

1 Monday, 17 December 2018

2 (10.00 am)

3 LADY SMITH: Good morning. We return this morning to
4 further oral evidence in this case study. We may
5 possibly get on to some read-ins later on, depending on
6 how we get on. But we certainly have oral evidence to
7 begin with, I think; is that right, Mr Peoples?

8 MR PEOPLES: Good morning, my Lady.

9 The first witness this morning will be giving oral
10 evidence is a former employee of Aberlour who has
11 anonymity and has chosen the pseudonym "Alfie".

12 LADY SMITH: Thank you.

13 "ALFIE" (affirmed)

14 LADY SMITH: Please sit down and make yourself comfortable.

15 Alfie, I know it has just been explained to you that
16 we need you to use that microphone. I'll let you know
17 if you drift away. I'll hand over to Mr Peoples and
18 he'll explain what he wants you to do with the red file.

19 Mr Peoples.

20 Questions from MR PEOPLES.

21 MR PEOPLES: Good morning, Alfie. Just by way of
22 introduction, there is a red file which you have in
23 front of you, and that contains a copy of a handwritten
24 statement that you provided to the inquiry prior to
25 giving your evidence today.

1 I will be asking you some questions about some of
2 the matters in the statement, so it's there for you to
3 use at any point. The statement will also appear on the
4 screen in front of you. There may be parts blacked out
5 to protect the identity of individuals, but you can see
6 the names in the statement in the file if need be.

7 Before I begin asking you some questions, I'll just
8 give, for the benefit of the transcript of the
9 proceedings today, the identification number we've given
10 to your statement, which is WIT.003.001.5121. If
11 I mention the last four numbers at any point, it'll be
12 a reference to a particular page in the statement and it
13 will help us find the page that we're dealing with
14 at the time.

15 So with that introduction, can I ask you to turn,
16 Alfie, to the final page of the statement that you've
17 provided, which is page 5147 on the top right-hand
18 corner. Can you confirm for me that you have signed the
19 statement on that page?

20 A. Yes, that's my signature.

21 Q. Can you also confirm that you have no objection to your
22 witness statement being published as part of the
23 evidence to the inquiry and that you believe the facts
24 stated in your statement are true?

25 A. Yes. I don't have a problem with that.

1 Q. Okay. If I could ask you to turn to the first page of
2 your statement, page 5121, and confirm for me that you
3 were born in the year 1957, I don't need your full date
4 of birth.

5 A. Yes, that's true.

6 Q. If I could pick up some of the matters that you deal
7 with in your statement. So far as page 5121 is
8 concerned, you tell us a bit there in paragraph 1 of
9 your statement, A1, something about your background and
10 qualifications.

11 You say there you have no qualifications. When you
12 began working for Aberlour -- and you estimate it was
13 around [REDACTED] 1996 and I'll maybe give some dates for you
14 in a moment -- did you have any formal childcare
15 qualifications?

16 A. None whatsoever, no.

17 Q. During the period you did work for Aberlour, did you
18 obtain any childcare qualifications?

19 A. I was put forward for an SVQ level 3, but what I felt
20 was because I did a good job at Aberlour, I never got
21 the input to allow me to go through that training. It
22 was just accepted that I was able to do what was
23 required.

24 Q. So you embarked on an SVQ level 3 course of training,
25 but you didn't obtain an SVQ level 3 at any point;

1 is that right?

2 A. I think there was a standing joke that it was
3 a never-ending SVQ because I think I was doing it for
4 four or five years at a rough guess.

5 Q. I may have picked up this wrongly, and correct me
6 if I have, I may have seen at some point in your
7 statement a reference to an HNC in social care; is that
8 the same as SVQ3 or something different?

9 A. That was more college driven.

10 Q. Did you embark on an HNC social care training course at
11 college?

12 A. I started to do one.

13 Q. Again, do I take it you didn't complete it --

14 A. No.

15 Q. -- during your time with Aberlour?

16 So far as your period of employment with Aberlour is
17 concerned, on page 5121, Alfie, you say that you think
18 you worked from around [REDACTED] 1996 at 44 Whytemans Brae
19 Kirkcaldy until about [REDACTED] 2003.

20 We've been advised that the dates would be from
21 [REDACTED] 1995 until about [REDACTED] 2002, initially as
22 a relief worker, and then as a project worker. Would
23 that accord with your recollection?

24 A. Roughly, yes.

25 Q. And I think that so far as your job is concerned, could

1 we describe it best as a residential childcare worker?

2 A. Yes.

3 Q. Would that be a fair description?

4 Before beginning work with Aberlour, initially as
5 a relief worker, did you have previous childcare
6 experience that would have equipped you to do this job?

7 A. No.

8 Q. So when you started with Aberlour, did you undergo any
9 induction or training to assist you to do the job as
10 a residential childcare worker? Can you recall what --

11 A. You went in voluntary to start with, doing the odd shift
12 until -- the regular staff to see how ... and they would
13 feed back to one of the managers. Then you'd be on like
14 the relief pool, so if they needed anybody to come in,
15 like at night-time or weekend time, you would get a call
16 if there was any shifts available.

17 Q. So was there anything that would be described as
18 a period of induction or was it just a matter of going
19 in and seeing what people were doing?

20 A. You just were chaperoned by one of the regular members
21 of staff.

22 Q. During your period of employment, you've told us that
23 you embarked on SVQ training and HNC training. Apart
24 from that, was there other training you received during
25 your period of employment between 1995 and 2002? Can

1 you give us an idea of what --

2 A. There was in-house training, like food hygiene, and
3 you'd get a guy come along, just general talks about
4 things, expected -- how your practice should be held.

5 Q. Did your training, whether in-house service training or
6 otherwise, include areas such as child protection and
7 safeguarding or not?

8 A. There was a handbook that Aberlour had that you could
9 refer to if you needed to know anything.

10 Q. In practice, did you refer to it during your period or
11 not?

12 A. Well, sometimes it was so hectic that you just tried to
13 deal with the situation as it was.

14 Q. Are you saying that maybe the situations you had to deal
15 with, you didn't have time to go and consult the
16 handbook?

17 A. Well, when ... you know what it's like. (inaudible)
18 care in the unit you're trying to take control and keep
19 the lid on things rather than go up to the office and
20 have a look to see maybe I should check that out.

21 Q. I think you say at page 5213 of your statement -- I was
22 going to ask you about this and now might be as good a
23 time as any -- that your first impressions of
24 Whytemans Brae, you describe it -- section B4,
25 sub-paragraph 3 -- chaotic and unsettled. Is that what

1 you remember of your first impressions of the place --

2 A. Yes.

3 Q. -- that it was chaotic? In what sense?

4 A. The kids were just ... You know, there wasn't like no
5 control, you know. I know there were different kids
6 coming in from time to time, but they could have had --
7 looking to get them into some kind of activity club to
8 allow their mind to divert from what was going on at
9 home or the reasons why they were in the unit.

10 Q. What do you mean by "unsettled", what were you trying to
11 convey by that word?

12 A. Maybe they'd had a bad day at school and they were just
13 bouncing off each other. Just running wild.

14 Q. You tell us in your statement a little bit about the
15 number of children and their age. This can be found on
16 page 5124, Alfie, if you want to turn to that. It's
17 section 6. You tell us that in your period of
18 employment, there were seven children or thereabouts.

19 A. Yes.

20 Q. Initially, there were five boys and two girls when you
21 started?

22 A. That's right.

23 Q. But I think you said that as time went on, there were
24 more girls than boys in the unit by the time you
25 finished?

1 A. Yes, that's true.

2 Q. And age range. You've got the age range 12 to 16 years
3 of age. Was that the age range throughout?

4 A. (Witness nods).

5 Q. So it was a relatively small unit?

6 A. Yes.

7 Q. And was there a lot of staff as well?

8 A. Well, through the day there should have been two staff
9 on and project leader and depute project leader. But at
10 night, there should have been two staff and maybe like
11 a relief worker, just to help out with things and stuff.

12 Q. So what you are describing -- when you say there should
13 have been -- during the day there should have been
14 a team of three people, is it, headed up by the team
15 leader, who would be a project leader --

16 A. Yes.

17 Q. -- or deputy project leader of the particular project?

18 A. That's correct.

19 Q. Plus two others, two other residential care workers
20 during the day? Was that the intended arrangement?

21 A. Normally there would be like the project leader, you
22 then come down to the depute project leader and there
23 would be what you called a senior and there should have
24 been one on every shift.

25 Q. A senior residential care worker?

1 A. Yes, someone who had been there for a while and got
2 qualifications. And a member of staff.

3 Then at night-time, maybe 4 o'clock, maybe a relief
4 worker or a volunteer just to help with dinner duties
5 and stuff like that.

6 Q. So during the day, the team would be headed up by the
7 project leader or the deputy project leader, there would
8 be a senior residential care worker, and there should be
9 another residential care worker?

10 A. That's right.

11 Q. And then the arrangement at night and through the night
12 was that there would be two staff; would it be the
13 project leader or the deputy?

14 A. No, it would be a senior project leader or a member of
15 staff, residential care worker.

16 Q. In charge at night?

17 A. Mm.

18 Q. And there would be another -- so there would be two
19 residential care workers on at night and perhaps someone
20 else who was either a relief worker or volunteer?

21 A. Yes.

22 Q. So it'd be a team of three at night?

23 A. Yes.

24 Q. When you say "at night", did you indicate this
25 arrangement at night started around about -- was it 4

1 in the afternoon?

2 A. 4, 4.30, something like that, when the kids are coming
3 in from school.

4 Q. When did it go to the daytime arrangement in the
5 morning?

6 A. You just got up -- well, it depends. On a weekend there
7 would just be two members of staff and a relief worker
8 because the deputy project leader and the project leader
9 didn't work weekends.

10 Q. The daytime shift, if you like, would start at what time
11 in the morning?

12 A. You would be doing a sleepover, so you'd go in at 10 --
13 if you were doing a full shift you'd start at 10 in the
14 morning and you wouldn't leave until 10.30 the next
15 morning.

16 Q. So if you were doing a full shift during the night, you
17 could start at 10 at night and go through to 10 the next
18 day?

19 A. No, if you do a full shift you go in at 10 am and you
20 stay over and don't finish until 10.30 am the following
21 day.

22 Q. So you could work a 24-hour shift?

23 A. Mm-hm.

24 LADY SMITH: You're saying that was a sleepover?

25 A. It is.

1 LADY SMITH: It wasn't a waking during the night --

2 A. All the rooms are alarmed, so if any of the children got
3 up ...

4 MR PEOPLES: So were there periods when you and others would
5 be working a 24-hour shift, albeit you wouldn't be
6 necessarily awake for that whole period, but you'd have
7 to get up if the alarms went, for example?

8 A. Yes, or if someone had absconded, you may have to nip
9 across to Falkirk or Stirling to pick them up.

10 Q. During this 24-hour period or thereabouts, there would
11 always be one person awake for part of that time, would
12 there?

13 A. Sometimes by the time you'd done the daily logs and done
14 the laundry and stuff like that, it could be 1 o'clock,
15 2 o'clock in the morning.

16 Q. I put that rather badly. I suppose what I was trying to
17 get at was between 10 am and 10.30 the next day,
18 including the night-time, would there always be someone
19 awake or at night would everyone be --

20 A. We would all try and get to sleep, but just the nature
21 of the unit, your mind's --

22 Q. You'd be active and you'd be waiting to get up if these
23 alarms went off?

24 A. It would show in the office which room it was and then
25 you could go and --

1 Q. Was this 10 to 10.30 the next day a regular shift
2 pattern for the teams?

3 A. That was the normal shift pattern.

4 Q. So there wasn't actually a day shift and a night shift,
5 there was a 24-hour shift?

6 A. For full-time staff that was the shift pattern and if
7 you were Tuesday into Wednesday, they had a meeting day
8 on Wednesday and it was sometimes 1 o'clock in the
9 afternoon before -- so you were like 10 one day to 1 pm
10 the next.

11 Q. Can you tell me a little bit about the type of children
12 and young people that were accommodated at
13 Whytemans Brae? Did they have a particular profile --

14 A. It just depended on their class, if they were outwith
15 parental control or if they'd been fostered or anything
16 like that, for their own safety they were put in the
17 residential care.

18 Q. I think we've heard some evidence to the effect that the
19 Sycamore Project was set up as a specialist unit to
20 cater for children with significant emotional and
21 behavioural difficulties before admission. Would that
22 accord with your recollection --

23 A. Yes.

24 Q. -- of what it was intended for?

25 A. Yes.

1 Q. And I think there's been some evidence that some of the
2 children may have been in a number of care settings
3 before coming to Sycamore.

4 A. Correct.

5 Q. Would that be --

6 A. Yes.

7 Q. -- a typical situation?

8 A. Mm-hm.

9 Q. And that they might well display challenging
10 behaviour --

11 A. Uh-huh.

12 Q. -- on a regular basis --

13 A. Mm-hm.

14 Q. -- because of their background circumstances?

15 A. That's right.

16 Q. Just going back to training for a moment, did you and
17 other staff receive training in restraint techniques to
18 deal with a situation where challenging behaviour
19 required some form of restraint to be used?

20 A. We did. It was a guy called ... God, I can't remember
21 his name now. But yes, they trained two members of
22 staff to show new staff restraint procedures.

23 Q. I think we've got some evidence to the effect that these
24 restraint procedures in your time would be known as CALM
25 holds or CALM restraint techniques.

1 A. The CALM method, yes. That's true.

2 Q. Was that the method that you were being trained in
3 using --

4 A. Yes.

5 Q. -- when you were there?

6 A. Yes -- well, after I'd been there for a while.

7 Q. When did this training in CALM techniques -- when was it
8 introduced? We know you came in in about 1995 and you
9 were there until 2002. At what point were these CALM
10 techniques introduced?

11 A. It would be getting nearer 1998, 2000, I would say.

12 Q. When you first arrived, you hadn't received training in
13 those techniques?

14 A. No, none at all. You just had to watch other staff.

15 Q. In that period, the other staff that you were watching,
16 did they have to use restraint at times?

17 A. Yes.

18 Q. So what methods were they using?

19 A. They were just putting the children down and holding
20 them as safely as they could.

21 Q. When you say putting them down, would there be occasions
22 when the children would be on the floor?

23 A. You'd have to put them on the floor because if they were
24 flailing their arms, they were going to hurt themselves.

25 Q. Would they be facing the ceiling or facing the floor on

1 these occasions?

2 A. Normally, they would face the floor in case they spit or
3 things like that.

4 Q. And on these occasions they were being held?

5 A. Yes.

6 Q. What parts of their body were being held?

7 A. Their legs and their arms. You'd be just keeping them
8 as safe as you could.

9 Q. So they were being held by arms and legs at times. Was
10 any form of pressure applied to any other parts of the
11 body to hold them down?

12 A. Obviously they'd be struggling so you'd be trying to --
13 they maybe got a carpet burn or scuff on the leg. It
14 was quite difficult.

15 Q. Would anyone ever use their body weight to hold them
16 down by putting pressure on their back or their legs or
17 bottom?

18 A. Probably, to keep control, probably.

19 Q. You say probably. I'm just trying to get your
20 recollection. Did you ever see that happen?

21 A. You know, when it was ... When the place is going
22 ding-dong, you're trying to keep some kind of control.
23 If one child is going ding-dong, it unsettles the rest
24 of the unit, so you have to be aware of things like that
25 as well.

1 Q. In relation to these situations of restraint before CALM
2 training was introduced, you told us there was
3 a handbook. Do you know whether that book had anything
4 to say on the subject of restraint techniques and when
5 they should be used and how they should be used?

6 A. I think it was just when you ... When you'd been there
7 long enough you could feel the tension in the place.
8 But after every restraint, a report, like an incident
9 report, had to be written.

10 Q. I think the question I was really seeking for you to
11 answer was: did the handbook that you talked about that
12 was available, did that have anything in it about the
13 use of restraint; can you recall?

14 A. I wouldn't know.

15 Q. In the early years of taking your cue from what you saw
16 the more experienced practitioners do in these
17 situations, is that how you learned what to do or how to
18 do things?

19 A. I just felt, as I said earlier, to try and keep the
20 situation under control, try and do it in as painless
21 manner as possible, just take control and hold them
22 safe, you know. Sometimes it was -- after I did the
23 CALM, it was hold their hands and let them --

24 Q. A bit like a bear hug?

25 A. Allowing them to move.

1 Q. But you're gesturing -- holding them securely?

2 A. Yes.

3 Q. So that would mean they might actually then be on their
4 feet --

5 A. They would be sitting on their backside and I would let
6 them roll --

7 Q. To try and hold them --

8 LADY SMITH: So with the CALM method, you wouldn't be
9 putting a child face down on the floor?

10 A. You --

11 LADY SMITH: How are you going to get your bear hug round
12 them if you have a child face down on the floor?

13 A. I think maybe to take control, my Lady, down and then
14 bring them up into a safe position.

15 MR PEOPLES: Are you saying that the CALM techniques that
16 were introduced and staff were trained in recognised
17 that there'd be situations where a child might be face
18 down on the floor before perhaps being restrained in the
19 method you've described? Was that part of the CALM
20 techniques, or can you recall?

21 A. It wasn't part of the CALM techniques.

22 Q. It wasn't?

23 A. I don't think so. This was 17, 18 years ago. But
24 again, as I've said earlier, it's to try and keep some
25 kind of control of the place.

1 Q. Just on dealing with these situations, would this need
2 for restraint be what could be described as an everyday
3 situation that you had to cope with?

4 A. It depends who you were on shift with. Everyone had
5 different levels of -- what's the word I'm looking for?

6 Q. Different staff, are you saying, had different ways of
7 dealing with a situation?

8 A. Just how you'd talk someone down, how you would try and
9 make them feel safe and like a security rather than --
10 the last thing I wanted to do was restrain someone.
11 I would try everything in my power to make them feel
12 safe rather than --

13 Q. So for you that was a method of last resort?

14 A. Oh, absolutely.

15 Q. What about the other staff you were working with? Were
16 they of the same -- did they take the same approach or
17 not?

18 A. Once the CALM -- David Leadbetter is the guy who took
19 the training. Once that came in, it was a different
20 story because I think Aberlour noticed that something
21 had to be put into place to ... Well ... To keep
22 everybody safe, staff and children.

23 Q. Did you feel there was a noticeable improvement in the
24 way restraint was being used and in what circumstances
25 once the training had been introduced?

1 A. Yes, because as I said earlier, there were two members
2 of Sycamore staff trained, so you got like a refresher
3 every so often, just if you hadn't used the restraint
4 procedures for some time, you didn't for months on end,
5 this was their way of like -- what's the word I am
6 looking for? -- an hour's training just to remind you of
7 how to --

8 Q. And this form of training, including refresher training,
9 did that involve role playing as well?

10 A. Yes.

11 Q. So you would be given a scenario or a situation and
12 you'd be shown and taught how to deal with it --

13 A. Yes.

14 Q. -- in an appropriate way?

15 A. Yes.

16 Q. Was this CALM training, when it was introduced,
17 compulsory training?

18 A. Yes, I believe it was.

19 Q. Was the refresher training compulsory?

20 A. I think it was diaried and then every so often they
21 just -- maybe a training day, you would stay later to
22 get the ...

23 Q. Would it be David Leadbetter who would take these
24 sessions generally speaking?

25 A. The main training, it was David Leadbetter.

- 1 Q. And on the matter of training more generally, was all
2 training that you were notified of compulsory or was it
3 optional? The training opportunities, were they
4 compulsory?
- 5 A. For restraint or for other --
- 6 Q. Other forms of training.
- 7 A. They would include everyone. They would work the shift
8 pattern out, training days, like a staff training day.
9 They would look at it that way.
- 10 Q. When a staff training day was organised, were you
11 required to attend?
- 12 A. Yes.
- 13 Q. So it was a compulsory attendance?
- 14 A. Mm-hm.
- 15 Q. And you'd have those days from time to time?
- 16 A. Yes.
- 17 Q. Who would be conducting those in-service training days?
18 Was it David Leadbetter?
- 19 A. No, it was two Sycamore staff.
- 20 Q. Who were in Sycamore itself?
- 21 A. Yes.
- 22 Q. And did they have particular expertise in training other
23 staff in the matters that they were dealing with?
- 24 A. I take it David Leadbetter would have shown them -- we
25 all got training, but I would think he would have taken

1 them to the side --

2 Q. Because they were in effect trainers and you were being
3 trained on those days, so they would have had to have
4 some degree of knowledge or you would like to think they
5 had. Did they seem to?

6 A. They seemed to know what --

7 Q. What they were doing?

8 A. I take it what they were shown to be done.

9 Q. Can I just pick up one thing you say in your statement,
10 page 5125, under the matter of training. You do say
11 towards the foot of that page:

12 "I felt training gave me a better understanding of
13 the place but didn't help me with the everyday
14 situations that arose."

15 I just wonder what you were trying to convey about
16 that statement. You seem to think that you got a better
17 understanding of certain things, but in the day-to-day
18 situations, it's not really helping -- the training
19 you're receiving isn't helping you cope with those
20 situations. What had you in mind there? What was the
21 problem? Do you have that page?

22 A. I've got it.

23 (Pause)

24 One day training I had to attend ... I'm trying to
25 think what that was now.

1 (Pause)

2 I can't think what that is just now. If I saw what
3 I was to write about ...

4 Q. I think you were being asked about induction and
5 training and to what extent training and education that
6 you received helped you to do your job. And I think in
7 response to that part of the question, you've given that
8 answer: you felt it gave you a better understanding of
9 the place, but didn't help you with the everyday
10 situations that arose.

11 So I was just trying to explore with you what the
12 issue was with that. What sort of everyday situations
13 did you feel and the training and education didn't equip
14 you to deal with? Can you give us any examples?

15 A. It all goes back to a lack of supervision as well.

16 I think I mentioned in here, I don't know if you're
17 going to get into that --

18 Q. I will get into that as well. I was just taking you
19 through the statement maybe in the order in which these
20 matters were raised.

21 Is it more a supervision issue that you had in mind
22 there?

23 A. I think when you get a day's training, if you're outwith
24 the project, whoever's taking that training is focusing
25 on you, whereas in the project, if the project's

1 unsettled, you just have to try and -- for want of
2 a better word, try and keep a lid on it.

3 Q. If we go back to an everyday or at least a common
4 situation, the need to restrain because of the
5 behaviours that were being exhibited from time to time,
6 you have told us there that there came a point when you
7 did get training, you got refresher training, so that
8 you were given training in appropriate techniques.

9 A. Uh-huh.

10 Q. And did that not help you and others to use restraint in
11 an appropriate way from then on?

12 A. Yes. Restraint was the last thing that I would --

13 Q. You have said that, I follow that, and I take your
14 point. I just wanted to check that that situation --

15 A. It was much safer for the children and the staff.

16 Q. Once you had the training and you'd been shown how to do
17 things and how to do them in the best way possible?

18 A. That's right.

19 Q. Okay. If I could move on just on another matter which
20 you touch upon, I think, in maybe a couple of places.
21 I just want to be clear what your recollection was. At
22 page 5126 at paragraph 10 on that page, you make some
23 reference to the situation where there was bed-wetting
24 or soiling. I think what you appear to be saying is the
25 children would take bedding to the laundry area and deal

1 with it, and it looks like -- is that an exclamation
2 mark? I just wondered what you were trying to convey.
3 Maybe I'm not reading it correctly.

4 You referred to something about bed-wetting and
5 soiling and children having to take bedding to the
6 laundry area and deal with it. What had you in mind
7 when you said that?

8 A. Yes. What the staff would do was take the laundry off
9 the bed, wipe the bed down, put fresh laundry on, and
10 then obviously the kids would take their laundry down
11 into the laundry room. But there was one boy in
12 particular, we had a bucket for him to put his underwear
13 in -- obviously it was faecal matter -- but that was it.

14 Q. You're not suggesting that the situation was dealt with
15 in an inappropriate way, are you?

16 A. Oh no, no, no.

17 Q. That's just what I wanted to clarify with you. I think
18 if I take you to page 5129, Alfie, under a heading
19 "Sleeping", you do say there:

20 "If a child came to staff saying they had wet the
21 bed, the member of staff would ask the child to have a
22 quick shower. The staff member would change the bed
23 linen and stick it in for a wash. The child would then
24 head back to his room to a fresh bed and a 'good night'
25 from staff."

1 Was that the way things were dealt with in your time
2 in relation to this issue? It was dealt with in
3 a perfectly sympathetic way?

4 A. Yes, aye. In the morning, when the cleaners came in, if
5 the beds had been soiled, they would deal with that.
6 I mean, some of them just had a wash, some of them had
7 a shower.

8 Q. Just picking up another point that you mention under
9 the heading "Sleeping arrangements", and you mentioned
10 this earlier:

11 "All bedrooms were fitted with door alarms to let
12 staff know who was up."

13 When you arrived at 44 Whytemans Brae in 1995, were
14 all the bedrooms fitted with door alarms at that point?

15 A. Yes.

16 Q. I take it then that the purpose of having these alarms
17 would be that they would go off if anyone either left
18 the room or entered the room?

19 A. Yes.

20 Q. And that would alert the staff on duty to that fact?

21 A. Yes.

22 Q. And they could then respond and see what the situation
23 was; is that --

24 A. Because of the age, male and female, if one goes out of
25 one room into someone else's room, it's to eliminate

1 things like that.

2 Q. So it was a way of knowing if someone was moving from
3 one place to another?

4 A. Yes.

5 Q. Or if anyone was trying to enter a child's room?

6 A. That's right.

7 Q. In a sense was it, at least in part, a child protection
8 measure?

9 A. I would say, yes.

10 Q. Was there, I won't call it a problem, but was there
11 an issue sometimes with children or young persons going
12 to other person's rooms, perhaps for a variety of
13 reasons?

14 A. Well, not through the night, but if there was -- they
15 were in each other's rooms during the day from time to
16 time.

17 Q. Would the alarms be set during the day?

18 A. No.

19 Q. So it was just a night-time routine?

20 A. Yes.

21 Q. During the night-time when these alarms were on, and if
22 someone did attempt to either leave a room or enter it,
23 the alarm would go off and that would alert the person
24 on duty?

25 A. Yes.

- 1 Q. That person wouldn't necessarily be awake until the
2 alarm went off, they would just hear the alarm and
3 respond?
- 4 A. Yes. Unless they were up doing daily observation sheets
5 or something like that.
- 6 Q. They weren't expected to be -- there was no person
7 expected to be awake?
- 8 A. No, no, it wasn't a waking night shift. If you could
9 get a sleep, you did.
- 10 Q. I'm not going to -- we can read this for ourselves. You
11 tell us under section 15, starting on page 5129, the
12 page we've just been looking at, that there were
13 activities that the young persons could engage in;
14 is that the position? There were a number of things
15 they could get involved in and do?
- 16 A. Yes.
- 17 Q. Although you do say on 5130 that no reading was
18 encouraged. Is that your recollection, that reading
19 wasn't greatly encouraged by the staff?
- 20 A. Not by the staff. Maybe some did like a bedtime story,
21 but you'd be reading to them rather than --
- 22 Q. Okay. You also tell us that there were trips and
23 holidays from time to time --
- 24 A. Yes.
- 25 Q. -- for the young people to go on.

1 I would like to move on in your statement, Alfie, to
2 page 5132, to the section headed "Visitors",
3 paragraph 22.

4 You tell us, I think, that the general arrangement
5 was that visits were usually arranged through the
6 Social Work Department.

7 A. Yes.

8 Q. I take it that all the children at Sycamore would have
9 been placed by the local authority?

10 A. Yes.

11 Q. Some of the children would, presumably under agreed
12 arrangements, visit their parents or indeed other
13 people?

14 A. Yes, foster carers or whatever.

15 Q. Did they have people that were described as befrienders
16 that would take them out?

17 A. They did have a befriending scheme at Sycamore.

18 Q. What checks were made to see that the befrienders were
19 suitable?

20 A. I would just hope it would be a Disclosure Scotland.

21 Q. You say at the top of page 5133, Alfie, on the second
22 full paragraph:

23 "The home was open to family members, but I never
24 felt that they were encouraged to visit."

25 What made you think that?

1 A. I just felt how some of the kids functioned, if parents
2 did visit they would obviously take the kids out, if it
3 was a foster child or the child that was in care. But
4 it just ... I never felt it was a very welcoming place.

5 Q. But were they discouraged from coming along?

6 A. No, they weren't discouraged; I think it was their
7 choice. They would come for reviews and things like
8 that.

9 Q. But what then, if we're trying to get an idea of what
10 you were thinking when you put this answer in, what was
11 it that was unwelcoming about the place that may have
12 put visitors like family members off?

13 A. It just didn't look like a homely home. It was more
14 like an institution rather than a home. Where the other
15 two units are council houses this was like a -- I don't
16 know if it was an old person's home at some point before
17 it was taken over, like reinforced glass and stuff like
18 that.

19 Q. It looked more institutional in appearance?

20 A. Yes.

21 Q. You have contrasted that with two council houses that
22 was also used as part of the Sycamore Project; is that
23 right?

24 A. Yes.

25 Q. And they were perhaps for different age groups?

- 1 A. Yes, there was younger and older.
- 2 Q. Were they in Kirkcaldy or Dunfermline?
- 3 A. On the same housing scheme.
- 4 Q. You felt they were more welcoming?
- 5 A. Yes.
- 6 Q. They looked more like a normal family home?
- 7 A. That's right.
- 8 Q. You didn't feel the same could be said of
- 9 Whytemans Brae?
- 10 A. No. It just looked like a home-home sort of thing,
- 11 a bad person's home.
- 12 Q. If we just -- so far as the sleeping arrangements at
- 13 Whytemans Brae were concerned, did the children all have
- 14 their own room?
- 15 A. Apart from two boys who used to share one room.
- 16 Q. Was that because there wasn't enough room to give
- 17 everyone a single room?
- 18 A. Yes.
- 19 Q. Just take the single room situation for the moment.
- 20 Were the children allowed to decorate the room as they
- 21 saw fit with posters, personal possessions?
- 22 A. Yes, when they were allocated a room they got to choose
- 23 their wallpaper or paint and duvet covers and stuff like
- 24 that.
- 25 Q. So they did get the opportunity to try and personalise

1 it in a way that suited them?

2 A. Yes.

3 Q. Would they have a TV in the room?

4 A. Yes.

5 Q. So they could retreat there as their own space?

6 A. Yes.

7 Q. So that was -- presumably you would approve of that?

8 A. Oh yes, aye. But again, we would encourage them not to
9 sit in their room, being lonely.

10 Q. I follow that, I was just trying to get a sense of the
11 atmosphere. But there was a room that they could go to,
12 it was their space and they had --

13 A. Yes, their own private space.

14 Q. -- participated in decorating and arranging it as they
15 wanted?

16 A. Yes.

17 Q. So that was there?

18 A. Yes.

19 Q. On page 5134 you deal under the heading "Internal
20 monitoring", I think you're responding to some questions
21 put to you. You tell us that supervision -- and you've
22 mentioned this earlier -- [REDACTED]
23 was to take place every two weeks.

24 A. Yes.

25 Q. Is that what the arrangement was supposed to be?

1 A. Yes.

2 Q. Who was [REDACTED] when you were there?

3 A. Someone called [REDACTED] BBB [REDACTED]

4 Q. But you tell us on paragraph 23 that it's your
5 recollection it wasn't always the case that this
6 arrangement was adhered to. Is that --

7 A. No, it was just -- I think I brought it up at my annual
8 appraisal as well that one year I only had supervision
9 two times. The project leader told him that he had shot
10 himself in the foot.

11 Q. Told who?

12 A. Told [REDACTED] BBB [REDACTED]

13 Q. And who was the project leader?

14 A. Tim Foley.

15 Q. What did he mean by shot himself in the foot?

16 A. Well, because he hadn't been doing his job.

17 Q. Did that get him into trouble in any way, do you know?

18 A. Not that I'm aware of. But he did say that from then
19 on, it would be diaried every two weeks. And I think it
20 only happened another couple of times the next year.

21 Q. So for a short time you did have the regular
22 supervision, but it tailed off and was back to what it
23 was before?

24 A. Yes.

25 Q. Is that what you're saying?

1 A. He saw that you could do your job, so they just let you
2 get on with it.

3 Q. I think at some point you say that you didn't always
4 feel supported. Was that your feeling then?

5 A. Yes.

6 Q. Was that due to this situation of not being supervised
7 regularly as was intended? Is that what you have in
8 mind?

9 A. It was put into place for a reason.

10 Q. Yes, but how do you feel it impacted on your ability to
11 do your job and to deal with the everyday situations
12 that you had to face?

13 A. As I said earlier, it's part of your job structure, you
14 can say to [REDACTED] what you think is
15 right or wrong and how you're feeling and he can try and
16 help with that.

17 Q. At the supervision sessions?

18 A. Yes.

19 Q. Because I don't suppose that expressing those feelings
20 during a shift would be an easy thing to do?

21 A. No, no. That was the whole reason, so he knew how you
22 were functioning. It was about getting from all the
23 staff how his team was functioning rather than just
24 letting it run on.

25 Q. I take it that -- you've said earlier, I think, that the

1 sort of team system would involve people like **BBB**
2 and indeed the project leader being part of a team from
3 time to time, part of the team of three.

4 A. Through the week.

5 Q. So there would be opportunities at least to have some
6 contact and liaison with them on those occasions?

7 A. Yes.

8 Q. But you feel that the supervision would have been
9 beneficial to you at least?

10 A. Well, going back to the handbook, I'm sure it'll be
11 in the handbook that staff should get supervision.

12 Q. And you're saying that Tim Foley, as the project leader,
13 was well aware of this arrangement not happening on
14 a regular basis?

15 A. When I had my annual appraisal, I made Tim aware of it
16 and that's when he said to **BBB** "Look, you've shot
17 yourself in the foot". When we came to the back of the
18 second year, I wasn't getting it again.

19 Q. You've got in mind a couple of years when this situation
20 was raised at the annual appraisal. Can you give us
21 a sort of time frame for this? You were there from 1995
22 to 2002. What sort of -- at what point in your period
23 of employment were you raising this issue about
24 supervision with Tim Foley?

25 A. It would be --

1 Q. Was it towards the end or the middle?

2 A. Towards the end. It should be logged somewhere.

3 Q. We'll maybe find out a bit more about that.

4 Moving to a different matter, on page 5135, you say
5 at the top of that page that -- and I think when you
6 talk about:

7 "The individual could speak to their key worker if
8 they felt they were not being looked after properly."

9 When you say that you mean one of the residents?

10 A. Yes.

11 Q. So am I right in thinking that in your period at
12 Sycamore each resident would have an assigned key
13 worker?

14 A. Key worker and a back-up key worker in case the key
15 worker was off, the backup worker could carry on the
16 paperwork.

17 Q. I think you tell us that that person was available to
18 speak to if the child had some concerns to raise?

19 A. Yes -- obviously, when the person was on shift.

20 Q. Well, in practice, do you think that the children and
21 young people did see the key worker as someone that they
22 could talk to and raise issues with?

23 A. Yes, I think so.

24 Q. So at least in your period at Sycamore, it's your
25 recollection that children were able under these

1 arrangements, the key worker system, to raise matters of
2 concern?

3 A. Yes.

4 Q. In your time at Aberlour, Sycamore, was there
5 involvement from an external body called Who Cares?
6 Have you heard of that organisation, Who Cares?

7 A. I can't remember.

8 Q. I think they are an independent charitable body who
9 would have workers who would go to establishments such
10 as perhaps Sycamore and be available to talk to
11 children, to hear their concerns. Was there an
12 arrangement of that -- can you remember an independent
13 person coming like that?

14 A. I can't remember that at all.

15 Q. But there was the key worker?

16 A. Mm-hm.

17 Q. If I could ask you about something else. You tell us
18 that -- you've got a section headed "External
19 Inspections". It starts at page 5136 of your statement.
20 I think that you tell us that during your period of
21 employment, there would be inspections from time to time
22 by inspectors from Fife Council --

23 A. That's right.

24 Q. -- who would inspect the home?

25 A. And that person would stay over for one night to get the

1 whole -- see the whole shift.

2 Q. Would that be -- we're aware, I think, of quite
3 a significant change happening when the
4 Care Inspectorate was set up in about 2001. It might be
5 towards the end of your period at Sycamore, but you'll
6 be aware of the Care Inspectorate?

7 A. Yes.

8 Q. So when we're talking about these inspections, would
9 these be local authority inspections prior to the
10 establishment of the Care Inspectorate, the inspections
11 by Fife Council?

12 A. I think normally, for Fife Council, it was just the
13 person would just appear.

14 Q. Yes, I'm just trying to put a time frame for this.
15 Would it have been before the establishment in 2001 or
16 thereabouts of the Care Inspectorate that these council
17 officials were coming to look at the service? Because
18 it was registered with the local authority, I think, in
19 those days; is that right?

20 A. They were in every year.

21 Q. And did they -- well, did you have any dealings with
22 those inspectors personally?

23 LADY SMITH: Are we talking about the Fife inspectors?

24 MR PEOPLES: Yes.

25 A. Yes.

1 LADY SMITH: Of course, you finished up there in 2002. So
2 that was early in the period of Her Majesty's
3 Inspectorate.

4 A. Right.

5 LADY SMITH: So far as the Fife inspectors are concerned,
6 I think Mr Peoples was asking you about them, as to
7 whether you talked to them yourself.

8 A. Well, normally, I would be on shift when the lady came
9 in. I think she dealt with me a minimum of three times
10 because it was like a standing joke that she appeared
11 when I was on shift.

12 MR PEOPLES: Did you get any indication of what the lady
13 inspector thought of the project or the way it was run?
14 Was there any discussion that would give any clue on
15 that?

16 A. She would do a report after her stay and it would be
17 handed up to Tim Foley or Cameron McVicar at --

18 Q. More senior managers?

19 A. Yes.

20 Q. Do you recall following these visits and reports,
21 whether there was any feedback that meant that changes
22 had to be made --

23 A. Sorry for interrupting, but you'd just get a staff, like
24 a team brief, a team meeting or something like that:
25 things have went well, could be better at this or

1 something like that, and that would really be it.

2 Q. So you would get feedback following these inspections
3 and if there was anything highlighted by the inspector,
4 that would be discussed at these meetings?

5 A. Yes. We would have to look at that and see how we could
6 improve it.

7 Q. Just on a different matter, page 5137, under
8 paragraph 25, which is headed "Review of care and
9 placement", I just wanted to ask you a little bit about
10 that.

11 You say there:

12 "I felt that the management just kept the children
13 in the project to keep the money coming in. It was the
14 norm to keep the children to go from unit to unit
15 through the three units ..."

16 I think those are the different age group units
17 you have mentioned?

18 A. Yes.

19 Q. "... again just for the money."

20 What makes you think that was the prime motivation
21 for the children remaining?

22 A. I just felt that once the children got in there, it was
23 like a wage. I think the time I was there, maybe two
24 had left out of, I don't know, 20, 30 children. It just
25 seemed to ... It was just like a money train, I felt

1 personally.

2 Q. You're saying that the majority of the children, with
3 a few exceptions, stayed during your whole period either
4 at Whytemans Brae or somewhere else, depending on their
5 age?

6 A. Yes.

7 Q. One other possibility could be that, well, they needed
8 to remain there because they weren't ready to go
9 anywhere else or it was providing a service that
10 couldn't be provided in other places. These are other
11 possibilities, are they not?

12 A. Yes.

13 Q. Do you accept that?

14 A. There were some children that shouldn't have been in
15 there.

16 Q. Presumably, the whole purpose of review, if it's done
17 properly, is to say: is this the right place for this
18 child at this point in time?

19 A. Mm.

20 Q. And did you attend review meetings?

21 A. Yes.

22 Q. Can you confirm for us that that that sort of discussion
23 would take place between the professionals --

24 A. There would be a report written and the recommendations
25 would be this child would stay here.

1 Q. Are you suggesting that wasn't a good faith
2 recommendation based on the professional judgment at the
3 time? Are you questioning that?

4 A. Well, in my personal feelings, yes, that's what it felt
5 like. It was like you had to go through the whole
6 system.

7 Q. But I think you said earlier to me that Whytemans Brae
8 was a specialist unit, as were some of the others, that
9 were taking children that came with quite a significant
10 history of problems.

11 A. Yes. But they weren't all like that.

12 Q. No, but a lot of them were?

13 A. Yes.

14 LADY SMITH: You said a few moments ago, Alfie, that there
15 were children who shouldn't have been there. Tell me
16 about them.

17 A. Well, one in particular, the reason he was put in care
18 is because he -- his dad thought his mum had had an
19 affair and that was the only reason that lad was put in
20 care and he went through the whole system. He got home
21 at weekends to his mum; obviously his mum had had a new
22 partner.

23 LADY SMITH: Is he the only one you remember or do you
24 remember others?

25 A. Just probably maybe him. It was just like mild ... You

1 know, I remember Tim saying that some of the children
2 weren't, for want of a better word, bad enough for
3 Sycamore. And then when they arrived, their true
4 colours came out.

5 LADY SMITH: Thank you.

6 MR PEOPLES: Did you ever participate in reviews concerning
7 the child that you've just mentioned?

8 A. I did, uh-huh.

9 Q. Did you raise that point?

10 A. Well, I think if I raised that point, I'd have been out
11 the door.

12 Q. So you didn't raise it?

13 A. No.

14 Q. That's just how you felt?

15 A. Mm-hm.

16 Q. That that boy shouldn't really have been in that service
17 given the background and the situation?

18 A. Yes. He could have been in care of some sort, but not
19 in a specialised unit like ...

20 Q. Can I ask you a sort of general question about -- you've
21 already mentioned the alarm system at night, which was
22 I think in part at least a safeguarding or a child
23 protection arrangement. Just more generally, in your
24 time, if someone was just to ask you the direct
25 question, "What were the child protection arrangements

1 that were in place in Whytemans Brae in your time?" --
2 you mentioned the alarm, what other arrangements apart
3 from checks on people who were recruited and so forth,
4 what practical arrangements were put in place to protect
5 children from harm and abuse from anyone?

6 A. As I said to you earlier, the Disclosure Scotland would
7 be there and I'm sure Sycamore would have something with
8 a befriending scheme, people in the relief pool, giving
9 them a chance to look into the history.

10 Q. And to what extent in your time were situations at
11 Whytemans Brae or situations where children would go out
12 of the unit risk assessed for each child? To what
13 extent was risk assessment a feature of life?

14 A. In general, the kids would ask to go out, you know, or
15 let us know where they were going, but sometimes they
16 would just jump out of their bedroom window and head
17 off.

18 Q. Were you ever aware of seeing formal risk assessments
19 and those assessments reflected in children's care
20 plans?

21 A. Yes, I think I did.

22 Q. You saw them?

23 A. Yes. There was a risk assessment done.

24 Q. So there was an attempt to assess risks?

25 A. Uh-huh.

1 Q. Were situations where a child might be alone, whether
2 with a carer at Whytemans Brae or any other adult, was
3 that situation, a one-to-one situation risk assessed to
4 your knowledge?

5 A. I honestly can't remember.

6 Q. Can I ask you this then: would it have been uncommon in
7 Whytemans Brae for children to be in a one-to-one
8 situation with, say, a carer or someone employed --

9 A. Yes, if you were doing something, helping with homework
10 or setting up for a review, the six-monthly review, you
11 would spend time -- whatever they felt comfortable --

12 Q. Could a child -- and I'm not suggesting that I am going
13 to put anything to you that happened, but could a worker
14 there be in the child's room, private space, on their
15 own with a child?

16 A. Yes.

17 Q. There was no difficulty with that happening?

18 A. No.

19 Q. Would the door be kept open on these occasions?

20 A. Open or closed, whatever.

21 Q. So far as restraint is concerned, it wasn't an everyday
22 occurrence, but it was quite a common occurrence that
23 restraint had to be used from time to time and you've
24 told us it was a last resort for you.

25 A. Yes.

- 1 Q. But on occasions where restraint was considered
2 necessary for whatever reason, how many staff were
3 involved in the restraint?
- 4 A. There would be two, minimum of two.
- 5 Q. Were there ever occasions when restraint was carried out
6 when there was only one adult and one child?
- 7 A. That depends on if it was restraint or stopping that
8 child from going to speak to someone.
- 9 Q. I'll maybe come to that, I think you're going to mention
10 something. I'm looking more generally at restraint.
11 Say a situation blew up, a child lost control and
12 required perhaps some form of restraint. That could
13 arise simply in a one-to-one situation, could it?
- 14 A. Having worked there, you feel if there's tension in the
15 place, staff shouldn't be in the office all the time or
16 sit in the foyer or anything like that, you can see
17 what's going to happen and say to your work colleague,
18 "Look, I think something's going to kick off here".
- 19 Q. So you're trying to anticipate the possibility of some
20 problem --
- 21 A. You can feel that something's going to happen.
- 22 Q. Are you trying then to at least operate in pairs, if you
23 like?
- 24 A. One go and try and talk him down and the other one,
25 stand at the door or in the room, and then if it ended

1 up in the restraint situation, well, you had a witness
2 and somebody to hold their legs when you were holding
3 their top half.

4 Q. So ideally, if a restraint situation arose and the
5 restraint was necessary, the idea was to have at least
6 two members of staff present when that was happening?
7 Did that always happen though?

8 A. Well, again, it depends how many members of staff were
9 on. Sometimes there were only two members of staff on,
10 and if one was out with some of the kids, it was --

11 Q. So there'd be a situation where someone might have to
12 restrain a child without any other adult being present,
13 and then they would have to, under the procedures, log
14 that incident?

15 A. An incident report.

16 Q. And they would then log the incident as they perceived
17 it to be. Would the child have any input into the
18 entry?

19 A. They would get to see it.

20 Q. See how it was recorded?

21 A. Yes. If they were happy with it, they agreed with it.

22 Q. If they were not happy with it, were they allowed --

23 A. It was the deputy project leader or the project leader
24 to -- that was their department.

25 Q. Would the log record if the child disagreed with the

1 description of the restraint?

2 A. I would hope so.

3 Q. Well, was that -- you say you'd hope so, did you ever
4 see entries that would show a difference of view as to
5 how a restraint incident was handled?

6 A. I honestly can't remember. It probably was. I think
7 a couple of times the kids had been able to write
8 a little something at the bottom.

9 Q. But the procedure certainly was the child should have
10 some say --

11 A. Oh absolutely.

12 Q. -- in whether the entry was recording accurately
13 what was taking place?

14 A. It wasn't a prison.

15 Q. I wasn't suggesting that.

16 A. I understand that.

17 Q. I was just suggesting they had some opportunity to have
18 a say in what was being recorded?

19 A. Because the individual, the child, would -- nine times
20 out of ten it would get discussed and the key worker
21 would discuss it with them, ask them where they think
22 they went wrong or what has been wrong and look at it
23 from there. So they're getting their say. It's not
24 like, "That's how it is and that's how it's going to
25 be".

1 Q. If I go on to the matter of discipline and punishment at
2 page 5141, which is an issue you were asked to address
3 in your statement, you make it clear that Sycamore
4 wasn't a place where children would be physically
5 punished; is that right? You say that halfway down that
6 page, 5141, paragraph 30.

7 You say:

8 "If it resulted in a restraint, it could end up with
9 bumps and bruises, including staff."

10 A. Uh-huh.

11 Q. What were you trying to say there?

12 A. Some of the kids were quite big. There was one person
13 in particular who had learning difficulties. She was
14 a bit of a handful. So again, trying to take control.
15 They didn't just sort of sit down and let you grab them,
16 you had to kind of -- they were losing control, so you
17 were trying to keep some kind of control to make them
18 safe rather than, again, as I said earlier, flailing
19 their arms and getting injured.

20 Q. What you're saying then, if I understand, is in
21 situations such as that, where restraint was necessary,
22 staff and child or one or other could end up with bumps
23 and bruises --

24 A. Mm-hm.

25 Q. -- from the incident?

1 A. We had one member of staff who got his leg broken once.

2 Q. So there was an inherent risk of injury in a restraint
3 situation and it could be injury to the child or injury
4 to the member of staff because of situation?

5 A. Yes.

6 Q. If there was a restraint situation where injury did
7 occur to anyone, would the injury be logged and
8 recorded?

9 A. Oh yes. It would be in the medical --

10 Q. Would that prompt any form of investigation because
11 restraint had produced injury?

12 A. It would be reported to the deputy project leader when
13 he came in and then it'd be up to him to decide from
14 there.

15 Q. Did children or young people in Sycamore ever try to run
16 away or abscond from the unit?

17 A. Yes, on a regular basis.

18 Q. How was that situation dealt with if they were returned
19 or did you have an involvement in that?

20 A. If they were returned, they were put off with something
21 to eat, a shower, because normally it would be late at
22 night, and then off to their room.

23 Q. Can I turn now to the section in your statement at 5142,
24 which is headed "Awareness of abuse". I think you were
25 asked some questions in relation to that topic.

1 One of the questions you were asked was:

2 "Did you see behaviour that you considered to be
3 abuse of children taking place at the home?"

4 And you answered that yes.

5 A. Yes.

6 Q. You then, I think, provide a description of an occasion
7 which you considered to amount to physical abuse of
8 a child.

9 A. Yes.

10 Q. Can you tell us about that? Before I ask you that, can
11 I just be clear? The incident you described there, did
12 you witness it?

13 A. Yes.

14 Q. So you saw it?

15 A. Yes.

16 Q. So can you tell us what happened and what you saw?

17 A. The young lad in particular is from the
18 Shetland Islands.

19 Q. We don't need his name; just call him the boy from
20 Shetland.

21 A. I was his key worker, and he'd been there two or three
22 days and obviously it's a quiet island and obviously
23 I think he'd been asked to do something and something
24 happened, and he wanted to go and see the project
25 leader. As he took himself along the hall past the

1 kitchen up to the office, he was grabbed by the scruff
2 of the neck and dragged down the stairs and put into the
3 dining room.

4 Q. Who was doing this?

5 A. BBB, .

6 Q. Did you see this happening?

7 A. I saw it. I'm sure it was on a meeting day. There were
8 other members of staff there.

9 Q. What did you say was the purpose of Mr BBB doing this
10 to the child?

11 A. I don't think he was wanting the child to speak to
12 Mr Foley.

13 LADY SMITH: Why not?

14 A. Well, I don't know what the reason was, my Lady, but
15 there was obviously a reason.

16 MR PEOPLES: You tell us, and I may have missed this when
17 you are giving the account, you say:

18 "I think the boy was spoken or shouted at by
19 BBB and was frightened by BBB tone of voice."

20 Is that something you witnessed or did you witness
21 the aftermath?

22 A. No, I was in the foyer when it happened. I saw him
23 going up to go to Tim's office.

24 Q. Yes, but by that stage he was already heading for his
25 office?

1 A. Yes.

2 Q. So am I right in thinking you didn't see what happened
3 before then that caused him to do that?

4 A. No.

5 Q. But you're telling us what you think may have been the
6 reason --

7 A. Yes.

8 Q. -- rather than what you actually --

9 A. The boy will have wanted to do something and he'll have
10 been -- for whatever reason **BBB**
11 said no. He was only in the unit about two or three
12 days, so he'd be feeling, right, I need to go and speak
13 to the boss.

14 Q. You do mention that at some point when this boy was
15 being -- is it dragged along a corridor?

16 A. Uh-huh.

17 Q. And you describe thrown into the dining room.

18 A. Uh-huh.

19 Q. That there was shouting, did you hear shouting at that
20 stage?

21 A. **BBB** would be shouting.

22 Q. Did you hear that?

23 A. I heard him shouting.

24 Q. What state was the boy in?

25 A. Oh, he was distraught. He'd come from a quiet island to

1 this place in Kirkcaldy that was extremely scary for
2 him.

3 Q. What age do you think the boy was?

4 A. He would be probably 13 or 14 at the time.

5 Q. Did anything transpire after that in terms of this
6 incident? Do you know what, if anything, came of it?

7 A. There were two senior members of staff in the foyer
8 at the time, so --

9 Q. But do you know if any action was taken?

10 A. I haven't a clue. I don't know.

11 Q. Did you not think fit to report what you saw?

12 A. Well, I think Tim came out of the office because he
13 heard the noise, if I remember rightly.

14 Q. Did he ask you about what the fuss was about and what
15 the noise was all about?

16 A. Honestly, I can't remember. I can't remember.

17 Q. But you didn't make a report or complaint about what you
18 saw?

19 A. No, because there were senior members of staff there.

20 Q. Would it not still have been an appropriate thing for
21 you to have raised the matter personally?

22 A. I should have done, I suppose, but with the seniors
23 being there on a meeting day, I thought it would have
24 been ... When BBB 's functioning
25 like that ...

- 1 Q. You just assumed it would be dealt with by others?
- 2 A. Yes, because the seniors were there. He obviously had
3 a reason for doing it.
- 4 Q. Were you ever asked by Tim Foley or any other person
5 about that matter after that?
- 6 A. Not that I can remember, no.
- 7 Q. Did you ever see any other occasion when Mr **BBB**
8 behaved in this way?
- 9 A. No disrespect to Mr **BBB**, but I think the project
10 leader carried him quite a bit. I think he struggled
11 with his daily duties.
- 12 Q. Well, I'm not sure that's quite answering the question.
13 I asked whether you ever saw anything he was that was
14 equivalent --
- 15 A. Nothing like that, no.
- 16 Q. So that was the only time you saw this happen?
- 17 A. In the unit.
- 18 Q. But you think Mr **BBB** was struggling at times?
- 19 A. I would say, yes.
- 20 Q. Just to do the **████████████████████** job?
- 21 A. Yes.
- 22 Q. You have told us already he wasn't meeting you for
23 supervision every two weeks, which was part of his job;
24 is that one thing?
- 25 A. That's right. You know, plus if there was a staffing

1 problem, and there were no seniors and no residential
2 care workers, if you were dealing with volunteers and
3 the office staff and like ... not a regular worker, the
4 ██████████ should have stayed on to monitor
5 what was happening in the unit, but it didn't work that
6 way.

7 Q. So you didn't feel that ██████████ BBB ██████████ was
8 necessarily doing all aspects of his job, including the
9 supervision, and that is part of the reason for you
10 thinking that he maybe was struggling with the job?

11 A. Well, it came over that way.

12 Q. Okay. You mention also -- and this is going back to
13 a matter we've touched on or we discussed earlier -- you
14 also mention on page 5143 that:

15 "Before proper restraint procedures were put in
16 place, there were numerous incidents that could be
17 classed as physical abuse."

18 I did wonder what you were trying to convey by that
19 statement. We've already explored what the situation
20 was about training up until the CALM training was
21 introduced. Are you saying that there was a deliberate
22 misuse of the power to restrain or it was
23 inappropriately used or incorrectly used until training
24 was introduced?

25 A. It was to trying to take control, so the child would be

1 restrained, put down and held rather than after the --

2 Q. You feel it was being used more as a measure of control?

3 A. I would say, yes -- if it got into the restraint
4 situation. It wasn't just -- if a kid was misbehaving,
5 they wouldn't just go in and abuse him. It was like
6 when it came to a restraint situation to try and
7 minimise each other getting damaged.

8 Q. I'm just trying to be clear how far you're going on
9 this. Are you saying maybe it was used too often,
10 excessive use of restraint where they weren't properly
11 trained, or were you saying it was used in an improper
12 way as a form of abuse? How far are you going on this?

13 A. I think before the CALM situation came in, it was keep
14 everything under control. But I don't think anyone
15 physically went out to harm the children.

16 Q. Right. You do say, I think, on page 5144, on this topic
17 that, apart from what you've told us about, the only
18 other matter you raise is that there could be some --
19 what you describe, I think, as a sort of verbal abuse
20 when things got heated, and you explain -- this is in
21 the middle of 5144:

22 "That was all down to certain members of staff not
23 being aware of the children's whereabouts, choosing to
24 sit and smoke cigarettes in the foyer office."

25 First of all, what do you mean by "verbal abuse when

1 things got heated"? Who was getting the abuse?

2 A. Well, it would be the children that would be getting the
3 abuse.

4 Q. Can you give us some examples of the sort of abuse
5 you have in mind?

6 A. Just if they were doing a changeover, two staff were
7 meant to be in the office and two staff were meant to be
8 going round the unit and that never always happened.
9 The majority of them were heavy smokers, so they would
10 sit in the wee office and smoke their hearts out.

11 Q. What would they be saying to the children when things
12 got heated? What sort of things did you hear them say?

13 A. It could be anything. Just like Mr **BBB** with the lad
14 from Shetland. If people are having a bad day,
15 everybody's got a boiling point.

16 Q. I appreciate the point you're making. I just want to
17 find out if the boiling point was reached, what sort of
18 things might be said?

19 A. Just swearing and stuff like that.

20 LADY SMITH: Do you remember any of the words that were
21 used?

22 A. Not particularly, no. It just got ... If everyone was
23 in the office, the kids could be doing anything.

24 MR PEOPLES: Did the children or the kids, when this
25 situation arose, did they hear what was said about them,

1 this abuse, or was it simply in the office that some kid
2 had --

3 A. I think maybe if it was in a restraint situation, if
4 that person had now been involved in a few restraints
5 with that member of staff, things could be said.

6 Q. Said during the restraint itself?

7 A. Yes.

8 Q. Not simply in the office, someone says to the colleague,
9 "It's so-and-so again, he's a right whatever"?

10 A. No, it was just anger rather than --

11 Q. It was anger but said in the presentation of the
12 children?

13 A. Yes.

14 Q. And they would hear it?

15 A. Yes.

16 Q. And that's something that you -- did you disapprove of
17 this?

18 A. Well, I didn't think it was very fair because you
19 weren't de-escalating the situation if you were
20 swearing. You were trying to calm the situation down
21 rather than adding to the fire.

22 LADY SMITH: Alfie, just before you go on, you've got 5144
23 in front of you on the screen or there on the page. Is
24 what you're describing the part that you're covering in
25 the paragraph that begins "I'm not aware"? Can you just

1 read that again and remind yourself of what you have
2 written there?

3 (Pause)

4 A. Yes. Certain members of staff, if a child was unhappy
5 about something, they would obviously raise their voice
6 and if the child retaliated, then the staff member
7 would ... It was like tit-for-tat. So you weren't
8 de-escalating the situation, you were escalating the
9 situation. And I think sometimes that was done to get
10 a restraint situation and then it could be ... get out
11 and calm.

12 MR PEOPLES: In your time at Aberlour, were you being taught
13 to deal with children with problems in a trauma-informed
14 way?

15 A. Sorry?

16 Q. A trauma-informed way. Have you heard of that
17 expression, trauma-informed? You don't recall getting
18 training to deal with challenging behaviour, having
19 regard to things like the background of the children and
20 to deal with it in an appropriate way?

21 A. There was like a file on every child, so it was part of
22 your duty to read through that. Even although they
23 weren't your key children, it was to make you aware of
24 their background and the situation.

25 Q. You seem to understand, whether from training or

1 A. Mm-hm.

2 LADY SMITH: You said something there, Tim's what?

3 A. They were classed as Tim's Bensons, like Tim's -- what
4 do you call them? Not slaves but ...

5 LADY SMITH: Yes-men?

6 A. Yes, that kind of thing.

7 LADY SMITH: Thanks.

8 MR PEOPLES: Lastly, I have been asked by Aberlour to raise
9 one other matter. You left Aberlour on
10 [REDACTED] 2002. Can you confirm that you left because
11 you had been summarily dismissed for gross misconduct?

12 A. That's correct.

13 Q. Can I be clear, and before I go into this, can I just be
14 clear, did this matter come to the attention of the
15 police, to your knowledge?

16 A. It did eventually.

17 Q. At what point in time, just before we go into this?

18 A. It was about 16 or 17 years later.

19 Q. So we're talking about, if this was in 2002 -- how many
20 years ago? It's 2018 today.

21 A. Five, six years, something like that.

22 Q. So it became a police matter, it was -- presumably they
23 made some form of enquiries, and did they speak to you?

24 A. Yes.

25 Q. I don't want you to say too much yet, but I'll ask you

1 this: has anything come of that matter since then?

2 A. Not yet, no.

3 Q. But you're not sure whether something -- you've not been
4 told that no action could follow?

5 A. I was told I would be charged.

6 Q. And were you charged?

7 A. I don't know.

8 Q. Usually charging is a formal thing where you are told
9 you're being charged and you're either released or
10 you have to appear in court. You don't remember
11 anything of that kind happening?

12 A. They said they were going to let me go.

13 Q. Do you remember being charged before you were let go?

14 A. They said they were charging me with ...

15 Q. Therefore, I think it's appropriate for me to say to you
16 that before I ask any further questions, given what
17 you've just said, it is your right not to answer any
18 further questions on this matter at all given that it
19 could potentially still be a police matter. Clearly, if
20 you do say anything or answer anything, your answers
21 could be used in other proceedings if they were to be
22 brought. Do you understand that warning that I'm giving
23 to you?

24 A. Yes.

25 LADY SMITH: Alfie, let me echo that. Although this is an

1 inquiry and not a set of court proceedings, you have
2 exactly the same rights here against self-incrimination
3 that you would have in a court. That means you don't
4 have to answer any questions that tends to be directed
5 towards asking whether you have committed any crime at
6 all, but if you do answer, your answers are being
7 recorded. As you are see, the stenographer is here, and
8 just as in any other proceedings, they would then be
9 available for anyone in the future if they wanted to
10 look at them. Do you understand that?

11 A. I do.

12 LADY SMITH: Thank you.

13 MR PEOPLES: Are you prepared to answer some questions? If
14 at any point I ask you a question you don't want to
15 answer, think about it and take your time and just say
16 if you don't wish to answer.

17 A. There's already an report been done on this. How many
18 times can you get punished for the same thing? If you
19 really want to contact the police and get a look at
20 the -- that would save you.

21 Q. I'll just raise this because I'm raising it because
22 I have been asked to raise it by Aberlour for a reason
23 that I'll put to you in a moment. This will be my last
24 set of questions, so if you can just bear with me. You
25 were dismissed on [REDACTED] 2002. That was following

1 disciplinary action taken against you, which I'm told
2 began in [REDACTED] of 2002. You were suspended from work
3 and an investigation was then carried out and you had to
4 attend a disciplinary hearing. Is that --

5 A. Correct.

6 Q. The matter under investigation was an allegation that
7 you had exposed your genitalia to a young person during
8 a holiday trip. Is that the substance of the
9 allegation?

10 A. Yes.

11 Q. And that there was a disciplinary hearing in
12 [REDACTED] 2002 under Aberlour's arrangements for dealing
13 with complaints about staff conduct and, following that
14 investigation, you were dismissed with immediate effect.

15 A. Yes.

16 Q. Do you accept something along the lines of what I have
17 just put to you happened on that occasion, that you did
18 expose yourself in the presence of a young person on
19 a holiday?

20 A. It's in the report.

21 Q. So you're not disputing that something happened?

22 A. No.

23 Q. If you were seeking to mitigate your actions, can you
24 just tell us what, if any, mitigation you would be
25 putting in play? Were you sober or were you drunk?

1 A. I was drunk. As was the other member of staff.

2 Q. Being drunk, you did what we've described, you exposed
3 your genitalia --

4 A. Yes.

5 Q. -- to a person. Was that in response to a remark that
6 person had made?

7 A. Yes, my nickname.

8 Q. What did he say?

9 A. "Good night, [REDACTED]"

10 Q. And in response to that, you made this remark -- you did
11 this?

12 A. Uh-huh.

13 Q. What age was the -- it was a boy, was it?

14 A. Yes.

15 Q. Was age was he?

16 A. 14.

17 Q. And he made this remark and that was your response
18 having taken quite a lot to drink?

19 A. Half a litre of vodka, yes.

20 Q. What was the reaction of the boy at the time?

21 A. He just laughed.

22 Q. Did he seem in any way traumatised then or later?

23 A. No, not at all.

24 Q. But do you accept it was a completely inappropriate
25 thing to do?

1 A. Oh yes. But again, maybe that was my way of getting out
2 of the ... You know, no support, a coping mechanism.

3 Q. Against that background, I think the point I've been
4 asked to put to you essentially is that, having been
5 dismissed in those circumstances, that dismissal may be
6 influencing what you're now saying about the
7 organisation and your colleagues to a degree that would
8 cast doubt as to the reliability of your evidence about
9 Mr **BBB** and about things that you think were not done
10 right. That's the general point I think that's being
11 made, that you have an axe to grind because of that.

12 A. I don't have an axe to grind, but if that's what
13 Aberlour think, they are very, very childish. There was
14 no support whatsoever for the amount of people that have
15 worked and the amount of people that have left.

16 Q. So is it your position that what you've said about
17 Mr **BBB** and things you've said about the organisation,
18 you stand by those and they're not influenced by the
19 fact that you were dismissed in those circumstances?

20 A. No, no.

21 Q. Okay.

22 A. I mean, I can give you names of people that were there
23 at the time when it happened.

24 Q. I'm just wanting to know your position. I'm just
25 putting the point, I've been asked to put it.

1 A. No, I have no axe. Because after I left, some of the
2 kids kept in touch with me and stuff like that for long
3 enough. It wasn't like it was ...

4 MR PEOPLES: Okay. Well, these are all the questions I have
5 for you, Alfie, today. I don't think there are any
6 further questions that I have been asked to put. I'm
7 sure I'll be corrected if I'm wrong. Thank you very
8 much for coming today.

9 A. Thank you.

10 LADY SMITH: Could I check whether there are any outstanding
11 applications for questions? No.

12 Alfie, that does complete the questions we have for
13 you. Can I just thank you very much for responding to
14 the inquiry, to the request for a statement in the way
15 you did do, that's very helpful, and coming along today
16 to answer all the questions that you have done. It's
17 been of enormous assistance to hear from you personally
18 and I'm now able to let you go.

19 A. Thanks very much.

20 (The witness withdrew)

21 LADY SMITH: It is now time for the morning break. But
22 before I rise, could I mention that the name BBB
23 as being associated with any allegation of abuse is
24 protected by my general restriction order, so that
25 person cannot be identified as being somebody against

1 whom allegations of abuse have been made outside this
2 hearing room.

3 We'll rise for the morning break.

4 (11.36 am)

5 (A short break)

6 (12.02 pm)

7 LADY SMITH: Yes, Ms Rattray.

8 MS RATTRAY: My Lady, the next witness is Adrian Snowball.

9 ADRIAN SNOWBALL (affirmed)

10 LADY SMITH: Please sit down and make yourself comfortable.

11 If you can make sure you're in a comfortable position
12 for the microphone, it really helps. I'll hand over to
13 Ms Rattray in a moment and she will explain what she
14 wants you to do with the red file.

15 Just before I do that, could I explain, in case you
16 hadn't realised it already, that although this is an
17 inquiry and not court proceedings, you have exactly the
18 same rights in this environment as you would have there,
19 including the right not to incriminate yourself in
20 relation to any matters of which you have not been
21 convicted.

22 I don't know whether your evidence will go there,
23 but I should tell you that. That means that you don't
24 have to answer any such questions, but you do need to
25 appreciate that if you do, your evidence is being

1 recorded and will be in a transcript and available at
2 a later stage if it was required. Does that make sense
3 to you?

4 A. Yes.

5 LADY SMITH: If you have any doubts, please just ask again.
6 I'm sure Ms Rattray will alert you too.

7 Ms Rattray.

8 Questions from MS RATTRAY

9 MS RATTRAY: Adrian, in the red folder in front of you
10 you'll find a copy of the written statement that you've
11 given to the inquiry. When we look at parts of your
12 statement, those parts will also come up on the screen
13 in front of you. So if it's easier when we're looking
14 at your statement to use the red folder or the screen,
15 then please feel free to use either. I think you might
16 have indicated you might have your own copy anyway. If
17 you prefer to use your own copy, you're welcome to do
18 so.

19 A. This is fine here.

20 Q. We have given your statement a reference for our
21 purposes. The reference number is WIT.003.001.7576.

22 To start, Adrian, if you could turn to the back page
23 of the paper copy, please, which is page 7605. Can you
24 confirm that you have signed your statement?

25 A. I have.

1 Q. Do we see at paragraph 174, just above your signature,
2 that you confirm that you have no objection to your
3 witness statement being published as part of the
4 evidence to the inquiry and you believe the facts stated
5 in your witness statement are true?

6 A. Yes.

7 Q. You can put that to one side just now.

8 Could you confirm the year of your birth? I don't
9 need the date or the month, simply the year you were
10 born.

11 A. 1954.

12 Q. Adrian, I'm going to ask you some questions about some
13 parts of your statement. The whole of your statement is
14 evidence for the inquiry and will be taken fully into
15 account, but for the purposes of today I'll only be
16 asking you about certain parts.

17 To start, I will ask you about a brief overview of
18 the various posts you held with the Aberlour Child Care
19 Trust. I will then speak to you and ask you questions
20 about the reasons and background to the inquiry asking
21 you to provide your statement. And then the main focus
22 today will be on the recruitment and vetting process
23 that was used in relation to your employment with
24 Aberlour and the various posts you held in there.

25 Turning to the first part, Adrian, and just some

1 background. You're a former employee of the Aberlour
2 Child Care Trust; is that right?

3 A. That's right, yes.

4 Q. You tell us in your statement that you worked for the
5 Aberlour Child Care Trust -- and for the purposes of
6 today I'll simply refer to them as "Aberlour" -- in
7 various roles from 1983 to 2008?

8 A. That's right, yes.

9 Q. So you were there for about a 25-year period?

10 A. Yes.

11 Q. You tell us that the first post you held was the post of
12 senior project worker, and that was at Sycamore Cottage.

13 A. Sycamore Project.

14 Q. Sycamore Project. And that was at Whytemans Brae,
15 Kirkcaldy?

16 A. Yes.

17 Q. Do you remember when you started in that post?

18 A. I think it was June 1983, but I honestly can't remember.

19 Q. Certainly from the records we've seen, it would suggest
20 that you started there in July 1983, so you're very
21 close. According to the records that we have seen, you
22 were in that post for around about five years and you
23 worked there until about December 1988; is that right?

24 A. That's right, yes.

25 Q. Then you applied for another post with Aberlour?

1 A. Mm-hm.

2 Q. And I understand that to be as the deputy project leader
3 at the Whitfield Family Centre in Dundee?

4 A. Yes.

5 Q. As we understand it, you were there from December 1988
6 to March 1991?

7 A. That's right.

8 Q. And during that period, you also spent seven months as
9 the acting project leader?

10 A. That's right.

11 Q. And that was from about September 1990 to March 1991?

12 A. Yes.

13 Q. In what circumstances did that post come to an end?

14 A. The funding for the family centre came to an end and the
15 family centre converted to a community nursery, and
16 there wasn't a post for me.

17 Q. So at that stage, you applied for another post within
18 Aberlour. That was the post of training coordinator,
19 based at their head office in Stirling; is that right?

20 A. Yes.

21 Q. From the records we have seen, you held that post from
22 around April 1991 until December 1994.

23 A. That's right, yes.

24 Q. I think you tell us that that was a new post; is that
25 right?

1 A. Yes.

2 Q. Can you tell us very briefly about the circumstances
3 that you recall that that particular post was created?

4 A. There were two posts created: one in Stirling and one in
5 Aberdeen, both part-time. They were created
6 specifically to manage the SVQs, Scottish vocational
7 qualifications, in care. That was the primary reason
8 for the posts coming up.

9 Q. The next post you held, according to the records we've
10 seen, and according to your statement, is the post of
11 staff development management. You held that from
12 January 1995 until July 2008, and at that stage the post
13 you held had been made redundant but because of your
14 service, you had the option of taking early retirement.

15 A. Yes. I was the staff development manager for a period,
16 and then a post for head of learning and development
17 came up, so it wasn't the full period as staff
18 development manager.

19 Q. There seems to be some reference in your records that
20 during that time, the post changed, the department was
21 reorganised and renamed; is that correct?

22 A. Which department, sorry?

23 Q. Would that be because your new job title from
24 September 2002, we're told, was head of learning and
25 development?

1 A. That's right, yes.

2 Q. So was that an entirely new post or was it simply
3 a change of name essentially of the post you previously
4 held?

5 A. It was more a change of name.

6 Q. Adrian, as you acknowledge in your statement at
7 page 7576, and paragraph 4, the inquiry approached you
8 to take your statement because you had convictions in
9 respect of offences relating to children; is that right?

10 A. That's right, yes.

11 Q. You tell us in your statement that your first
12 conviction -- in paragraph 5 you recall it was in around
13 1970 in the Wirral, Birkenhead, in England.

14 A. That's right, yes.

15 Q. You say it was for indecent assault on a child under the
16 age of 16.

17 A. That's right, yes.

18 Q. And you tell us that you pled guilty to that?

19 A. Yes.

20 Q. The information the inquiry has, Adrian, just to
21 confirm, is that the inquiry has been informed that you
22 were convicted at Birkenhead Magistrates' Court on
23 18 July 1972 on two counts of indecent assault on a male
24 under the age of 14 years and you were fined £10.

25 A. That's right, yes.

1 Q. And the second conviction -- at paragraph 6 on
2 page 7577, you tell us that you have another conviction
3 from 2017, which relates to downloading pornographic
4 images of children.

5 A. That's right.

6 Q. And you were convicted after trial at Dundee
7 Sheriff Court and you were sentenced to six months in
8 prison.

9 A. That's right.

10 Q. You tell us towards the end of your statement -- and
11 I'll just move there at this stage. At page 7604,
12 paragraph 167, you tell us that you have learned that
13 you have to be candid if you're going to admit certain
14 things to yourself.

15 A. Mm-hm.

16 Q. It's on the screen in front of you.

17 At paragraph 166 you tell us that you openly admit
18 to having had a sexual interest in young children.

19 A. That's right, yes.

20 Q. Given your convictions in 1972 and 2017, am I correct in
21 saying that such a sexual interest spans that period?

22 A. Sorry?

23 Q. Am I correct in saying, given you have a conviction in
24 1972 in respect of indecent assault of a male under the
25 age of 14 years, and in 2017 a conviction in respect of

1 downloading pornographic images of children,
2 am I correct that such a sexual interest spans the
3 period from 1972 to 2017, and includes the 25-year
4 period during which you were working for Aberlour?

5 A. Yes.

6 Q. At paragraph 165, Adrian, you tell us about your
7 choices, including your choice to work with young
8 people, children and young people. Am I correct that
9 your choices to some extent, including your choice to
10 work with children, have been affected by your sexual
11 interest in children?

12 A. That's right, yes.

13 Q. At paragraph 168, you tell us that you liked working
14 with children and you liked being near them.

15 A. That's right, yes.

16 Q. I'm going to ask you a question as to whether you have
17 been involved in any criminal conduct in connection with
18 children, so at this stage I will just remind you of the
19 warning that Lady Smith has given you. I'll put this
20 question to you and you do not have to answer it if you
21 choose not to.

22 A. Right, yes.

23 Q. Did you at any time during the period of your employment
24 with Aberlour Child Care Trust, or indeed your previous
25 employment in Scotland at Starley Hall School in

1 Burntisland Fife, abuse a child, whether sexually or in
2 any other way, or have any sexually inappropriate
3 contact with a child?

4 A. No.

5 Q. You do tell us at paragraphs 166 and 167 that you
6 currently attend a group run by the social work on
7 a voluntary basis.

8 A. That's right, yes.

9 Q. Can you tell us what the purpose of that group is?

10 A. The group is called "Moving Forward, Making Changes".
11 It's for men who have sexual convictions. It's aimed at
12 what it says: making changes. So allowing us to explore
13 our motivations, interests, beliefs, and hopefully move
14 forward to a place where we're not interested any more
15 or where we're safe for people.

16 Q. Do you still attend that group?

17 A. Yes; it's coming to an end in February.

18 Q. Am I right in saying that you may have originally
19 attended that group as part of being released on
20 licence; is that right?

21 A. No. My licence ran for three months when I was released
22 from prison and I opted to go on the voluntary
23 supervision at the end of the licence conditions.

24 Q. So your engagement with that group now is on an entirely
25 voluntary basis?

1 A. It is, yes.

2 Q. You also tell us at paragraphs 169 and 170 on this page
3 that you agree that there was a risk with you working
4 with children and it placed children at risk.

5 A. Mm-hm.

6 Q. You indicate that, with the benefit of hindsight anyway,
7 that there ought to have been in place a system that
8 would have identified your convictions before allowing
9 you to be in a workplace with vulnerable children.

10 A. That's right, yes.

11 Q. Given the overview of your various posts you held,
12 I think you tell us at paragraph 161 that you have not
13 worked directly with children since 1991; is that right?

14 A. That's right, yes.

15 Q. At this stage, Adrian, I'm going to move on to the
16 various processes by which you were recruited into the
17 posts you held at Aberlour.

18 Just briefly, before you started your employment at
19 Aberlour, you do tell us that you held other posts
20 in relation to provision of care for children. At
21 page 7578 of your statement, you list those posts here,
22 and just for the transcript, that involves being a play
23 leader in Newcastle, employed by Newcastle-upon-Tyne
24 Council from 1975 to 1978: is that right?

25 A. Yes.

1 Q. And then you were an assistant organiser at
2 Bendrigg Lodge Activity Centre in Kendall, Cumbria, from
3 1978 to 1980?

4 A. That's right, yes.

5 Q. And you were a residential social care worker in
6 Kirkby Lonsdale in Cumbria; is that correct?

7 A. Yes.

8 Q. And at that stage you went and undertook a postgraduate
9 certificate in education?

10 A. That's right, why.

11 Q. In 1981 you then moved to Scotland.

12 A. Yes.

13 Q. And that's where you were employed in a List G school,
14 Starley Hall, in Burntisland, Fife, and the role you had
15 there was residential social care worker?

16 A. That's right, yes.

17 Q. I won't focus on the interview process there too
18 closely, but you do tell us at paragraph 16 of your
19 statement that there was no formal interview involved
20 in that process and it did involve working directly with
21 children; is that right?

22 A. That's right, yes.

23 Q. In fact, I think you explain to us that you already knew
24 the person who was --

25 A. That's right, yes.

1 Q. -- starting that school. Can you tell us a little about
2 that?

3 A. He was the principal of the school in Cumbria and I had
4 a formal interview in Cumbria. He was leaving to set up
5 a school in Burntisland and he asked me to come along
6 with him in the post -- in the residential social care
7 post. So there wasn't an interview for Starley Hall; it
8 was just going along with him.

9 Q. Right. Do you recall in relation to the various posts
10 that you mention in your statement and I have just
11 mentioned there in England as to whether there were any
12 police checks carried out to ascertain whether or not
13 you had any convictions?

14 A. I honestly can't remember. I don't think so, but
15 I don't remember.

16 Q. Also, before I move on, in relation to Starley Hall, do
17 you know whether any police checks were carried out
18 in relation to your employment there?

19 A. No. I can't remember, but I'm pretty sure there
20 weren't.

21 Q. In relation to your first post with Aberlour, which was
22 senior project worker, in 1993, at Sycamore in
23 Kirkcaldy, I'm going to ask you to look at a document
24 in relation to your application. But before we look at
25 that document, at paragraph 20 on page 7579 of your

1 statement, you tell us that you were invited to apply
2 for that post.

3 A. That's right, yes.

4 Q. In what circumstances were you invited to apply?

5 A. The head of care, a man called Tim Foley, had left and
6 took up the post at Sycamore Project and there was
7 a senior project worker post vacant and he invited me to
8 apply for it.

9 Q. When you said the head -- that was the person who was
10 working at Starley Hall?

11 A. That's right, yes.

12 Q. You tell us at paragraph 21 that there was a formal
13 interview --

14 A. Yes.

15 Q. -- for the post at Sycamore. Who conducted that
16 interview?

17 A. Tim Foley and Margaret Ferguson, the depute director
18 at the time.

19 Q. You tell us that you don't remember whether they asked
20 for any references.

21 A. That's right, yes.

22 Q. What about police checks? Can you remember whether or
23 not there was any police checks?

24 A. I don't think so. I can't remember.

25 Q. What I'm going to ask you to do now, Adrian, I'm going

1 to ask you to look at a document, which is at
2 ABE.001.001.6046.

3 It should be on the screen in front of you now.
4 This has been taken from your staff file with Aberlour
5 and it appears to be an application for the post at
6 Sycamore.

7 A. Mm-hm.

8 Q. It bears to have been completed by you. If you look at
9 the first page of that, do you remember or recognise
10 that at all?

11 A. Well, I recognise my writing, but I can't remember much
12 about it. I should say that apart from being a long
13 time ago, my brain illness has left me with big gaps in
14 my memory.

15 Q. Yes. You tell us about that in your statement.

16 A. Yes.

17 Q. I think, after you retired --

18 A. That's right, yes.

19 Q. -- there was an occasion where you collapsed; is that
20 right?

21 A. Well, I was still working and I collapsed one night with
22 a cerebral abscess and spent ten months in hospital.
23 That has left me with certain mild impairments,
24 including memory. So everything's jumbled up in
25 long-term memory.

1 Q. Right, okay. If we look at this form, I think the first
2 thing we see on this page is you have listed -- at
3 paragraph 12, you have been asked about your education.

4 A. Mm-hm.

5 Q. And you have listed the school you went to in
6 Birkenhead, a school of art you went to in Birkenhead
7 from 1970 to 1972, attending Newcastle-upon-Tyne
8 Polytechnic from 1972 to 1975, and St Martin's College
9 in Lancaster, 1980 to 1981.

10 A. Yes.

11 Q. If we turn to the next page, 6047, we'll see at
12 paragraph 17 that in fact, the application did involve
13 giving the names of persons to act as referees. And
14 you have given three names there. It may well be that
15 certain names are blanked out on the form in front of
16 you.

17 The next page that I have moves on to your CV. So
18 it may well be that that's the complete form or it may
19 well be that we're missing certain pages. But that's
20 the only copies that I've been provided with.

21 From the pages we've seen, I think what we can take
22 from that is that you have made your future employers
23 aware that you previously studied in England.

24 A. Mm-hm.

25 Q. And also, connected to that is your CV, which makes

1 clear that you previously worked in England and that
2 referees were sought, but from that form, as far as
3 we can see, there wasn't a request of you as to whether
4 or not you had any convictions.

5 A. That's right, yes. I think so. As I say, I can't
6 remember.

7 Q. I don't need to take you directly to it, but we do know
8 from your staff file that in fact references were
9 provided. Your previous employer at Starley Hall
10 provided a reference, and there was also a reference
11 provided by the principal of St Martin's College in
12 Lancaster.

13 The next document I would like you to look at is at
14 ABE.001.001.6061. When this comes on the screen in
15 front of you, I'll tell you what you are expecting to
16 see, and that will be -- it bears to be a statement of
17 terms and conditions of employment with Aberlour.

18 A. Yes.

19 Q. The heading is about employing Mr Adrian Snowball as
20 a senior project worker, commencing on 4 July 1983.

21 If we turn to the next page, 6062, at
22 paragraph 10(f) there, it appears to be -- paragraph 10
23 appears to deal with any conduct on the part of the
24 employee and what it says is:

25 "Any action by an employee that in any way puts

1 children at risk, such as cruelty, conviction for
2 a serious criminal offence, dishonesty or drunkenness,
3 whether of the employee or of a member of his or her
4 family resident in the home, any serious breach of the
5 rules relating to the control of children in care, and
6 in general any behaviour on the part of an employee
7 which is inconsistent with the purpose and intent of the
8 trust to give children the experience and example of
9 personal and family living of a high order shall be
10 gross misconduct."

11 So do you remember seeing these terms and conditions
12 at all?

13 A. I must have done, but I don't remember them in detail.

14 Q. Do you remember thinking at all about whether your
15 previous conviction might be of relevance to your post?

16 A. I ... As I say, I can't remember.

17 Q. I think, for the sake of completeness on this particular
18 subject, if we look at page 6068 of this document, what
19 you're going to see is a document which bears to be an
20 acknowledgement to the effect that you received a copy
21 of the regulations affecting the Aberlour Child Care
22 Trust Children's Homes and that you read and understood
23 them. And you have signed and dated it, or it looks as
24 if you signed and dated it, on 8 July 1983.

25 Do you remember seeing a copy of regulations

1 affecting Aberlour?

2 LADY SMITH: This isn't up on screen yet, I don't think, is
3 it? Just hang on a minute. (Pause). There we are,
4 Adrian.

5 MS RATTRAY: You won't see your signature, it has been
6 blacked out for redaction purposes, so your signature is
7 not evident. But do you remember at all signing
8 anything of this nature?

9 A. I must have done, but I can't remember.

10 Q. Do you remember ever seeing any regulations affecting
11 Aberlour that you were given at the start of your
12 employment with them?

13 A. No -- I mean, I may well have done, but I just can't
14 remember.

15 Q. Right, okay.

16 LADY SMITH: Do you remember handing something back when
17 your employment came to an end? That's more recent.

18 A. Sorry?

19 LADY SMITH: That's more recent.

20 A. Can you repeat the question?

21 LADY SMITH: Do you remember handing something back, as is
22 envisaged in this paragraph, that having received a copy
23 of the regulations on starting work, when your job came
24 to an end you would hand that copy back? I was
25 wondering whether you remember handing any booklet or

1 document back to Aberlour when you finished your time
2 there.

3 A. It says should I cease to hold office within the
4 trust --

5 LADY SMITH: Yes.

6 A. -- and I worked for the trust for 25 years --

7 LADY SMITH: Yes.

8 A. -- and my posts changed.

9 LADY SMITH: Yes.

10 A. So this document presumably was in my file but was not
11 in my possession.

12 LADY SMITH: It's not that document I'm thinking about.

13 What that paragraph indicates is that when you started
14 working for them, you should have received a copy of the
15 regulations, whatever they were, and whenever you
16 stopped working for them, you had to hand that copy
17 back.

18 A. I wasn't asked to hand it back, I wasn't reminded about
19 it and I didn't know about it, that particular phrase.

20 LADY SMITH: Did you ever have them?

21 A. Yes, I must have done, yes.

22 LADY SMITH: Ms Rattray.

23 MS RATTRAY: Thank you, my Lady.

24 I'm going to move on to the next post you held, and
25 that was a post of depute project leader at Whitfield

1 Family Centre in Dundee, which we know, and you have
2 confirmed, you held from 1988. You tell us about that
3 in your statement -- we don't need to go back to the
4 statement. I think -- it's for our document management
5 team: it's fine to leave the current document up. But
6 in your statement, simply for the reference, you tell us
7 about that at 7591 of your statement, WIT.003.001.7591.

8 You tell us at paragraph 92 there that:

9 "[You] think SCRO checks were carried out but [you]
10 can't be sure and nobody came to question [you] about
11 [your] conviction."

12 Can you tell us what the SCRO is?

13 A. The Scottish Criminal Record Office.

14 Q. So your recollection is that checks might have been
15 carried out, but you can't really remember --

16 A. Yes. If I can move forward to when I got the training
17 coordinator post.

18 Q. I'll come to that, Adrian --

19 A. Sorry.

20 Q. -- if that's okay. Is it something which will help us
21 understand what happened when you applied for your post
22 at Whitfield?

23 A. No, if you're coming to it later.

24 Q. That's fine. So that's what you recall about it. If we
25 go back to the document from your staff records,

1 if we look at the page there, ABE.001.001.6072, what
2 this appears to be is an application for the post of
3 depute project leader by you.

4 A. That's right, yes.

5 Q. Do you recognise your handwriting on this?

6 A. Yes.

7 Q. What we see at the foot of that page is, once again, you
8 filling out the details of your education, primarily in
9 England.

10 If we go to the next page, 6073, paragraph 9, we see
11 that you have been asked to provide details of your
12 previous employment.

13 A. Yes.

14 Q. And you've provided details of your previous employment,
15 including the various posts you held in places in
16 England: Cedar House School, Bendrigg Lodge, and for
17 Newcastle City Council. We also see at the foot of that
18 page that once again there was apparently a procedure by
19 which you were asked to provide the names of people who
20 could give you a reference.

21 A. Yes.

22 Q. If we turn over the page to 6074, we see there is
23 a particular question at paragraph 18. I'm going to ask
24 you some questions about that question at paragraph 18.
25 But bearing in mind the warning that Lady Smith has

1 given you, I would like to remind you that you don't
2 have to answer any of the questions that I ask you about
3 what it says at paragraph 18. Do you understand that,
4 Adrian?

5 A. Yes.

6 Q. What paragraph 18 says is that:

7 "Applicants for a post in social work involving
8 direct contact with clients are advised that the
9 Rehabilitation of Offenders Act 1974 (Exceptions 1975
10 schedule 1 paragraph 2) para 12 requires disclosure of
11 spent convictions. Without prejudice, have you at any
12 time been convicted of a criminal offence?"

13 The first thing I'll ask is: do you understand what
14 that question is asking?

15 A. Yes.

16 Q. And can you tell us what you think the question is
17 asking?

18 A. If a person has been convicted of a criminal offence,
19 they should declare it.

20 Q. Can you tell us whether you would have understood that
21 when you were filling out this application in 1988?

22 A. Yes.

23 Q. According to what we see in this application, "Have you
24 at any time been convicted of a criminal offence?" the
25 choice is between "yes" and "no". "Yes" has been

1 crossed out and a circle has been put round "no". Did
2 you cross out the "yes" and circle the "no"?

3 A. I don't want to answer that.

4 Q. Following upon that -- and there isn't any need to look
5 at it in detail -- you provided a copy of your CV, which
6 also identified the fact that you had held various
7 earlier jobs, both in England and Scotland.

8 There is also similar paperwork in relation to terms
9 and conditions of employment, but we don't need to look
10 at those again.

11 At 6093, when it appears in front of you, Adrian,
12 what this appears to be is an acceptance by you of your
13 employment with your organisation in accordance with
14 terms and conditions as described in the following
15 documents. There's a list of documents, and if we can
16 move the screen up a wee bit.

17 Obviously, your signature and home address have been
18 deleted. I don't know even from the date, are you able
19 to recognise your handwriting at all?

20 A. I think so, yes.

21 Q. So would you agree that this appears to be you accepting
22 the post that you've been offered?

23 A. Yes.

24 Q. Although you have actually deleted reference to certain
25 documents there, including a copy of the disciplinary

1 procedure, the grievance procedure and --

2 A. I don't know if I deleted them.

3 Q. Oh right, okay.

4 A. I think because I already had the documents in my
5 possession from the previous positions, they weren't
6 issued again.

7 Q. I see. So what you're saying then, although they bear
8 to be deleted, whether by you or anyone else, it wasn't
9 because you weren't given the opportunity to have copies
10 of those --

11 A. That's right.

12 Q. -- you in fact already had copies of them?

13 A. Yes.

14 Q. Adrian, we've looked at the paperwork in your file, in
15 your human resources file, in connection with your post
16 at Dundee, and whilst, as you're aware in your
17 application, there was reference to a request to
18 disclose previous convictions. What I'm not able to put
19 to you is whether or not any checks were carried out
20 with the Scottish Criminal Record Office because, if
21 there was, a record has not been kept on your staff
22 file.

23 A. Yes. I don't think that they were.

24 Q. At this stage, Adrian, I will now move on to your next
25 post, which was in relation to being a training

1 coordinator, which was the post at head office in 1991.

2 What you tell us at your statement is at

3 WIT.003.001.7595, paragraph 112 --

4 LADY SMITH: I know you want to be very careful with that
5 mic, but if you just try to push it down a little bit.

6 (Pause)

7 MS RATTRAY: At 112 of your statement, you tell us,
8 in relation to the post of training coordinator, you
9 don't know what checks were made, but there was some
10 form of check carried out and you were told it came back
11 clear. You then started as training coordinator?

12 A. That's right, yes.

13 Q. And that's your memory of what happened when you applied
14 for that post?

15 A. I was told by one of the admin workers that my police
16 check -- she said the police check -- I presume the
17 Scottish Criminal Record Office check -- had come back
18 clear. There wasn't a personnel function in the head
19 office at that time.

20 Q. If we turn to the application that you made for the post
21 of training coordinator, it is at ABE.001.001.6107 --

22 LADY SMITH: Just while we're waiting for that to come up,
23 you said a moment ago there wasn't a personnel function
24 in the head office at that time. Tell me what you mean
25 by that.

1 A. There wasn't a dedicated personnel function. The
2 personnel duties were undertaken by admin workers, who
3 had no training or qualifications in personnel work.

4 LADY SMITH: Right. Were they covering all personnel work
5 for Aberlour outlets, if I can call them that?

6 A. I think so, yes.

7 LADY SMITH: Thank you.

8 A. Sorry, it may have been for just the head office staff,
9 but I honestly don't know.

10 LADY SMITH: Okay.

11 MS RATTRAY: The document on the screen in front of you,
12 Adrian, bears to be an application for employment as
13 training coordinator at Stirling. It says:

14 "Name in full: Adrian Snowball."

15 Is that your writing?

16 A. It is, yes.

17 Q. I think if we turn the page to 6108, we will see that
18 once again you have been asked to provide the names, at
19 paragraph 11, of those who will act as referees and
20 provide a reference if required.

21 A. Yes.

22 Q. And if we turn over the page to 6109, we see at
23 paragraph 18, once again, the question that:

24 "Applications for a post in social work involving
25 direct contact with clients are advised that the

1 Rehabilitation of Offenders Act 1974 (Exceptions 1975
2 schedule 1 paragraph 2) para 12 requires disclosure of
3 spent convictions."

4 And you're asked:

5 "Have you at any time been convicted of a criminal
6 offence?"

7 Once again, it's a matter for you whether you answer
8 this question. You do not have to answer questions
9 about paragraph 18. But it appears that that paragraph
10 hasn't been completed, neither "yes" or "no" has been
11 identified as applying. Can you remember anything about
12 completing or not completing paragraph 18?

13 A. No.

14 Q. You're not able to help us as to why you would have left
15 it blank if that's what you did?

16 A. I can't remember.

17 Q. I don't need to take you to the documents, but we do
18 know that certainly a reference was taken up and there's
19 a reference provided by Tayside Regional Council.
20 If we turn now to 6120, this bears to be a letter from
21 the Aberlour Child Care Trust to you, dated
22 22 March 1991.

23 It's headed:

24 "Request for SRCO check for criminal convictions."

25 Do you remember seeing this letter before?

1 A. As I say, I must have done, but I can't remember.

2 Q. What the letter says is:

3 "I am happy to say that it is our intention to offer
4 you the post for which you were recently interviewed.
5 Before sending out any documentation, however, we
6 require to check with the Scottish Criminal Record
7 Office whether there are any convictions recorded
8 against you. For this purpose we will require to
9 process our application via Central Regional Council
10 Social Work Department. I have to ask you, therefore,
11 to supply me with the following further
12 information: your consent to any enquiry being made and
13 details of your present and any previous addresses
14 and/or names and identifying particulars, eg height."

15 And you've been asked to send those back.

16 A. Mm-hm.

17 Q. So do you agree that this may well have been a letter
18 that was sent to you, albeit you may not remember that?

19 A. Yes.

20 Q. Is that fair?

21 A. Yes.

22 Q. If we now look at page 6121, what we now see is a form
23 headed up "Central Regional Council". It says "In
24 confidence" and it seems to be addressed to the
25 Officer-in-Charge, Scottish Criminal Record Office,

1 Strathclyde Police in Glasgow. And it appears to be
2 a request for a conviction enquiry. Do you remember
3 seeing this document before, Adrian?

4 A. No. I think it was processed by head office and
5 I didn't see sight of it.

6 LADY SMITH: You might not have seen this document: it's
7 a communication between the Social Work Department and
8 the Criminal Record Office. There would be no reason
9 for it to be copied to you.

10 A. No, I don't think so, no.

11 MS RATTRAY: And what this document seems to say, Adrian,
12 is that:

13 "The particulars given below were supplied by the
14 subject, who has given written permission for the check
15 to be made, and if the category concerned is excepted
16 under the Rehabilitation of Offenders Act 1974, aware
17 that any spent convictions will be disclosed."

18 The reason is that:

19 "The subject will have substantial access to
20 children."

21 Underneath there, it's headed "subjects", and there
22 are details which are typewritten, which include your
23 name, your date of birth -- I appreciate in the form in
24 front of you a lot of this will be blacked out, but
25 I can tell you it is your name, your date of birth,

1 "Occupation: social worker", and what bears to be
2 a current address for you, and then your duration at
3 that current address is said to be for one year.

4 Then underneath that, under "Previous addresses".
5 Now that's blanked out --

6 A. Mm-hm.

7 Q. -- but basically, it provides three addresses which
8 appear to be in Scotland. A place called Lundin Links;
9 is that --

10 A. Yes.

11 Q. Is that in Scotland?

12 A. Yes.

13 Q. And another address in West Wemyss, and an address in
14 Burntisland.

15 A. That's right, yes.

16 Q. And we see on the right-hand side it seems to cover
17 a period from June 1983 up to January 1990.

18 A. Mm-hm.

19 Q. You haven't seen this form before, so can I take from
20 that that it wasn't you who used a typewriter --

21 A. No.

22 Q. -- or word processor to type that information in?

23 A. No. There were no word processors then! But no, it
24 wasn't done by me.

25 Q. Okay. Do you remember anyone ever asking you to provide

1 addresses for England, for when you were living in
2 England?

3 A. No.

4 Q. Is that because you don't remember it or because you
5 weren't asked?

6 A. I think a bit of both. I don't think I was asked, but
7 I'm not sure, I can't remember.

8 Q. Because I think what we see, if this was the basis of
9 seeking a check for convictions, it's not an application
10 that appears to have disclosed that you lived and worked
11 in England for a number of years.

12 A. That's right, yes.

13 Q. If we turn over the page to page 6122, this bears to be
14 a consent by you to Central Regional Council to:

15 "... make enquiries with the Scottish Criminal
16 Record Office regarding any records of convictions or
17 pending criminal procedures under the provision of
18 Social Work Circular number 9/1989."

19 Do you remember this document at all?

20 A. No.

21 Q. The handwriting on it, is that your handwriting?

22 A. It's my handwriting, but I can't remember filling it in.

23 Q. Would you agree that it appears to be a consent with
24 your handwriting on it, whereby you were giving your
25 consent for a check in relation to your previous

1 convictions?

2 A. Yes.

3 Q. Lastly, perhaps, before the break, if we could turn back
4 to page 6121. If we see at the top left-hand corner of
5 that page, in handwriting it says:

6 "Central Region phoned. Adrian's police check is
7 all clear."

8 And then there's a date "9/4/91".

9 A. Mm-hm.

10 Q. That would appear to fit with what you remember, that
11 your understanding was a police check was carried out
12 and you were told that it was clear?

13 A. That's right, yes.

14 MS RATTRAY: My Lady, perhaps this is a good moment to stop
15 for lunch.

16 LADY SMITH: We normally stop at this point, Adrian, for the
17 lunchtime break, so we'll do that now and I will sit
18 again at 2 o'clock.

19 (1.01 pm)

20 (The lunch adjournment)

21

1

2 (2.00 pm)

3 LADY SMITH: Adrian, are you ready to carry on?

4 A. Yes.

5 LADY SMITH: Thank you.

6 Ms Rattray.

7 MS RATTRAY: Before the break, we were looking at checks
8 that were made in relation to your post as training
9 coordinator. I'm now going to move on to your next
10 post, which is as staff development manager in about
11 1994 to 1995.

12 If we look firstly at your application for this role
13 or what bears to be your application, at
14 ABE.001.001.6134, do you recognise your handwriting
15 here?

16 A. Yes.

17 Q. So what this bears to be is an application for your role
18 as staff development manager at the project
19 headquarters. If we look further down that page to
20 paragraph 4, we can see a change in format for the
21 application form. It specifically states:

22 "If requested to attend for interview, you will be
23 asked to complete (a) a medical form and (b) a police
24 check form. These should be brought by you to the
25 interview."

1 If we turn over the page to 6135, towards the foot
2 of the page at section 3 we see once again that you're
3 asked about your previous employment and you have listed
4 your previous employment, including employment in
5 Scotland and employment in England; is that right?

6 A. Yes.

7 Q. If we turn to page 6137, we see once again, as
8 previously, that the process appears to involve the use
9 of a reference and here we see, as we have indeed
10 previously, that there is an internal reference, if
11 we can call it that, from the director of the
12 Aberlour Trust, and also an external reference from a
13 referee put forward in relation to a lecturer at
14 Jordanhill in Strathclyde University.

15 A. Yes.

16 Q. If we turn over the page to 6138, at the top of the page
17 at paragraph 8, we see again reference to disclosure of
18 convictions:

19 "Applicants for a post in social work involving
20 direct contact with clients are advised that the
21 Rehabilitation of Offenders Act 1974 ... requires
22 disclosure of spent convictions."

23 And it would appear you have been asked whether at
24 any time you've been convicted of a criminal offence.

25 Before answering this, once again, the warning that

1 you've previously been given by Lady Smith remains. So
2 you do not have to answer this question, Adrian.

3 A. No, I don't want to answer it.

4 Q. That's fine. Just for the record, I'll put the
5 question, which is: it appears to be a choice of yes or
6 no and the word "no" is written, but you have indicated
7 you don't want to answer questions on that.

8 We don't need to look at the actual documents, but
9 we do know from your reference staff file that you did
10 indeed provide a reference from the University of
11 Strathclyde. If we look at page 6144, we see a letter
12 and it seems to be from Aberlour Child Care Trust to
13 yourself, dated 30 November 1994, headed "Post of staff
14 development manager", and it appears to be a formal
15 offer to you of that post. Do you remember receiving
16 this letter?

17 A. I think so, yes. I mean ...

18 Q. We can see in terms of what processes were being used
19 that it's suggested in the last sentence of the letter:

20 "This letter of employment is, of course, subject to
21 satisfactory references and a police check."

22 A. Mm-hm.

23 Q. Adrian, I can't take you to any information in regards
24 to the police check because certainly, as around 1994,
25 there is nothing that we've been shown on your staff

1 file which tells us whether a police check was made and,
2 if so, what kind of check was made and what the answer
3 to that check was.

4 However, I have just today been provided with
5 a further document which we can put on the screen now:
6 ABE.001.008.9056. Just so those with leave to appear
7 are clear, this has just been provided in the course of
8 your evidence, Adrian, from Aberlour, so it hasn't
9 previously been released. But what I am told by
10 Aberlour is that a check has been made on their computer
11 system, which appears to indicate that there was
12 a police check carried out, and if we see the right-hand
13 box, in relation to you, it says:

14 "Date of police check: 9 April 2001."

15 We're told that the date of the police check would
16 be the date on which the police check came back to
17 Aberlour, not the date on which it was requested. We
18 see there seems to be a box for a police check number,
19 but from the copy we have, that has not been completed.

20 So the suggestion is that some form of police check
21 was carried out at some stage and was provided to
22 Aberlour on 9 April 2001. Obviously, that's some years
23 after the end of 1994 and the beginning of 1995 when you
24 started as staff development manager. But you have told
25 us in your statement that certainly in September 2002,

1 your job changed, possibly mainly in relation to its
2 title, to the head of learning and development.

3 A. It did, yes.

4 Q. Do you remember being asked about completing any police
5 checks in advance of that post in September 2002, maybe
6 quite far in advance?

7 A. No, I don't remember at all. I don't think anything was
8 done in a formal sense.

9 Q. That completes me looking at your staff file, Adrian.
10 Just because this is a comparative case study which
11 involves not just Aberlour but other providers in the
12 voluntary sector as well, just really as a reminder and
13 as a comparison, I'm going to put up on the screen --
14 it's not documents that you can help us with at all, but
15 earlier in the case study we heard evidence about police
16 checks provided by Quarriers and we heard evidence from
17 a witness called Carol McBay, who worked at Quarriers,
18 and she also had a staff record, which we were able to
19 consider.

20 One of those records involved a police check and, if
21 we can bring that on the screen, it's at
22 QAR.001.003.9738.

23 What we have in front of us, Adrian -- and as I say,
24 you won't be able to help us with this -- bears to be
25 a letter from the Scottish Criminal Record Office, which

1 says "date as postmark", and we don't have the postmark,
2 but we do understand from the evidence we heard from
3 Carol McBay it was probably in 1995.

4 Just by way of a comparison, in this situation
5 Quarriers, and in particular their establishment at
6 Southannan School, appear to be in direct communication
7 with the Scottish Criminal Record Office, as opposed to
8 applying for a police check through a local authority.
9 This one in relation to Carol McBay ticked the box,
10 "There are no initial disclosures", but then states:

11 "However, the personal information provided has
12 necessitated further enquiries to be made. When these
13 enquiries are complete, you will be notified and
14 provided with any information relevant to your
15 application."

16 And if we turn to the next page, the same document,
17 QAR.001.003.9739, we can see that this bears to be, and
18 we've heard evidence about it, an application from
19 Quarriers for a police check in which Carol McBay's
20 details -- if we could move the document up the screen.
21 It's all blanked out for privacy reasons, but what I can
22 tell you, because I see the copy that's not blanked out,
23 is that it gives a list of her addresses, effectively
24 from the year of her birth until present. We know from
25 the dates at the very foot of that, it seems to have

1 been received by the Scottish Criminal Record Office in
2 1995.

3 What it does, it discloses two more recent addresses
4 in Scotland but quite historic addresses in
5 Hertfordshire, Warwickshire and Staffordshire. So in
6 this case, details of English addresses were disclosed,
7 and from the bottom of the form, if we can move it up
8 the screen, we can see various stamps from the Scottish
9 Criminal Record Office, indicating that it was received
10 on 21 August 1995, "No trace on details supplied", and
11 there was a supervisory check on 22 September 1995.

12 If we turn to the next page, QAR.001.003.9740, this
13 is another letter from the Scottish Criminal Record
14 Office, which is undated, date as postmark, but we
15 understand in the evidence we heard that it was, in the
16 context of this application, in 1995.

17 There was a letter received in relation to:

18 "Child access enquiries with non-Scottish
19 addresses."

20 What is being raised here is that:

21 "Checks in respect of previous findings of guilt
22 recorded in an area outwith Scotland cannot be
23 progressed at this time for the undernoted reasons."

24 We had a list of various reasons as to why the
25 checks south of the border could not be made. The first

1 box says:

2 "Checks cannot be carried out when there is doubt
3 regarding the location of the address shown."

4 Secondly:

5 "A general PNC check has been completed but, as
6 you are no doubt aware, whilst such a check covers all
7 UK addresses and is a comprehensive database, it does
8 not include all previous convictions, hence the reason
9 for the necessity to make additional enquiries with
10 local police force record offices. However,
11 Staffordshire [and that's one of the addresses that was
12 provided] will not initiate any local checks on subjects
13 who have not resided in their area over the last
14 5 years."

15 It appears to be further down that:

16 "The Metropolitan Police will not initiate any local
17 checks on subjects who have in the resided in their area
18 in the last 5 years."

19 So what we see from this is in 1995 there appeared
20 to be the possibility of making checks on previous
21 convictions in England, that might have required
22 a specific request to the regional police force
23 concerned, and whilst that may have been used in some
24 circumstances, for some police forces they would only
25 provide information if the person had lived there in the

1 past five years.

2 If we turn over finally to the last page in this
3 document, QAR .001.003.9741. If we move further down
4 the page. We will see once again -- you won't see the
5 addresses, but there's previous English and Scottish
6 addresses that were there and we see a stamp at the
7 bottom right-hand corner from West Midlands Police on
8 18 September 1995. One of the addresses was in fact not
9 in Warwickshire, it was said to be West Midlands. So it
10 appears to be that whilst information may not have been
11 obtained from Staffordshire, in this instance it appears
12 a check was made by West Midlands Police.

13 That's not something you can comment on, Adrian, but
14 we're making that point because it may well be that
15 those in the room weren't in the hearing room when that
16 particular evidence was led.

17 A. Could you repeat that? Sorry, I didn't hear.

18 Q. Sorry, Adrian. What I was saying is this is not
19 something that you're able to comment on at all, but it
20 has some bearing on what we're seeing from your own
21 staff file, and I'm simply drawing it to the attention
22 today because those in the room today may not have been
23 at the particular day of the hearing when we were
24 considering these documents and hearing the evidence of
25 the other witness, Carol McBay.

1 I think the point I'm making is that, certainly in
2 1995, there may well have been a procedure open whereby
3 checks may have been made, could have been made,
4 in relation to previous convictions in England, not
5 solely in relation to previous convictions in Scotland.

6 A. Yes.

7 Q. Finally, Adrian, I'm going to move back to your
8 statement at WIT .003.001.7605.

9 We see at paragraphs 171 and 172, I think we've
10 obviously seen a system whereby -- would you agree that
11 a system of checking whether someone has previous
12 convictions cannot rely solely on a candid or honest
13 disclosure being made by someone applying for the job?

14 Sorry, what I'm saying, Adrian -- to be clear, I'm
15 not referring to you personally --

16 A. Mm-hm.

17 Q. -- I'm referring in general terms.

18 If a person with a sinister, ulterior motive is
19 applying for a job to work with children, then a system
20 that relies on the candid or honest disclosure of
21 previous convictions would not be a reliable system.

22 A. Yes.

23 Q. And you also make the point at paragraph 171 that whilst
24 there is protection of vulnerable groups legislation in
25 place now, that only works for people who have

1 a conviction.

2 A. Yes, I think so, yes. It's my understanding anyway.

3 Q. When you were asked whether, from your own experience,
4 you could help the inquiry at all in exploring ways in
5 which children could be protected in these
6 circumstances, you say that you don't know how you can
7 identify that interest for people that have not been
8 convicted:

9 "It's not something you go about candidly
10 admitting."

11 Is it fair to say that it has taken very many years
12 for you to admit the interest in children you have?

13 A. Yes. It only came about with my attendance at the group
14 following my conviction and sentence.

15 LADY SMITH: And that was the recent one?

16 A. Yes.

17 LADY SMITH: For having downloaded pornographic images?

18 A. Yes.

19 LADY SMITH: How many images were involved in your
20 conviction?

21 A. I don't know. Without sounding flippant, I didn't keep
22 count.

23 LADY SMITH: The charges would probably have said, no?

24 A. Sorry?

25 LADY SMITH: Did the charges not indicate?

1 A. No, I don't think so.

2 LADY SMITH: All right.

3 MS RATTRAY: My Lady, at this stage I don't have any further
4 questions. It only remains for me to thank you, Adrian,
5 for answering my questions today.

6 I don't know whether any further questions are being
7 made by anyone else.

8 LADY SMITH: Are there any outstanding applications for
9 questions of this witness? No.

10 Those are all the questions we have for you, Adrian.
11 Thank you for engaging with the inquiry, both by
12 providing your detailed written statement, which is very
13 helpful, and coming along today to answer the questions
14 that you have answered. I'm now able to let you go.

15 A. Thank you.

16 (The witness withdrew)

17 LADY SMITH: Ms Rattray.

18 MS RATTRAY: My Lady, I wonder if we could have a short
19 break to allow a handover of counsel and to the next
20 witness.

21 LADY SMITH: Very well, we'll do that.

22 (2.21 pm)

23 (A short break)

24 (2.31 pm)

25 LADY SMITH: Mr Peoples.

1 MR PEOPLES: The next witness to give oral evidence has
2 anonymity and has chosen the pseudonym "Tom".

3 "TOM" (affirmed)

4 LADY SMITH: Please sit down and make yourself comfortable.

5 That looks as though you're in a good position for
6 the microphone. As has been pointed out to you, we do
7 need you to use it.

8 I'll pass over to Mr Peoples now and he'll explain
9 to you what happens next.

10 Questions from MR PEOPLES

11 MR PEOPLES: Good afternoon, Tom.

12 A. Good afternoon.

13 Q. Before I ask you some questions, I should explain that
14 the red folder does contain a copy of two statements
15 you have provided to the inquiry and I'll be asking you
16 a little bit about each one in due course. You can use
17 the folder in front of you at any stage to refresh your
18 memory or to look at what you said on a particular
19 matter. It should also come on the screen, as it has
20 now done. So if you want to use the screen, feel free
21 to do so. Where there are words blacked out, that's to
22 protect certain information, but you should find a copy
23 of the full version in the red folder if it's your
24 statements that we're looking at.

25 So with that introduction, if I could simply give

1 did sign that statement, although it's blacked out on
2 the screen in front of you. I think you can see that on
3 the right-hand side of the document on screen, you have
4 added the date that you signed that statement.

5 A. Yes.

6 Q. Is that correct?

7 A. Yes.

8 LADY SMITH: So that's quite recently, on 5 November?

9 A. Yes.

10 MR PEOPLES: Can I perhaps at this stage ask you to confirm
11 for me that you have no objection to your witness
12 statements being published as part of the evidence to
13 the inquiry and that you believe the facts stated in the
14 statements are true.

15 A. Yes.

16 LADY SMITH: Tom, just before you embark on the substance of
17 the evidence that Mr Peoples is going to take from you,
18 I should at this stage explain to you that although this
19 is a public inquiry and not a court hearing, you have
20 all the rights here that you would have in a court not
21 to incriminate yourself. That means, for example, if
22 you are asked whether you did anything that amounted to
23 committing an offence against a child, you don't have to
24 answer that question. But if you do, you need to
25 understand that your answers are being recorded and they

1 would be available at a later date. Do you understand
2 that?

3 A. I understand that.

4 LADY SMITH: If you have any questions or queries at any
5 stage, please don't hesitate to ask me.

6 Mr Peoples.

7 MR PEOPLES: Tom, if we could start with the first
8 statement, which is in the folder and hopefully will
9 come back on screen. Can you confirm that you were born
10 in the year 1960? I don't need your full date of birth.

11 A. Yes.

12 Q. If we could stay with that statement for the moment,
13 I'll ask you about some matters in it. You tell us that
14 you have a number of professional qualifications,
15 including you're a qualified social worker; is that
16 correct?

17 A. Yes.

18 Q. And you obtained a diploma in social work via the
19 Open University; is that correct?

20 A. That's correct.

21 Q. You had previously attained SVQ3 and HNC in
22 "Care: Supported living social care" at Kirkcaldy
23 college.

24 A. Yes.

25 Q. In 2007, as you tell us, you obtained a further

1 qualification, a graduate childcare and protection
2 qualification, is that right, at Dundee University?

3 A. Yes.

4 Q. You also have a residential childcare manager's award in
5 2004 again via the Open University?

6 A. That's correct.

7 Q. So far as your background before going to work with
8 Aberlour Child Care Trust is concerned, how much
9 experience did you have of childcare work?

10 A. Previous experience with children related to when I did
11 a recreation and leisure services course in Glenrothes
12 College in the mid 1980s. I did two placements as part
13 of that course, working with children in schools and
14 within the leisure centre at Glenrothes, and it was
15 during that time on placement where I developed a liking
16 for working alongside children.

17 Q. So far as your employment with Aberlour is concerned,
18 you started, as you tell us, on page 6127, working there
19 [REDACTED] in 1989;
20 is that right?

21 A. Yes.

22 Q. And you worked within what was then called the
23 Sycamore Project; it may have become Sycamore Service
24 later on. Is that what we're talking about here?

25 A. Initially it was called the Sycamore Project.

1 Q. You left the employment of Aberlour in, is it, 2013?

2 A. Yes.

3 Q. And you tell us that during that period, you moved from

4 [REDACTED] to a more senior
5 position [REDACTED] in 1994. You then
6 subsequently became a [REDACTED], [REDACTED] a specific
7 home --

8 A. Mm-hm.

9 Q. -- in 1998. And in 2001, you became the [REDACTED]
10 of the Sycamore residential services.

11 A. That's correct.

12 Q. You say that:

13 "In 2009, Aberlour created [REDACTED] posts
14 throughout the organisation, which [you] undertook for
15 the Sycamore residential care homes."

16 So by that stage, are you the [REDACTED] in
17 2009 for Sycamore Service?

18 A. Yes.

19 Q. When you were [REDACTED] of Sycamore Service between
20 2001 and 2009, did that involve you being based at
21 a particular unit or were you based in some other place?

22 A. When I became the [REDACTED], the
23 managers were moved down to a premises called the
24 Westbridge Mill in Kirkcaldy, where they took up office
25 accommodation because, by then, there were five

1 residential services -- through care, after care,
2 creative therapy -- and so it was to give appropriate
3 office space and to allow the children's homes to be
4 just the children's homes.

5 Q. Yes. Because I don't need to go into the detail of
6 this, but there were a number of units within the
7 Sycamore Project or services in various addresses in
8 Kirkcaldy and Dunfermline, and they all made up this
9 project or service, as it later became; is that right?

10 A. Yes. Initially, the six project comprised of three
11 houses: Veronica Crescent, Cedar Avenue and
12 44 Whytemans Brae.

13 Q. All in Kirkcaldy?

14 A. All on the same council housing scheme, all within
15 1,500 yards of each other, literally three streets away
16 from each other.

17 Q. Am I right in thinking when you were an [REDACTED]
18 between 1994 and 1998, were you a [REDACTED] at
19 Whytemans Brae?

20 A. Whytemans Brae.

21 Q. And before then, as a [REDACTED] and [REDACTED]
22 [REDACTED], were you based at Whytemans Brae?

23 A. Yes.

24 Q. On page 6128, Tom, of your statement, paragraph 4, you
25 tell us a little bit more about Whytemans Brae. You can

1 take it we've got a familiarity with that unit now, so
2 I'm not going to go through too much detail of that, or
3 indeed the other services, but we can read there what
4 they consisted of.

5 You do tell us that:

6 "Whytemans Brae was a purpose-built children's home
7 for seven young people between the ages of 12 and 16."

8 So was it a new building then?

9 A. It was built by the Aberlour organisation, I think it
10 was built in the 1960s as part of developing
11 family-based homes. There were a number of exactly the
12 same style of buildings built throughout Scotland. It
13 was when the orphanage was disbanded because orphanages
14 were being viewed at that time as not being appropriate,
15 and family-type units were being built throughout
16 Scotland for the children.

17 Q. I think Aberlour have referred to them just conveniently
18 as smaller group homes that were set up across Scotland,
19 including at Whytemans Brae, and I think we understand
20 that started in the early 1960s and continued on through
21 the 1960s and 1970s.

22 A. Mm-hm.

23 Q. But then they moved in a slightly different way towards
24 the Sycamore Project, which we understand was
25 established around about 1982, as a more specific

1 service for children with particular needs. Does that
2 mean anything to you?

3 A. Well, Sycamore Cottage was the home that you referred to
4 and that was the only property that was built by
5 Aberlour. It wasn't until my late line manager,
6 Tim Foley, got a job there that he started the process
7 of developing the services in recognition that one house
8 probably wouldn't be appropriate to meet the needs of
9 very young children and older children, 16, 17, 18 years
10 of age. So he then subsequently started a programme of
11 getting other houses -- these were council houses that
12 were rented -- and getting them fit for purpose for
13 specific age ranges of children so that the needs of
14 children of a certain age range could be met
15 appropriately under one roof, shall we say, as opposed
16 to the very differing needs of an 8-year-old and
17 an 18-year-old.

18 Q. We have heard from others that the idea also was to
19 perhaps make it a more specialist service in the sense
20 of it would take children with quite significant
21 emotional and behavioural difficulties, often children
22 who had been in previous placements that hadn't worked
23 out --

24 A. Yes.

25 Q. -- and therefore, they presented quite a challenge at

1 times and this was seen as a more specialist service
2 that was developed, no doubt, under the leadership of
3 Mr Foley, as you've told us?

4 A. That's correct. Sycamore became synonymous with being
5 able to look after and work with children that other
6 local authorities' services had not been able to hold on
7 to. Therefore the respective local authorities had to
8 look outwith region for more specialist type provision.

9 Q. So a lot of the children that you had to deal with there
10 would have had a number of placements and would have --
11 Whytemans Brae or one of the others -- been seen as an
12 attempt to perhaps --

13 A. Break that cycle, absolutely. It was not uncommon for
14 young people to join us, having had six, seven, eight,
15 nine moves in two or three years, as foster placements
16 had broken down then, specialist foster placements, then
17 into each local authority's respective children's homes,
18 then another move into another children's home, and then
19 at the end of the line, shall we say, local authorities
20 were kind of not forced but had to look out of region
21 for more specialist type provision.

22 Q. I suppose therefore, some of the residents that you took
23 in would have come from local authorities which were
24 further afield than Fife, for example, or even Edinburgh
25 or Glasgow local authorities?

1 A. We looked after young people from all over Scotland,
2 Highland, Islands, and the North-east of England.

3 Q. So bucking the trend of trying to have children
4 accommodated locally to their community in the case of
5 this specialist service, it was really available to all
6 local authorities across Scotland if their own area
7 didn't have the required specialist provision?

8 A. Yes. The aim was to try and ultimately protect young
9 people who were outwith parental control and outwith
10 their respective local authority's control and the aim
11 was always to try and stabilise the behaviour, maintain
12 contacts with family members or key people, with a plan
13 for eventual return, when appropriate, to either key
14 people or family members, if that was achievable.

15 Q. Was it the case, however, that a number of the children
16 placed, perhaps even the majority, over your period at
17 Whytemans Brae and the other units, did they tend to
18 stay for quite long periods?

19 A. Yes, and a lot of the young people still stay in the
20 locality because they were educated in Kirkcaldy and
21 Dunfermline, had built trusting relationships with the
22 staff, had their schooling within those areas, had
23 developed firm friendships within the localities.

24 So either when they were 16, or even when they were
25 18, they went into their own supported flats, supported

1 lodgings and we continued with our through care and
2 aftercare team to support the young people.

3 There was a saying we said: once a Sycamore kid,
4 always a Sycamore kid. A lot of the young people held
5 on to that and believed that and we kept in contact with
6 them and still do.

7 Q. One thing you tell us on page 6128, Tom, is that in
8 1994, or thereabouts, you say there was a complete
9 renovation of the upper part of Whytemans Brae so that
10 each child or young person could have an individual
11 bedroom.

12 A. Yes.

13 Q. That was a change from the previous situation where,
14 I think, at least some were sharing bedrooms.

15 A. Yes. The initial accommodation at Whytemans Brae,
16 I think there was one large bedroom with three beds in
17 it, and I think there was at least one bedroom with two
18 beds in it. We had a mixed sex, mixed age group, and on
19 the back of the Skinner report in 1992, which set
20 standards for residential childcare for everybody, and
21 because Sycamore was becoming a more affluent set of
22 services with money to reinvest in the physical
23 properties as well, the decision was taken to convert
24 a garage that was next door, that became what we called
25 the family resource centre. It was a self-contained

1 flat, and upstairs was office accommodation for
2 Tim Foley and a manager and an admin, and all of the
3 young people and staff members were able to get a single
4 bedroom at that point.

5 Q. And the report you're talking about, is that "Another
6 Kind of Home"?

7 A. Yes.

8 Q. By Angus Skinner?

9 A. Yes.

10 Q. In 1992 I think it was published.

11 A. Yes.

12 Q. Then in 1994, the renovation was accompanied, do
13 I understand, by the introduction of a door alarm
14 system? Was that when it was first introduced?

15 A. Yes. When I first started there, when we got the young
16 people to bed at night, it literally was -- with a staff
17 door, your own bedroom, you had to leave the door open
18 and you had to maybe wedge a chair against it, against
19 -- if a young person coming in, seeking assistance or
20 help, then the chair would fall and it would alert you
21 to somebody being in the building.

22 Q. I suppose the purpose as well of the alarm system was if
23 someone went in or out of the young person's room, that
24 would trigger the alarm in the staff room?

25 A. That's exactly the purpose. It was to keep young people

1 safe. The young people, when they realised they were in
2 the rooms and settled for the night, they knew that if
3 the alarm went off, staff would be aware that they were
4 up, either going to the toilet or back, or if they
5 needed staff attention, if they felt scared during the
6 night.

7 Q. And I suppose if someone wanted to go into their room,
8 another resident, and they didn't want them to go into
9 the room, the alarm would sound if they went at night,
10 so it had that --

11 A. What we did with the electrician that we developed the
12 system with -- beside the staff bed in the upper
13 bedroom, there was a control panel and each of the doors
14 had a number and a light, so you knew when the door
15 opened, the light would go on. So the staff member
16 didn't need to get up because, just say, little Johnny
17 got up and went to the toilet, closed the toilet door,
18 back into his room, you could track where the young
19 people were going in terms of keeping them safe.

20 But if that door light opened up and another child's
21 bedroom door opened up, both lights would illuminate,
22 and the staff member would need to get up to find out
23 why one young person was going into another young
24 person's room.

25 Q. If an adult had wanted, for whatever reason, to go into

1 a child's room at that time of night, would the alarm
2 simply have sounded if they'd tried to go in?

3 A. Yes.

4 Q. For whatever reason, whether good or bad, it would have
5 sounded and it would have alerted those on duty?

6 A. Only in the senior staff bedroom. There was only one
7 control panel and it was in the senior's room. It
8 enabled them to hear and get a visual of which doors
9 were opening, so who was going where and when.

10 Q. When you say a visual, you don't mean a CCTV system?

11 A. No, the red lights. When the buzzer sounded there was
12 a red light connected to the door alarms, so it enabled
13 you to see which red light was going on and off when the
14 door was closing.

15 LADY SMITH: And the sound would only be in the staff
16 bedroom?

17 A. Senior staff bedroom.

18 MR PEOPLES: At that stage what was the normal arrangement?
19 Was there one member of staff there that was getting
20 some sleep but would have to respond if the alarm went
21 off? Is that the arrangement that applied?

22 A. Yes, a senior staff member would get up and respond.

23 Q. Could that person ask for assistance from someone else
24 during that time of night?

25 A. Yes.

1 Q. We have understood there was a system where there was
2 more than one person at least on the shift or on call if
3 necessary. There was never --

4 A. Two members of staff on shift at all times and there was
5 always an on-call manager, who, if required, had to
6 respond to the units within 45 minutes. At the time as
7 well, because of the proximity of the three houses,
8 literally on the same housing estate in Kirkcaldy, and
9 they're only three streets away, if any scenario had
10 arisen, staff used to phone the other houses and a staff
11 member could be there within three minutes if required.

12 Q. In your statement, your first statement, 6130, if
13 I could move on, you tell us a bit about the general
14 structure and I think you tell us about the move to the
15 Bridge Mill premises when you were an [REDACTED]

16 [REDACTED]

17 You also tell us a little bit there about training
18 and you say that there was a large training room at
19 Bridge Mill for training purposes.

20 A. Yes. As well as office accommodation, we hired what we
21 called the training room, which was a room probably
22 equal to half the size of this room, and we used that
23 for training purposes, for consultants who came in, and
24 for CALM training. Meetings were held there. So it was
25 a general purpose training room.

1 Q. You tell us that during your time, until 2007, Tim Foley
2 was the head of services and project manager for the
3 whole Sycamore Project or services; is that right?

4 A. Tim started in 1985 and then finished in -- I think it
5 was 2007, I think. It could have been 2008.

6 Q. Don't worry.

7 A. It was 2007/2008 when Tim retired.

8 Q. At page 6131, Tom, at paragraph 7 you're asked about
9 your role and you say initially you were a residential
10 project worker based at Whytemans Brae, as we've heard.
11 And you tell us what that job involved. You also say
12 that you had a key worker role. So that was in addition
13 to being a project worker, you were a key worker for a
14 particular child or young person?

15 A. Particular child. All of the young people had a key
16 worker and a back-up key worker. So if a key worker was
17 off on holiday or off sick or whatever, there was always
18 another staff member that had a specific knowledge
19 relating to that child as opposed to a general knowledge
20 of the staff group.

21 Q. When you started in 1989 then, was the key worker system
22 well-established by then?

23 A. Yes.

24 Q. So far as your own training instruction, guidance and
25 supervision is concerned, you tell us on page 6132 at

1 paragraph 7 that you received your training instruction,
2 guidance and supervision from your senior. So who was
3 the senior who was the person that would be giving this
4 instruction, guidance and supervision?

5 A. When I started at Sycamore, there were project workers
6 and senior project workers. I think there were [REDACTED]
7 [REDACTED] seniors and [REDACTED] residential workers. And
8 I was assigned to -- I think my particular senior at the
9 time was a lady called [REDACTED] BEI [REDACTED].

10 Q. So would she be effectively the senior who would be
11 giving you any guidance or suggestion you required
12 at the time?

13 A. From day 1, she would be role-modelling, she would be
14 telling me what the role entailed, she would be showing
15 me how to write the daily logs, the information to put
16 in. She would be overseeing what I was writing to make
17 sure it was accurate and in the format that the
18 recording was required in terms of monthly summaries.
19 In terms of attending meetings, [REDACTED] BEI [REDACTED] would go with me
20 to make sure -- school meetings, any type of
21 professional meetings. Basically teaching me the role
22 of a project worker.

23 Q. So would a large part of the training for this role
24 initially be learning from a more senior individual
25 in the unit?

1 A. Yes.

2 Q. Although you would have also training days or in-service
3 training and training courses as well; is that right?

4 A. Yes.

5 Q. Was training a mandatory requirement of the job of
6 a residential care worker, [REDACTED] Was it
7 a mandatory requirement so far as you can recall?

8 A. There were mandatory topics. Child protection was
9 mandatory. We had a training regime every year with
10 a number of topics, child development, working with
11 traumatised young people, et cetera, et cetera. The
12 staff team were asked to identify training topics of
13 their interest.

14 Your senior, in terms of their knowledge of your
15 learning, would also suggest to you about: this is
16 a training day or event that's coming up and we're going
17 to suggest that you go on that in terms of your own
18 professional development at that stage.

19 Sycamore then developed a specific consulting group
20 using consultants from all over Scotland, who came and
21 provided training and consultancy for the staff. So
22 there was a high level of focus on appropriate training
23 to support the staff in the work that they did.

24 Q. You tell us that one form of training that was mandatory
25 was to do with child protection?

1 A. Child protection, yes.

2 Q. Was that from 1989 from the very start or did it come in
3 later?

4 A. I don't think that was from the very start.

5 Q. The other one I was going to ask you about -- and you
6 deal with this in paragraph 8, page 6132 -- is the CALM
7 training that was provided and you mention a name there
8 that we've already heard about, David Leadbetter. Was
9 that something that came to be introduced after you
10 started? Because we've heard some evidence that it may
11 not have been there until maybe 1998.

12 A. Yes, it was after I started. And again it stemmed from
13 Tim Foley because there was various forms of restraint
14 techniques. One was TCI, I forget the names of the
15 others, but Tim invited Dave Leadbetter and another
16 gentleman called Brodie Paterson, who had a medical
17 background -- they invited them to the services and they
18 had a walk round all of the houses to look at the
19 physical size of the corridors, the rooms, the shared
20 living and working experience with children and to look
21 at how CALM could best be utilised and developed within
22 our services and to provide an ongoing training regime
23 in terms of Crisis and Anger Limitation Management.

24 Q. What I'm going to ask you now -- we've read your
25 statement and clearly you tell us quite a great deal

1 about the routine at Whytemans Brae, and indeed in
2 Sycamore generally, and I don't intend today to go
3 through all of that with you. We've got your statement
4 and we've read it and we'll read it again.

5 But there are some matters that I would like to deal
6 with. The use of restraint. You have said that the
7 CALM training was introduced, David Leadbetter was the
8 founder or at least was the person that Tim Foley
9 identified as the person who would assist in
10 establishing that form of training. Before then, would
11 it be right to say that to some extent there wasn't
12 a recognised method of restraint that was universally
13 applied or used and staff were trained in? Would that
14 be the reality of the situation before CALM was
15 introduced? Restraint was used but not necessarily in
16 precisely the same way by all staff? Would that accord
17 with your memory of how things were before CALM?

18 A. Yes. There was a restraint policy that sat within the
19 Aberlour and Sycamore staff handbook and there was
20 a narrative, and I think it said something like:

21 "The minimum use of physical intervention to manage
22 any given situation to protect a young person, young
23 people or yourself."

24 But there wasn't a specific sort of training,
25 regulated regime in place.

1 Q. One of your former colleagues -- and he has been
2 referred to in this inquiry as "Alfie", and I think you
3 know the individual that I mean by that -- he told the
4 inquiry that before the CALM training was introduced,
5 his feeling was that it was more a matter of keeping the
6 children under control and restraint was being used,
7 it's his perception, more as a method of control,
8 whereas when CALM came in and was used more as a method
9 of last resort, things perhaps changed, there was more
10 of an emphasis on de-escalation and trying to deal with
11 the matter in different ways.

12 A. Not at all. Absolutely not at all.

13 Q. Were there times though when restraint was
14 inappropriately used before CALM came in?

15 A. Not to my knowledge.

16 Q. Incorrectly used?

17 A. Nothing that I witnessed or was involved in.

18 Q. Before or after CALM came in, so we get an
19 understanding, would there be times when young persons
20 might be on the ground being held to restrain them?
21 Would that happen?

22 A. Yes.

23 Q. Would they be facing up or down in these occasions?

24 A. Well, staff were always very aware of not impacting or
25 imposing on any breathing. I think it would be both.

1 Staff were very, very aware that if restraint, physical
2 restraint, was being used, preventing any breathing or
3 creating any injury to the young person. It was
4 literally a case of keeping a young person safe and
5 preventing them from hurting themselves or others.

6 Q. But they would be held by some part of their body, arms
7 and legs?

8 A. Mm-hm.

9 Q. And they could be face down while they were displaying
10 some form of agitation or behaviour which indicated that
11 they were struggling?

12 A. They could be.

13 Q. You could have these situations to deal with?

14 A. Yes.

15 Q. Was there not an inherent risk there that either the
16 staff or resident could end up with some form of injury?

17 A. The emphasis was always on not doing anything that would
18 create an injury of any sort.

19 Q. I suppose if it's a last resort then at least you're
20 trying to reduce the risk that an injury inadvertently
21 could occur. Is that the whole reason for saying don't
22 use it as the first --

23 A. It was always the last resort.

24 Q. But in practice, where you have a situation where
25 children are challenging, because that's the nature of

1 the child that's often admitted, if there was a constant
2 need for some restraint perhaps, or a common need, would
3 there be times when people might not see it as the last
4 resort but see it as something just to automatically do?

5 A. That would be something that would have been challenged.
6 If that was anyone's thinking, if that was any
7 discussion that took place by a staff member, that would
8 have been challenged.

9 Q. I'm not necessarily thinking it was a conscious
10 decision, but somehow in the heat of the moment someone
11 might automatically restrain someone in the way that
12 might best achieve the job.

13 A. That would not have been appropriate. It would have
14 been challengers if it had been observed and if it had
15 been overheard.

16 Q. Did you ever observe that happening? Were there times
17 when people might have done the wrong thing even?

18 A. I never observed anything like that.

19 Q. You tell us a bit on page 6141, Tom, about visitors to
20 the unit or units. You tell us that the children and
21 young people had individual social workers -- this is at
22 page 6141 -- who visited periodically. You indicate
23 that perhaps there were more visits from the local
24 social workers than the ones that were further afield.
25 Is that just the way it was?

1 A. Just geographically.

2 Q. In your time, in terms of external visitors, did the
3 children ever have visitors from an organisation called
4 Who Cares?

5 A. Yes, we had a specific Who Cares? worker at Sycamore.

6 Q. When was that worker first introduced into the system
7 then? Was it when you started?

8 A. No, certainly not when we started.

9 Q. Can you put an approximate date to it?

10 A. I couldn't guess. When did the Who Cares? organisation
11 start?

12 Q. You're probably asking me a question I'm not sure I can
13 give you a precise answer for.

14 A. Because I know that -- I mean, my line manager Tim Foley
15 was a very intuitive man and he looked at all of the
16 external services to keep young people safe and to give
17 them an external voice in terms of being open and
18 transparent rather than a closed set of services. So
19 I would think it would have been very shortly after the
20 Who Cares? organisation commenced.

21 Q. By the time you left and for some time before that,
22 there would be Who Cares? workers that would come to
23 visit children and young persons at the unit?

24 A. Yes. One of our Who Cares? workers was Cheryl-Ann
25 Cruikshank. Another was Caroline Brown. I think at

1 least over five, six years, I can recall the Who Cares?
2 workers being very involved. They set our pocket money
3 pay scales. We went along with Who Cares?
4 recommendations. Cheryl-Ann Cruikshank herself attended
5 our management meetings to give feedback.

6 Q. Am I right in thinking -- we've already heard some
7 evidence from Alfie, in fact, that children at the units
8 like Whytemans Brae got to personalise their own rooms
9 and to decide how they'd be organised. That was one
10 thing that was done there. Were steps taken to make
11 children aware that Who Cares? and other organisations
12 were available to them should they require them, such as
13 posters and notices?

14 A. The Who Cares? posters were in the communal halls of
15 each of the houses, usually -- on the outside of the
16 staff office door in the entrance foyer was information
17 about Who Cares?.

18 Q. So there would be regular visits once Who Cares? did
19 start coming to the units, but also there'd be posters
20 showing young people where they could contact Who Cares?
21 or other organisations?

22 A. Care Inspectorate. The Who Cares? ones were always done
23 on the Who Cares? child-friendly posters.

24 Q. What about something like Childline, which was
25 established in the mid-1980s? Was there a poster shown

1 if a child wanted to phone a confidential --

2 A. I'm sure they were all up. I can't recall --

3 Q. But there were numbers and organisations --

4 A. Care Inspectorate. All of the young people knew their
5 social workers and contact details.

6 Q. Because I think when you're talking about the

7 Care Inspectorate, we can date that from about 2001 when

8 it was established under legislation and before that

9 I think my understanding is that there would be

10 inspections by the local authority inspection teams to

11 various units as part of their statutory functions where

12 they registered the service in their area.

13 A. Mm-hm.

14 Q. Does that accord with your recollection that they would

15 visit from time to time?

16 A. Yes. Because we were based in Fife, it was the Fife

17 inspection team who would periodically used to come into

18 our services and undertake their own inspections.

19 Q. Am I right in thinking that they would sometimes report

20 if they had matters they thought should be improved or

21 changes to be made?

22 A. They always did. We always sought feedback from the

23 inspections.

24 Q. I think I have -- you'll correct me if I'm wrong --

25 a memory of reading somewhere that there was an

1 inspection by Fife Council on 18 February 1998, where
2 they referred to the CALM procedures being used in units
3 like Whytemans Brae, but they made the suggestion that
4 the records that recorded the use of CALM techniques
5 were not recording which technique had in fact been used
6 and they were suggesting that the information should be
7 fuller in terms of not just they had to use CALM but
8 they should record precisely what was done. Do you
9 remember that?

10 A. No.

11 Q. It's not something you remember specifically, but
12 is that the sort of thing they might have picked up?

13 A. Yes. If that was recorded and reported back, that would
14 have been acted on immediately.

15 Q. I'm not going to take you to it, but I'll give the
16 reference for the benefit of the transcript. I think it
17 was a council inspection on 18 February, as I said,
18 1998. The reference I would give is FIC.001.001.2616.
19 The passage I had in mind was at 2628. I'm just giving
20 that as an example.

21 I think the council were superseded by the
22 Care Inspectorate in terms of the function of inspection
23 and checking that standards were met. In 2001, that's
24 when they took over that function.

25 A. Mm-hm. The other thing that we did do as a service, we

1 trained our own CALM instructors as well. So they went
2 through -- with David Leadbetter and his team, they went
3 through a higher training regime and they themselves
4 were regulated about their ongoing ability to provide
5 and monitor the CALM techniques that were being used.

6 We also got one of our senior staff to become a CALM
7 associate, which again was a lot of investment in terms
8 of time and money, but we thought it was absolutely
9 crucial, bearing in mind that CALM was the chosen set of
10 procedures in managing challenging behaviour. So there
11 was a large investment in making sure that the staff,
12 when they were using CALM techniques, were using them
13 appropriately, were familiar with -- what did you call
14 the numbers? The moves, the techniques, the
15 de-escalation techniques. Making sure things were
16 recorded appropriately.

17 MR PEOPLES: I'm probably going to turn -- I'm conscious of
18 the time, whether it's time to have a short break.

19 LADY SMITH: I wondered if there was a time in which we
20 could break.

21 MR PEOPLES: I'm going on to a specific topic so this may be
22 as good a time as any.

23 LADY SMITH: We take a break at some point in the afternoon,
24 Tom, just a short break, so I will do that now and then
25 we'll carry on with your evidence after it.

1 (3.18 pm)

2 (A short break)

3 (3.28 pm)

4 LADY SMITH: Are you ready to carry on, Tom? Thank you.

5 Mr Peoples.

6 MR PEOPLES: If I could turn to the matter of certain
7 evidence that we've been given by a former resident, who
8 gave evidence in the form of a written statement and
9 indeed oral evidence last week. He's [REDACTED] BHI and
10 I think you know him as [REDACTED] BHI, I think, as he was
11 known in care. You'll be aware he did provide
12 a statement and I think you have seen what he said in
13 his statement in relation to matters relating to you.
14 He also gave oral evidence last week to the inquiry.

15 We know from records that [REDACTED] BHI was a resident at
16 Whytemans Brae between [REDACTED] 1989 and [REDACTED] 1991.
17 He was between the ages of 13 and 15 years. I think
18 that the Aberlour records have confirmed that those were
19 the dates he was at Whytemans Brae.

20 Can I just put to you what [REDACTED] BHI said and told the
21 inquiry and ask you to make such comments as you feel
22 appropriate.

23 [REDACTED] BHI, when giving evidence last week, did accept,
24 I think, that he'd been admitted with a history of
25 behavioural problems and required support and help of

1 the kind that Whytemans Brae was set up to provide.

2 He told us that when he was at Whytemans Brae, on
3 the positive side of things, he was quite positive
4 generally that he had learned to play the guitar, he
5 went to a local boxing club, he felt he had more freedom
6 and independence than in previous care settings, and for
7 the first time he made friends and had hobbies and
8 interests. I don't think anything I've said so far --
9 would that be in any way at variance with any memory you
10 might have of the boy?

11 A. No.

12 Q. Do you remember him?

13 A. Yes. As I wrote, I remember **BHI** being tallish for
14 his age, I remember his interest in music, I remember it
15 being heavy metal. I remember he had two or three
16 T-shirts that he liked to wear specifically with the
17 Iron Maiden genre of music. I remember setting up
18 guitar lessons for him.

19 Q. Were you his key worker?

20 A. I wasn't his key worker, but I was a **[REDACTED]**

21 Q. So you'd have quite a lot of contact because it was a
22 small place and everyone --

23 A. It was a very intimate living and working environment
24 within four walls, shall we say, with us living in
25 a house in a community.

1 Q. He also said that he had a very good relationship with
2 you. That was his evidence to the inquiry. And he told
3 us, and you can no doubt tell us that this is correct or
4 not, that you both did weights.

5 A. No, I didn't.

6 Q. He described -- at one point, he said you were very
7 physical:

8 "We did toy fighting. It was okay for me most of
9 the time."

10 Have you got any comment on that part of the
11 evidence he's told us? He seems to have a memory of
12 what he calls toy fights.

13 A. No. I mean, that might be [REDACTED] BHI 's memory, but
14 toy fighting was never encouraged. Because of the
15 difficulties the young people had experienced and were
16 still experiencing, you avoided getting into physical
17 conflict or challenge at every cost.

18 However, [REDACTED] BHI and other young men were
19 boisterous young men, so it wasn't uncommon to be lying
20 on the floor playing Monopoly and watching telly and
21 then have three lads jump on top of you and pull on your
22 legs, et cetera.

23 We as a staff team discouraged that and tried to
24 divert and use diversionary tactics to say, "Come on",
25 et cetera, but we were never, "Come on and let's go and

1 toy fight".

2 Q. Do you think he might have perceived that as a form of
3 play or toy fighting?

4 A. He might have perceived that, but it wasn't an activity
5 that was condoned; it was actively discouraged.

6 Q. He specifically, I think, told us that there was an
7 occasion when he said that you hit him too hard and it
8 caused some bruising to his arm and that he went to see
9 Tim Foley. Before I go any further, do you remember any
10 occasion when, for one reason or another, **BHI**
11 sustained bruising to his arm through some sort of
12 contact between you and him?

13 A. Not at all.

14 Q. You don't remember anything like that?

15 A. No.

16 Q. Is it possible that during these boisterous encounters
17 that you speak of where boys might initiate something,
18 that a boy might end up with some form of bruising to
19 their arm?

20 A. Not that I recall.

21 Q. According to **BHI**'s recollection, there was an
22 occasion where he said that he had been hit too hard by
23 you and his arm was bruised and he went to see Tim Foley
24 and, according to **BHI**, his mum and his stepfather
25 were present with Tim Foley. Is that something that you

1 have any memory of happening?

2 A. Not at all.

3 Q. Were you ever called in by Tim Foley or asked by anyone
4 else about whether you had been involved in an incident
5 that led to [BHI] bruising his arm?

6 A. No.

7 Q. What [BHI] said was that Tim Foley had asked if either
8 he or his family wanted to press charges, which would
9 mean the police becoming involved, and according to
10 [BHI], he said that he was told that if the police
11 were involved, you could lose your job and that he had
12 said or he told us that at the time you had a wife or
13 partner and a new baby so he decided not to make
14 a formal complaint and he said the situation was
15 difficult for him because he liked you and he said he
16 didn't think that you'd bruised his arm on purpose, but
17 you were a strong person, quite physical, and on this
18 occasion you had hit him too hard. That's what he was
19 telling us. Do you have any comment would like to make
20 on what [BHI] has said on this matter?

21 A. That just didn't happen as described by [BHI]
22 If something like that had happened, Tim Foley would
23 have summonsed me immediately to ask for details.

24 Q. So you were not the subject of -- he didn't approach you
25 to ask you, well, I have just received a report of

1 something and can you tell me what went on or what
2 happened?

3 A. No, and Tim Foley was a man of great professional and
4 personal integrity. Armed with that information he
5 would not have had a choice or be given the choice to
6 make decisions or not to act on information like that or
7 not.

8 Q. So are you saying that if you had been the subject of
9 a complaint of that nature, firstly, Tim Foley would
10 have spoken to you about it and, secondly, he wouldn't
11 have left someone like [BHI] to decide whether to take
12 the matter further or not. Is that what you're telling
13 us?

14 A. Categorically. The other statement about what
15 [BHI]'s motivation is there ... a small baby and
16 a child, it's just not accurate. I was in
17 a relationship, but I didn't have any children for
18 a number of years after the date that [BHI] is
19 alleging to have based his statements on.

20 Q. So really, I think you have responded to this in your
21 second written statement that we mentioned. I'm not
22 going to take you to the detail, but I think your
23 position was that play-fighting wasn't condoned, and
24 you have said that today, it was actively discouraged by
25 staff, and you say there might be occasions where you or

1 colleagues would have to respond when a young person
2 sought physical contact, but not through play-fighting.
3 Is that the sort of situation you were describing
4 earlier, that someone might get physical with the staff
5 and you might have to respond or there may be
6 a situation where some form of restraint might be
7 necessary on other occasions? Is that the sort of
8 situation?

9 A. Absolutely. Staff on many occasions had to intervene
10 when young people got physical with each other because
11 of their lack of ability to maintain boundaries. There
12 were many occasions where teenage boys got into physical
13 altercations with themselves and staff had to intervene
14 with young people turning on yourself as a staff member,
15 males and females alike, which required, I would
16 suggest, every member of the staff team at various
17 points having to use verbal de-escalation, trying to
18 distract, trying to deflect, but again having to maybe
19 hold on to arms and legs when punches and kicks were
20 being directed towards staff members.

21 Q. BHI also said in his evidence -- and I just
22 want you to comment on this if you can help us -- that
23 as part of his evidence he did say that he heard on
24 occasion some form of sexual activity going on involving
25 a girl and he said if he could hear it so would staff

1 have been able to hear it. He felt this was something
2 that would be wrong in this setting for this to be
3 happening and he says he couldn't remember the staff
4 stopping the boys having sex with the girl. This is how
5 he was describing this episode that he had overheard.
6 Did any type of activity of that kind ever come to your
7 knowledge?

8 A. Never.

9 Q. If it had done, how would you have responded if someone
10 had reported that there was some suggestion that
11 residents were having some form of sexual activity,
12 leaving aside any other detail? How would you have
13 responded to that situation?

14 A. Initially it would have been to maintain the safety of
15 the alleged young people, the girl and other
16 perpetrators. It would have been immediately reported
17 to the on-call manager, Tim Foley, the head of service,
18 and to various social workers. Probably if there was
19 even a sense that there was some kind of misuse of
20 relationship or power going on, we would have maybe
21 looked to move one of the young people, at least maybe
22 bring extra members of staff in to provide increased
23 levels of supervision of the young people until the
24 whole situation and scenario was more thoroughly
25 investigated.

1 Q. I suppose if we're not being too naive here, if you have
2 children of mixed gender aged 12 to 16, then there must
3 be the possibility that sometimes things of this nature
4 could potentially take place and would have to be
5 addressed. I presume it wasn't outwith the bounds of
6 knowledge that sometimes activities of this nature might
7 be attempted or go on. Would that be fair to say?

8 A. If they were, it always took place outwith the services
9 because I have no knowledge at all of any incident of
10 sexual activity between girls and boys within the
11 residential services in my time being there.

12 Q. Was [REDACTED] BHI as he was known then, a boy who
13 displayed challenging behaviour on a regular basis?
14 Can you recall?

15 A. He was a socially awkward boy. I think you might even
16 term it having like a mild dyspraxia. He was clumsy.
17 He wasn't ... There wasn't a natural fit with
18 [REDACTED] BHI and the rest of the resident group.
19 Where they all had a shared awareness of being teenagers
20 living in a group situation, [REDACTED] BHI, because of his
21 lack of ability to maintain social boundaries, was
22 always pushing or pulling or sitting down with young
23 people who were maybe having private discussions. So
24 he was often the subject of ridicule from some of the
25 other adolescents. He never fitted in well to the

1 resident group.

2 Q. Was he a boy who required to be restrained on a regular
3 basis?

4 A. I wouldn't say a regular basis.

5 Q. But would it happen from time to time?

6 A. I can't recall.

7 Q. I have been asked to put the following description of
8 [REDACTED] to you by Aberlour, that he could be described
9 as an aggressive bully, who had a history of physical
10 assault, sexual assault, theft, truancy, and verbal and
11 physical abuse. Does that fit with the [REDACTED] you
12 knew?

13 A. Truancy. We had problems keeping [REDACTED] at school.
14 I think he lost one of the placement at high school and
15 we had to support him moving to another school.
16 I remember one of the times when he was truanting from
17 school he actually fell down a cliff face at Kirkcaldy
18 requiring him -- I think he stayed in hospital
19 overnight. He was very, very lucky not to sustain
20 serious injuries.

21 Q. But would you agree with that description I have just
22 read?

23 A. No, I can't recall [REDACTED] as being -- did you say
24 a thief?

25 Q. I'll read it again.

1 LADY SMITH: The description was:

2 "An aggressive bully --"

3 MR PEOPLES: "-- who had a history of physical assault,
4 sexual assault, theft, truancy, verbal and physical
5 abuse."

6 Was that the BHI you knew?

7 A. No, to be honest.

8 Q. Generally speaking, just if I could ask you on a more
9 general basis, if you're dealing -- just suppose you're
10 dealing with a person with such a history, say that's
11 the history they come with to Whytemans Brae, if
12 you have a person with such a history and whether that
13 person is a child in care or an adult who was a child in
14 care with that background, would confronting them in
15 such blunt terms with their past be consistent with
16 a trauma-informed approach to dealing with them, to tell
17 them that they were these things? Would that be
18 consistent with --

19 A. No, not at all. I don't believe those things to be true
20 of BHI.

21 Q. Would you just go out and say, "This is what you were"
22 or, "This is what you are"?

23 A. No, it's about relationship. The whole purpose of the
24 work at Sycamore, the whole culture was about building
25 relationships and enabling an age and stage in terms of

1 development and cognitive awareness and understanding of
2 the past, enabling a young person to understand their
3 past and what has led them to be coming, moving to
4 Sycamore and to make plans for the future to enable them
5 to make the changes required in terms of any of these
6 prescriptive -- maybe they believed that, maybe they've
7 been told that before in other places, which then gives
8 them maybe the reason to behave in certain ways. But
9 certainly that would not be a way of working with any of
10 the children at Sycamore.

11 Q. Or indeed if someone had had that description as
12 a child, if you're dealing with them as an adult, if
13 they were still traumatised by their experiences, would
14 you be telling them all these things in that way?

15 A. No, not at all.

16 Q. Do I understand then, faced with a child with that sort
17 of history or record before coming to Whytemans Brae,
18 am I right in thinking the aim would have been to avoid
19 traumatising them further but you're seeking to address
20 the behaviour and its underlying causes? Is that what
21 you were aiming to do?

22 A. Aiming to give the child an understanding of their past.
23 Most of the young people came to Sycamore did not have
24 an understanding of why they had come. They just saw
25 themselves as being unmanageable, uncontrollable,

1 unlovable and with no vision or understanding of where
2 their future lay.

3 Q. Was that partly due to the fact that if they read their
4 records or someone told them what was in their records,
5 they would be getting descriptions of the type I have
6 just put to you, they'd be told all the time they were
7 uncontrollable, unmanageable, unloved or being difficult
8 or whatever? Is that the sort of type of descriptions
9 they may have come with, they felt that they were these
10 things?

11 A. Yes. Many of the young people came with this belief.

12 Q. But they must have got them from somewhere to think that
13 they were like that. Where would they have got that,
14 from their previous care settings?

15 A. Maybe so, but certainly not from Sycamore.

16 Q. Are you saying Sycamore was really a place with perhaps
17 that sort of background were coming to be cared for
18 in the way you have described?

19 A. Absolutely.

20 Q. Can I turn to --

21 A. Can I ... Sycamore wasn't a secure unit.

22 Q. No, no.

23 A. We were houses based in community, because Tim Foley's
24 belief was there were so many young people that were
25 living in residential schools and in secure units that,

1 with the right type of support and staff around them,
2 could live a life in a community and go to, shall we
3 say, normal mainstream schools. That was the
4 fundamental belief from the onset of meeting the young
5 people before they even came to Sycamore, giving them
6 a sense that we recognised that the young people had had
7 difficulty pasts and it was left as broad as that, but
8 if you came to Sycamore, we would be helping you to go
9 to school and do all the things that you want to do and
10 we will be with you, shoulder to shoulder, in making
11 plans for your future.

12 So it was like we were sowing those seeds at the
13 first point of contact and that was the drive all the
14 way through: until young people left Sycamore and
15 beyond, we would be there with them.

16 Q. Can I move to another matter? I mentioned already Alfie
17 and I think you know who that individual is.

18 A. Mm.

19 Q. And I think you have already been given notification
20 that Alfie has said certain things about the way you, at
21 least on certain occasions, may have dealt with
22 children. He has given some evidence to that effect.

23 One of the matters he spoke about was what I call
24 the incident with a boy from Shetland who had recently
25 arrived at Whytemans Brae. I don't want the name of the

1 boy -- I think you've been given the name of the boy and
2 you know who has made the allegation. Do you remember
3 a boy from Shetland coming to Whytemans Brae?

4 A. Yes.

5 Q. The incident, as described by Alfie, was an occasion
6 shortly after his admission where he says that the boy
7 was seen going to Tim Foley's office, whereupon you
8 grabbed him by the scruff of the neck, dragged him down
9 the stairs, and put him into the dining room or throwing
10 him, I think was the expression he used at one point,
11 and you were shouting at the boy at this point and the
12 boy was very distraught by what was happening to him.

13 Before I ask you to comment, I'll go back to what
14 I said earlier. Given the warning that you were given
15 at the beginning, which still applies, if you don't want
16 to answer any questions or make any response, that is
17 your right, and I'll not press the matter. Do you want
18 to say something on the subject? If you do, it will be
19 noted and recorded. Do you understand what the
20 situation is?

21 A. Yes.

22 Q. Do you want to make any comment on what was said by
23 Alfie or not on this matter?

24 A. I would like to say it's untrue.

25 Q. Right. That's fair enough; you can say that if you

1 want.

2 A. Absolutely.

3 Q. It's untrue, so it didn't happen?

4 A. I never dragged a 13/14-year-old boy -- I read Alfie's
5 statement -- which would have been 60/70 feet, going
6 through four glass doors, and threw somebody into
7 a dining room. It's just not true.

8 Q. He was asked whether this had ever happened on any other
9 occasion and certainly he wasn't suggesting that what
10 he was telling us was something that he had seen on
11 a regular basis, but he certainly spoke to saying that
12 this happened, but your position is it's just untrue?

13 A. Absolutely.

14 Q. Okay. He also said that when things got heated -- and
15 this is a more general point he made. When things got
16 heated in Whytemans Brae, there would be some verbal
17 abuse on the part of staff and when he was asked to
18 elaborate on what he meant, he said:

19 "They would just be swearing and stuff and some
20 staff were spending too much time in the office and not
21 being out and about when things were going on and things
22 were getting heated."

23 Are you able to help me with that? Did you ever
24 witness or were you ever made aware that sometimes staff
25 would verbally abuse residents in the heat of the

1 moment? Did that happen?

2 A. I have no recollection of that. That would not have
3 been condoned. That would have been addressed if it was
4 brought to anyone's attention. The staff team were
5 a skilled staff team and at the first sign of any
6 difficulties that young people were experiencing, the
7 staff would have intervened immediately to speak to the
8 young person in the first instance, or young people,
9 because if you don't, the situations just escalate.

10 Q. When you and Alfie were colleagues, would you have been
11 in a more senior position? Were you [REDACTED]
12 [REDACTED] in his time?

13 A. At the latter stages, yes.

14 Q. So would you work with him on shifts as part of a team
15 together or would he have worked with different
16 colleagues?

17 A. He would have worked with the residential staff team.

18 Q. So you wouldn't really be able to comment directly on
19 whether staff might on occasions say something in the
20 heat of the moment, but you would expect it to be
21 reported if it did?

22 A. I would expect it to be reported. The nature of the
23 residential services -- young people would have been the
24 first to be at [REDACTED] Tim Foley's door or report to
25 a senior or a key worker or another staff member if they

1 felt that they had been mistreated in any way. The
2 young people just didn't have good relationships with
3 key workers, they had quality relationships forged over
4 months and years with all of the staff who looked after
5 them. We had a very, very stable staff team at
6 Sycamore. We held on to staff. It was the quality of
7 the relationships that were forged with staff working
8 with the difficult children that developed the trust and
9 enabled the children at the first sign of experiencing
10 difficulty in going to a staff member or any staff
11 member to talk about how they were feeling.

12 LADY SMITH: Where would you be in the building during your
13 shift?

14 A. I would be based in my office, which was on the [REDACTED]
15 [REDACTED]. But at
16 Whytemans Brae, I would be walking in and around the
17 building. I'd sometimes go in and join changeovers at
18 10 o'clock in the morning. I liked to be in and around
19 the shop floor between half 3 and quarter past 4 when
20 the kids were coming in from school, just to have
21 a sense of how shifts were going or just to have a sense
22 of how the young people were when they were coming in
23 from school.

24 LADY SMITH: Where were the other staff based during their
25 shifts?

1 A. At Whytemans Brae, there was a downstairs staff office
2 beside the front door, so any person coming into the
3 building, be it visitors, social workers or the young
4 people, that would be the first point of contact. The
5 other staff members would be out and about. Shifts were
6 busy.

7 LADY SMITH: Thank you.

8 MR PEOPLES: Another point that Alfie made in the course of
9 his evidence, when he was asked to -- I don't know if
10 this is something that you were made aware of that was
11 in his statement. At one point in his written statement
12 he made the observation or expressed the view that you
13 and indeed another [REDACTED] were in post
14 due to their -- and I will quote, this is not my
15 expression, it's what he said in his statement -- "due
16 to their bully-boy tactics".

17 When he asked to explain what he meant by this
18 expression, he said in oral evidence to us that he felt
19 that:

20 "Children were quite frightened of the [REDACTED]

21 [REDACTED]"

22 Do you have any response to make to that part of his
23 evidence?

24 A. I have no idea why he would make a statement like that.

25 Q. Do you know how his employment was terminated?

1 A. Yes.

2 Q. Do you know he was dismissed for gross misconduct?

3 A. Yes.

4 Q. And you know it was to do with exposing his genitalia
5 during a trip --

6 A. Yes.

7 Q. -- when he told us he was drunk or he had a lot of
8 alcohol? I don't know if that was knowledge that you --

9 A. I wasn't aware of being drunk.

10 Q. Were you involved in any way in the disciplinary process
11 this led to that dismissal?

12 A. None whatsoever. But I received a phone call from the
13 gentleman when he was in the period of suspension and
14 he was very angry and I think he was expecting me to try
15 and intervene on his behalf and I explained I was not in
16 a position to be involved in the proceedings that would
17 ultimately find out the truth of the matter.

18 Q. Let me say right away, he did accept that he did the
19 things that were alleged and it was unacceptable
20 conduct. He wasn't trying to suggest that it didn't
21 happen, by the way, when he gave evidence to us. He
22 accepted these events did happen. He sought to explain
23 why they happened.

24 The other point I was just going to ask you about,
25 the other point he made was he felt, as a worker, that

1 he didn't get sufficient support from his senior -- in
2 other words you -- because he said he was supposed to
3 get supervision every two weeks, but that just didn't
4 happen towards the end of his employment, and that he
5 raised this with Tim Foley at his annual appraisal, but
6 really the situation, while it may have improved for
7 a very short time, simply went back to what it was
8 before, there wasn't enough supervision. Is there any
9 truth in that suggestion?

10 A. No.

11 Q. Was the degree of supervision [REDACTED] exercised over
12 [REDACTED] junior colleagues a matter that was raised [REDACTED]
13 at one point in formal proceedings?

14 A. Not that I can recall. But supervision was never on
15 a fortnightly basis. Formal supervision was on a four
16 to six-weekly basis.

17 Q. Did it happen then on that regular basis with Alfie?
18 Did you see him on a regular basis?

19 A. Yes. The only time I wouldn't have seen him on
20 a regular basis was when I was doing my professional
21 qualification with the Open University because then
22 I was freed up from my [REDACTED] role and I worked the
23 2 to 10 shift on a Monday to Thursday basis because
24 I had a Friday off to study.

25 Q. When were you studying?

1 A. That was the late 1990s, for two years, two and a half
2 years. I did my social work through the Open University
3 so somebody else would have been supervising him during
4 that time because I was not doing my [REDACTED] role.

5 Q. But was there ever a time when your [REDACTED] was
6 called into question, not in relation to Alfie but
7 in relation to another individual called [REDACTED] QEW ?
8 Do you remember that?

9 A. I remember [REDACTED] QEW , yes.

10 Q. Was there an investigation into his management of
11 Veronica Crescent and [REDACTED] [REDACTED] of the
12 service as well? Do you remember that happening in 2013
13 or thereabouts?

14 A. Yes.

15 Q. You were asked about that, were you?

16 A. I was asked.

17 Q. There was some sort of disciplinary process, was there,
18 to do with that matter?

19 A. To do with [REDACTED] QEW , yes.

20 Q. Was one of the issues raised whether [REDACTED] had been giving
21 the necessary supervision to that individual that he
22 required as one of [REDACTED] ?

23 A. Not that I was aware of. I wasn't made aware of that.

24 Q. Did you say at any point to the hearing into this matter
25 that in 2013, because of work pressures, you weren't

1 able to get round to see all of the services?

2 A. Yes, and I made it clear to the organisation that to be
3 the [REDACTED] for five residential services and
4 also to be the [REDACTED] for those
5 services was just too much for one person to do all of
6 that.

7 Q. So in fact, putting the responsibility for getting round
8 all of them on one person was too much; is that what you
9 were saying to the management at that stage?

10 A. I said that to the organisation: the role should have
11 been split.

12 Q. So had the roles been split, as you envisaged, would
13 that have allowed more direct supervision of people like
14 Mr [REDACTED] QEW and others to take place?

15 A. Yes, if it I had remained in the [REDACTED]
16 [REDACTED], I would have just been [REDACTED] the
17 [REDACTED] of the five services. But the [REDACTED]
18 [REDACTED] required reports to be written, I think,
19 on a monthly basis with a six-monthly overview report to
20 all be provided to Aberlour management, and I became
21 aware quite quickly it was too much to do effectively.

22 Q. I suppose that if that meant that people weren't
23 supervised as much as you wanted to in terms of people
24 like Mr [REDACTED] QEW, do you accept that was a deficiency
25 from the organisational point of view that supervision

1 is important and it's an opportunity for people to talk
2 through things and perhaps get guidance and instruction?

3 A. It's an absolute requirement. There is an absolute
4 requirement for formal, structured, recorded
5 supervision, on top of informal supervision as well.

6 Q. At that time it wasn't happening for the reasons you've
7 explained, there was just too much involved in the post
8 that you were in?

9 A. There was that. There was also other stuff going on
10 with **QEW** where there was stuff not said or things said
11 that had been done and they hadn't been done.

12 Q. You mean he wasn't supervising his staff; is that what
13 you're saying?

14 A. I don't know.

15 Q. You accept then that clearly there was a gap there
16 because of the pressures of the job and the
17 responsibilities and that that was addressed, was it, by
18 some form of restructure?

19 A. It wasn't addressed.

20 Q. It wasn't addressed?

21 A. No, no, I said to the organisation to be able to do all
22 of this effectively and for it to have meaning, the
23 roles need to be split.

24 Q. So by the time you left the organisation in 2013, it
25 still hadn't been addressed --

1 A. No.

2 Q. -- that point that you'd raised?

3 A. No.

4 Q. But you felt it should have been?

5 A. Yes.

6 MR PEOPLES: I think these are all the questions that I have
7 for you today, Tom. I don't think there are any other
8 questions.

9 LADY SMITH: Are there any outstanding applications for
10 questions? No.

11 A. Is there one more bit I can pass on?

12 LADY SMITH: What is it, Tom? You tell me.

13 A. It's about our belief. At one time the services we had
14 had more social workers in training than any other local
15 authority in service and our drive was to have a fully
16 social work trained staff team.

17 I can't remember what year it was, but Aberlour did
18 a pay-and-grade exercise, which I think six months into
19 it was stopped because of -- I don't know if the person
20 undertaking it -- she'd just done one for Highland &
21 Island -- hadn't been deemed to be doing it the right
22 way.

23 Aberlour then implemented a second one based on the
24 Hay methodology, which was an American business type
25 thing. It was pointed out that it didn't fit --

1 LADY SMITH: That was for pay and grading?

2 A. Yes. It was pointed out that that didn't fit nicely so
3 Aberlour Aberlour-ised it and we still expressed
4 concerns about it. But nevertheless it went ahead and
5 the findings of it were that all of the workers that we
6 had supported over many years in terms of getting HNCs,n
7 SVQs, there were -- I think 68% of them were
8 red-circled, which means their pay was getting dropped
9 to a pay scale that Aberlour had identified as being
10 appropriate for the purposes of a residential worker.

11 For years we benchmarked our pay against the other
12 local authorities' residential workers because we wanted
13 to be able to attract workers from other local
14 authorities and hold on to them as opposed to provide
15 the training and then workers going elsewhere for better
16 paid jobs. But nevertheless, it just went --

17 LADY SMITH: Sorry, I wasn't quite following you there: when
18 you said the pay was dropped --

19 A. Anyone that was red-circled would get their pay --

20 LADY SMITH: Red-circling doesn't mean that your pay goes
21 down but it means you have to stay where you are until
22 other people have caught up with you.

23 A. There was a red circle and a green circle and a white
24 circle. Green-circled were people who were going to get
25 pay rises. White-circled meant you stayed where

1 you are. Red-circled meant you stayed on the same pay
2 scale for -- I think it was 3 years -- and then your pay
3 would be dropped to the new pay scales that were brought
4 in. It was at that time that we thought of all the hard
5 work to provide the children that we worked with, with
6 the highest calibre of staff, it was becoming -- it
7 didn't fit, if that makes sense.

8 MR PEOPLES: Basically, you're saying you weren't paid the
9 appropriate amount for the jobs you were doing?

10 A. The residential workers. It didn't affect me at all but
11 the residential workers are the guys on the shop floor,
12 these are the guys that are working on a day-to-day
13 basis with the children who are enduring the dark times
14 and all of that kind of stuff. These were the guys it
15 affected. Anyway.

16 LADY SMITH: So just going back to the point you were trying
17 to make about attracting good people, are you saying
18 because the pay wasn't good enough, good people weren't
19 going to be attracted to these jobs?

20 A. Yes. I think the view was that anybody coming out of
21 college that had done a six-month placement in
22 a playground was good enough to work with some of the
23 most difficult to work with children from all over
24 Scotland, where our view at that time was that we needed
25 the highest calibre of supportive and trained and

1 knowledgeable staff to work with these children, but
2 there seemed to be a difference of opinion between the
3 wider organisation and the managers at Sycamore Service,
4 who had worked for 20/30 years with the young people.

5 LADY SMITH: Thank you very much.

6 Thank you for engaging with the inquiry as helpfully
7 as you have done.

8 A. No problem, my Lady.

9 LADY SMITH: I'm now able to let you go, Tom.

10 A. Thank you.

11 (The witness withdrew)

12 LADY SMITH: That's all the evidence we're going to have
13 time for today, Mr Peoples.

14 Plan for tomorrow?

15 MR PEOPLES: More oral evidence and hopefully some read-ins
16 as well.

17 LADY SMITH: 10 o'clock start tomorrow. I will rise now
18 until tomorrow morning.

19 (4.08 pm)

20 (The inquiry adjourned until

21 Tuesday, 18 December 2018 at 10.00 am)

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