

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           our identification number for your statements before  
2           I ask you questions, for the benefit of our transcript.  
3           The first statement you provided is WIT.003.001.6127.  
4           You also provided us with an additional statement,  
5           WIT.003.001.8096.

6 I might just, for convenience, refer to the first  
7 one as the first statement and refer to the second as  
8 the second statement. One is a bit longer than the  
9 other, but that's probably simpler than going back and  
10 forward with the numbering.

11 Can I ask you, in relation to the first statement  
12 in the folder, to turn to the final page of that  
13 statement, which is page 6151. You should find it in  
14 your red folder. If you could turn to the version  
15 in the folder, Tom. Have you got that?

16           A. Yes.

17 Q. Could you confirm for me that you have signed your  
18 statement on that page?

19           A.   Yes.

20 Q. If you could turn to the next statement, the second  
21 statement, which should be at the back of the folder,  
22 and turn to page 8098 of that statement. It should be  
23 the final page in the red folder.

24 (Pause)

25 I think you did provide a second statement and you

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 it 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 Tanya Brooks.

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 endured, 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, Tanya 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 BHI and

10 I think you know him as 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 BHI was a resident at

16 Whytemans Brae between 1989 and 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 BHI said and told the

21 inquiry and ask you to make such comments as you feel

22 appropriate.

23 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 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, 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 [REDACTED] 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 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 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, 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 BHI 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 BHI you  
12 knew?

13 A. Truancy. We had problems keeping BHI 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 BHI 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 QEW [REDACTED]?  
8 Do you remember that?

9 A. I remember QEW [REDACTED], 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 QEW [REDACTED], 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 <sup>QEW</sup> [REDACTED] and others to take place?

15      A. Yes, [REDACTED]  
16      [REDACTED]  
17      [REDACTED] But the [REDACTED]  
18      [REDACTED] role 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 <sup>QEW</sup> [REDACTED], 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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## I N D E X

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