20 In fact, the view of the minister at the time of
 21 Orkney, as he said it, was that actually social work has
 22 been letting people down for decades and it is only
 23 because this is a Quaker family, very well connected at
 24 high levels in government, that this has all come to
 25 light.

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1 LADY SMITH: I see.
 2 A. So I'm not sure I have answered your question however
 3 which is --
 4 LADY SMITH: I'm just trying to put myself in your
 5 environment and the environment of the people you worked
 6 with at the time and understand how they would have
 7 become aware that some children somewhere were being
 8 physically abused or some children somewhere were being
 9 sexually abused. I don't know whether it was from their
 10 own observations and drawing their own conclusions from
 11 what you are saying or whether they were receiving
 12 complaints and responding to them. What are we talking
 13 about?
 14 A. I do not think we were receiving many complaints, but
 15 I think that the nature of the care provided was not
 16 open to good communication with the children, many of
 17 whom would not think that there was anything
 18 particularly wrong being done to them: they would take
 19 it as a part of life to be expected and something they
 20 possibly experienced in other situations as well.
 21 LADY SMITH: Because they are young and haven't experienced
 22 much life, they just think life is just like that?
 23 A. That, I think, for most of them was the case and I think
 24 for many of them it still is.
 25 LADY SMITH: I see, thank you.

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1 MR PEOPLES: Just in terms of the scale of the problem I am
 2 looking at what you also said at paragraph 45 on
 3 page 0653 and it was in the context of being asked
 4 whether government had responded sufficiently to reports
 5 such as those about the Edinburgh Inquiry, the Fife
 6 Inquiry and police investigations in the early 2000s and
 7 so forth. What you said in your written statement was:
 8 "I think that we did have a clear view that there
 9 was a widespread problem and that it wasn't limited to
 10 a small number of establishments."
 11 At what point in your tenure as Chief Social Work
 12 Adviser/Chief Social Work Inspector do you think that
 13 was your view or the view of government and advisers of
 14 government that there was a widespread problem not
 15 limited to small number of establishments? Because you
 16 started your post in 1991 and you finished in 2005 and
 17 I was just wondering at what point in that period would
 18 that statement apply to, if you are able to help me.
 19 A. I mean, obviously, our or my concerns grew from 1991
 20 onwards and I think certainly by 1992/1993, I thought
 21 there was a very serious problem that we needed to take
 22 some different kind of action in order to take matters
 23 forward in a different way.
 24 Q. Did you see it as a systemic problem?
 25 A. I saw two systemic problems: one was the quality of care

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1 and therefore that needed to be improved, otherwise
 2 there would not be the necessary openness and mutual
 3 respect or even trust from a child that if they made
 4 a complaint anything would happen; but also they needed
 5 to be a systemic change to the way in which we deal with
 6 the regulation and inspection of children's services in
 7 particular, but in fact all care services.
 8 Q. I think if I go back to what you said at paragraph 33,
 9 following the paragraph you have read out recently, you
 10 are addressing whether the information of abuse filtered
 11 up to your level and you say:
 12 "It did not really filter up to my level at all.
 13 I was well aware that there was abuse and it wasn't
 14 properly being addressed and we needed to do something
 15 about that."
 16 That is a position that you held, that something had
 17 to be done and it was something that you thought early
 18 in your tenure as Chief Social Work Inspector and
 19 Adviser?
 20 A. Yes. When I say it didn't filter up, what I mean by
 21 that is that individual cases didn't come up to my
 22 attention.
 23 Q. I assume I would be right in assuming that, from time to
 24 time, government and officials would, in various ways,
 25 receive reports about particular establishments or

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1 allegations concerned with them and would have to look
 2 at that matter, perhaps through the Inspectorate or
 3 otherwise?
 4 A. Yes.
 5 Q. You might not have seen all these given the position you
 6 held, but that was something that would be happening --
 7 A. Yes, I mean the reports in the vast majority of cases
 8 would go really to the local authority rather than to
 9 government or Social Services Inspectorate.
 10 Q. So if you did receive an allegation concerning
 11 a particular establishment or a particular local
 12 authority area -- I don't mean you personally but either
 13 the government or the body that you headed up -- the
 14 usual response, if I could put it that way, would be to
 15 ask the local authority to look into the matter and
 16 investigate, if it hadn't already done so, or to seek
 17 some report about it if they had?
 18 A. Yes.
 19 Q. And see whether it should be --
 20 A. Except in the case of secure accommodation.
 21 Q. Yes, you had a specific responsibility there.
 22 A. In all other cases it would be a question for the local
 23 authority's own inspection and regulation unit.
 24 Q. If there was a problem --
 25 A. Also, you know, we would put a lot of emphasis on the

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1 managerial responsibility for those responsible for
 2 managing or contracting out those services.
 3 Q. If there was a problem with secure accommodation, which
 4 was a specific responsibility of the Inspectorate, at
 5 central government level how would that have been
 6 addressed in your time? Would it have triggered
 7 a review or other action?
 8 A. Reviews we tended to keep for service-wide issues. So
 9 we would have -- if there was an allegation about, say,
 10 a secure unit, then we would investigate that in
 11 consultation with the bodies responsible for running it,
 12 obviously in an inspectorial way, as it were.
 13 Q. At any point did it appear that, given the number of
 14 allegations that may have been coming about, for
 15 example, secure accommodation, that, well, we may have
 16 a real problem on our hands across the board and we
 17 should be doing something more than we are doing? Did
 18 that question never get asked or addressed?
 19 A. I think we had thought throughout that there were
 20 serious problems about the quality of care provided and
 21 that in that context there were serious problems about
 22 abuse of various kinds.
 23 The whole point of "Another Kind of Home" and the
 24 funds that flowed from it was to address those systemic
 25 problems through training and improved conditions of

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1 service and stature and respect of the staff.
 2 Q. So would I be right in thinking that the way you saw
 3 things at the time is that by taking steps to improve
 4 the quality of care in various ways, that -- including
 5 training and qualifications -- that would have a clear
 6 benefit of a likely reduction in the amount of abuse
 7 that could take place within the system?
 8 A. I thought that without improvement in the quality of
 9 care there would not be any reduction in the abuse,
 10 physical or sexual or emotional, in the system, however
 11 else was thought we needed to improve the inspection and
 12 regulation and make that much more consistent across the
 13 country as well. So these were not alternatives. It is
 14 just that for me the emphasis had to be on improving the
 15 quality of care.
 16 Q. But did you think that, as night follows day, that if
 17 you improve the quality of care, while you could never
 18 guarantee that abuse would never happen, that that would
 19 have a significant impact on the incidence of abuse?
 20 A. Yes, I thought it would have a significant impact on the
 21 incidence of abuse.
 22 Q. Was that in your thinking at the time or is that
 23 something you reflect on now?
 24 A. No, that's what I was thinking at the time. I mean when
 25 we set off to start that review of residential

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1 childcare, there was a -- not entirely widespread, but
 2 common view that residential childcare should be done
 3 away with, that it was no longer necessary and the needs
 4 it was meeting would be better met by foster care or
 5 support for families.
 6 I had a lot of sympathy with some aspects of that
 7 but I also took the view that residential childcare in
 8 a variety of forms was going to continue to be
 9 a necessary part of the system and it needed to be
 10 substantially improved.
 11 Q. At paragraph 33 you tell us about things that were done
 12 by way of response to what you saw as a problem that
 13 wasn't being properly addressed and what you needed to
 14 do and one of the things that you mention is the setting
 15 up of the Care Commission in 2001 to provide
 16 a standardised national approach to regulation and
 17 inspection of residential care and also you refer
 18 separately to the creation of national care standards
 19 with the aim of having national consistency about what
 20 the focus of inspection should be; is that right?
 21 A. Yes. The creation of the Care Commission was not
 22 entirely straightforward, but was largely a matter of
 23 bringing together staff from the local authority
 24 registration and inspection units and some health staff
 25 as well. There wasn't a great deal of consultation

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1 about that; it was just done. It was done in
 2 collaboration obviously with the local authority but it
 3 was different.
 4 The creation of the National Care Standards was
 5 rather different in that it seemed to me, in particular,
 6 that we had to have not only national consistency but
 7 good agency buy-in to these standards from the beginning
 8 so that every agency that had any involvement should be
 9 involved in some way on the committee, which was why the
 10 committee turned out to be about 50 people. But it did
 11 represent all the trade unions, all the local
 12 authorities, the health boards, educational and other
 13 interests.
 14 LADY SMITH: Sorry, I have missed which committee you are
 15 referring to there.
 16 A. Sorry, the National Care Standards Committee.
 17 LADY SMITH: The National Care Standards Committee. I see.
 18 Hence trade unions because they are the front-facing
 19 deliverers of the care, although people are right up to
 20 your end.
 21 MR PEOPLES: That body had been established by the time that
 22 the Regulation of Care Bill was going through Parliament
 23 and became the 2001 Act.
 24 A. It had started work, yes.
 25 Q. But it was unfinished work by the time the legislation

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1 went through, is that correct, the draft standards?
 2 A. It is ongoing work and it will continue for
 3 an indefinite period. But it has -- it had different
 4 parts. It was divided into different sections, as it
 5 were, in terms of what areas it covers, which includes
 6 residential childcare, boarding schools, palliative care
 7 in hospitals, a whole range of things. At any one
 8 point, and even today, you will find that some aspects
 9 of those National Care Standards are in draft form,
 10 being consulted on. Others were completed, so we would
 11 have to choose the date and go back and look it up to
 12 see exactly which ones were complete at that date.
 13 Q. So far as children in care were concerned, can you give
 14 us an approximate date as to the introduction of care
 15 standards: 2004 or before --
 16 A. Before that.
 17 Q. They were meant to be applied by the Care Commission
 18 from 2001 onwards?
 19 A. Well, the care standards were meant to be applied by the
 20 staff and the managers.
 21 Q. I understand.
 22 A. They should apply the care standards and they all have
 23 copies of them. Then the task of the Care Commission is
 24 to establish that that's indeed what they are actually
 25 doing --

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1 Q. That they are applying them properly?
 2 A. That they are applying them. But it is not for the
 3 Care Commission to apply them; that is clearly a line
 4 management or frontline member of staff task.
 5 Q. Can I just ask you this --
 6 LADY SMITH: Just before you do that: how difficult was it
 7 to get agreement as to what could properly be decided as
 8 a necessary care standard and what details could be left
 9 to the discretion of the individual organisation or
 10 institution? No doubt there would be some people who
 11 would want to drill down into how many hot meals a week
 12 and how often children got baths and whatever, and
 13 others would say, no, that's not what we are here for,
 14 we are here for something more high level. Was it hard?
 15 A. It was quite difficult, especially at the beginning.
 16 The crucial thing at the beginning was to get agreement
 17 and the focus on, in this case, the child and their
 18 experience. This is true about all the National Care
 19 Standards. So the focus of the National Care Standards
 20 is: what is this person's experience and how is that
 21 best expressed? It is then a matter for line
 22 management, service providers and senior management to
 23 work out the mechanisms of how that should be.
 24 You are quite right that at the beginning, in
 25 particular, people wanted us to focus on, and they got

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1 quite heated about it actually, but they wanted us to
 2 stipulate that staff rotas should be drawn up the week
 3 before and these kind of things and I didn't think it
 4 was feasible to go down that way.
 5 But to an extent they did in England, but I didn't
 6 think that would meet the objectives that I saw as being
 7 important or indeed -- and the committee has completely
 8 bought into that in time and is still following that
 9 model.
 10 Q. You were, at least for a time, the chair of that
 11 committee.
 12 A. I was until 2005.
 13 Q. I think the point you are making is reflected in
 14 paragraph 33 of your statement that you saw the real
 15 benefit of the National Care Standards, if properly
 16 drawn up, would be to focus on the child's experience
 17 rather than things which you describe as more capable of
 18 or more easily capable of measurement. I think you have
 19 said historically inspections seemed to focus on what
 20 was measurable but found it less easy to quantify or
 21 assess the quality of the experience.
 22 A. Yes. I think that's a difficulty about regulation and
 23 inspection in general and it is also difficult about
 24 some management issues too that because something is
 25 measurable and relatively easy to measure, it is easier

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1 to focus on that, whereas many of the things that
 2 actually are terribly important, not least in the lives
 3 of children, are not easily measured.
 4 In fact the quality of the relationship between
 5 a member of staff and the child is not -- you can't put
 6 a tape measure round that and say, you score nine out of
 7 ten. You can do some things that will help that process
 8 but we have to recognise it is not that we shouldn't try
 9 and measure these things; it is that we shouldn't allow
 10 just the measurable to be focused on or to think it is
 11 more important than the immeasurable, which it may well
 12 not be.
 13 Q. But historically would it be fair to say that in your
 14 view the focus of regulatory processes was on what was
 15 measurable rather than the quality of experience of
 16 individual children?
 17 A. It was. I can cite cases where inspectors had spent
 18 three quarters of an hour in an establishment, measured
 19 the size of the rooms, and said it has to be closed down
 20 because these rooms are too small and they had not paid
 21 any attention to the quality of the care being provided.
 22 Q. The question I was going to ask, I think, as well is --
 23 can you help me with this -- that you were aware from
 24 your early days as Chief Social Work Adviser and Chief
 25 Social Work Inspector that there were things that needed

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1 to be addressed and changes that needed to be made to
 2 the system and to some extent that occupied a large part
 3 of your report, "Another Kind of Home", the sort of
 4 things that had to be improved and changed.
 5 A. Yes.
 6 Q. We may come back to that, if I may. Why, if you
 7 recognised the need for a change, did it take until
 8 2001, ten years on, to get the establishment of
 9 a Care Commission and the creation of a National
 10 Standards Committee and the framing of national
 11 standards? It seems to be a long time to make the
 12 change that's required. Why was that?
 13 A. Well, I think quite a lot of progress had been made
 14 after "Another Kind of Home" was published and there
 15 were new initiatives in training, there was new funding
 16 for the local authorities and others. It wasn't that
 17 nothing was happening, but it was clear that there were
 18 other things that had to be put into place and that just
 19 took time.
 20 Q. When did you personally think that the creation of
 21 a Care Commission was a good idea to replace what was
 22 there before? Can you remember?
 23 A. In my head I think I thought that since 1991.
 24 Q. Am I right in thinking that the 2001 Act, which created
 25 the Care Commission, was foreshadowed by a White Paper

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1 on "Modernising Social Care Services" in 1999? Was that
 2 something you had a hand in?
 3 A. Yes.
 4 Q. Would that have expressed the sort of thing that was
 5 reflected in "Another Kind of Home", your thinking over
 6 the years and so forth?
 7 A. Yes. What Modernising Services focused on -- what a lot
 8 of my work focused on -- and this included "Another Kind
 9 of Home" -- was bringing social work services together
 10 with others, particularly education and health, so that
 11 there was much more collaboration and that was the focus
 12 of most of my work throughout my time there.
 13 It wasn't -- and it got -- it was well supported in
 14 lots of ways. It wasn't well supported after
 15 Mr Peacock's statement in which he saw a different
 16 future.
 17 Q. Sorry, can you just help me with that?
 18 A. He didn't want to see the work on bringing health and
 19 social work together to continue. So he wanted to
 20 create a new Social Work Inspection Agency, which would
 21 bring together all of those functions under one
 22 Chief Inspector, and bring it back from the Justice
 23 Department, Health Department and Education Department.
 24 Q. And for a time, am I right in thinking, there was
 25 a Social Work Inspection Agency from 2006 onwards?

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1 A. There was.
 2 Q. For about five years until it was replaced by the
 3 Care Inspectorate?
 4 A. It was about five years -- I think it was just under
 5 five years.
 6 Q. That wasn't really something you had had in mind but it
 7 was something the minister was keen on?
 8 A. The minister was very clear that I did not think that
 9 that was a good way forward.
 10 Q. What did he see were the benefits of doing it this way?
 11 A. He thought they would get a focus on inspection and
 12 a clearer focus on local authorities.
 13 Q. If I go back to your statement to just pick up some
 14 points in it. At paragraph 36 -- I think you made this
 15 point this morning:
 16 "The problem of abuse was not the central focus of
 17 'Another Kind of Home'.
 18 This is on page 0649.
 19 At paragraph 36 you say you look back to 1992 and:
 20 "[You] fully acknowledge that I was aware that there
 21 was abuse but I underestimated the extent of it
 22 significantly."
 23 That's a point you have made on several occasions.
 24 But you then go on to say -- and I think perhaps does
 25 this reflect the thinking you had at the time:

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1 "The more high the quality of care is, the less
 2 likely abuse is to occur. If it does occur, the more
 3 likely it is to be exposed. That is partly because if
 4 staff feel empowered they will root out the abuse and
 5 abusers and say, it is not acceptable in terms of the
 6 quality of care they are trying to provide for these
 7 children, stop it or I will take some action. If they
 8 don't have that and staff feel undervalued, untrained,
 9 poorly paid, then they will feel less inclined to
 10 confront abusive behaviour when they suspect it or see
 11 it.
 12 "Roger Kent and I went to lots of children's homes
 13 over that period of time. Our constant concern was so
 14 often that staff were simply in the staff room, rather
 15 than out and about in the home or in the grounds, and
 16 weren't really engaged with the children. That was
 17 a great concern."
 18 Was that a reflection of your thinking of how this
 19 would benefit the system and indeed reduce the
 20 possibility of abuse?
 21 A. Yes.
 22 Q. While we are on the same vein, can I take you then to
 23 paragraph 44 where you kind of take this matter up
 24 again. I just want to see how this fits in. You are in
 25 a reflective mood again, I think, at paragraph 44. Can

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1 you perhaps read out what you say there?
 2 A. "Whilst I do think I did try to address the quality of
 3 care issues, on the question of abuse I didn't do as
 4 much as I could and should have and I need to live with
 5 that.
 6 "I should have looked for it more. My
 7 responsibility was from a pivotal position to take
 8 an overview of what I thought was going on from all the
 9 information that I got. If there were gaps in the
 10 information, then it was my responsibility to go and
 11 fill those gaps in some way. I acknowledge that there
 12 were failings in the system. That's why I thought these
 13 things needed to change."
 14 Q. You have mentioned some of the changes that were made,
 15 albeit perhaps they were -- they took time, if I can put
 16 it that way, the Care Commission and the National
 17 Standards -- and you have mentioned how perhaps the
 18 regulatory process focused too much on the measurable
 19 and less on the quality of experience historically ; can
 20 I just ask about another point -- or perhaps it is two
 21 points I'm not sure. If you go to paragraphs 40 and 41
 22 and perhaps 42. You make a point in these paragraphs
 23 that there was another thing that you underestimated
 24 considerably and at the top of page 0651 in paragraph 40
 25 you state that:

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1 "A lot of aspects of the regulatory process is
 2 concerned ... and I have vastly underestimated this with
 3 justifying the regulatory process."
 4 Can you help me when what you meant by that?
 5 A. What I meant by that was in my observation the
 6 regulatory processes were too much focused upon
 7 completing the regulation. They were not focused on
 8 what was the quality of experience of the person
 9 receiving this service -- and that wasn't just for
 10 children's services. But the purpose of the -- so that
 11 they would then say, well, you know, if there has been
 12 abuse in this home, you can't blame us because we have
 13 done all the things that we said we would do. I thought
 14 it was necessary to shift that the thinking
 15 significantly.
 16 Q. But did you see that as the thinking processes at the
 17 time?
 18 A. Yes. Not for all, but for many.
 19 Q. One of the points you made in "Another Kind of Home" was
 20 that you felt that the inspection system, apart from
 21 having to -- should have national standards to achieve
 22 consistency in approach and focus on the child, that
 23 inspectors on the ground should be probing and asking
 24 questions and listening to people for whom the service
 25 has been set up.

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1 A. Yes.
 2 Q. Did you feel that wasn't something that had been
 3 happening historically?
 4 A. Not a lot of it. I thought a lot of it hadn't been
 5 happening and, as I think I mentioned elsewhere, we also
 6 had concerns and I had great concerns that the staff
 7 weren't that engaged with the children and that was
 8 a similar problem.
 9 LADY SMITH: In saying that you thought a lot of it hadn't
 10 been happening, it suggests that you think it was
 11 happening in some places.
 12 A. It was happening in some places.
 13 LADY SMITH: How were those people managing to do it?
 14 A. Because they were being well led and well trained and
 15 well supported by the organisation that they were
 16 responsible to.
 17 LADY SMITH: Leadership, training, daily delivery of the
 18 operation being supported within the organisation?
 19 A. Yes.
 20 LADY SMITH: I see, thank you.
 21 MR PEOPLES: The other points I wanted to pick up, in the
 22 paragraphs we were looking at, paragraphs 40, 41 and 42,
 23 was that you say you underestimated at the time, and in
 24 fact until recently, what you called the "amount of
 25 inertia in the system". Again is that a different point

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1 you are making there to the one about the regulatory
 2 process and if so can you just help us with what you
 3 mean by that, "the inertia of the system" or in the
 4 system really?
 5 A. The question of the inertia in the system has -- comes
 6 as a surprise to me, reflecting back. My assumption had
 7 always been, from when I started in 1968, that the
 8 purpose of the system and its leadership was change in
 9 the quality of people's lives and that there was a great
 10 deal of change in the way in which that was being
 11 provided, that people should provide and I thought most
 12 people bought into that. I don't now, in retrospect,
 13 think that was true. I think most people did not
 14 actually want to change -- and that's continued to be my
 15 experience to date.
 16 Q. Is there some reason why there's this apparent
 17 reluctance, as you have detected, to change things?
 18 A. I think it is possibly not unusual in any organisation;
 19 I certainly don't think it is unique to social work
 20 services or children's services. But if for instance --
 21 one of the first things we did after "Another Kind of
 22 Home" was to set up a Scottish Institute for Residential
 23 Child Care. It did some excellent work and it has now
 24 transformed into a slightly larger and different body.
 25 But initially, certainly, until now, there has to

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1 be -- the staff themselves have to believe that things
 2 could and should be better and that has to be part of
 3 their education, otherwise it is hard to make progress.
 4 Because change is difficult for people, for any of us.
 5 It doesn't come -- it is easier to do things the way we
 6 are used to than to do things in new ways.
 7 LADY SMITH: I think it is well known in the modern world
 8 that whilst all organisations are changing very fast, it
 9 is very challenging and people find it very unsettling
 10 and there is a need to be aware of that and you won't
 11 achieve your change if you don't work at taking them
 12 with you.
 13 A. I completely agree and I did work at trying to take
 14 people with me and some did and some did not.
 15 MR PEOPLES: The sort of change that you had in mind would
 16 be, I suppose, change of culture, change in the approach
 17 to training and changes in qualifications, changes to
 18 the status of residential care workers, improved
 19 management and leadership and oversight at all levels,
 20 more robust procedures of recruitment, and obviously
 21 factors such as the importance of these empowering
 22 relationships. All of these things were these things
 23 you had to put together.
 24 A. These are all parts of what has to be put together. The
 25 other thing I would mention is that there's also a need

1 to get these services -- and this wasn't just about
 2 residential childcare, but it does strongly apply
 3 there -- to do better communication and contact with
 4 other services in relation to residential childcare
 5 with, in particular, education being a key one -- so is
 6 health -- and to recognise -- and you know we did try
 7 and -- and partnership with parents, which is quite
 8 difficult for people to work with and that is possibly
 9 one thing that we need to do more training with.
 10 But I think the quality of care, as experienced by
 11 the child, depends very significantly on the quality of
 12 their continued contact and relationship, even if it is
 13 only in their mind, with their parent, almost whatever
 14 the reason is for their being in care.
 15 Q. So maintaining the relationship with their families, but
 16 also creating the empowered relationships between staff
 17 and children that you mentioned this morning --
 18 A. Yes.
 19 Q. -- and indeed empowering staff by making them -- well,
 20 giving them better training, better qualifications,
 21 better status and so forth --
 22 A. Yes.
 23 Q. -- so that the organisation changes, the culture
 24 changes, people are more open, people will speak about
 25 things they don't like, and the system will improve; is

1 that how you see things?
 2 A. People will speak about things that they don't like and
 3 that they think shouldn't be there. But also there's
 4 a positive side to all of that, which is in a sense the
 5 more important one, because people will also speak
 6 about: this is what we are here for, this is why we are
 7 doing this, this is very valuable, this is going to help
 8 this child grow and develop, and to focus on their
 9 strengths and not just their weaknesses.
 10 One of my themes over recent years in particular has
 11 been that it is vital to have a focus on children's
 12 strengths as much as on their weaknesses. I ask at
 13 conferences that I speak at for local authorities
 14 sometimes -- I don't do that very much now -- I ask,
 15 when a child comes into your residential home, how much
 16 do you know about what they are good at, what their
 17 skills are, what they really like, and they say, Angus,
 18 we are lucky if we know their name and address, frankly.
 19 But the reports that are prepared for admission of
 20 children into care are almost all focused on the
 21 negatives in that child's life, which are not
 22 unimportant. I'm not saying it is not important. But
 23 we all have strengths too and we all live our lives
 24 successfully to a large extent because we can focus on
 25 them.

1 Q. The point I think you are making is to get to know the
 2 child before they get into care, get to know something
 3 about the child, not just in terms of why they are they
 4 are there, and the weaknesses, but their strengths and
 5 so you can build on that?
 6 A. The thing they are good at or sometimes other people can
 7 recognise they are good at and their hopes and
 8 aspirations.
 9 Q. Can I ask you about the effectiveness or value of
 10 inspections. You have obviously said how you saw the
 11 change that you were trying to achieve by standards and
 12 creating bodies that might inspect more effectively.
 13 Can I go back to what you said at paragraph 38 of your
 14 statement both in the context of both inspections and
 15 National Care Standards. It is at 0560.
 16 The context in which you are dealing with this issue
 17 is whether inspections pick up abuse or not and, if not,
 18 whether there is a failure in the inspection system.
 19 You refer to evidence you gave to the Scottish
 20 Parliament at stage 1 in the Regulation of Care Bill.
 21 You say there:
 22 "[You were] reminded that one of the things I said
 23 was that soft evidence was often what most clearly
 24 exposed the worst practice and that major scandals and
 25 shortcomings have been exposed not through the rigour of

1 a bureaucratic or regulatory process, but by carefully
 2 listening to the people who receive the service.”
 3 A. Yes, I think that is the case.
 4 Q. Does it follow that the inspection system you have
 5 described historically and how they went about their
 6 task, at least many of them, was a significant failure
 7 in the system and in the inspection system?
 8 A. Yes, I think without a clear focus upon the person’s
 9 experience in care, their whole point is being missed.
 10 I think that’s a difficulty . I think it does require
 11 the management systems running the regulatory processes
 12 to adapt to those.
 13 The last time I looked at it I think there were some
 14 750 people employed in the regulation of these services
 15 and I have had my doubts as to whether that’s
 16 necessarily the best use of some very key and
 17 experienced people in the field who might be very
 18 valuable actually in the field rather than in
 19 inspection.
 20 I would hope that the information revolution that we
 21 are all struggling with one another might assist in the
 22 streamlining of these processes so we can get more of
 23 the staff that are currently in the regulatory bodies
 24 back out actually working directly with the systems and
 25 the services that they are there to help develop.

1 LADY SMITH: When you say you think the last time you looked
 2 at it there were something like 750 people employed in
 3 the regulation of these services, when was that?
 4 A. That was some -- it was a few years ago.
 5 LADY SMITH: 21st century?
 6 A. Yes. Since -- after 2005.
 7 LADY SMITH: It sounds like a lot of people.
 8 A. Sounds like a lot of people.
 9 MR PEOPLES: These are in the inspection system --
 10 A. Yes.
 11 Q. -- rather than on the front line?
 12 A. Exactly.
 13 Q. I think you feel the establishment of the care system
 14 and the Care Inspectorate has been a good development
 15 compared with what was there before and I think in
 16 paragraph 43 on O652, you are supportive of that
 17 approach, of having a Care Inspectorate and indeed one,
 18 I think, that’s cross-disciplinary, you make the point,
 19 because it creates a better chance of having a focus on
 20 the person receiving care if you have a number of
 21 disciplines involved in the inspection regime.
 22 A. Yes. I strongly welcome the multidisciplinary approach
 23 that is now much more fully established. I think it is
 24 vital to bear in mind that for the vast majority of
 25 people receiving care services, they are not getting

1 those in separate silos from education, health and
 2 social care; there is an integration of what that
 3 experience actually is and therefore there needs to be
 4 first straight communication and understanding of the
 5 people involved in that.
 6 The great distinction that was made by Griffiths
 7 when he asked a question was, "Is this a social bath or
 8 a medical bath?", "It is a bath".
 9 Q. You do express a degree of regret -- and this may come
 10 out of the things you hoped would happen from "Another
 11 Kind of Home" in 1992 -- about the way that things have
 12 progressed in the field of social work education and
 13 perhaps the role of the Scottish Social Services
 14 Council. I think in paragraph 43 you say at line 3:
 15 "My regret with the SSSC and with social work
 16 education, which I sought to reform but failed to
 17 reform, was that it hasn't got a stronger focus on
 18 specialisation ..."
 19 You touched on that this morning:
 20 "... and it's maintaining a model of a kind of
 21 generic social work practice that I think is very
 22 limiting and not fit for the future."
 23 Can you help us with your thinking on that?
 24 A. I have for a long time thought that a higher degree of
 25 specialisation was essential, mainly because it did

1 focus upon the person’s experience, really . But in
 2 terms of the future, if I had been able to win around
 3 people’s minds to that on or before, we would be in
 4 a much better position now to take things forward.
 5 Knowledge is increasing at an exponential rate
 6 across all social science and science and that’s all
 7 going to continue and to recognise that changing need
 8 and the need to adapt our systems in order to be able to
 9 absorb and apply some of that more usefully is vital .
 10 For instance, we know a lot more about autism than
 11 we did ten years ago and we will know a lot more about
 12 autism in ten years’ time and so we need people to have
 13 that knowledge without jumping from one field to
 14 another.
 15 Q. What about qualifications and education? That was
 16 a strong part of the your report in "Another Kind of
 17 Home", the need for enhanced qualifications and you,
 18 I think, if I can summarise, were seeking to establish
 19 a large measure of qualification among the residential
 20 childcare workforce over time.
 21 A. Yes, I would stick by that. What I was trying to
 22 introduce also in the proposed reforms in social work
 23 education is people could crossover at different points
 24 in their careers. I was taking education as being
 25 a lifelong activity, especially if you are

1 a professional.
 2 If you specialise in criminal justice when you first
 3 qualify, it doesn't mean that's what you are going to do
 4 forever, but you can undertake a transition or
 5 transposition, some kind of training in which you could
 6 bridge across to a different area or field. Because
 7 some of these things are common. Some factors are
 8 common across all fields, but some are not and that is
 9 a difficulty.
 10 LADY SMITH: What are the arguments against going down the
 11 specialisation route that you would advocate?
 12 A. That I would advocate?
 13 LADY SMITH: Not that you would -- you seem to be
 14 pro specialisation.
 15 A. I'm for specialisation, yes.
 16 LADY SMITH: You believe that would be the best type of
 17 social work service to be delivering. What are the
 18 counter arguments of going down that road?
 19 A. The counter arguments is if you have a generic social
 20 worker, then you can place them with whatever
 21 responsibility you have to apply that day. So if you
 22 have a generic social worker and the need that morning
 23 is for someone to provide an older person's service or a
 24 service to someone with a learning disability, then it
 25 is managerially much easier and so it goes.

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1 I think that's the only cogent argument that has
 2 been put to me, but culturally there is a reluctance to
 3 let go of something that feels like a professional badge
 4 rather than "I'm a social worker because I have generic
 5 training". I can understand the importance of having
 6 that sense of worth in your profession, but I don't
 7 think specialisation mitigates against that at all.
 8 In fact, I have sat in meetings where social workers
 9 have come and said, I know nothing about learning
 10 disabilities but I know about reviews, so I shall chair
 11 this one, and I'm afraid the other professionals round
 12 the table roll their eyes.
 13 MR PEOPLES: I suppose you have a situation, those who are
 14 of the opposite view to you, that the generic social
 15 worker might in one view be seen as the "jack of all
 16 trades and master of none" and you are saying, let's
 17 have master of their particular areas of specialty --
 18 A. Yes.
 19 Q. -- to deal with particular needs and particular
 20 problems --
 21 A. Yes.
 22 Q. -- and complex problems.
 23 A. I think if people are going to provide a service that is
 24 dependent on a growing body of knowledge, then they need
 25 to have access to the growing body of knowledge and its

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1 application.
 2 LADY SMITH: You are not saying no general practice in
 3 social work practice?
 4 A. I'm not ruling it out completely, no. I'm saying there
 5 should be a great deal more emphasis upon specialism.
 6 LADY SMITH: Taking autism for instance, you may be aware
 7 that by far the commonest problem that takes parents or
 8 a child or will be taking a child, as they can make
 9 their own application as of next year, to the Additional
 10 Support Needs Tribunal in Scotland is autism or
 11 an autism-type disorder which the parent believes is not
 12 being provided for by the local authority.
 13 A. I have seen some press reports to that effect.
 14 LADY SMITH: I think if you look at the tribunal's annual
 15 reports you will see the statistics for autism disorders
 16 far outweigh the other reasons why children are brought
 17 to that tribunal.
 18 A. I'm not in the least bit surprised to hear that.
 19 LADY SMITH: Thank you.
 20 MR PEOPLES: On the question of qualifications, you were
 21 asked about this in your witness statement. If I can
 22 take you to paragraph 53, page 0657, you were referred
 23 to an article in the Scotsman in March 2007 which was
 24 a couple of years after you left your post as Chief
 25 Social Work Inspector and Adviser. The article was to

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1 the effect that thousands of staff working with young
 2 people do not have qualifications for the job. It
 3 appears you were quoted as saying in that article:
 4 "The progress was slow [and] this was an important
 5 task and more should be done to tackle it."
 6 The thrust of the article gist was that problems
 7 with qualifications still existed and hadn't been
 8 adequately addressed.
 9 Would that disappoint you if we still have, to this
 10 day, residential childcare workers who are not qualified
 11 or adequately qualified to look after children with
 12 complex needs?
 13 A. Yes, it would. I think to some extent it must still be
 14 the case. I'm not overoptimistic about how much
 15 progress has in fact been made even though -- when we
 16 set up the Scottish Institute for Residential childcare,
 17 that, according to the Principal of Strathclyde, the
 18 biggest grant that they had ever received on any
 19 subject. So it is substantially backed financially.
 20 Q. Can I perhaps just take you at this point to "Another
 21 Kind of Home", which was your report in 1992. That's at
 22 LIT.001.001.1795. It is a long report and I don't want
 23 to go through it all. We have it as evidence and it is
 24 there for us to read, but there are one or two things
 25 I might like to pick up with you which may echo some of

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1 the things you have said today.
 2 This is your report in 1992. If you could begin
 3 at -- I think one of the key things you make in your
 4 report -- I can take you to page 1864, chapter 4, which
 5 is headed "Staffing and training". Do you have that?
 6 A. One second.
 7 (Pause)
 8 Q. Paragraph 4.1. Do you have that?
 9 A. Yes.
 10 Q. Do you see one of the points you make -- and I suppose
 11 this is true today as it was in 1992 -- is that staff
 12 make or break the system:
 13 "Staff are the key resource and [this is speaking in
 14 1992] are trained too seldom and too little ,
 15 insufficiently supported, and sometimes appointed too
 16 casually."
 17 A. Can I come to the casual appointment in a minute?
 18 Q. By all means.
 19 A. But the general point -- I would certainly hope that if
 20 I went around to children's homes in Scotland, as we did
 21 in 1991 and 1992, that we would see significant
 22 improvements. That does not say that there is no scope
 23 for more, and I am sure that would be the case.
 24 The question about staff being appointed too
 25 casually has always been a great concern of mine because

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1 unless there is a good and thorough back trail of
 2 references, and that that is undertaken before
 3 an appointment is made, it is quite easy for people who
 4 should not be working in residential childcare to slip
 5 through what is an inefficiently run net.
 6 We did set up our group to look at this in --
 7 I can't remember which year, but after "Another Kind of
 8 Home" -- and one of its major focuses as well was that
 9 staff should not be appointed unless -- not just the
 10 reference in the last job, but the trail of references
 11 from previous jobs applies. It is clear that some
 12 people -- I think the Fife case is an example in fact --
 13 have been appointed without references being taken up at
 14 all. That's really why I suggested in my statement,
 15 I can't remember where, there might be a case for
 16 a third body, quite small, covering social work,
 17 education, health and police based in central
 18 government, with the responsibility for receiving from
 19 anybody notifications of any disciplinary action,
 20 including sacking, being taken in relation to any member
 21 of staff. You can start with any member of staff
 22 working with children and you could apply it to other
 23 areas as well.
 24 Then, the requirement would be -- so that would be
 25 a central register of people who were known to have

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1 committed bad practice at the very least and it would be
 2 compulsory on anybody employing staff to work with
 3 children to consult with that central point. The actual
 4 taking up of references which would still be important
 5 might take a long time because of the way in which these
 6 systems work, whereas if there is a central index, if
 7 you like, of people who are known to have committed ill
 8 in these services that should be a compulsory connection
 9 to make.
 10 Q. I think you deal with that -- maybe I will just take the
 11 reference for it -- I won't take you through all you
 12 have said, but you summarise what you have in mind and
 13 you deal with that in paragraphs 46 to 50.
 14 A. Of the statement?
 15 Q. Of your statement. If you want to confirm it, it is
 16 headed "National Children's Service". It may be you are
 17 talking more in terms of some specialist body which you
 18 describe, I think, in colloquial language as effectively
 19 an abuse reporting centre. In paragraph 48 -- that is
 20 on page 0654 and 0655 -- is that what you are referring
 21 to?
 22 A. Yes.
 23 Q. You see this as perhaps a development beyond the
 24 existing arrangements that are in place as far as you
 25 understand them to be.

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1 A. It is a step beyond the existing arrangements that are
 2 in place and a step beyond existing practice as it is
 3 practised.
 4 Certainly when we looked at this in thinking about
 5 the SSSC, it seemed logical to assume, well, if we set
 6 up the SSSC, then it will have responsibility of
 7 regulating all of the staff and that will ensure that
 8 there is good quality amongst them. But the SSSC has to
 9 cover so many staff that in fact the processes are bound
 10 to be sometimes clogged up or slow. It is clear -- and
 11 this is probably what I underestimate more than anything
 12 really in 1991. I'm certainly now quite convinced that
 13 there are a small number of mainly men who deliberately
 14 try and find a way into care establishments in order to
 15 abuse children and sometimes in hospitals as well.
 16 Sometimes they are assisted by women ...
 17 I have no idea how many there actually are, but my
 18 impression is there are not actually a great many, but
 19 they would be lost within the SSSC regulation. I don't
 20 know off the top of my head how many staff the SSSC
 21 actually has on its register, but it must be tens of
 22 thousands.
 23 LADY SMITH: I suppose in the modern world a lot of these
 24 people would be picked up by the enhanced disclosure
 25 system, which includes being able to take account of

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1 information that the police hold, even if it hasn't been
2 followed with a conviction.

3 Separately, can I just try and unpick what you were
4 envisages so far as employer notification was concerned.
5 How would that have worked? Say I ran an organisation
6 of some sort that employed people to look after
7 children, what would you be envisaging me being required
8 to do?

9 A. Just to inform this central unit, which could be quite
10 small, that you had taken disciplinary action in
11 relation to a childcare matter in relation to this
12 person to be named. So all they would require is the
13 name of the establishment and the name of the person.
14 It would then be for anybody thinking of employing
15 anybody to check with that index whether they are on
16 that index or not, and then to follow that up if their
17 name does appear on that index.

18 LADY SMITH: Follow it up how?

19 A. By taking up references or by deciding to go elsewhere.

20 LADY SMITH: If I was the employee and I considered that
21 I had been unfairly dismissed, perhaps for
22 whistle-blowing, perhaps for other reasons, how would
23 I get that taken into account? How would I try to bring
24 that to the attention of somebody subsequently trying to
25 employ me?

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1 A. There would simply be an index of the name and the
2 establishment. The responsibility for following up on
3 that index would be with the potential new employer --

4 LADY SMITH: Yes, but how would they know that that entry on
5 the register might not be justified?

6 A. It would be a question for them to go back to the
7 employer; that would be you.

8 LADY SMITH: The employer is not going to admit they have
9 unfairly dismissed somebody for whistle-blowing about my
10 bad practices in other areas, for example. Do you see
11 what I'm getting at?

12 A. I see.

13 LADY SMITH: It may not be as straightforward.

14 If you took the period, for instance, when fees were
15 being charged in the Employment Tribunal, a lot of
16 people who may have considered that they had good claims
17 for unfair dismissal were not taking them because they
18 could not afford it.

19 So they wouldn't be able to point to having gone to
20 a tribunal and it being established that they were
21 unfairly dismissed; they were stuck on a blacklist, if
22 you like, affecting their employability in the future.

23 You had not thought about that at the time, I don't
24 suppose.

25 A. I hadn't thought about that at the time. Indeed, I'm

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1 happy to give it more thought.

2 LADY SMITH: Essentially, what you are trying to get at is
3 a way of getting into the open whether somebody has been
4 an unsatisfactory employee in a care establishment, for
5 whatever reason.

6 A. Yes. Then if there is detail behind that, that's for
7 the new employer to delve into in the appropriate way.

8 MR PEOPLES: It is not an obviously a completely crafted
9 solution, but you are throwing in an idea that you think
10 should be debated and considered. I suppose the point
11 you are making, as I understand it, in these paragraphs
12 is it shouldn't be left to a prospective employer to
13 decide what checks and references should be made as part
14 of the process of recruitment; there should be some
15 requirement on that person to at least consult with this
16 information centre to see if there's any information
17 that they should be aware of, and maybe then we have to
18 think about the issues that may arise if the prospective
19 employee's name is on the list? Is it something along
20 those lines?

21 A. Something along those lines. Clearly the matter needs
22 more thought. I'm conscious of the fact that at times,
23 if you have a vacancy in your children's home, you
24 possibly need to fill it today, not some weeks down the
25 line, and quite often these decisions are made at some

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1 rush because of the pressure of providing the care.

2 Q. I suppose the paramount consideration is the welfare of
3 the children in care. To some extent you don't want to
4 rush things just to fill a vacancy.

5 A. Well, it is a balanced decision for the manager to make,
6 but the difficulty is that -- I experienced it and it
7 has been ... very often references are not as diligently
8 taken up as they should be.

9 LADY SMITH: Mr Peoples, I would like to give the
10 stenographers a break at some point. It is just 3.05
11 now; would 5 minutes now be suitable?

12 MR PEOPLES: That would be fine.

13 LADY SMITH: We will take a break now for five minutes,
14 please.

15 (3.08 pm)

(A short break)

17 (3.15 pm)

18 LADY SMITH: When you are ready Mr Peoples.

19 MR PEOPLES: Professor Skinner, can I go briefly back to the
20 report, LIT.001.001.01805. I want to just take from you
21 what you wrote this report in 1992. One of the things
22 you did say though is that, at page 1805, at
23 paragraphs 2 and 3, you drew attention to the fact that
24 there had been major changes in residential childcare
25 provision over the preceding two decades at the time of

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1 your report. That's basically the 1970s and 1980s.
 2 You observed or found that the number of children
 3 who were resident in homes fell from 6,336 in 1976 to
 4 2,161 in 1990; do you see that?
 5 A. Yes.
 6 Q. You also made the observation that children who were
 7 admitted to residential care at that time also tended to
 8 stay for shorter periods than historically was the case.
 9 A. Yes.
 10 Q. In paragraph 3 you also drew attention to the fact that
 11 the age of the population of children's homes had
 12 changed significantly over time and that in 1977
 13 one third of children in residential care were aged
 14 between 5 and 11 --
 15 A. Yes.
 16 Q. -- and 59% were aged between 12 and 17.
 17 A. Correct.
 18 Q. And that, in contrast, by 1990 only 11% of the children
 19 in residential care were aged 5 to 11 and 86% were aged
 20 12 to 17.
 21 A. Yes.
 22 Q. You also noted that between 1980 and 1990 the number of
 23 residential homes frequently 294 to 154; do you see
 24 that?
 25 A. Yes.

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1 Q. Just one other point on that page if I may: at
 2 paragraph 5, I think, it was your view, as expressed in
 3 the report in the final sentence of paragraph 5, that
 4 children under 12 years of age particularly need the
 5 closer comfort and care that a family can generally
 6 offer and only exceptionally should children under 12 be
 7 in residential care. Is that a view you still maintain?
 8 A. Yes. My only hesitation on that is that the nature of
 9 some disabilities is changing and if we -- we didn't for
 10 instance look at -- I think at the time we did this
 11 report there was at that point a unit in the
 12 Gogarburn Hospital. I think that has now changed. The
 13 question would be: are there children with particularly
 14 complex needs of a younger age? Maybe they should be
 15 cared for in a different setting.
 16 Q. But subject to that qualification, in general terms you
 17 don't favour children under 12 being in a residential
 18 care setting if there's an alternative available.
 19 A. No. I would rather they were in a foster home care
 20 setting or supported at home.
 21 Q. On the issue of feeling safe, which is something we have
 22 spoken about today on page 1806, you appear to have
 23 formed the view in 1992 that in most homes that you
 24 looked at -- and I think you looked at a considerable
 25 number -- young people and staff do generally feel safe

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1 and comfortable with each other. Was that the view you
 2 held then?
 3 A. Where do I say that?
 4 Q. Paragraph 8 on page 1806, first sentence.
 5 A. Yes.
 6 Q. You make the general point that:
 7 "Staff need to be better trained, qualified, paid
 8 [and so forth] and better supervised and better
 9 managed."
 10 But you seem to be finding, at least as at 1992,
 11 that the position was that from your own --
 12 A. From our observations, that's the general observation
 13 that we had.
 14 Q. Again, you go back to various key themes. On page 1807,
 15 you say at paragraph 18:
 16 "The key to good quality care, with or without
 17 education, is the calibre and effectiveness of staff."
 18 Again we go back to -- that's one of your major
 19 themes?
 20 A. Absolutely.
 21 Q. I think at that point you felt that there were problems
 22 with staff being undervalued, staff not being well
 23 enough trained and well enough supervised and
 24 qualifications had to improve; is that the case?
 25 A. That's the case.

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1 Q. You also make the point at paragraph 21 that:
 2 "Management of residential childcare should be
 3 improved with clear leadership from headquarters as well
 4 as in homes."
 5 That again was a key point you were trying to get
 6 across --
 7 A. Yes.
 8 Q. -- the importance of good management and leadership?
 9 A. Yes, and the particular point there, is that is
 10 leadership at all levels, including the top.
 11 Q. Just picking up on another point you made in the report,
 12 if I could go to page 1810 at paragraph 1.11. Just at
 13 the foot of page 14 of the report. (Pause). It is in
 14 chapter 1.
 15 A. I'm there.
 16 Q. You make what may seem an obvious point, but one that
 17 may not always taken on board. You say:
 18 "Admission to care is a major event in the life of
 19 any young person. It should never take place without
 20 the fullest consideration of all the factors indicating
 21 the need for admission."
 22 A. Which paragraph are you on?
 23 Q. Paragraph 1.11 at the foot of page 1810 going over to
 24 1811; do you see that?
 25 A. Yes, I have.

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1 Q. Picking up on that point, if we go to your statement, if
 2 I can -- I'm sorry to be dodging between one and the
 3 other -- to paragraph 60 of your witness statement at
 4 0660. Do you have that?
 5 A. I will do.
 6 Q. Sorry for moving you from one part to the other.
 7 A. I'm here.
 8 Q. It is perhaps a misnomer, the heading to that paragraph,
 9 "Preparations to go into care". But I think you make
 10 several points in that paragraph, one being the
 11 importance from the child's perspective of going into
 12 care. Is that one of the points you draw out --
 13 A. Yes.
 14 Q. -- and also the importance of relationships whilst in
 15 care.
 16 Obviously, thirdly, the third aspect is the
 17 importance of looking after young people after they
 18 leave care.
 19 A. Yes, I think the third point is very important and is
 20 possibly over the period of this report and the years
 21 subsequent to it, the most -- the least well developed.
 22 Some authorities seem to be operating a policy that as
 23 soon as a child is 16 they should leave care, basically,
 24 and they should certainly leave residential care.
 25 The difficulty with all of that is that the

1 experience of care -- this really comes from my work on
 2 positive psychology and perspective psychology and it
 3 draws on the work of two recent Nobel laureates. But
 4 the way in which we seem to evaluate things is not an
 5 average of the experience, so if you had a week's
 6 holiday, the way in which we think about that and feel
 7 about that or evaluate that in your head, it turns out,
 8 is not "What was it like on average each day", it turns
 9 out that you take the high point, the best day and the
 10 end point and this is called "big end experience" and
 11 this sort of revolutionised modern economic theory.
 12 If that is the experience in daily life, as it
 13 clearly now is seen as being, for children coming into
 14 care then the end point of their experience is going to
 15 have a very strong impact on their evaluation of that
 16 experience as a whole. That then becomes a story that
 17 they tell themselves, as well as other people, about
 18 that experience of being in care.
 19 So, one of the phrases -- I think it is in the
 20 report, I can't remember now, but one of the things we
 21 were aiming for was a position in which not that a child
 22 was saying, I was abused at home and then I was in care,
 23 to a position of saying, I was abused at home but then
 24 I was in care, so that experience is seen as a positive
 25 experience for them.

1 Whether they say that to other people or not -- and
 2 of course they do say these things -- it is very
 3 important that the stories that they are telling
 4 themselves about what their experience was is a valuing
 5 one. That's the point of that.
 6 Q. I think perhaps though, also since you ceased the roles
 7 you had, at least steps have been taken to maintain the
 8 link with children leaving care and indeed the age has
 9 recently been increased to allow them to continue in
 10 care or to receive support into their twenties. So you
 11 would welcome that development?
 12 A. I would very much welcome it. I'm slightly surprised to
 13 see it, to be honest.
 14 Q. Just sticking with your report, if I could go back to it
 15 again, if I may, at page 1814 at LIT.001.0001.1814.
 16 This again, I think, echoes some of the things you have
 17 been speaking about today. One of the themes of your
 18 report in 1992 was what you describe there as the
 19 central importance of relationships.
 20 A. Yes.
 21 Q. You say that:
 22 "The purposes of residential care can only be
 23 achieved through positive relationships between staff
 24 and young people in a safe, stable and caring
 25 environment. This is clearly fundamental to all aspects

1 of residential care, including setting limits to
 2 behaviour. A positive care experience can be provided
 3 only by staff who genuinely like people and children and
 4 who feel personally involved and responsible. Young
 5 people will only respond to staff who they like and
 6 respect and whose approval they consider important."
 7 So this goes back, I suppose, to one of the themes
 8 you have touched on in your statement, and indeed here,
 9 of getting the appropriate relationships, getting the
 10 empowered relationships and so forth; is that correct?
 11 A. That is correct.
 12 LADY SMITH: At an earlier part of your report, the part we
 13 looked at before we went to 1.11 -- I don't think we
 14 need to go to it -- there you have a list of five
 15 reasons for preferring residential care to
 16 non-residential care, the different types of
 17 circumstances in which children may find themselves.
 18 What's not there is the sort of case where the child
 19 is managing to sustain some relationship with their own
 20 home, their natural parents or parent, and there remains
 21 some hope of re-establishing that as their permanent
 22 home. I have heard other evidence that in the case of
 23 such a child it can be counterproductive to put them in
 24 a foster home because there they are likely to feel
 25 claustrophobic and put in a position of feeling one

1 family is being set up against this other family that
 2 they have not lost all links with, nor do they want to
 3 lose all links with. Would you add that to your list?
 4 A. I would, I think that's exactly right. I have come
 5 across cases of that kind and I can understand how they
 6 arise, yes.
 7 LADY SMITH: Thank you.
 8 MR PEOPLES: Just going back to the report, having set out
 9 what young people and children who are cared for in
 10 a residential setting should be entitled to expect, you
 11 deal with that at pages 1815 through to 1816; we can
 12 read it for ourselves. They are the sort of things one
 13 might expect to see but perhaps not things that were
 14 clearly articulated and acted upon historically, would
 15 you agree: the right to be respected, to participate in
 16 decisions, to be treated with respect and dignity, to
 17 feel safe and secure, to have privacy and dignity and so
 18 forth? You list a whole series of things that a child
 19 or a young person is entitled to expect from the care
 20 experience.
 21 A. Yes, absolutely.
 22 Q. Was the purpose of doing that simply to make sure that
 23 people did understand what the expectation is?
 24 A. Yes, I thought it was important that we had a clear
 25 statement of high expectations of the quality of care

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1 and that that needed to be promulgated through the local
 2 authorities and organisations that were providing that
 3 care.
 4 Q. Having set out these various expectations that we have
 5 briefly looked at at page 1817, at paragraph 134, you
 6 set out eight fundamental principles which an expression
 7 of these expectations and which should underpin
 8 residential childcare. You deal with these and we can
 9 read them for ourselves.
 10 One of them is:
 11 "A feeling of safety. Young people should feel safe
 12 and secure in any residential home or school."
 13 That is principle 8.
 14 A. Yes.
 15 Q. Then if one goes to your third chapter in the report at
 16 1827, which is headed "The Quality of Care", where you
 17 look at the quality of care as at 1992 --
 18 A. What page number are you?
 19 Q. Page 1827.
 20 A. I'm there.
 21 Q. At 3.1.1, you say:
 22 "Treating each young person or child as
 23 an individual is central to all good childcare. For
 24 young people and children, residential care is not
 25 a system or a service, it is a unique and profound

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1 personal experience which will have lasting effects and
 2 impressions, for good or ill, throughout the rest of
 3 their lives."
 4 Do you feel that was something historically was
 5 recognised sufficiently?
 6 A. It was very well recognised in some homes and it
 7 appeared not to be well recognised in many others.
 8 Also, it is important that the factor is recognised by
 9 those who are managing the service, even if they are
 10 managing from quite a high level in the organisation.
 11 Q. I think in that subparagraph you, to some extent, are
 12 trying to put yourself in the shoes of the child.
 13 A. Yes, that's exactly right.
 14 Q. To some extent I think in your witness statement, if
 15 I could take you to that at this point, to deal with
 16 that matter at WIT.003.001.0666 starting at paragraph 72
 17 and perhaps going through really to paragraph 76, you
 18 reflect on the fact that I think you had as a child.
 19 You tell us you had personal experience of living in
 20 a children's home.
 21 A. That is right.
 22 Q. Has that influenced your professional thinking and the
 23 way you see things?
 24 A. I have undoubtedly drawn on that. These are the last
 25 days that I am going to be involved in these kind of

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1 things, but I have written an article for the
 2 Strathclyde University Journal on Residential Care,
 3 which will be published in December, and that starts off
 4 with my saying that when I moved into a children's home
 5 I was frightened.
 6 Q. I think you say in paragraph 72 that that was because
 7 your parents were working abroad and you were in
 8 a children's home?
 9 A. Yes.
 10 Q. You are not raising any issue of abuse or physical
 11 chastisement in making these statements, but you do say
 12 they were away and you were separated from them for
 13 a considerable period of time?
 14 A. Yes, I mean, these arrangements were common across the
 15 missionary field and also of course across the military
 16 field. So, at that time, if your parents were working
 17 in Asia, they would generally be away from five years;
 18 if they were working in Africa, they would generally be
 19 away for three years or two years.
 20 Q. I think you say because of the experience you had of
 21 this situation, you could put yourself in the shoes of
 22 the child. Do you think that was a valuable experience
 23 which you could bring to bear in your later career?
 24 A. I'm not going to recommend it to you.
 25 Q. No, I'm not suggesting recommending, but it was

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1 something that gave you an insight?
 2 A. I have no doubt that it did, yes. And it also, you
 3 know, I had never intended to spend so much of my
 4 working life on the subject of residential care of
 5 children, but I have spent quite a lot of it and part of
 6 the motivation of that is the experiences that I had.
 7 Q. You make an interesting point, you say there is a kind
 8 of informal chaos about family life .
 9 "The family understand that informality. I think
 10 that's very precious and you don't have that in
 11 children's homes. I don't think you could really have
 12 that because the vibrancy of that informal chaos depends
 13 on long-term trust. The place has to have rules about
 14 what you have and what you cannot have. The notion of
 15 having a free bowl of fruit I really like, because that
 16 is kind of informal, rather than you can get an apple
 17 today and something else tomorrow. I have been a great
 18 fan of that recommendation because I think it is
 19 symbolic."
 20 Are you trying to capture with a very simple example
 21 the way of, at least, trying to get some form of
 22 informal chaos into a residential childcare setting by
 23 the bowl of fruit example?
 24 A. Yes, a little bit of informal chaos. And also if the
 25 bowl of fruit is there and the child is able to help

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1 themselves, that gives them some empowerment, they have
 2 some agency, they are not just -- the danger is of them
 3 feeling warehoused rather than cared for.
 4 Q. So far as living away from family is concerned, in
 5 paragraph 73 I think you make the point -- and I think
 6 it stuck with you -- that separation from parents and
 7 family has a lasting impact, and in fact that when you
 8 had a reunion with people who were I think in your care
 9 setting as adults, you say it was clear that those who
 10 had feared worse were those who had had the least
 11 contact with their parents. So was that something that
 12 struck you?
 13 A. Yes, it struck me and my friends. I mean quite a few of
 14 the people who had been in that children's home could
 15 not bring themselves to attend the reunion. The quote
 16 about informal care is actually Jonathan Miller and his
 17 experience of boarding school and the effect that had on
 18 him.
 19 Q. On the issue of separation from parents, you deal with
 20 that in paragraph 74, and make the point that it has
 21 been known for decades that separation from parents is
 22 a deeply troubling event, lifelong and in its moment
 23 very distressing at the very time of the shift .
 24 Do you think certainly historically the mere impact
 25 of separation and perhaps the deprivation of contact,

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1 which happened in some care settings historically, do
 2 you think that the impact of that was properly
 3 understood and recognised?
 4 A. It wasn't sufficiently well understood by all the staff
 5 involved. I think it is well understood in terms of its
 6 mechanism and it has been really since the studies of
 7 the evacuees during the Second World War, in particular,
 8 and the work that followed up from there, which
 9 obviously involved a lot of separation. But the
 10 question is that for some people still -- because these
 11 situations are complex in their nature, all sorts of
 12 things may have gone wrong and this aspect of life may
 13 not get the priority and attention that I think it
 14 requires if it is not to do life long harm.
 15 Q. Am I right in thinking that as a general proposition,
 16 however good or however bad the relationship with the
 17 parents are, assuming the parents are still alive and
 18 they are available to have contact, that generally
 19 speaking it is in the child's best interest to maintain
 20 some form of contact with parents as part of their
 21 development whether they are in care or not?
 22 A. I think it is undoubtedly in their best interests to
 23 maintain some form of contact and I think the nature of
 24 that contact really depends on the circumstances both of
 25 the child and the parents and needs to be carefully

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1 assessed in each case. But even if that contact is
 2 merely an occasional letter or telephone call or
 3 something, then even that should be there because the
 4 parent has not disappeared from the child's mind, you
 5 know. The parent will always be there in the child's
 6 mind.
 7 Q. I think in fact you make that very point at
 8 paragraph 75. You put it quite simply, you can't
 9 separate the child and the parents in the child's mind,
 10 even if you physically separate them and break off
 11 contact.
 12 A. And even if they are very abusive parents and it is in
 13 their best interests not to have contact with them and
 14 even if they understand that and agree with it, it still
 15 doesn't mean the parent does not exist in the child's
 16 mind.
 17 Q. In terms of care going back to your report from 1992 at
 18 page 1827 at paragraph 3.1.3 if you have that in front
 19 of you.
 20 A. 1827.
 21 LADY SMITH: It is the second paragraph under the side
 22 heading "Admissions".
 23 MR PEOPLES: Yes, it is, my Lady. You'll see "since 1992",
 24 so not that long ago, you say:
 25 "Where admission is required, the way into

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1 residential care should be well prepared [and you made
2 that point in your statement] through careful planning
3 of the admission and arrangements for pre-admission
4 visits . In practice however, such preparation is the
5 exception rather than the rule .”

6 That’s was what you were finding in 1992, there was
7 not adequate preparation?

8 A. Yes.

9 Q. Historically I take it the situation wouldn’t have been
10 any different and might have been worse?

11 A. Now?

12 Q. No, historically .

13 A. Historically it would be worse.

14 Q. There would be no real preparation, a child would be
15 taken from a situation and moved to a setting with
16 strangers without preparation?

17 A. Yes, or explanation really .

18 Q. Would that be a serious flaw in the system in your view?

19 A. I think that would have done lifelong damage to their
20 wellbeing and I think it did.

21 Q. Just finishing off your report, I don’t want to take
22 it -- it is a long report and it has a lot of
23 observations, but I think that one of the things you are
24 at pains to get across is that how complex a task it is
25 looking after children who may have complex needs who

1 was been taken into care and that the last thing you
2 want, and it is what you did find, was that a lot of the
3 staff were either unqualified or not adequately
4 qualified to take on that role .

5 A. Or led or supported.

6 Q. Or supported as well?

7 A. Indeed, yes.

8 Q. And that the recommendations you made, I think there
9 were 66 in all , were designed to improve that state of
10 affairs .

11 A. They were.

12 Q. We are getting towards the end of your statement, so I’m
13 hoping not to be too long with you, but there are a few
14 points I want to pick up.

15 From paragraph 77 through to paragraph 84, from 0668
16 of your statement to 0670, you have paragraphs dealing
17 with what is called :

18 “Developing the capacity of children to love and be
19 loved.”

20 A. Yes.

21 Q. Can you just try and summarise for us what point you are
22 trying to make in those paragraphs and why it is
23 important to seek to develop this capacity within
24 children in a care setting?

25 A. I think these are capacities which we all seek and

1 motivate us in a variety of ways. They are not
2 necessarily -- this is not plain sailing for anybody,
3 probably, and it can be particularly difficult for
4 people who have had difficult experiences in life , but
5 it remains very important for them and should be focused
6 on, I think, with the work done with the child about,
7 well, how do you manage to express your love, what
8 happens when you feel love, what’s love like , what’s it
9 going to be like when you grow up, what hopes might you
10 have of that . And also to have some discussions with
11 them about what love is not and therefore trying to
12 empower them to recognise when someone is trying to act
13 inappropriately with them in a dangerous situation .

14 I don’t think -- and I pushed this and I will
15 continue to push this . One or two people have said to
16 me, the state cannot regulate whether somebody loves
17 somebody else or not, but I’m not suggesting that and
18 I think it would be silly to actually suggest that this
19 child in this care home must be loved by somebody in
20 that care home. That’s not the point here at all .

21 The point is to help them to develop their
22 capacities in adulthood in particular to love and be
23 loved, but before adulthood as well. That then can be
24 done in all sorts of ways, even from a very early age,
25 in terms of cards or drawings or pictures or other ways

1 of expressing emotion.

2 LADY SMITH: How about a culture where staff have practices
3 of telling children when they are proud of them, for
4 example --

5 A. Yes great.

6 LADY SMITH: -- you have done well, that’s good, you have
7 made me happy because you have done what I asked you to
8 do very well?

9 A. That type of thing absolutely. I personally tend to
10 take the view, as do one or two other people, that it is
11 for my children to be proud of what they achieve, but
12 I’m just very pleased for them that they have done that .
13 But it is their pride and my pleasure.

14 MR PEOPLES: So part of the care experience is helping
15 a child to develop the capacity to love and be loved and
16 probably the sense of valuing their close relations with
17 other people and particularly those who they may --
18 those which are -- in which caring and sharing are a
19 reciprocal state of affairs ?

20 A. Indeed, and that they change over time -- and they are
21 not necessarily a smooth road even in the best
22 relationships .

23 Q. But to create that situation , we go back to some of your
24 basic points of change: you need the empowered
25 relationships , staff need to feel empowered, the

1 children need to be empowered, the leadership has to be
 2 good and effective and set an example, and there has to
 3 be a commitment to good quality care. All of these
 4 things have to be built in?
 5 A. Yes, absolutely.
 6 Q. I suppose the culture of the organisation, is one of
 7 your central points -- I take it to be the culture -- is
 8 critical and that there is a culture in which that
 9 situation is the norm.
 10 A. Yes, and as regards -- and it's the same under this
 11 business with the capacity to love and be loved, which
 12 again comes from positive psychology, actually, and so
 13 there's some tips in there about how it could be worked
 14 on, but it is also very important -- seldom is that
 15 readily seen as being a legitimate part of the culture
 16 of providing residential child care.
 17 Q. So the emphasis shouldn't just be on the provision of
 18 care, but the provision of love in the sense that you
 19 have described?
 20 A. The capacity to love and be loved.
 21 Q. It is not just about caring and providing care?
 22 A. It is not just about -- no.
 23 Q. Making children safe: do you agree with the proposition
 24 that making them safe -- that safety includes the safety
 25 children feel in the relationships they have around

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1 them?
 2 A. Yes.
 3 Q. That goes back to your point about having appropriate
 4 relationships, knowing what's acceptable, what's not,
 5 the right culture, people know?
 6 A. Absolutely, and for that to be part of an open
 7 discussion, so it is not a secret to be only talked
 8 about in the office or asides.
 9 Q. I suppose, just going back to one point which I don't
 10 think I touched upon in your statement, you were
 11 asked -- can I take you to page 0663 of your report
 12 which is headed:
 13 "Picking up indicators or signs of abuse."
 14 At paragraph 66. The issue you were asked to
 15 address was:
 16 "How dependent we are on staff picking up indicators
 17 or signs of staff abusing children, or peer abuse, and
 18 how dependent the system is on whistle-blowers, in other
 19 words, intelligence from those on the ground?"
 20 Your answer is:
 21 "A lot depends upon the culture of the unit or home
 22 or service and whether there is a culture that says,
 23 this is the standard of care we expect to provide and
 24 these are the things that we would find unacceptable in
 25 terms of staff behaviour or actions. There should be

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1 an openness of culture on that."
 2 Is that again on the same theme?
 3 A. It is again on the same theme. If you take all the
 4 other bits together, then you want a culture in the home
 5 which says: this is what we expect to provide and we
 6 take pride in how well we do that.
 7 Q. If you have that culture, you are more likely to pick up
 8 signs of abuse as they happen?
 9 A. Absolutely. You are -- it is also more likely for the
 10 children to say, I thought this wasn't happening here.
 11 Q. I think you make the point there -- and I think you say
 12 it comes from another report in paragraph 66 -- that, in
 13 terms of whistle-blowing, if people needed to know the
 14 value, the approach should be that every complaint
 15 should be seen as a gift.
 16 A. Yes, that comes from a report on complaints, the UK
 17 government report from some years ago. I think it was
 18 possibly called "Every Complaint is a Gift". It was
 19 done by the consumer body whose name I forget. It was
 20 led by Deirdre Hutton at the time.
 21 Q. Does it follow from the way -- if that is the right way
 22 of seeing things, that if one has a situation where
 23 there are no complaints or reports, is that
 24 an indication of a state of affairs that is really too
 25 good to be true?

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1 A. Too good to be true --
 2 Q. So you would be suspicious?
 3 A. I would be suspicious, I would suspect a cover up or
 4 just denial.
 5 LADY SMITH: That seems to be in a similar vein about
 6 something that I have heard said about inspections: that
 7 the organisation or institution should welcome them as
 8 a sort of free management consultancy service that is
 9 being provided to them rather than fear them and regard
 10 them as a system that's going to try to catch them out.
 11 A. I think that's absolutely right, I agree with that too.
 12 But just on that point: one of the things about
 13 having that built in is that it is very good, in my
 14 view, to have people spending at least some time doing
 15 inspections so that actually there is good air flow
 16 through management and inspectorial regimes.
 17 LADY SMITH: You mean people working with the institutions
 18 being released to be part-time inspectors, which I think
 19 happens now across the board?
 20 A. Yes.
 21 MR PEOPLES: Can I conclude by really raising an issue that
 22 I have been asked to raise in relation to one of the
 23 paragraphs in your statement at paragraph 59. It is at
 24 page 0659 and it is headed "Faith-based organisations
 25 and abuse".

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1 You may recall this paragraph of your statement. We
 2 are in danger, and we had better start this passage of
 3 your evidence, of straying into the realms of theology
 4 and psychology, but I think you were offering or asked
 5 to offer any insight into why in particular settings
 6 there may have been excessive chastisement, particularly
 7 in the context of faith-based organisations, where there
 8 may have been convictions for abuse, physical and
 9 sexual. You did offer some personal views; is that
 10 correct?
 11 A. Yes.
 12 Q. Before you say any more, one of the points I'm asked to
 13 raise with you is you were not expressing those views
 14 necessarily saying that they applied to all faiths or
 15 all faith-based groups, because they may have their own
 16 views on justification and attitudes towards corporal
 17 punishment; would you accept that?
 18 A. I think corporal punishment is a matter of the law, so
 19 I don't accept it in terms of that.
 20 Q. But the attitude. You may have faiths or groups within
 21 faiths who have a particular attitude that they do not
 22 want to use corporal punishment or physical
 23 chastisement. Do you accept there may be faiths out
 24 there who operate on that basis?
 25 A. Yes.

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1 Q. Because I think you said that, at least in some faiths,
 2 I think was the point, that chastisement and addressing
 3 the nature of sin is part of the task of the followers
 4 of the faith in bringing children up.
 5 A. That's is my understanding from my own readings of
 6 theology and related matters.
 7 Q. But the point I'm putting to you, because it is a point
 8 I have been asked to put to you, is it is not something
 9 you are saying is a universal proposition for
 10 faith-based organisations?
 11 A. I'm not saying it is universal. Not at all and I am
 12 sure most of them don't have that view and those that
 13 had that view probably no longer do.
 14 Q. I think the more general point you sought to make there
 15 is whoever provides care, whether a faith-based
 16 organisation or not, the approach should always be child
 17 centred?
 18 A. Yes, that's the point I make there too: that if it is
 19 a faith-based centre -- and I'm very supportive of
 20 that -- I work -- in fact we rely extremely heavily on
 21 upon, especially in the field of learning disabilities
 22 and elsewhere, we rely very heavily on faith-based
 23 groups and I welcome that enormously. I just think that
 24 the focus of the work is the child and not the faith.
 25 Q. Just on that point, historically, do you think,

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1 irrespective of whether the organisation was faith-based
 2 or not, do you think that historically, from your
 3 experience and long background in social care, that the
 4 child was always at the centre or the focus of care?
 5 A. No. My reading of some aspects of care provided in the
 6 past -- it is more in the past than currently, I have
 7 nothing to cite from in terms of current practice -- was
 8 that there were times at which some people who were
 9 faith based in their motivation of care were expressing
 10 this need of chastisement as part of their task in the
 11 upbringing of that child.
 12 MR PEOPLES: I think those are all the questions I have for
 13 you, Professor Skinner. Thank you very much indeed.
 14 LADY SMITH: Thank you. You don't believe there are any
 15 outstanding matters that you haven't covered? I will
 16 probably just check because I'm aware there was some
 17 notice given to counsel of one or two issues.
 18 Is everyone content that everything they wanted to
 19 raise has been raised? If not, now is the time to ask
 20 Professor Skinner. No? Thank you very much.
 21 Professor Skinner, thank you. That has been
 22 enormously helpful. I'm very grateful to you both for
 23 being here today and for the work you put into your
 24 report.
 25 A. Thank you very much.

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1 LADY SMITH: We will rise now for the day and resume at
 2 10 o'clock tomorrow morning and that's when, as you have
 3 already been told, we will be hearing from
 4 Professor Kenneth Norrie.
 5 (4.00 pm)
 6 (The Inquiry adjourned until 10.00 am
 7 on Wednesday, 1st November 2017)
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