

1 Wednesday, 30 January 2019

2 (10.00 am)

3 SALLYANN KELLY (continued)

4 LADY SMITH: Good morning.

5 Good morning, SallyAnn.

6 A. Good morning.

7 LADY SMITH: Welcome back. I'll turn over again to

8 Mr Peoples and he will take things from there.

9 Mr Peoples.

10 Questions from MR PEOPLES (continued)

11 MR PEOPLES: Good morning, SallyAnn.

12 A. Good morning.

13 Q. Can we return to the statement? We've covered quite
14 a lot of the statement. Could I maybe ask you to start
15 at page 79. You make reference there, and I'm not going
16 to spend a lot of time on it, but it's in reference to
17 the case involving Mr and Mrs **BCI/BCJ** that we heard some
18 evidence about. I think you address their situation
19 in the statement, so we're dealing with
20 ABE.001.008.9135. It's paragraph 213.

21 I think you talk about **BCI/BCJ** through to
22 paragraph 219 --

23 A. Yes.

24 Q. -- and set out the sequence of events as disclosed by
25 the records; is that right?

1 A. That's correct.

2 Q. I think the position of the trust is that, given all the
3 matters, they dealt with that situation appropriately
4 and took the appropriate action in light of the
5 information and the developing information that came to
6 their attention.

7 A. Yes. They certainly moved to formal investigation when
8 that information came to their attention, yes.

9 Q. Although I did touch upon the possibility that perhaps
10 Miss **BBG** might not have been the best person, with
11 hindsight, to carry out an investigation, given her
12 knowledge and views on **BCI/BCJ** --

13 A. Yes, the initial position.

14 Q. I think you accepted that was perhaps, at least in
15 hindsight, not maybe the best idea.

16 A. Possibly, yes. I think they did get to where they
17 needed to get to within that investigation.

18 Q. That was a situation where the records show that the
19 issue with **BCI/BCJ** came to the attention -- it's
20 in the records and there's some record of how it was
21 dealt with.

22 I did want to ask you briefly -- you may recall that
23 we did have evidence from one witness called David, who
24 had been in the orphanage in the early 1960s, who told
25 us about a couple called **BGH/BGI**

1 A. I do recall that.

2 Q. I was going to ask you about that. You'll remember in
3 his evidence he said that he complained about his
4 treatment at the hands of [REDACTED] BGH/BGI or particularly
5 [REDACTED] BGI to Miss Talbot, who was the children's
6 officer.

7 A. Yes.

8 Q. He told us in his evidence that the upshot of that was
9 that he was asked to go to the [REDACTED] BGF office
10 in the company of [REDACTED] BGH. His recollection was
11 that, having raised the matter with Miss Talbot, shortly
12 after he was asked to see [REDACTED] BGF he went to
13 see him, and he was given the impression that [REDACTED] BGF
14 had carried out some form of investigation and was
15 saying to him something to the effect -- I'm just
16 looking at his transcript:

17 "There was no substance to what was being said or
18 alleged and there was a place for children who lied, as
19 I was doing [he said] and that place was Ladysbridge.
20 He said that Ladysbridge was mentioned by the
21 [REDACTED] BGF --

22 A. Yes, I remember that.

23 Q. -- and I think we know what Ladysbridge was intended
24 for.

25 A. Yes.

1 Q. He say it was a psychiatric hospital. It did seem that
2 going to Ladysbridge, on his evidence, was something
3 that was sometimes talked about if people didn't perhaps
4 behave or acted in a certain way. That was the gist of
5 his evidence, that this was something that was maybe
6 used as a form of threat.

7 A. That was certainly his evidence. I have to say I've not
8 seen anything that compares with that. But, yes,
9 absolutely that was --

10 Q. But I think what he did say -- he obviously said if
11 there was any investigation, in a sense it was over by
12 the time he saw the [REDACTED] BGF and he didn't
13 participate in it personally. I think that was his
14 evidence.

15 A. Yes. I can't find any evidence of an investigation
16 in relation to [REDACTED] BGH/BGI .

17 Q. That was what I was going to say: I think he told us he
18 got records from Aberlour subsequently --

19 A. Yes.

20 Q. -- and there was nothing about that matter in his own
21 records.

22 A. That's correct.

23 Q. That could be an example of a complaint which was raised
24 with the warden but doesn't appear to have gone into the
25 records.

1 A. It could be. All I can tell you, actually, about [REDACTED]
2 [REDACTED] BGH/BGI is that they worked for Aberlour as
3 house parents -- and we found this from a wages book for
4 a period of six months -- but I have no information
5 about the reasons that they left the orphanage, so
6 I can't --

7 Q. So you can't really illuminate on the matters?

8 A. I can't, no, but they were only there for six months,
9 I know that.

10 Q. But we know they were there and we know that they left?

11 A. Yes, and we know that that young person's account of
12 where he was and being looked after by them in that
13 house was accurate.

14 Q. So any additional information to an extent on that
15 matter has to come from that individual at least?

16 A. We would have to rely on his testimony because we don't
17 have anything that we can --

18 Q. And clearly I take it you would accept that, given the
19 nature of the complaint, there ought to have been
20 a record made at the time that set out, as in the case
21 of [REDACTED] BCI/BCJ the sequence of events and the outcome?

22 A. Yes. If there was an investigation, if a complaint had
23 been made contemporaneously, then you'd expect to find
24 something.

25 Q. I take it that if the [REDACTED] used Ladysbridge as a form

1 of threat against a background of saying there was no
2 substance to the complaint, that would have been an
3 unacceptable response or reaction to the complaint?

4 A. Yes. Because Ladysbridge was -- that was not the
5 purpose of Ladysbridge.

6 Q. No. Then you'll recall, I think, that there was some
7 records that this particular boy was then placed in the
8 care of a Mr and Mrs **BGZ/BBP**

9 A. Yes.

10 Q. And I think that at that point there are some records
11 that he seemed to be suffering some anxiety and
12 difficulty sleeping.

13 A. Yes.

14 Q. And I think there are records to that effect?

15 A. Yes.

16 Q. Of course, you'll recall he told us that he went to see
17 the doctor at the orphanage.

18 A. That's right.

19 Q. And I think he was given various medication -- I think
20 he mentioned phenobarbitone and Mogadon.

21 A. There's a record that details the medication, which
22 I can't quite recall.

23 Q. That was what he was telling us and I think he expressed
24 some surprise, I think, about the way in which the
25 doctor dealt with him. I don't know if you remember.

1 He said:

2 "He treated me as if I was a person that had special
3 needs, although I'd been dux in the primary school, and
4 he was asking me rather basic questions that questioned
5 my intelligence levels", and so forth.

6 A. Yes, I remember that, but again I don't think there's
7 anything in the record that would support that or
8 contradict the view.

9 Q. So we don't actually know precisely what -- I think it
10 was Dr Caldwell at the time -- would have done
11 in relation to any attendance?

12 A. No.

13 Q. Is it possible -- you say **BGH/BGI** were there for
14 six months in all?

15 A. I believe so, yes. We have the dates. I think we
16 actually have provided them.

17 Q. I think you have. He had a memory that after this
18 matter was the subject of complaint, it was not long
19 after that **BGH/BGI** left and I take it the records
20 wouldn't contradict or confirm that either way?

21 A. Well, in fact they would confirm it because they were
22 there for such a short space of time.

23 Q. So if it happened in that space of time --

24 A. Yes.

25 Q. I think the other point he raised, and I'll maybe deal

1 with it while we're dealing with this matter and this
2 evidence, David's evidence was he did get records but
3 initially he didn't get complete records and he
4 subsequently got some further records in which he found
5 the doctor's visit and the medication and so forth.

6 I don't know if you have any comments to make generally
7 about this situation because we have heard some people
8 say they got records but they didn't get them all.
9 That's maybe been a theme of the whole case study.

10 A. Yes, I think we've addressed that in part in the
11 organisational statement by offering a very sincere
12 apology to people. Unfortunately, I can't shed any
13 light on why at some point in the organisation's history
14 only partial records were made available. What I will
15 endeavour to do and have endeavoured to do is when
16 people do come, we make sure we do as full a check as
17 possible so people are given their full records.

18 Q. I think we discussed yesterday perhaps that there may be
19 some records that wouldn't be kept by Aberlour, or
20 indeed other providers, like certain medical records,
21 certain educational records, school records?

22 A. Of course. The medical records would be fairly limited
23 in terms of what's available in children's files and
24 would need separate reference to health boards and
25 latterly the NHS. And also social work records. We

1 didn't habitually have the full social work record in
2 a case file. So that would include having to go to
3 local authorities.

4 Q. For those out there today, you're really saying that we
5 might have some information on medical matters, health
6 matters, but it would be limited in many cases and there
7 would be fuller records or, if there are fuller records,
8 it's someone else that has them?

9 A. My understanding of the medical records is annual checks
10 were done, annual dental checks, annual medical checks.
11 There will be reference to hospitalisations, for
12 example, but you will not have the full hospital record
13 there.

14 Q. At paragraph 222, I think you say -- and I'm not going
15 to -- you say you have given the inquiry, and it's
16 correct to say, instances where reports were received of
17 excessive corporal punishment and that action was taken.
18 You say:

19 "On behalf of the trust that demonstrates
20 a willingness to hear and act upon reports in the event
21 that the policy and approach of the trust was not being
22 fulfilled."

23 I think you would use **BCJ/BCI** as an example of
24 that?

25 A. Yes.

1 Q. But I suppose if we go to the example of **BGH/BGI**
2 and the report by David, if we take that, that would be
3 an example at least of they may have heard it but they
4 don't appear to have recorded it. So that would be an
5 example of perhaps where --

6 A. There's certainly no record of it in the minutes that
7 are available to us at the present time.

8 Q. So there might have been variable practice in terms of
9 recording?

10 A. In terms of the recording on the minute, if that
11 happened and it wasn't recorded, yes, **BCI/BCJ** that
12 would suggest that was variable.

13 Q. Just moving on to the section that's headed, "Children's
14 Voices: Records and Reports", it's at paragraph 222 and
15 following. I'm not going to go into too much of the
16 detail, but I think you quite fairly state that:

17 "There are examples of what are termed children's
18 voices being heard on certain issues, although not of
19 abuse."

20 Am I right in thinking there are not too many
21 examples of children making direct complaints of abuse?

22 A. That's correct.

23 Q. Indeed, the examples of voices being heard are largely,
24 I think, the older girls and the trainees; these are the
25 ones you were able to find?

1 A. Yes.

2 Q. Indeed, you do make the point in relation to who was
3 making complaints or how they arose according to the
4 records. At 229, I think you say there at line 4,
5 I think:

6 "Most complaints in the orphanage and group home
7 years are recorded as made by adults who were raising
8 issues about incidents involving young people which had
9 come to their attention by some means or other."

10 I think we can perhaps -- BCI/BCJ is one
11 example. The Lee matter was another.

12 A. And Mr BCK

13 Q. So these are the sort of situations that seem to be
14 recorded and how they come to the attention of
15 management and the trust?

16 A. Yes.

17 Q. You tell us at page 230 -- and I think this applies to
18 the orphanage and group home years, am I right in
19 thinking? There's never been -- it may actually apply
20 across the board, but you've not been able to find
21 a single complaints process that was put in place during
22 the orphanage or group home years?

23 A. That's correct.

24 Q. In your statement at paragraph 230 you say that:

25 "It's always been understood by the organisation

1 that children form relationships at different times with
2 various individuals and will have therefore different
3 bonds of trust and understanding with the individuals
4 providing care, dependent upon the nature of those
5 relationships. To create a single method for complaints
6 to be made, or to provide a single contact to whom
7 complaints required to be made, could constrain the
8 scope for the child to confide, at a time and in
9 a manner of their choosing and to any trusted adult, the
10 content of their complaint."

11 I understand what you're saying there. The point
12 I would just like to be clear about is: is there
13 anything in the records that shows that that was the
14 justification at the time for not having a single
15 complaints process that you --

16 A. No. What I would say to you is part of this terminology
17 about ... In terms of good childcare practice, it is
18 sensible to have a very clear process for dealing with
19 complaints when they're made. But to confine children
20 to going down only one route to make a complaint or an
21 allegation can be very restricting for the child. So we
22 need to be open to hearing what children have to say
23 through whichever route they choose to tell us, whether
24 it's through speaking to peers, speaking to a trusted
25 adult, outwith our organisation or within our

1 organisation. Wherever that happens to take place, we
2 need to be alert to that and have a very clear response
3 to it, but not be constrained in telling children: don't
4 speak to me about that, go and speak to someone else.
5 That would be poor practice.

6 Q. I follow. You do make that point in the statement. But
7 historically, children weren't told under some kind of
8 specific process or procedure: if you have a problem,
9 you could do this, this, this or this. There's nothing
10 to suggest that in the records?

11 A. We don't have any evidence of them being told that or
12 otherwise.

13 Q. Whereas today I take it that, although you don't want to
14 prescribe a single route --

15 A. Yes.

16 Q. -- you do give information to children, and indeed other
17 parties --

18 A. We do.

19 Q. -- how they might raise a matter --

20 A. We do.

21 Q. -- including an allegation of ill-treatment or abuse?

22 A. We do, and we provide independent advocacy to our
23 children as well.

24 LADY SMITH: Because even whilst giving children freedom to
25 articulate their complaint in whatever is the easiest

1 way for them, you can then have a clear process in place
2 as to how it is responded to so that everybody in the
3 organisation knows how to handle it; isn't that right?

4 A. Of course, and that is what we have in modern times, but
5 there is no such -- there is no evidence of that having
6 been in place earlier.

7 LADY SMITH: So there's no evidence of that either?

8 A. No.

9 LADY SMITH: Not only no evidence of children being told
10 it's okay to complain --

11 A. No, that's correct.

12 LADY SMITH: -- and no evidence of a process within the
13 organisation of how you respond to a complaint?

14 A. So I think there is evidence of complaints from adults
15 on behalf of children, so we have just mentioned a few
16 where adults have made allegations or raised complaints
17 about the behaviours of other members of staff, which
18 in the main seem to have been addressed. What we don't
19 have is a written policy that I can find.

20 LADY SMITH: Thank you.

21 MR PEOPLES: Just before I leave this part, if we go to
22 paragraph 238 there is a statement:

23 "To the best of the present knowledge of the
24 organisation, all complaints which were made
25 historically were recorded appropriately."

1 I suppose I would put to you: on the basis of
2 David's evidence, that wasn't universally the case.

3 A. Yes, I think I would accept that.

4 Q. Although you don't wish -- and indeed you say this in
5 paragraph 239 -- to speculate on what might or might not
6 have gone unrecorded, but that's an example of something
7 that appears to have gone unrecorded, that complaint?

8 A. Certainly in the records that I've looked at I haven't
9 seen it recorded.

10 Q. Just picking up -- I'm not going to return other than --
11 you may want to say a bit more about Mr Lee. I asked
12 you a lot about that yesterday. At paragraph 242 I want
13 to maybe clarify one point with you. You say:

14 "One highly significant example of children's voices
15 being heard relates to the abuse complained of by the
16 witness Rab [I think it was]."

17 Can I perhaps put this point. "Heard" is perhaps
18 putting it too highly. It was overheard on this
19 occasion, according to the evidence we have heard. The
20 voice wasn't heard through a process or a system: it was
21 good fortune that Catherine, on a particular occasion,
22 overheard a conversation and took the matter up on her
23 own initiative.

24 A. I suppose what we mean by that is these complaints were
25 heard, overheard, but the organisation heard the

1 overhearing of them, took it seriously, and responded to
2 them by having a police -- the police investigate it.

3 LADY SMITH: But you know, SallyAnn, if I remember rightly,
4 it wasn't even that the child was complaining as such to
5 his mate, he was simply telling him, "What I got told
6 was I could have the punishment or his other
7 punishment", words to that effect, I think, wasn't it,
8 Mr Peoples?

9 A. Yes.

10 MR PEOPLES: Yes.

11 LADY SMITH: So he was just telling him what sounded like
12 everybody knew, it was just one of those occasions.

13 A. I think that's correct. I think also that speaks to the
14 strength of the house mother actually of still
15 intervening and speaking to the boys about -- find out
16 more about that, "What do you mean by that, help me to
17 understand", and then taking immediate action. I think
18 she is somebody that in her evidence I was thankful of
19 being there at that time in terms of those children.

20 MR PEOPLES: Although I think she readily accepted she was
21 young and, with hindsight, there were other things that
22 she saw that, had she had her time again, she would have
23 spoken up sooner than that.

24 A. Yes.

25 Q. I think that was the gist of her evidence.

1 A. Yes.

2 Q. She saw things and maybe they didn't register or if she
3 saw them she had a feeling but she didn't think that
4 having a feeling was not enough to raise a concern.

5 A. Yes. And it was at a time where those gut reactions and
6 feelings probably weren't as encouraged as they might be
7 today, for example.

8 Q. Yes. I was going to put that to you. If we were
9 looking at that situation today one would say, well,
10 even if you just have a suspicion or a feeling but it's
11 a gut feeling, you should at least raise it so it can be
12 considered?

13 A. Yes, and we would be encouraging staff to do that. Just
14 tell somebody, have a discussion about it.

15 Q. As I've said, I'll leave future developments for
16 tomorrow so that we can maybe talk about that tomorrow
17 rather than today, if I may leave it.

18 So can I lastly turn to the section that's headed
19 "Response to the evidence available to date". In that
20 section of the statement, you do address some general
21 issues that you feel have emerged from the evidence, and
22 I'll maybe take you to these in a moment.

23 Can I just, at this point, take one matter, because
24 I've been asked to raise it, to do with evidence we did
25 hear. It's to do with certain information about

1 [REDACTED] BHI which was provided from, I think, his
2 records. I think I put that information in the form of
3 a question to Tom, who had been a former employee of one
4 of the Aberlour units --

5 A. Yes.

6 Q. -- where [REDACTED] BHI was resident, against
7 a background where it appeared that [REDACTED] BHI was
8 making some sort of allegation of restraint that was
9 inappropriate or forcible or caused him injury. That
10 was the general background.

11 The fault may have been mine, but I understand --
12 I've been asked to raise: what was the purpose of
13 providing this information and directing us to it and to
14 ask Tom about it? I may not have accurately conveyed
15 what you were trying to convey, but can you tell us from
16 your standpoint what you thought was the significance of
17 that information in the context of this particular
18 matter that arose? I have just been asked to see if
19 I can clarify that and ask you to tell us why.

20 A. Yes. I'm glad you've raised this issue because I think
21 it's a good opportunity for Aberlour to clarify their
22 position on this because it has caused some concern in
23 terms of how that might have been heard by people in
24 terms of the question.

25 So we were very clear that here was a witness who,

1 yes, was making an allegation in relation to restraint,
2 but actually was also within his own testimony and also
3 his oral evidence in actual fact -- had talked about
4 having a good time at Aberlour. Our records certainly
5 suggested that actually this was a young man with
6 significant issues in his background that at times led
7 to quite distressed behaviour. So our intention was to
8 try to understand what did that mean.

9 The actual questions we wanted to pose to the
10 witness were: did he recall who this young man was,
11 could he describe the issues, if any, that he presented
12 to (a) staff and (b) other young people in the house?

13 Those were the questions we wanted asked because
14 what we wanted to understand more fully, based on his
15 testimony and our records, was he did come to us with
16 significant distress and there were all sorts of good
17 reasons for that and terrible background reasons for
18 that but we wanted to understand the journey he was on
19 with Aberlour, which took him, with a fairly short time
20 frame, actually -- I think just over a year -- to the
21 point where he was able to return to his mother and his
22 behaviour had been regulated, albeit potentially
23 temporarily at that point, but he could rejoin his
24 family. That was the intention of trying to understand
25 more about that young person and some of the --

1 Q. So it wasn't related to any evidence he was given either
2 in writing or orally to the inquiry, the points he was
3 making, it was just to put a context into the matter
4 he was raising? Would that be a fair comment?

5 A. There was a context in terms of what staff -- it was
6 certainly not a description of his character, which was
7 what we were concerned it sounded like on the day.

8 Q. If I can put it quite clearly: you weren't, by putting
9 this information in play, attempting in any way to
10 discredit or attack the evidence he was giving?

11 A. Absolutely not.

12 Q. You want to make that clear?

13 A. Absolutely not. I would make a general point here that
14 we are very grateful actually as an organisation to
15 every applicant that has come forward and we would
16 encourage other applicants who -- potential applicants
17 to consider coming forward because we, like you, want to
18 get to the truth of the matter in terms of the history.

19 Q. And you'll be aware that one of the questions I was
20 asked to raise about this matter was: how a child should
21 be dealt with who displays aggression or physically
22 assaults staff or others or is physically or verbally
23 abusive or is truanting? How should a child in that
24 situation be dealt with? Maybe I'll give you the chance
25 just to answer that question that I've been asked to

1 put.

2 A. Well, I think our approach to that is quite clear, that
3 there is no one-size-fits-all approach, that every child
4 needs to be assessed individually and a care plan put
5 around them, which meets their needs. What I would say
6 to you very clearly is that, especially in our houses in
7 Fife, we support some very distressed children. No
8 children who's distressed would be treated in any kind
9 of unfavourable way to the rest of the children.
10 They're dealt with with compassion and love and we try
11 to support them through that distress to help them to
12 regulate their behaviour.

13 Q. I think we may hear tomorrow that there are attempts to
14 try and move forward from the CALM approach.

15 A. Yes.

16 Q. We'll leave that until tomorrow, if I may.

17 Can I just ask the final question I've been asked to
18 ask: that sort of behaviour that we've been talking
19 about on the part of a child, would that ever justify
20 any form of abuse of the child, whether verbal or
21 physical? No doubt you can answer that.

22 A. Absolutely not.

23 Q. Is there anything else you want to add about that
24 particular matter?

25 A. No.

1 Q. Do you think we've covered it adequately?

2 A. That's fine.

3 Q. Thank you very much.

4 More generally, you have a response to the evidence
5 and maybe I can ask you to turn to that now. I think
6 you may want to add some additional points and I'll ask
7 you to do that when we've gone through what's in the
8 statement.

9 A. Yes, please.

10 Q. I understand you'd like to add some additional comments.

11 If we start with what you describe as general issues
12 at paragraph 277 that arise from a consideration of
13 evidence of the applicants that the trust wishes to
14 address.

15 The first issue there is 278, the separation of
16 sibling groups within the orphanage. I'll hand over to
17 you to tell me what you would like to say on that matter
18 on behalf of the trust.

19 A. We have a fairly full statement within the
20 organisational statement. Would you like me to
21 summarise that?

22 Q. You can read as much as you want, but a summary would be
23 sufficient if that reflects what you're trying to
24 convey.

25 A. There are acceptances throughout the organisational

1 statement that there were times where siblings were
2 separated, where contact was limited, either on the
3 grounds of sex or age. We accept that for some that was
4 very distressing and we hope -- we truly apologise to
5 children who had the experience of that.

6 We have not tried to excuse that behaviour. We
7 should have and could have worked harder to make sure
8 that children, whilst they were in the orphanage and
9 after they had left the orphanage, actually were able to
10 maintain sibling contacts and contact with their
11 brothers and sisters.

12 Q. I'll maybe take you to a few passages, I think. It's
13 accepted at 280:

14 "Firstly, it was also the norm for children in
15 practice to change houses."

16 A. Yes.

17 Q. I don't know what you think now, but we hear evidence
18 about how it's unsettling to move from care setting to
19 care setting. Is it just as unsettling sometimes to
20 move from one unit to another unit within a single care
21 setting?

22 A. Children have individual responses to moves and there's
23 certainly good evidence to suggest that they need some
24 level, in fact a high level, of continuity of care in
25 order for their emotional well-being to be maintained.

1 So depending on what you mean in terms of moving between
2 houses, if the care arrangements are consistent with the
3 same adults, that would be likely to produce less
4 distress than changing relationships with adults.

5 Q. But I suppose if we don't have -- if you have one team
6 of carers in the first setting that are good but the
7 next team are not good, that's where the problem arises,
8 that's more likely to have a negative outcome?

9 A. Yes.

10 Q. So you're trying to get consistency whichever stage
11 you're at and whichever team you're placed with?

12 A. Yes.

13 Q. And that would be true today?

14 A. Absolutely. There is much evidence currently in
15 Scotland of children -- in fact many of the children we
16 look after in our Fife houses have been through repeated
17 placements and come with significant issues in relation
18 to attachment.

19 Q. Before they come to you?

20 A. Yes.

21 Q. That's been a real problem historically, hasn't it? We
22 see when we look at the records, the backgrounds, it's
23 not perhaps just a difficult family background for many,
24 but they've also had multiple placements?

25 A. Yes, and it's also a current issue in terms of

1 sibling/brother and sister contact. Currently, Who
2 Cares? are looking at that as a significant issue and
3 the Care Review is looking at it as a significant issue
4 that children are still separated from brothers and
5 sisters.

6 Q. Can you give us examples of maybe the situations that
7 are causing concern?

8 A. So you don't always have all children in a family being
9 received into care. So a child could be in one care
10 placement, another child could be at home, for example.
11 There are other examples of children being in different
12 care settings. So the contact between brothers and
13 sisters at times is limited for all sorts of different
14 reasons, but the impact on the child, if they have
15 a strong connection with their brother or sister, is
16 very real.

17 Q. Currently, there's a lot of consideration of what's
18 called adverse childhood experiences and how to address
19 those because of the impact they have in later life.

20 A. Yes.

21 Q. In a sense, is that issue that you've raised, on one
22 view, an adverse childhood experience?

23 A. Yes, yes. It's connected to the loss of an important
24 relationship. We could discuss adverse childhood
25 experiences for a long time. I take a broader view than

1 the ten original contexts of adverse childhood
2 experiences, but certainly within my view it is an
3 adverse experience if you have a significant
4 relationship that is interrupted or lost, yes.

5 Q. I think, and I don't know whether it was a personal view
6 that Alice Harper -- I don't know if you heard all her
7 evidence. She expressed a personal view about the
8 general concept of separation of siblings and how she,
9 on reflection, thought that that made things worse
10 because there was not just the separation from parents
11 but separation from other siblings within the
12 establishment.

13 A. Yes, and I think on the occasions where that's happened,
14 we've heard evidence from applicants from Aberlour where
15 that remains, into their adulthood, a huge issue for
16 them and we apologise unreservedly for that. There
17 should have been more wisdom applied to maintaining
18 those relationships.

19 Q. I think you say at 281 -- and this is looking at the
20 historical position -- that really you haven't been able
21 to find firm evidence of sibling groups being kept
22 together historically, particularly if we look at the
23 orphanage years.

24 A. Yes.

25 Q. I'm not sure, but does the group home years -- is there

1 more of that happening?

2 A. There is certainly evidence of sibling groups moving
3 into specific group homes across an age range, yes, but
4 I can't say that that was done exhaustively in terms of
5 the children that we were looking after.

6 Q. Or done as a matter of policy unless there were
7 exceptional reasons to depart from the policy?
8 You haven't found something as tight as that?

9 A. I haven't found a policy. There's certainly reference
10 in the minute books to an eagerness for children to be
11 moved with the rest of their family.

12 Q. You say -- and I'll just take this from you -- at
13 paragraph 82 -- it's an amplification I think of what
14 you summarised:

15 "It is also accepted that there is no evidence of
16 any firm, deliberate or consistent policy or practice of
17 seeking to organise the facility or positively promote
18 regular and good quality contact between siblings."

19 You haven't been able to find --

20 A. In the orphanage, no.

21 Q. For the orphanage? But maybe in the group home years
22 there's perhaps more of a tendency to --

23 A. There was more of a move to family groups in the group
24 home years.

25 Q. And indeed, if we go to paragraph 283, you say:

1 "It's further accepted that the lack of a system to
2 ensure that contact details for young people who were
3 leaving the orphanage at school-leaving age or shortly
4 thereafter were made available to younger siblings
5 hampered the ability of those younger siblings to keep
6 in contact with family members who had moved on before
7 them. As a result, the trust did not do all it could
8 have done to assist those younger siblings in building
9 or maintaining a potentially supportive family network
10 with their older siblings for their future life and for
11 that the trust is truly sorry."

12 Is that one of the points you're making?

13 A. Yes, absolutely.

14 Q. Again, I think this just reinforces the point you've
15 made and summarised earlier today. At paragraph 287
16 I think you return to that matter and I'll just read
17 out:

18 "It is accepted that work to keep siblings together
19 in contact within the orphanage or in contact as some
20 siblings left was not standard, especially across the
21 early periods of the trust. The trust apologises to any
22 young person who feels that this has had a detrimental
23 effect on their family relationships."

24 I think we've heard evidence that for some children
25 that has had a significant effect.

1 A. Yes.

2 Q. The next issue that you raise in the response is another
3 general issue that you wish to address and that is the
4 issue of preparation of young people for departure from
5 the trust. Again, can I ask you perhaps to just set out
6 and summarise what points you want to make in relation
7 to that issue.

8 A. Yes. This came up in the evidence of a number of
9 applicants and it's something that certainly, when I was
10 hearing that evidence, I felt particularly affected by.
11 That was for those young people who had lived in the
12 orphanage, for many of them, for a considerable period
13 of time and their movement/departure from the orphanage
14 seemed very sudden, was not explained and had left them
15 feeling quite distressed.

16 I certainly felt that that was very powerful
17 evidence in terms of my response to it, as was the
18 evidence of other applicants. But it certainly seemed
19 to me that even if the local authority, which in most
20 cases it would be the local authority, had taken
21 a decision to move the child or if the child was even
22 being moved to an approved school, whatever that was,
23 there must have been a time, a window, where there could
24 have been some preparatory work done with the child or
25 young person. I regret to say that that doesn't seem to

1 have taken place and that's something that should have
2 been done and we are deeply sorry to anybody who had
3 that experience.

4 Q. I think you make these points. I don't think I need to
5 go through it because I think you've said it,
6 effectively. We see you making that point at 289 and
7 again at 290 you concede that:

8 "The level of preparation for departure was not
9 always substantial, or in some cases sufficient, and
10 sincere apologies are offered for this."

11 I think that's what you're telling us today?

12 LADY SMITH: That would be in stark contrast to what would
13 happen within the family home if the family, for
14 example, was moving to another town or another village,
15 or if for some reason a child was going to have to live
16 away from the family home for a while, perhaps because
17 parents were going somewhere else to work or whatever?

18 A. Absolutely.

19 LADY SMITH: Parents living in a family with children would
20 take great care to prepare them for the momentous moment
21 that was coming in their lives, wouldn't they?

22 A. They would.

23 MR PEOPLES: At 292 you basically set out the trust's
24 position, but can you read this for us?

25 A. "The trust readily accepts that for some children, they

1 fell short of making best and fullest use of the limited
2 information they were given or of time available to them
3 after becoming aware of an imminent departure so as to
4 best prepare the young person who was leaving. This
5 left young people feeling confused, distressed and
6 isolated and for that the trust is truly sorry."

7 Q. The third issue that is addressed in the organisational
8 statement, or a third issue, starts at paragraph 302.
9 I'll maybe ask you to turn to that paragraph. It's to
10 do with the issue of corporal punishment and that
11 obviously has featured because we've heard a lot of
12 accounts of punishments or types of punishments that
13 were inflicted according to the evidence of various
14 applicants before the inquiry. What do you want to say
15 on that matter?

16 A. We would acknowledge that, as we discussed yesterday,
17 there was a rule in place within the orphanage on
18 corporal punishment. Our whole ethos as an organisation
19 was about trying to encourage children to flourish.
20 However, we have heard a number of testimonies from
21 applicants who have been brave enough to come forward
22 who have made quite clear statements about corporal
23 punishment and the misuse of approaches to corporal
24 punishment, some of which we discussed yesterday.

25 It would be the view of the trust that any issue in

1 terms of overuse of corporal punishment would be against
2 the policy of the trust at the time. However,
3 regardless of that, we would offer an unreserved apology
4 to any child who experienced improper use of corporal
5 punishment.

6 Q. At paragraph 305 you deal with a different form of abuse
7 and that is sexual abuse. Can you just tell us what the
8 trust wishes to say on that matter? Because we've heard
9 evidence of sexual abuse, including, obviously, evidence
10 of abuse that resulted in a significant conviction. But
11 we've heard, more generally, evidence of sexual abuse at
12 various times --

13 A. Yes.

14 Q. -- and by various people.

15 A. And, unlike corporal punishment, there's never been any
16 point in the organisation's history where there would
17 have been an organisational position that accepted any
18 form of sexual abuse. So at no time was that something
19 that was accepted as a norm by the trust. Again,
20 we would emphatically state that, as an organisation, we
21 did not tolerate that.

22 We know from testimonies again that adults have made
23 allegations about that. There were contemporaneous
24 allegations that were dealt with at the time, but
25 we have also heard evidence during the course of the

1 inquiry in relation to other allegations that have been
2 made in adulthood.

3 Regardless of when those allegations were made,
4 we would want to offer sincere apologies to any child
5 who was raised by Aberlour, in the orphanage or any
6 other establishment, for any sexual abuse of any kind
7 that they experienced.

8 Q. I think you've got a specific point to make about the
9 Mr Lee episode. We've discussed this at some length
10 yesterday, I'm not going to go back over it, but I think
11 you have a specific comment or issue on that matter, you
12 want to say something on that subject, and you do say
13 something in the statement. Do you want to tell us what
14 the trust's position is on that matter?

15 A. Yes. We touched on this yesterday and I acknowledged
16 in the evidence yesterday about the apparent lack of
17 communication in relation to the Mr Lee episode. Again,
18 it was evident from evidence led by some of the
19 survivors that they weren't given adequate information
20 in the aftermath of that court case and neither were
21 they given adequate support in terms of dealing with
22 a very significant episode in their life where they'd
23 been abused. Again, we acknowledge that that could have
24 been and should have been done differently and those
25 boys should have been given more support at the time.

1 Q. So that was an organisational failing at the time?

2 A. It would appear to be that.

3 LADY SMITH: Yes, because I suppose, curiously enough,
4 whilst today an organisation would at least know the
5 systems that are in place for victim support and helping
6 witnesses and signposting them as to where they may get
7 further help if needed, those didn't then exist.

8 A. No.

9 LADY SMITH: So the organisation was not able to say to
10 itself: we don't need to worry about this, the boys are
11 being looked after by somebody else.

12 A. No, but I think the other thing that was not evident
13 at the time is an informed view of what might help
14 children in the aftermath of that. So you can see that
15 through the kind of creation of notes and the fact that
16 it was house mothers that were in there, those were
17 attempts to try and provide potentially safer
18 environments for the boys, write down what was
19 happening, possibly in an attempt to understand how they
20 were responding to the abuse.

21 But I don't think it would be -- even now we are
22 learning, actually, about how we respond to trauma, and
23 you're quite right, those services that are -- I would
24 not say readily available, but can be made available to
25 children in 2019 were not in place in 1961.

1 But what we do know and we have learned over time is
2 one of the important things in terms of responding to
3 trauma is the importance of consistent, positive adult
4 relationships with children.

5 LADY SMITH: Yes.

6 MR PEOPLES: On another matter at 309 towards the end of the
7 statement, I think you have something to say about
8 records and the language used in records. I think you
9 want to say something on that also. Because you've
10 obviously heard evidence that some people -- well, have
11 been surprised by what's been said about them and how
12 they've been described.

13 A. Yes.

14 Q. What point do you want to make about that?

15 A. Yes. This is something that came from a variety of
16 different routes, really. I have to say that in the
17 course of preparation for the inquiry, I have read all
18 of the applicants' records -- and I have to say that
19 I raised this with my team in Aberlour -- and there were
20 some records, not all of them by any standard, but some
21 of them where the use of language, by not just Aberlour
22 staff but other professional staff, was for me
23 judgemental and pejorative, I think, particularly
24 in relation to a young woman who was clearly very
25 distressed, had a history of sexual abuse, and was

1 involved in quite difficult behaviours. Judgements were
2 made about what that behaviour was like, names were
3 applied to her that I found offensive in 2019, but
4 I think would have been equally falling below standards
5 at the time.

6 So I was very keen that during the course of the
7 inquiry we made a statement that apologised to any child
8 who, on reading their records, uncovered information
9 that led to them becoming distressed or found
10 information that described them in a way that made them
11 upset or uncomfortable.

12 Certainly one of the things that we've said in our
13 team is that, actually, the prior reading of information
14 is really important before we release documentation to
15 survivors because if there is difficult information
16 within those files, then we should certainly seek to
17 either support the people ourselves or make sure that
18 somebody is with them in terms of supporting them
19 through that process.

20 Q. On the matter of records, you've said obviously that
21 maybe in the past, things haven't always gone smoothly
22 when people have sought records and there may have been
23 some problems and some complaints about the process that
24 some people went through.

25 A. Yes.

1 Q. And I don't think you're saying that that didn't happen.

2 That may well have been -- there may be reasons, but --

3 A. Yes. Part of this is related to data protection. So
4 we have examples of family members coming forward asking
5 for the file of a living relative. You'll understand as
6 a solicitor that we can't, without authorisation,
7 release that record, and there's sometimes been
8 a misunderstanding between the person coming forward to
9 ask for their records and us about the fact that we
10 can't release that record. However, that's a very small
11 number of cases.

12 There are other cases, a couple, that have been,
13 again, highlighted to the inquiry, where for reasons
14 I cannot explain -- and I'm sorry to say that -- the
15 full record was not released, either timeously or in
16 full. Again, that's something we can apologise for and
17 make sure that our systems and processes today are more
18 effective.

19 Q. I think in paragraph 310, towards the foot, you say:

20 "The position of the trust today is that any former
21 resident is entirely welcome to seek to recover the
22 records which the trust holds which relate to that
23 individual, and indeed residents have a statutory right
24 to recover those records."

25 You give various ways in which people can access

1 their records, either by contacting your quality and
2 safeguarding manager -- I'll give the telephone here:
3 01786 473238 or they can email quality@aberlour.org.uk.

4 There's also an online process; is that right?

5 A. Yes.

6 Q. That involves a process that doesn't require you to
7 speak to anyone at the trust by completing a form. It's
8 a bit of a mouthful -- I'm not quite sure how -- we can
9 perhaps put that into the record:

10 <https://www.aberlour.org.uk/access-your-records/>

11 LADY SMITH: Is the address we have there an address that
12 can be accessed through the Aberlour website?

13 A. It is the Aberlour website.

14 LADY SMITH: It is on the Aberlour website and there must
15 be --

16 A. There's a link to it.

17 LADY SMITH: -- a heading that tells you about getting your
18 records?

19 A. Yes.

20 LADY SMITH: Thank you.

21 MR PEOPLES: I'm sure we can publicise it in some shape or
22 form, but there is that way as well.

23 A. Yes.

24 Q. So there's a variety of methods, but I think you're
25 indicating that, to some extent, you offer support, if

1 you like, in going through the records process --

2 A. Yes.

3 Q. -- if people want to do that?

4 A. Yes.

5 Q. And you'll signpost them to any support services if you
6 think they are seeking --

7 A. Yes.

8 Q. -- or if you believe they might benefit from help?

9 A. Yes. And I think it's important to have this on the
10 record as well: if there's any applicants or people who
11 want to just recover their records from Aberlour who are
12 now abroad, we would have a practice of linking-in with
13 social services in countries abroad if we felt there was
14 a need for the person to be supported in accessing their
15 records. That's certainly something that we've done.

16 Q. For other organisations, it has been raised, this
17 question of the photographic archives. It seems that
18 photographs are one particular form of record that
19 people in care would like to access as freely as they
20 can, particularly if there are photographs of
21 themselves.

22 A. Yes.

23 Q. What's the situation today as far as Aberlour is
24 concerned on that matter?

25 A. So there are some photographs of children in their

1 files, but they're small in number. We do have
2 photographs in the archive. Our archive still needs
3 work in terms of archiving activity. So if we know of
4 any photographs that are available, then we can
5 certainly provide them.

6 Unfortunately, a lot of the photographs aren't
7 indexed with names on them, but there are also
8 organisations -- not organisations but groups of people
9 who either were brought up in Aberlour or worked in
10 Aberlour who also have photographic libraries, who
11 we can talk to, including people who go to
12 St Margaret's Church in Aberlour.

13 But if there's a known photograph, then we will try
14 to --

15 Q. There are at least in some files photographs of the
16 child?

17 A. Yes, and I think in the files that were released to the
18 inquiry, there were a number of those where there was
19 a photograph of the child at a point in their childhood
20 at the front of the file.

21 Q. But not universally, though? We don't want to raise
22 expectations that every file would have a photograph?

23 A. Sadly not, no.

24 Q. These other organisations that may put together
25 photographic records and archives, is there information

1 about those on the Aberlour website or is that something
2 you would consider doing?

3 A. We'd certainly consider doing it. I can't state
4 categorically that -- in fact, they're not organisations
5 in the organisational at sense of the word --

6 Q. Just loose groups?

7 A. Yes. We don't think we have a link to the church any
8 more on the website, but we can certainly look at doing
9 that if there is a more formal way of making that
10 connection.

11 Q. I suppose it's just me saying: is there some way that
12 people can get more general information about how they
13 might go about the exercise of trying to retrieve any
14 photographs that are of relevance to them?

15 A. Yes, if they were particularly interested in
16 photographs, actually we would just ask them: have you
17 got any? Because there are people that we can speak to
18 to just ask if they have photographs of a particular
19 time. Sometimes it is about showing people a photograph
20 and saying, "Are you in that photograph?"

21 Q. While there was an annual medical check or dental check,
22 there wasn't an annual photograph like a school
23 photograph taken? I don't mean a school photograph in
24 the real sense, something equivalent to a school
25 photograph for each year that a child might have been in

1 Aberlour historically?

2 A. I have seen school photographs, I have seen group
3 photographs of the orphanage. I can't with any
4 confidence say that those were annual events.

5 Q. I think you said at the beginning that you would like to
6 add some comments of your own to the statement that
7 we've been looking at. So I think this might be an
8 appropriate time if you want to add anything else to
9 what you have said this morning or yesterday.

10 A. Yes. Just in terms of fullness, I think we pointed out
11 there were some themes that we wanted to talk to in the
12 organisational statement, but there are actually some
13 particular issues that I think would be correct for us
14 to address in our submission.

15 The first one is in relation to bed-wetting. We
16 heard testimony to the fact that, for some children,
17 there was a punitive response to bed-wetting. Whereas
18 I can state categorically from the minutes that that was
19 not an organisational policy, again I would want to
20 offer a sincere apology to any child who was dealt with
21 in a punitive way in response to bed-wetting. That was
22 not acceptable. It would not be acceptable nowadays and
23 it actually wasn't acceptable to the trust at the time
24 and should have been reported by staff if it wasn't.

25 There was also some reference in some applicants'

1 statements to the re-presentation of food that wasn't
2 eaten or of children being forced to eat food. Again,
3 that was something by the standards of the trust, as
4 noted by the rules, was not an acceptable practice.
5 Again, to any child who experienced that whilst they
6 were in the care of the orphanage, we would offer an
7 unreserved apology.

8 I think my third point is, again, just an
9 acknowledgement of how courageous some of the people
10 have been in coming forward. One of the things that
11 I think is important to us is to try and hear histories
12 accurately. Certainly what I would say to any person
13 who's considering coming forward to do that is to know
14 that they will be supported, not just by the inquiry,
15 but also the trust.

16 LADY SMITH: SallyAnn, thank you very much for that.

17 MR PEOPLES: Yes. These are all the questions I have. I'm
18 glad to say I don't have any other questions beyond
19 those that we dealt with earlier.

20 I would just like to thank you for the amount of
21 work you have put into the statement and obviously
22 you've been here before and you've been here today and
23 yesterday, and I would like to thank you for all the
24 work you've put in and for coming here to give evidence
25 today and for what you said. Thank you.

1 LADY SMITH: Let me check whether there are any outstanding
2 applications for questions. Are there? No.

3 SallyAnn, those are all the questions we have for
4 you today. Can I also thank you for the hard work
5 that's obviously gone into the written statements that
6 have been tendered on behalf of the trust and the time
7 and trouble you've taken to answer all the questions
8 yesterday and today. I know some of them have been
9 pressing, but I think we're all in this together, as you
10 recognise, in seeking always to adopt the child-centred
11 approach with the interests of children, past, present
12 and future at the heart of everything we do. And it has
13 been very helpful to me to see that you get that.

14 A. Absolutely.

15 LADY SMITH: I'm now able to let you go.

16 A. Thank you.

17 (The witness withdrew)

18 MR PEOPLES: My Lady, that concludes the evidence for today.

19 We are due to resume tomorrow morning between 10.00 and
20 1.00, at the latest, to have what we would describe as
21 a panel session. SallyAnn will be back tomorrow for
22 that and I think the others are Charlie Coggrave and
23 David Beard from the other two providers. It's intended
24 to be looking more at what views they have on either the
25 current situation or anything that they think may

1 usefully be addressed.

2 To some extent it's a rather open process, but we'll
3 obviously touch on some of the matters that may have
4 been canvassed already, and indeed there are a couple of
5 things in SallyAnn's statement that she will tell us
6 about tomorrow, I think, that are initiatives. I think
7 the others may have things they wish to say.

8 So the format is slightly different to what we've
9 had so far and we'll see how that works tomorrow.

10 LADY SMITH: Thank you. I'll look forward to hearing that
11 tomorrow morning.

12 I'll rise now until tomorrow at 10.00.

13 (11.05 am)

14 (The inquiry adjourned until 10.00 am
15 on Thursday 31 January 2019)

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SALLYANN KELLY (continued)1

Questions from MR PEOPLES (continued)1

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