

1 A. Right.

2 LADY SMITH: And you'll also see your statement coming up on
3 that screen in front of you --

4 A. Yes.

5 LADY SMITH: -- at the parts that we'll take you to as we're
6 going through your evidence.

7 Please let me know if you have any questions or
8 concerns during your evidence. It's very important to
9 me you're as comfortable as you can be.

10 A. Right.

11 LADY SMITH: So whatever works for you works for me,
12 including if you want a break at any time, just say.
13 All right?

14 A. Thank you very much.

15 LADY SMITH: If you're ready, I'll hand over to Mr Brown and
16 he'll take it from there.

17 A. Yes.

18 LADY SMITH: Mr Brown.

19 Questions from Mr Brown

20 MR BROWN: My Lady, thank you.
21 Andrew, good morning, again?

22 A. Good morning.

23 Q. We will starts with the statement. It has a reference
24 number, WIT-1-000000636 and we see that the statement
25 extends to 16 pages, and on the last page you signed it

1 on 9 March this year.

2 A. Correct.

3 Q. And the last paragraph, 65, reads:

4 "I have no objection to my witness statement being

5 published as part of the evidence to the Inquiry.

6 I believe the facts stated in this witness statement are

7 true."

8 And that would reflect, I take it, this being

9 a statement that was done during lockdown --

10 A. Yes, it was.

11 Q. -- emails back and forth until you were happy with

12 a final draft which you then signed?

13 A. Yes, although I have one correction I'd like to make to

14 one paragraph, please.

15 Q. Yes, I was going to take you to that. It's

16 paragraph 40.

17 A. Yes.

18 Q. And I think it is you would wish to add the words,

19 looking at the penultimate line, which finishes:

20 " ... and waging a malicious campaign ..."

21 LADY SMITH: Paragraph 40?

22 MR BROWN: Paragraph 40, page 10, my Lady.

23 LADY SMITH: Thank you.

24 MR BROWN: Towards the foot, it's the penultimate line with

25 the last six words being:

1 " ... and waging a malicious campaign of ..."

2 I think you would wish the words "I believe"

3 inserted between "and" and "waging"?

4 A. Yes.

5 Q. Because re-reading it last night, you don't know, but

6 that is what you believe?

7 A. That is true.

8 Q. So you would like the distinction made.

9 A. If that's all right, Lady Smith.

10 LADY SMITH: I'm happy to have your statement amended in

11 those terms. Thank you very much, Andrew. Thank you

12 for taking the care that you obviously have done in

13 checking through it.

14 MR BROWN: Going back to the beginning and page 1, we don't

15 need to go through your background details but you're

16 69.

17 A. Yes.

18 Q. And you were an army officer before you were a teacher?

19 A. Yes.

20 Q. Although you were in the Education Corps?

21 A. Yes, I was.

22 Q. You become a teacher after five years' actual service as

23 opposed to university cadetship, having graduated from

24 Oxford?

25 A. Yes.

1 Q. And your first job is 11 years as a maths teacher at
2 Stockport Grammar School?

3 A. Yes, it was.

4 Q. Just to be clear, is that purely a day school?

5 A. Yes, it is, yes.

6 Q. All right.

7 A. It's an independent day school.

8 Q. But we see from the summary that one of the things --
9 and this is then repeated at Fettes, no doubt partly
10 because of the army background, you were very engaged in
11 outward bound activities?

12 A. Yes, I was. Yes, outward bound and also choir tours
13 overseas and so on.

14 Q. Yes. In relation to the outward bound, just out of
15 interest, this is the late 1970s into the 1990s, looking
16 at perhaps more reasonably the 1980s as a decade, with
17 outward bound trips, would you go out as the only
18 teacher?

19 A. No. No, I wouldn't.

20 Q. Why not?

21 A. It was always the case -- well, we had -- after my first
22 year at the school it went mixed and all the trips would
23 generally involve both boys and girls, and it was always
24 essential to have at least a female teacher. We had
25 a ratio we worked on that we wanted to have sufficient

1 staff present to cover the number of children involved
2 in the activity. I don't think it was formally
3 expressed, but we always made sure there was a good
4 number of adults about.

5 Q. Would you have taken children on your own?

6 A. Certainly not, no.

7 Q. What would be the perceived risk?

8 A. The risk in that situation would be particularly if
9 anything happened to one of the children in any way and
10 having to deal with that child, like an accident that
11 meant them being hospitalised or something, what do you
12 do with the rest of the pupils involved? Our first
13 thought was always the pupils, what's going to happen,
14 and we looked at the potential problems and so that if
15 one member of staff was engaged in caring for a student
16 in some awkward situation, then there was still somebody
17 to take care of the rest of the pupils.

18 Q. So it was a practical concern that there had to be
19 someone to pick up the situation if it developed?

20 A. Yes indeed, that was a very important element, yes.

21 Q. Obviously we are looking at child abuse.

22 A. Yes.

23 Q. Was it part of the thought process in the 1980s: it's
24 better to have two staff lest there be an allegation
25 made?

1 A. No. It didn't form part of our thinking at that time.
2 Child abuse didn't really come into the conversation
3 during that period. It was understood from the type of
4 staff who were employed and the fact that you were
5 engaged in outdoor activities that you would not be the
6 type of person for whom that would be likely to happen.
7 LADY SMITH: When you say "understood", do you really mean
8 "assumed"?
9 A. It could be assumed, yes. Assumed that people
10 understood that. But it was part of being careful with
11 who you employ in the first place, and having employed
12 them, making sure that only those who are suitable take
13 children into situations where you might see abuse being
14 possible.
15 LADY SMITH: Mr Brown.
16 MR BROWN: We'll come onto engagement of teachers in
17 a little while.
18 A. Mm-hmm.
19 Q. But from what you're saying, in the 1980s really the
20 mindset did not really focus at all on abuse.
21 A. No. No, it didn't, no.
22 Q. Looking back from 2021, do you think that was somewhat
23 naive?
24 A. It may well have been, given what has emerged in
25 subsequent years, particularly involving high profile

1 people, how people in positions of power can abuse
2 people in their care. But at the time I never witnessed
3 or experienced anything I would say was even close to
4 giving me any concerns about child abuse, and it didn't
5 really enter our thinking at all.

6 Q. Thank you. You then moved on, as we read, to spend
7 essentially the rest of your career at Fettes?

8 A. Yes, I did, yes.

9 Q. From 1990 to 2012.

10 A. Mm.

11 Q. Why the move to Fettes? What attracted you to Fettes?

12 A. I was looking for a head of departmentship. I was
13 a little old for moving on from a first job as a teacher
14 because I hadn't started teaching until I was 28, 29,
15 that sort of age, and having done 11 years in -- as
16 a teacher, it was more than time I should be looking for
17 a head of department, if I wanted to make any progress.
18 I was looking to move either to a place around Edinburgh
19 or to stay around Manchester. The reason for that, we
20 were sharing a house with my parents-in-law. My
21 mother-in-law is Scots, so there was a link to Scotland
22 or there was the opportunity to stay where we were.

23 There were no suitable headships of departments in
24 the area, and I had realised there was no opportunity of
25 progress in my own school because my best friend had

1 taken over the department and was clearly there for the
2 long haul, so I was looking at the opportunity of
3 Edinburgh and Fettes College came up. I hadn't thought
4 to work in a boarding school, I had no experience of
5 boarding schools, but I was encouraged by a colleague
6 who had moved to Stockport Grammar from Edinburgh
7 Academy, who said Fettes is a wonderful school, it's
8 a lovely place, you would love it there, you'd be
9 good --

10 Q. So you got the job?

11 A. -- and encouraged me to apply and I applied and I was
12 fortunate enough to get the job. Fortunately the school
13 was looking for a slightly older person to lead the
14 department, otherwise I think I would have been ruled
15 out as beyond the normal age for what they were looking
16 for.

17 Q. Thank you. We see that -- this is paragraph 9 on
18 page 3 -- the process of getting the job was quite
19 a thorough one.

20 A. Yes, it was.

21 Q. Were you surprised as how thorough it was?

22 A. No, it's entirely what I would expect for a head of
23 department role.

24 Q. Okay. But when you arrived, going back to paragraph 4,
25 you start initially as a pastoral tutor in

1 Glencorse House?

2 A. Yes.

3 Q. Now, pastoral tutor is a title and a role, and it was

4 a role that presumably with be familiar in an everyday

5 sense because you've been dealing with children at

6 Stockport?

7 A. Yes, but there was a lot more involved because it was

8 a boarding school. It involved working in the boarding

9 house one evening a week, giving the housemaster time

10 off from constant care of the pupils. So at the end of

11 your day teaching, you would then report to the boarding

12 house in which you were a tutor, you would supervise the

13 house throughout that period of about four hours, and at

14 one point while the pupils were doing their prep you

15 would make a point of making sure you had seen all your

16 individual tutees, to see how they were progressing.

17 Q. Quite a lot to do in four hours.

18 A. Indeed, yes.

19 Q. Did you get any training for that role?

20 A. Nothing specific. I got talked through it by the

21 housemaster of the house I was working in, Glencorse,

22 and then encouraged to get on with it.

23 Q. Thinking back to Fettes of 1990, we understand so far as

24 the senior school is concerned there had been

25 a tradition of prefects taking on many day-to-day tasks

1 in the boarding houses.

2 A. Mm-hmm.

3 Q. Is that what you saw?

4 A. They were engaged in part of it. They assisted the

5 tutor, but it was the tutor's -- there were always staff

6 who were responsible at all times. So I don't think it

7 was the case that sixth formers would be left on their

8 own to do things. There was a prep room where the

9 fourth and fifth form were doing their work and the duty

10 prefect would be sitting there keeping the noise down

11 and so on, and you would visit them regularly. You

12 would be in the area anyway talking to your tutees, but

13 he would be overseeing the general tenor of the room.

14 Q. Simply from what you're saying, there was quite a lot to

15 do for you, the tutor?

16 A. Oh yes.

17 Q. So presumably there was a great deal of delegation, but

18 you were there if need be, if I can put it that way?

19 A. Yes, but you were -- you were -- you were within earshot

20 of what was happening.

21 Q. I see. But then, within a year, you become head of the

22 junior wing of the school.

23 A. Yes, I did.

24 Q. This is Inverleith House.

25 A. Yes.

1 Q. Which is physically distinct, and you would live in
2 Malcolm House, I think?
3 A. Yes.
4 Q. Again, away from the rest of the school -- not by a huge
5 degree, I'm not suggesting.
6 A. No.
7 Q. But the junior school was like an island off the
8 mainland, if I can put it that way.
9 A. Yes indeed.
10 Q. You were dealing then with pupils aged between 10 and
11 13, as you say.
12 A. Mm-hmm.
13 Q. And young boarders.
14 A. Yes.
15 Q. Very different role.
16 A. Yes. When CXL interviewed my wife and I, he'd
17 made it clear that he thought that because I'd come from
18 all-through school and I was used to 11-year-olds and
19 above, that I was in a good position to assume that
20 role.
21 Q. Again, was there any training to undertake a role such
22 as that?
23 A. No.
24 Q. Presumably you were briefed by your predecessor?
25 A. Not adequately.

1 Q. Why do you say not adequately?

2 A. He was not happy about the change.

3 Q. So there was a tension?

4 A. There was a tension there, yes.

5 Q. Was that disadvantageous to you?

6 A. Yes, it was disadvantageous in one or two ways. For

7 example, when I arrived and looked through the filing

8 cabinets, they'd been stripped by my predecessor to

9 remove all useful information.

10 Q. Is this a form of office politics?

11 A. I don't know what happened.

12 Q. Well, the tension, I take it he didn't want to be

13 removed?

14 A. He didn't want to be removed, although he was moving to

15 an advantageous job from his own point of view, which

16 would probably be more comfortable for him to work in.

17 Q. But, and I think you say later in your statement,

18 records were essentially non-existent when you took

19 over?

20 A. Yes, they were.

21 Q. Reading the statement, that might just suggest poor

22 practice.

23 A. I believe the records had been there because there was

24 a very efficient secretary who I assumed would continue

25 in the role, but shortly after the start of the summer

1 holidays before I formally took over, she resigned,
2 quite out of the blue, and I decided when I actually saw
3 the filing cabinets that probably she would have been
4 embarrassed when I asked where all the records were.
5 Q. Did you manage to recover the records?
6 A. No.
7 Q. Your predecessor was still in the school, though?
8 A. No. No, he'd gone.
9 Q. He'd gone?
10 A. Yes.
11 Q. Did you raise that with senior management?
12 A. No, we just got on with the process of recreating --
13 because we were trying to make something different
14 anyway, we started again from scratch, basically.
15 Q. But presumably, you've got three years, we understand,
16 in the junior house or school, so you will have pupils
17 who have either been there for one or two years
18 previously?
19 A. Yes.
20 Q. And all background information which would assist you
21 about those --
22 A. I had the --
23 Q. If you let me finish.
24 A. Yes.
25 Q. -- those individual children, from what you're saying,

1 has gone?

2 A. The formal central records were gone, but all the staff

3 who had taught them were still present and so therefore

4 I had a lot of individual knowledge about the children

5 available to me through the staff.

6 Q. You could use what was there to rebuild as best you

7 could?

8 A. Yes.

9 Q. That is a remarkable thing to do, don't you think, to

10 remove children's records?

11 A. Well, I'm not certain any of the children's records were

12 there, but just whatever records there were had gone.

13 Q. Sorry, to be clear, were there any records for you to --

14 A. There was a list of -- was kept in a book of those who

15 had applied to the school. There was one or two very

16 small indications of organisations that the school was

17 connected with, such as the IEPS, the prep schools

18 link-up, but very little else.

19 Q. But picking a pupil as an example, nameless, were there

20 records of that pupil --

21 A. Not in the central office, no.

22 Q. Were there other records you could --

23 A. Just a list of who was there was all we had.

24 Q. And did you understand that pupil records had gone?

25 A. I wouldn't be able to say that. I don't know what had

1 been kept. I'm sorry.

2 Q. All right. That's fine.

3 LADY SMITH: In your time, were there records relating to

4 individual pupils in the house, in the junior house?

5 A. Yes. What we recorded of them was always kept, yes.

6 LADY SMITH: You'd want that, wouldn't you, to have your

7 children's -- as in the children in your house's records

8 on hand.

9 A. Yes.

10 LADY SMITH: Particularly at that time, when you wouldn't

11 have had the sort of electronic systems --

12 A. No.

13 LADY SMITH: -- the electronic filing systems that we have

14 now.

15 A. No.

16 LADY SMITH: Thank you.

17 Mr Brown.

18 MR BROWN: Thank you, my Lady.

19 Presumably with a child moving up to senior school,

20 their records would be passed across?

21 A. The pupils who had moved up, they would have gone, yes,

22 already, they would have gone.

23 Q. Yes, but thinking about the children you were

24 supervising in the junior school, when in due course

25 under your command they moved up --

1 A. Yes, I passed on everything we knew about them directly,
2 yes.

3 Q. To inform the senior school?

4 A. Yes.

5 Q. So they knew what they were dealing with?

6 A. Yes.

7 Q. Now, you restored, presumably, what had ideally been
8 there before?

9 A. Mm-hmm.

10 Q. And, as you say, since we're talking about records,
11 I think by the end of your time at Fettes record-keeping
12 had transformed because of technology if nothing else?

13 A. Yes indeed, yes.

14 Q. And recording was put under database and presumably
15 ever-better computers gave you ever quicker access to
16 the records?

17 A. Yes.

18 Q. What was the split -- and I'm not asking for an exact
19 figure -- as between boys and girls in the junior
20 school?

21 A. I can't give you the numbers any more. I would say
22 there was more boy boarders than girl boarders, but the
23 balance wasn't as swung that way when you went on to the
24 whole school because quite a proportion of day pupils
25 and quite a number of those were girls.

1 Q. You're dealing with 10 to 13-year-olds.

2 A. Yes.

3 Q. Not with all children but with perhaps most, they will

4 be in the junior school when puberty hits.

5 A. Mm-hmm.

6 Q. In your time at the junior school, which I think was

7 1991 to 1999, was there any sex education?

8 A. Oh yes, yes. We had a programme of -- well, these days

9 you would call it PHSE. I think it was still PSE at the

10 time, where we had a programme where we taught them

11 about study skills, we taught them about personal skills

12 of all sorts, and that included sex education, yes.

13 Q. It's just we heard yesterday from a pupil from the

14 mid-1990s who talked about an absence of such teaching.

15 There may have been some formal sex education about

16 mechanics.

17 A. Right.

18 Q. But in terms of perhaps the more social approach to it,

19 that was not present and she and another witness have

20 described quite a sexualised atmosphere in the junior

21 school, with an expectation that boys and girls would

22 pair off, would be boyfriend and girlfriend. Does that

23 surprise you?

24 A. That doesn't chime with me. I would say the sex

25 education that we had was not complete in that

1 I couldn't say yes, we definitely managed to get it into
2 every year. It was something that gradually improved as
3 we thought there was elements missing. But I don't
4 think this idea of pairing off and so on was
5 a significant part of what was happening at all.

6 Q. Right.

7 A. That doesn't chime with me.

8 Q. To be fair to you, would it be correct to say that you
9 were more the academic supervisor and there were house
10 staff who were perhaps more day-to-day involved with the
11 children?

12 A. That would be true, that would be true, but I still had
13 overall responsibility, so I was engaged with what was
14 happening at all levels and in all ways, yes.

15 Q. Indeed, but you had perhaps more of a management role
16 and that would take up some of your attention,
17 I imagine.

18 A. Yeah.

19 Q. The other aspect that we've heard about in that period
20 is increasing numbers of foreign students coming to
21 Fettes. Is that right?

22 A. That's correct, yes.

23 Q. And was that part of a conscious drive by Fettes,
24 bluntly, to try and get pupils?

25 A. It was very important to build up the numbers. When

1 I took over, the numbers had fallen to around about 60
2 in the junior side and the major part of my job became
3 building that up. Before I finished, we were regularly
4 getting over 100 pupils in the three year groups. It
5 was all part of a general drive that we wanted to
6 produce more pupils from our own junior side, that we
7 want to be more sure that they would be going on into
8 the senior part of the school directly, and that overall
9 the school would improve both in quality and quantity.

10 Q. But going back to my question, what sort of numbers were
11 you getting from abroad?

12 A. Well, we had pupils from 40-odd countries when
13 I actually did an analysis one time, but a lot of those
14 were British parents sending their children back from
15 overseas. In terms of actual foreign students, it did
16 increase to perhaps up to about 20 of the students,
17 perhaps the most it could have been, out of the 100.

18 Q. So 20 per cent, not an --

19 A. About 20 per cent.

20 Q. Not insubstantial?

21 A. No, no. A significant thing that we made efforts to
22 deal with specifically. We had English as a foreign
23 language teachers and lessons involved in the programme.
24 At one point, I took a mixed age group maths class,
25 which was aimed solely at the foreign students to make

1 sure they had enough English mathematical language.
2 They were mostly very high ability mathematically, but
3 they couldn't cope with the mathematical language
4 involved, and so I taught them and I focused on the
5 language of maths more than the techniques for a year so
6 that they were ready to move on into more usual maths
7 classes, and they did very well.

8 Q. But we would understand children would be coming,
9 speaking no English at all?

10 A. They were supposed to be able to speak a certain amount,
11 and the moment they arrived they were put into intensive
12 English programmes, if they didn't speak very well, but
13 most of them had a working grasp of the -- the simple
14 vocabulary, at least.

15 Q. I think the words you used were they were supposed to.
16 Were there occasions when children arrived with
17 essentially no English?

18 A. No, I wouldn't say so. I would say they had some.

19 Q. But introducing children to that extent from abroad, did
20 that cause social difficulties?

21 A. We learnt some interesting interracial relationships
22 which I hadn't appreciated, like between Russia and
23 Ukraine, it came to the fore that we weren't aware of.
24 But between the foreign students and those who were
25 totally British, I would say it was remarkably well

1 integrated. There was more of a problem when we had
2 a leave weekend, there would be a much higher proportion
3 of the foreign students who hadn't made enough friends
4 to have people to go out with and so I would make sure
5 they had a good time, a good trip, even if it was mainly
6 foreign students. But generally speaking, they became
7 very well integrated over time. We worked hard.

8 Q. But from what you're saying, there were on occasion
9 tensions?

10 A. Yes, there were misunderstandings. We had a Russian boy
11 who, when people laughed, assumed they were laughing at
12 him, not because he'd said something that was suitably
13 funny, and he found it hard to deal with that at times.

14 Q. And what about tensions as between boys and girls?
15 Thinking of perhaps different traditions of foreign
16 students?

17 A. That didn't emerge at this age group.

18 Q. So far as you saw?

19 A. As far as I saw, no.

20 Q. All right. Was that something that you saw perhaps
21 later on in the senior school emerging as more of
22 an issue?

23 A. I didn't see it, no. It may well have happened, but
24 I don't know it.

25 Q. Okay. In terms of the staff at the junior school, we

1 have a picture already, but one aspect that you talk
2 about at paragraph 12 is the use of Australian gap
3 students.

4 A. Yes.

5 Q. Normally "one male and one female, who were like big
6 siblings with whom the children talked freely".

7 A. Yes.

8 Q. How were they appointed?

9 A. They were obtained from two schools in Sydney with whom
10 we had very good contacts and we worked exchanges with
11 them where we would provide a boy to the boy college
12 and -- the male college, sorry, and a girl student to
13 the female college and they would provide one of each in
14 the opposite direction, and they were carefully screened
15 by the school in Australia and then came to us from
16 there.

17 Q. So there was essentially trust on your part that --

18 A. Yes.

19 Q. -- your counterparts in Australia would choose good
20 people?

21 A. And that we would choose good people to send to them,
22 yes.

23 Q. And vice versa: you would only send good people to
24 Sydney?

25 A. Yes, we would.

1 Q. So there would be no further analysis of them when they
2 arrived, it was just taken as read what they were good?

3 A. We supervised them early on until we were confident in
4 their ability and suitability.

5 Q. Now, to gauge that sort of suitability, we see at
6 paragraph 13 you were meeting not only with staff but
7 also a small group of the oldest pupils, who were all
8 prefects, every week informally.

9 A. Yes.

10 Q. Was that a process you introduced or had that been the
11 norm do you know?

12 A. I introduced that.

13 Q. And presumably you did that because you wanted to try
14 and get as much information as you could?

15 A. Well, it's only fair to say that you cannot have
16 a member of staff overseeing every area of the school
17 buildings all the time and it's very handy to have
18 people who can keep you informed if anything's happening
19 in those areas that are not closely supervised. It was
20 very helpful, I found it a good system.

21 Q. The point you make in your statement is you seem
22 confident that if there were problems, they would be
23 spoken to.

24 A. Somebody would bring it up, yes. Either through that or
25 through their tutor or through the Australian gap --

1 there would be somebody whom they would talk to. Very
2 good matrons. I'd be very surprised if a student was
3 unhappy about something and nobody got to hear about it.
4 Q. From what you say, there were certainly processes and
5 people they could speak to.
6 A. Yes.
7 Q. But would you accept that whether they did or not is
8 something you would only know about if they chose to
9 talk?
10 A. Yes, fair enough.
11 Q. And would you accept children are often reticent to talk
12 about things?
13 A. Yes, which is why if I got something from one of their
14 friends, which that also happened, I would be able to
15 step in. But I agree, you cannot deal with a problem
16 you don't know about.
17 Q. Yes. In terms of recruitment, you talk about this at
18 page 5, paragraphs 19 and 20, and recruitment for the
19 junior school, was that really your remit?
20 A. Sorry, recruitment of students are you talking --
21 Q. Staff.
22 A. Oh, staff. No, I did not appoint staff myself at all
23 other than my own secretary. I was involved in the
24 process when we were looking at the boarding housemaster
25 and the boarding housemistress, but apart from that, no,

1 I wasn't involved in choosing staff for the role.

2 Q. It's just, and I appreciate one of the difficulties of
3 this statement is you were there for 22 years.

4 A. Yes.

5 Q. And when you may make a comment, it may relate to one
6 time period, not the entirety.

7 A. Yes.

8 Q. But in paragraph 20 you say:

9 "The views of at least two referees would be
10 requested. References were expected to cover the
11 experience and suitability of the candidate for the post
12 as advertised. To my knowledge referees weren't
13 actually spoken to."

14 A. Yes.

15 Q. And was that throughout your time?

16 A. Yes.

17 Q. But you do go on to say:

18 "However, this may well have happened for more
19 senior appointments."

20 Why would referees not be spoken to?

21 A. I don't know. I understood it was something to do with
22 protection, personal protection. I don't know.

23 Q. In terms of the references that you would read, you say
24 they would be expected to cover the experience and
25 suitability of the candidate for the post as advertised.

1 Now, that can mean a whole range of things. They may be
2 suitable to teach maths.

3 A. Mm-hmm.

4 Q. Did it involve specific reference: are they suitable to
5 work with children?

6 A. If it didn't say anything about that, then we might well
7 put that one on one side and go for one that did.

8 Q. I'm just interested, and we know from the totality of
9 the evidence we've heard and you've perhaps touched on
10 it, in the 1980s, people were not thinking as they would
11 think now.

12 A. Mm.

13 Q. Is that something that became more important throughout
14 your career, thinking of references?

15 A. I don't think so. I think our understanding of child
16 protection improved, but I don't think we felt that
17 things were so out of kilter that we had to worry hugely
18 in that score. No, I don't think so.

19 Q. What I'm wondering about is if there is a reference
20 that's coming in saying, "He's a good teacher of maths",
21 for the sake of argument, "and does X, Y and Z with
22 pupils", thinking of outward bound, that would
23 presumably be enough for your purposes?

24 A. That would be enough for us to interview, yes. At
25 interview we might well explore further what was meant.

1 Q. It's just thinking of that interview stage, going back
2 perhaps to the earlier part of your career, would child
3 protection be in the forefront of your mind or was that
4 something that would have changed as time went on?
5 A. No, it wouldn't be at the forefront of your mind, that's
6 fair.
7 Q. If we could move on to the culture within Fettes, which
8 is page 7, and to be clear again, this is talking about
9 a culture over, essentially, a generation.
10 A. Yes.
11 Q. The culture, I imagine, in 1990 was different from the
12 culture in 2012.
13 A. Yes.
14 Q. Things would have changed. It's not a static --
15 A. Yes.
16 Q. You say to your knowledge fagging did not exist at all.
17 A. No.
18 Q. Ever?
19 A. Not during my time, is, I thought, what we were
20 referring to. I'm sure it would have existed in earlier
21 days, yes. It did in all that type of school. It was
22 the norm, if you like.
23 Q. Yeah. We may have heard that whilst there was no
24 official fagging, that instead of lines, for example,
25 junior pupils might clean the shoes of a prefect. Were

1 you aware of that sort of --

2 A. No. No, I didn't hear anything of that. I had [REDACTED]

3 [REDACTED] through boarding houses and nothing came back

4 through them either, so.

5 Q. All right. Sorry, just to be clear, at Fettes?

6 A. At Fettes.

7 Q. Yes. But you do go on to say prior to your arrival

8 there had been incidences of bullying. You can't

9 comment on the specifics as this was largely just

10 comments from colleagues.

11 A. Yes.

12 Q. Can you remember what era your colleagues were talking

13 about, how recent?

14 A. Well, pre CXL [REDACTED]. They were just commenting that

15 CXL [REDACTED] had made such a difference.

16 Q. All right. You also talk about initiation ceremonies.

17 A. Yes.

18 Q. And this is something that the SNR [REDACTED] you refer

19 to -- and I'm sorry, we spoke about this yesterday, you

20 will remember that a number of witnesses have

21 pseudonyms.

22 A. Yes.

23 Q. And I think there may be a list of pseudonyms in your --

24 A. I have, yes.

25 Q. And I think you may see that he is referred to as

1 CXL

2 A. Yes. I'm sorry, I apologise.

3 Q. That's quite all right, I'm just doing it now because

4 I think we may talk about him more regularly. He

5 introduced, I think, a stop on initiation ceremonies?

6 A. Yes.

7 Q. And you talk about frustration on the part of pupils who

8 had gone through them?

9 A. Yes.

10 Q. And were looking forward to their chance to impose them

11 on others?

12 A. Yes, which shows what a dangerous thing it is to have

13 that type of culture, which is why I was delighted

14 CXL put a stop to it.

15 Q. You talk about one specific example of a new female

16 pupil having to stand in a bin.

17 A. Yes.

18 Q. Were you aware of what other initiation ceremonies were?

19 A. No.

20 Q. But from what you're saying when CXL took over

21 there is a sea change in the sense that he as SNR

22 is being explicit about initiation ceremonies?

23 A. Yes.

24 Q. And bullying?

25 A. Yes.

1 Q. You talk about anti-bullying training?

2 A. Yes.

3 Q. Across the school, junior and senior?

4 A. It developed. I wouldn't say it was there when I first
5 started but we started putting in programmes soon after
6 that. I couldn't put a year on it. We developed it
7 through -- we had various committees, we'd work on
8 a whole year group as to how we put the training into
9 different parts of their system. And we developed
10 a style for each year group and as they moved up through
11 the school they would take on a different aspect of, if
12 you like, the school culture and things that they would
13 do as -- in their personal development.

14 Q. Did you get any feedback from the children you were
15 dealing with about this change?

16 A. Not specific, no. Bullying still happened. It happens
17 in, I think, most institutions in one form or another.
18 It's how you deal with it is more important than whether
19 it exists at all. I don't think you'll ever stop it,
20 but I think you can deal with it and we tried to deal
21 with it.

22 Q. But that effort to deal with it started with the new
23 SNR [REDACTED] ?

24 A. Yes, it did.

25 Q. Prior to that, from what you understand --

1 A. I don't know what the -- yes, I can't comment.

2 Q. Save that it was more prevalent?

3 A. To say that it obviously had been more prevalent, the
4 fact that it was noted, it was ...

5 Q. Yeah. You talk about discipline, and we don't need to
6 go over the detail because we can read it, but one thing
7 you do say, and again this is to try and focus in on
8 when, you say, you say at paragraph 33:

9 "There was a clear set of school rules, a copy of
10 which was given to all pupils and staff and published on
11 a school noticeboard."

12 A. Yes.

13 Q. Was that something that developed over time or was that
14 in place when you started?

15 A. That was in place when I started.

16 Q. Right.

17 The other aspect is in terms of discipline, and this
18 is paragraph 34, and you're talking about the junior
19 school, you obviously have junior school prefects?

20 A. Yes.

21 Q. There's a hierarchy. To monitor those areas where staff
22 would not usually be found?

23 A. Yes.

24 Q. Which areas were they?

25 A. For example, changing room. When the boys are getting

1 changed, the boys' changing room, there can be a lot of
2 messing around if you have no handle on it. Similarly
3 the girls' changing room. Quiet areas of the school.
4 Over a weekend when the majority of children are perhaps
5 out or engaged in quiet activities and doing different
6 things, it's a big amount of school for -- we would have
7 two staff on and two gap students, still a big area to
8 cover between four people wandering around, so we
9 would -- there are bound to be gaps.

10 Q. You mention as well that they didn't have the power to
11 issue punishments but simply to report.

12 A. Yes.

13 Q. That's junior school. Senior school?

14 A. Junior school, totally. The situation in the senior
15 school was different in that a prefect was appointed for
16 the whole year and did have minor disciplinary powers,
17 sanctions available to them.

18 Q. But you make mention of a residential training weekend
19 for prefects.

20 A. That we put in for the juniors, yes.

21 Q. For the juniors. Can you remember when?

22 A. I think I started it -- the first year we got it wrong
23 when I took over. We appointed prefects for the whole
24 year. I was helped by the staff who were there who knew
25 the children to appoint a small group, and we realised

1 that doing it for a whole year when you're 12, coming up
2 to 13, was a tough ask. And so the following year we
3 introduced training and I can't remember if it was the
4 following year or the year after that we started
5 a system where we actually rotated the prefect role so
6 that every senior student did it at some point during
7 the year. We ran four different training weekends aimed
8 at each of the four groups that took responsibility. So
9 we had a quarter of the top year group were "prefects"
10 at any one time.

11 Q. And what was the focus of the training?

12 A. It was to help the children to understand how to do the
13 job we were asking them to do, which was to take
14 responsibility for keeping us in the picture more than
15 anything else, to understand conflicts within the
16 children -- between children, to understand the
17 importance of school rules, why they were there, and we
18 did an exercise which they all enjoyed very much where
19 they could buy the school rules. We gave them monopoly
20 money, a certain amount each, and they were allow to buy
21 our house, a set of school rules in the junior house,
22 and decide then when they'd bought it in an auction
23 whether they would keep it or bin it. And then they had
24 to justify why they would want to get rid of it. So it
25 made them think about why the rules were there and

1 whether they were worthwhile, and it helped us
2 understand which rules they found most difficult to live
3 with as well.

4 So that's just one example. It was quite a major
5 sort of programme. It was an intensive weekend.

6 Q. That was the junior school.

7 A. Yes.

8 Q. Do you know what was going on in the senior school?

9 A. The senior school, there -- no, not -- not -- the
10 selection process was, if I recall, that everybody had
11 a say but it came down to the headmaster and the deputy
12 head interviewing the pupils who were most suited and
13 appointing them. I'm not certain how much training they
14 were offered. I don't know. Truthful answer.

15 Q. We've heard a lot from many schools about the importance
16 of rugby in boarding schools.

17 A. Mm-hmm.

18 Q. And perhaps very shortly, that if you're in the First XV
19 you were at the top of the hierarchy.

20 A. Mm.

21 Q. Was it First XV boys who were perhaps most likely to be
22 made prefects in the senior school?

23 A. No.

24 Q. Or had it changed from that --

25 A. That changed.

1 Q. That changed. Was it present when you started?

2 A. I don't know. I didn't know the pupils who were
3 prefects well enough at that point to comment.

4 Q. Okay. At paragraph 37 you say:

5 "To my knowledge the school was never the subject of
6 concern, in school or to any external body or agency or
7 any other person, because of the way in which children
8 and young people in the school were treated."

9 You were obviously there until 2012.

10 A. Mm-hmm.

11 Q. And society's views change.

12 A. Mm.

13 Q. Just one specific thing. Do you remember there being
14 slave auctions?

15 A. That occurred when I was in the senior school, yes. It
16 was something which was allowed by -- I don't have
17 a pseudonym, the [REDACTED] headmaster.

18 Q. Mr Spens?

19 A. If you're going to name him. I wasn't comfortable with
20 it as a thought. I thought this doesn't seem the right
21 thing to do, but I wasn't in a position to comment on
22 it.

23 The only good thing about it was that it was
24 entirely voluntary. The only pupils who took part, who
25 put themselves up at slaves, did it because they thought

1 it was -- it would be a fun thing to do and it was
2 generally viewed in that light.

3 I didn't see anything particularly sinister coming
4 out of it, but I was a bit concerned. I didn't think it
5 was a good way to go.

6 Q. Two things from that. Why did you not think it was
7 a good way to go?

8 A. Well, whilst I understood we were talking about sort of
9 like Roman slaves, somebody who was there to do your
10 bidding, I could see it being misinterpreted in terms of
11 the slave trade and things. But I -- I thought, well,
12 hopefully people will understand they're just playing
13 this Roman slave role and it was to raise money for
14 charity, which is a very good thing, so.

15 Q. And you said that it was Mr Spens, SNR [REDACTED]
16 [REDACTED], who introduced it. His idea?

17 A. No, I don't think so. I think somebody approached him
18 with it and he accepted it.

19 Q. Can you remember -- and I appreciate we're talking about
20 the past -- when did that start?

21 A. I mean, it was a one-off. We talk about start, it was
22 just a one-off occasion as I understand it.

23 Q. As far as you recall?

24 A. As I recall, yes, it was one charity fundraiser idea one
25 particular year.

1 Q. I see. In terms of your career, where would that have
2 happened in your career? Can you remember?
3 A. I don't.
4 Q. Okay.
5 A. It's while I was within the senior school so it must be
6 in the 2000s somewhere.
7 Q. Right, thank you.
8 A. But I don't know.
9 LADY SMITH: Just thinking back to your likening this to
10 Roman slaves, but, Andrew, not all Roman slaves were
11 treated well.
12 A. Oh no, I'm not suggesting they were treated well, but
13 the idea was that I didn't see the racial connotations
14 coming up with the Roman slaves in quite the same way
15 because they -- I don't know, maybe I was wrong to see
16 it that way.
17 LADY SMITH: They had no freedom.
18 A. Sorry?
19 LADY SMITH: They had no freedom.
20 A. Absolutely not.
21 LADY SMITH: They were owned by --
22 A. I mean, it was an appalling life, I quite agree. I'm
23 not suggesting that was a good thing, that was why
24 I wasn't comfortable, but I felt at least it didn't have
25 the racial overtones that you might associate with it

1 otherwise.

2 LADY SMITH: Under Roman law they were the property of their

3 master.

4 A. Yes, they were. That's the idea of being a slave.

5 LADY SMITH: Mr Brown.

6 MR BROWN: I think we'll leave that there.

7 You're very well aware, though, moving on to

8 an entirely different matter, that in your time in the

9 junior school there were issues which you had to deal

10 with --

11 A. Yes.

12 Q. -- in relation to a complaint about a swimming

13 teacher --

14 A. Yes.

15 Q. -- Bill Stein?

16 A. Yes.

17 Q. And we would understand from evidence already heard that

18 in 1992 some second year pupils raised concerns about

19 his behaviour?

20 A. Yes, they did.

21 Q. And we can see some of the details in that in a school

22 document which is FET321. This will appear on your

23 screen. If we can go, please, to page 22. This is

24 a report from 1997 from CXL to the governors.

25 A. Yes.

1 Q. Because again, and please understand we've heard
2 evidence about this already, this issue, though we see
3 in September 1992 in the second entry down, you received
4 complaints from second form girls about Stein, he saw
5 him, that's you seeing Stein, about these and sent the
6 report dated 17/9/92, and we'll come onto that.

7 A. Right.

8 Q. "I saw William Stein on 29/9/92 when I stressed to him
9 that it was essential that there were no grounds for
10 complaints with regard to his dealings with girls. The
11 guidelines he'd agreed with [you] were to apply in both
12 the senior school and Inverleith. He assured me that he
13 would take the greatest care with regard to the
14 situation."

15 A. Yes.

16 Q. The complaints we've heard about were that, reading
17 short, he was involved at the end of swimming lessons in
18 some more relaxed play?

19 A. Yes.

20 Q. And there was nibbling of legs and he would play, for
21 example, a shark?

22 A. Mm-hmm.

23 Q. That's the sort of thing --

24 A. Yes.

25 Q. If we move on to the next page, page 23, I think we see

1 your letter, that one that was referred to, and this is
2 from you dated 17 September 1992 to SNR

3 "In response to complaints received from second form
4 girls regarding what they saw as improper conduct in
5 swimming lessons and activities I have met with
6 Bill Stein and informed him of their allegations.

7 Bill is totally shocked ..."

8 A. Yes.

9 Q. " ... that any of his actions can have been interpreted
10 in this way and assures me that there is no foundation
11 in the allegations.

12 We have agreed that such interpretation of his
13 conduct of swimming lessons and activities is
14 potentially very damaging to both himself and the school
15 and in order to avoid any possibility of further
16 allegations Bill and I have established the following
17 guidelines:

18 (a) he will not enter the water whilst Inverleith
19 girls are in the pool except where required to do so for
20 safety reasons.

21 (b) he will ensure that he is never alone in any
22 part of the pool premises with just one of the girls.

23 (c) he will not enter the girls' changing room
24 whilst they are present except to deal with an accident
25 or emergency.

1 By its very nature the teaching of swimming requires
2 more physical contact with pupils than other forms of
3 tuition. Bill has always sought to make lessons and
4 activities fun and this is to my mind borne out by the
5 ongoing popularity of pool mania amongst boys and girls
6 as an activity choice at Inverleith. Bill regrets that
7 he may have to limit the fun aspect of pool activities
8 with Inverleith pupils, but he and I are in full
9 agreement that we must take whatever steps are necessary
10 to prevent such allegations being made however
11 ill-founded. I will keep you informed of our success in
12 this regard."

13 A. Yes.

14 Q. You had obviously been working by that stage for
15 a couple of years with Bill Stein?

16 A. Mm, yes.

17 Q. And I think, and this touches on subsequent police
18 inquiries --

19 A. Yes.

20 Q. -- which were raised, and we'll come onto those, your
21 view, put simply, is that there was nothing sinister in
22 this?

23 A. Nothing at all sinister. He was a big -- I think the
24 word is avuncular, is it? Big presence, liked to be
25 jolly, like to be fun, had a big loud voice, like a big

1 teddy bear, really, and he -- his whole sort of ethos
2 was to make swimming fun and get children swimming well.
3 That's what he wanted to achieve. He had no sexual
4 interest in small children, as I understand it, at all.
5 He would never knowingly abuse any child. What he
6 wanted to do was (a) make their time in the pool good,
7 make it effective, and afterwards to make sure they
8 didn't dawdle in the changing rooms but got on with
9 getting off to their next lesson so that he wasn't
10 intruding on other parts of the school curriculum.

11 I felt his actions were all done for the right
12 reasons. They were just wrong in the context of how he
13 was trying to do them.

14 Q. Had you had any concerns prior to the second year girls
15 coming forward?

16 A. No.

17 Q. Were you simply unaware?

18 A. I was unaware that that was -- was beginning to arise
19 because everybody enjoyed their time in the pool and
20 expressed that whenever I spoke to anyone.

21 Q. But --

22 A. Prior to that.

23 Q. But from what we see, a complaint is raised, something
24 was done about it?

25 A. Yes.

1 Q. Were there further difficulties with Bill Stein?

2 A. Not -- nothing unusual until we later get a further

3 complaint because he got something else wrong.

4 Q. What was that?

5 A. He got involved in the boys' changing room this time,

6 something again I investigated, and again from the

7 evidence of other responsible boys involved, I didn't

8 think there was anything of any significance in it.

9 He'd just gone in on the boys' side and really I had to

10 make it clear to him that you don't need to go in the

11 changing rooms unless there's an emergency.

12 Q. And did he accept that?

13 A. He tried -- he certainly accepted that idea, yes.

14 Q. Right. And I think we know he retired in 1998?

15 A. Yes. I was surprised when I saw that figure because

16 I thought he'd gone slightly earlier than that, but

17 there we go.

18 Q. I think you make the point that the pool may have been

19 closed for a while.

20 A. Yes.

21 Q. Being renovated?

22 A. Yes, it was.

23 Q. But I think, as we read, he continued to help with the

24 CCF, for example?

25 A. Yes. And he was a very popular teacher. I don't know

1 if it's possible to say there was a letter from senior
2 girls when they became aware that there was
3 an allegation against him in support. I don't know if
4 you're aware of that.

5 Q. I think if we go to page 20 of the same document, we can
6 see a letter.

7 LADY SMITH: I think you mention it.

8 MR BROWN: Yes, 2 March 1998, and we'll come to why it's
9 written in 1998:

10 "Dear Mr Stein.

11 We just wanted to write a short note of support in
12 light of the recent horrendous accusations that have
13 been published about you. We have all at some stage in
14 our time at Fettes experienced your excellent swimming
15 coaching and know that your conduct has always been only
16 friendly and professional. The undersigned are only
17 a small proportion of the many girls you have helped and
18 taught in the past and the atmosphere throughout the
19 whole of Fettes is entirely one of shock and sympathy
20 for your situation.

21 Kindest regards ..."

22 And then I think there are 32 signatures. And
23 I think we should understand, because I'm sorry because
24 of anonymity everything's been redacted, but there are
25 a range of sixth year and younger girls, and these would

1 include pupils who were being taught by him in the same
2 year as the complainers in 1992?

3 A. Yes, yes.

4 Q. In 1992, having taken the action we read about, did you
5 think that was the matter finished with?

6 A. I thought that given Bill's reaction to it, I thought it
7 would be sufficient, yes.

8 Q. But from that letter being dated 1998, it's fair to say
9 it was resurrected?

10 A. Yes.

11 Q. And it was resurrected by the mother of one of the
12 children who I think may have complained in 1992?

13 A. Mm-hmm.

14 Q. Who we're calling 'Iona'.

15 A. Right.

16 Q. And the daughter is 'Claire'.

17 A. Yeah.

18 Q. I think there's also, since we're in this chapter of
19 evidence, a friend of 'Claire's' who we are calling
20 'Betty'.

21 A. Mm-hmm.

22 Q. Now, the background to this, we would understand, is
23 that one of 'Claire's' brothers was expelled from the
24 school.

25 A. Yes.

1 Q. Because of cannabis.

2 A. Drug-taking, yes.

3 Q. And 'Iona' took badly to that decision.

4 A. Yes.

5 Q. First of all, had you dealt with 'Iona' prior to that?

6 A. Yes. When we first arrived at the school, 'Iona' was

7 all over my wife and I wanting to welcome us, make us

8 feel part of Fettes, invited us to her house,

9 entertained us, tried to involve us in drinking lots of

10 water, said it was good for us, and getting involved

11 with one of her -- I think she was doing beauty product

12 selling at the time, involve us in schemes there. And

13 whilst we thought it was all a bit gushing and over the

14 top, it was very pleasant, and then it all transformed

15 from the time first of all when 'Ryan' was expelled from

16 the school, when she couldn't then, as I understand it,

17 get him into the Edinburgh Academy --

18 Q. Perhaps if we can just gloss over the detail of that

19 because it's perhaps less relevant.

20 A. All right. Oh yes, it's coming up, is it? Fine.

21 Q. Well, no, if you'll just bear with me, and again if

22 I can remind you names, there isn't a pseudonym for him,

23 if you can just --

24 A. I thought it's 'Ryan'.

25 Q. Oh, is it 'Ryan'?

1 A. Yes.

2 Q. I'm obliged to you, you're ahead of me.

3 LADY SMITH: Thank you, Andrew.

4 MR BROWN: Carry on then.

5 A. Yes. After 'Ryan' was expelled and I think that 'Iona'

6 had hoped he would go to the Edinburgh Academy and he

7 wasn't accepted there, as I understand it, and he went

8 to another boarding school, she was very unhappy about

9 that, started getting anti school and that led to her

10 coming around to see me to try and get my help in taking

11 'Ryan's' housemaster to task for his part in her son's

12 expulsion. She'd knocked on my door on a Saturday

13 afternoon at Malcolm House, I answered the door and she

14 asked me to do this and I said no, it was something

15 I didn't know what I could do about that and I wasn't

16 prepared to get involved, and then she started to scream

17 at me, scream abuse at me, shouted at me for about

18 20 minutes.

19 I was left shaken. I tried to retain -- to remain

20 polite and deal with her with dignity. I just waited

21 until the tirade was over and then said goodbye. It

22 was -- it left me quite shaken.

23 Q. I think one of the complaints was about how her son had

24 been treated as part of the process.

25 A. Mm-hmm.

1 Q. Of examination of the allegation of --
2 A. Right.
3 Q. Is that correct?
4 A. I don't know. I wasn't involved at all.
5 Q. All right. But were you aware she wrote to her Member
6 of Parliament about it?
7 A. No. It doesn't surprise me, but I didn't know that.
8 LADY SMITH: What did she want you to do?
9 A. I don't know. She wanted me to take her side against
10 the housemaster involved.
11 LADY SMITH: But in practice, what was that going be?
12 A. I don't know what she expected me to be able to do, but
13 when I made it clear to her I wasn't going to get
14 involved, that was when she lost her rag completely and
15 I became one of her personas non grata or enemy number
16 five or something.
17 MR BROWN: You paint the picture of which side you were on
18 was important.
19 A. Apparently, yes.
20 Q. And if you weren't on her side --
21 A. If you weren't on her side you were out, you were her
22 enemy, definitely.
23 Q. Just in relation to the complaint to the Member of
24 Parliament, if you could look at something, you won't
25 have seen this before but it's just for information,

1 this is PSS73, and you'll see this is a letter from the
2 Lord Advocate at the time in relation to a complaint
3 that was made about conduct and the middle
4 paragraph reads:

5 "As a result of the allegations which you brought to
6 his attention, the Procurator Fiscal had investigations
7 carried out by the police. The Procurator Fiscal then
8 considered the results of that full investigation and
9 reached his decision that there should be no
10 proceedings.

11 While I cannot reveal the results of that
12 investigation, I can tell you that I have considered the
13 circumstances myself and I am fully satisfied that the
14 Procurator Fiscal's decision was appropriate."

15 A. Yes.

16 Q. Okay, thank you. From your statement, there seems to
17 have been fallout by the polarisation of events so far
18 as you as the head of the junior school was concerned
19 because I think 'Claire' and her friends then began to
20 act differently; is that correct?

21 A. Well, initially we tried very hard not to let it impact
22 on 'Claire' at all. We felt there were these
23 difficulties with 'Iona', they were in our view between
24 'Iona' and the senior school, and we hoped very much
25 that 'Claire' would not be either used as a pawn or

1 affected, and we certainly worked very hard to make sure
2 it wasn't having any impact from our point of view with
3 our dealings with her.

4 Q. I think we would know from other sources that 'Claire'
5 was a prefect, she'd been selected by you?

6 A. She then was one of -- it was her turn for prefect in
7 her quarter of the year involved, and it was around this
8 time that 'Iona' had got her walking around with a small
9 yellow book and she persuaded two of her friends to do
10 the same, 'Betty' and 'Stephanie', and they were
11 recording anything that they considered was worth noting
12 down as tittle-tattle about staff, about other pupils,
13 about anything they thought they'd seen and taking it
14 home to their parents to mull over of an evening.

15 We became aware of this quite quickly and we
16 discussed it in the staff and decided it was nothing we
17 could actually deal with, we couldn't stop it because
18 that would be seen as working against the child's rights
19 to make a note of what was happening in their day, as it
20 were, but we knew it was leading to trouble. We felt
21 that. We felt it would make the child, 'Claire' and her
22 friends, 'Betty' and 'Stephanie', extremely unpopular
23 with other pupils, it was bound to. It made very
24 difficult working naturally and normally with those
25 children because you want to just talk openly to them

1 and when you're having to sort of watch everything you
2 say in case anything could be misinterpreted if taken
3 a bit out of context and you're watching every action
4 you make in case anything could be seen as, oh, not
5 quite right, it makes you so cautious you stop being
6 natural, and it did affect the way that we were able to
7 work with those children and I think it was very sad and
8 very unfortunate and not something we could actually
9 stop.

10 Q. When you say "we", are you talking about --

11 A. We as the staff, the junior staff.

12 Q. So was this affecting all staff?

13 A. This was affecting everybody, yes. Because they were
14 going round all day whenever they were on the
15 premises -- they were all day pupils -- and just making
16 notes. Anything and everything.

17 Q. And was there follow-up from the notes? Because you say
18 at paragraph 41 on page 10:

19 "'Iona's' complaints usually took the form of
20 letters regarding things to do with her daughter."

21 A. Yes. We'd already had some of those letters, they were
22 already happening, but -- I never saw the yellow books,
23 what was inside them. We thought it was way beyond
24 anything we would wish to do to ask to see them, but
25 obviously with what was going home, it would -- could

1 lead to something coming in. I don't know if it
2 specifically did, I can't claim that.

3 Q. How often were you getting letters from 'Iona'?

4 A. Whenever she felt there was something she could give
5 a moan about, really. Not all the time, no. She had
6 her sights set on all sorts of targets, like
7 a scattergun approach. I was only one of a number.

8 But we were hoping that it wouldn't rub off on
9 'Claire', we really were. It's the child that matters.

10 Q. I think in terms of that scattergun, you are aware that
11 there was a complaint made -- and just to be clear, this
12 is when 'Claire' was at school --

13 A. Yeah.

14 Q. -- about a yacht trip.

15 A. Mm-hmm.

16 Q. And the yacht trip was taken by [REDACTED]
17 [REDACTED]?

18 A. Yes, it was.

19 Q. Who, as you'll see, it also given --

20 A. Not on my list.

21 Q. Right. We'll call him CKP [REDACTED] I'm sorry, your list
22 should have included that.

23 A. Thank you.

24 Q. Apologies. It should have been. But, we would
25 understand that there was a trip involving children

1 going on CKP yacht.

2 A. Yes.

3 Q. And that was part of a bigger trip which involved you

4 and your wife and a minibus?

5 A. Well, I was thrilled to bits when CKP offered this

6 opportunity that he would take some pupils sailing on

7 the yacht and we set up what we hoped would be

8 a suitable weekend that we could repeat with other

9 children. We chose three girls and three boys. The

10 three girls would sail out on the Friday night from the

11 west coast and spend the night on the boat with CKP

12 and his wife, and I would then with my wife take the

13 three boys camping and we would go along to Mull and

14 we'd do activities during the day on Mull on Saturday.

15 We'd meet up Saturday evening, swap the three boys and

16 three girls so the three boys would then get Saturday

17 night on the boat with CKP and wife, sailing back

18 to where we would meet them, and we would then repeat

19 what we'd done with the boys on Mull with the three

20 girls.

21 We met them as arranged and took the children home

22 and I thought that was a wonderful trip, fantastic

23 opportunity, looking forward to doing it again.

24 Q. But it didn't take place again?

25 A. But unfortunately it never could be repeated because

1 I think as a result of a misunderstanding, one or two of
2 the girls commented that CKP had been peering
3 through portholes at them. CKP, whose position was
4 very senior in his profession, said, "I cannot possibly
5 have any whiff of impropriety being levelled against me,
6 and I'm sorry, Andrew, I am never allowing you to use
7 the yacht again."
8 Q. And you thought that was a shame?
9 A. And I was -- I was devastated for the other children
10 because there were other children lined up who would
11 have been given that opportunity, it would have been
12 a wonderful thing for them to do, and now couldn't.
13 I thought it was very sad because of what I saw as
14 a simple misunderstanding by some wee girls. It was
15 very, very sad.
16 Q. Were you on the yacht at any stage?
17 A. No. Oh, yes, briefly during the changeover, yes.
18 Q. Was it a large yacht?
19 A. It was not huge, I don't know the size, but it was --
20 the reason you had three girls or three boys was
21 I presumed they were sharing one cabin area so they had
22 to be the same sex, and Mr and Mrs CKP would have
23 their separate facility.
24 Q. Was 'Claire' on that trip?
25 A. I believe so. I may be wrong, but I believe so. I've

1 struggled to try and think who was there, and since it's
2 nearly 30 years ago I'm sorry, I can't accurately
3 recall. But I thought she was, yes.

4 Q. We have, obviously, a lot of information from the police
5 because there were, and you can confirm this because you
6 were spoken to too by the police --

7 A. Yes.

8 Q. -- first in 1998 and then in 2015; is that correct?

9 A. Yes. I had forgotten the 1998 time, but yes. And
10 certainly 2015 I recall, yes.

11 Q. I think if we could look at PSS13032, which is a police
12 statement, and this is from a female pupil who was on
13 the boat and the details don't matter -- or her details
14 don't matter and we don't need to give her a pseudonym,
15 but if we go to page 6 this is a girl, you should
16 understand, who was in the same year as 'Claire'.

17 A. Yes.

18 Q. I think if we go to the top of that, second line in:
19 "The only reason I can remember camping then is
20 because I have photographs of my time there. I have
21 a couple of photographs of us at a campfire and one of
22 us rowing out at sea. That was the only boat trip
23 I went on with CKP . I have no idea where the
24 photographs are just now. I think they may be up the
25 loft somewhere. I can't recall any issues on the boat

1 trip at all. DC McGraw has asked if I remember any of
2 the children on the boat trip being upset about
3 anything. No, not while on the trip, but when we got
4 back to school I remember 'Claire' took me to the side.
5 I remember that we were in a classroom or something at
6 school. [Then there's two other girls] were there also.
7 'Claire', who was quite an intimidating girl, said
8 something like CKP had looked at us girls whilst
9 we were on the toilet on his boat', she kept stressing,
10 'that's right, isn't it?' She was asking but almost
11 telling us that that's what happened. She was very much
12 the instigator. It never came from the other two. One
13 girl was quite a quiet girl and I don't recall the other
14 saying anything. I just remember 'Claire' being very
15 intimidating. She was a good bit taller than me. She
16 was quite a confident girl. I didn't remember using the
17 toilet on the boat. I remember being scared as I was
18 only 11 years old. 'Claire' was being quite forceful in
19 getting us to agree. I remember thinking that this
20 would go further. I'm sure the conversation with
21 'Claire' was before speaking to Mr Alexander. I'm not
22 sure if we went in as a group or as individuals.
23 I can't remember what I said to Mr Alexander, but
24 I don't think I said anything significant as I was never
25 questioned again, well not that I remember and

1 definitely not by the police. Thinking about back then,
2 if I was to be asked now about the boat trip, I would
3 say logistically it would have been very difficult for
4 CKP to look through the skylight to see us in the
5 toilet. The boat wasn't that big and the skylight only
6 had a very small gap. Someone would have seen CKP
7 looking in if he did this as the boat was small.
8 I can't remember using the toilet but if I did I don't
9 remember anyone looking in and I think that's something
10 I would remember if it had happened. I recall 'Claire'
11 telling me that CKP had watched us when we were on
12 the toilet. I think she said that she had saw him
13 looking at her on the toilet. That's what we were
14 questioned about by Mr Alexander. I'm not sure if
15 'Claire' said he did anything else. I have no
16 recollection of that.

17 I think shortly afterwards the press got hold of the
18 rumour about CKP. I've no idea how they got hold
19 of this information, but they got hold of my parents'
20 home address. I remember my mum telling me that the
21 press came to the house. I wasn't in."

22 If we go on to the next page:

23 "I don't know what happened after that but
24 I remember 'Claire' shortly afterwards left the school.
25 I don't know exactly when this was."

1 So we would understand that would be perhaps
2 spring/summer?

3 A. Yes, that would be 1992. No, 19 -- oh, anyway. That
4 kind of chimes with what I would have thought about the
5 boat trip myself, and I just thought it was something
6 and nothing and very sad that it led to such a loss to
7 so many other children.

8 Q. But it would certainly appear that that girl's
9 recollection chimes with yours?

10 A. Yes.

11 Q. That 'Claire' was on the boat?

12 A. Yes.

13 Q. And that, if what she's saying is accurate or accurate,
14 the instigator of any issues was 'Claire'?

15 A. (Witness nods).

16 Q. We've heard that 'Claire' and her two friends, 'Betty'
17 and 'Stephanie', left the school --

18 A. Yes.

19 Q. -- early after a meeting that they had -- or that you
20 would have had with 'Claire'.

21 A. Yes.

22 Q. At which 'Stephanie' and 'Betty' joined in with.

23 A. No, I think it was -- I may be wrong, but I think it was
24 only 'Betty' that tried to join in.

25 Q. All right. Tell us what you remember.

1 A. It was the situation that 'Claire' had written a letter
2 during the weekend when I was away on a camping trip
3 with my wife and some children and she had written to
4 SNR and complained that she'd been bullied on the
5 Saturday, during Saturday school, and I was very
6 surprised when CXL told me about this and I said,
7 oh, I'd better find out what's going on.

8 And I asked to see 'Claire', as she was one of my
9 prefects. I must admit I wasn't entirely surprised to
10 hear that she felt she'd been bullied by some of the
11 boys because of the yellow book scenario was causing
12 issues, but I thought I ought to talk to her and so
13 I asked to see her on the Monday, and she arrived at my
14 office with her mate 'Betty', I think it was just
15 'Betty', and 'Betty' wanted to come in with her, and
16 I decided it would be much better to speak quietly with
17 'Claire' on her own to establish what had happened
18 without 'Betty' chipping in her six penneth, and I asked
19 [REDACTED] FGT, to make sure that 'Betty'
20 didn't come in, which she did.

21 Then when [REDACTED] came in, I thought it was
22 important to have a female there because 'Claire' seemed
23 very tearful, and I think she was quite fearful because
24 she knew that (a) her behaviour had probably led to --
25 contributed, shall we say, to the bullying. There is

1 never any excuse for bullying, but I'm sure she would
2 feel that she had played a part in that. Secondly, she
3 would have felt bad about writing direct to SNR
4 SNR while I was away instead of either (a)
5 talking to a member of staff straight away, (b) coming
6 to see me first thing on Monday morning to tell me about
7 it, or any of the other things that she probably --
8 especially as a prefect -- could and should have done.
9 I imagine she was quite embarrassed that she'd been
10 forced to write this letter. And that was probably why
11 she was tearful.
12 Anyway, I decided as she was upset and things were
13 not good, I would talk very quietly and calmly to her
14 and just talk to her about how to handle the situation
15 in future. I thought I'm not going to delve into yellow
16 books or anything to do with the background of this. We
17 would just talk about how to deal with it. That I did,
18 asked her if there was anything else she could tell me
19 about it. She was reluctant to expand on anything that
20 had happened. It appeared that some of the boys had
21 just been unpleasant to her. She wouldn't name names or
22 give me any further things to work on. So I advised her
23 what to do and then she left. And I have never seen her
24 again.
25 Q. There were issues, though, I think with FGT ,

1 [REDACTED]

2 A. I understand that in order to stop 'Betty' coming in
3 there was some trouble between 'Mary' and 'Betty', yes.
4 I did not become aware of that until later.

5 Q. What sort of trouble did you understand there was?

6 A. Subsequently I understand that FGT [REDACTED] called 'Betty'
7 a silly little bitch and was fairly forceful in pushing
8 her away from my door.

9 Q. We've heard mention of a slap.

10 A. I would have thought that's unlikely, but I cannot --
11 I didn't hear anything in the way of a slap, so I cannot
12 confirm or deny that.

13 Q. Have you heard of the allegation of a slap before?

14 A. No, that's new to me.

15 Q. Was [REDACTED] disciplined for her use of language?

16 A. Yes, she was spoken to, I think, by CXL [REDACTED] on the
17 subject and disciplined and understood what she'd done
18 wrong and promised not to behave in that way in future.
19 She was a very good [REDACTED] and I felt that was the
20 end of that as far as that was concerned.

21 Q. How would you describe 'Betty'?

22 A. 'Betty' was a difficult child. She had come to us from
23 Rudolf Steiner and was not used to the kind of
24 discipline that Fettes expected.
25 She adjusted over time, but she was a fairly big,

1 forceful personality. I liked her. I thought she was
2 fun. But she could be difficult. She was a day pupil
3 and could be quite mouthy at times, if I can use that
4 expression.

5 Q. But I think you didn't see 'Claire' again?

6 A. I didn't see 'Claire', 'Betty' or 'Stephanie' again.

7 Q. Because their parents withdrew them?

8 A. They stomped off after the interview with 'Claire', left
9 the school premises, which they shouldn't have done, and
10 went home to their parents, who withdrew them
11 immediately from the school.

12 LADY SMITH: Did you keep a note of your meeting with
13 'Claire'?

14 A. I don't think I recorded much other than the fact that
15 it had happened. That may be on record.

16 LADY SMITH: Thank you.

17 A. But it was of such little significance, really, I was
18 only able to talk quietly about how she should respond
19 to any situation like that. There wasn't anything
20 significant, apart from the fact that, as I say, she was
21 tearful, to record.

22 LADY SMITH: Do you remember what the nature of her
23 complaint about the boys was?

24 A. There was a letter, I'd have to re-read the letter.
25 I would have known at the time, yes. I think it was

1 a group of boys who were just unpleasant to her, as
2 I say, that seemed to be what -- my understanding of it.
3 LADY SMITH: Thank you.
4 A. And whilst I understood the reasons, it's not
5 acceptable. Yes.
6 LADY SMITH: Thank you.
7 Mr Brown.
8 MR BROWN: Thank you. There were tensions clearly at play
9 at the time within the junior school.
10 A. Oh yes. I mean, it was a very difficult for the other
11 children. As much as we found it -- we were on
12 tenterhooks dealing with them to make sure that nothing
13 went in the yellow book that could be swung around and
14 used in some obscure way, the children didn't like it.
15 They just thought it was bizarre for another child to
16 behave that way.
17 Q. So there was impact on the teachers and there was impact
18 on the other pupils?
19 A. Yes, there was. Yes, it was -- it was a difficult time.
20 Which was a shame because, as I say, we tried so hard to
21 make and keep life normal for 'Claire', and here it was
22 becoming very abnormal, I'm afraid, but caused entirely
23 by 'Iona's' behaviour.
24 Q. You believe.
25 A. I believe. Sorry, I apologise.

1 Q. No, I'm just reflecting your thought processes.

2 A. Yes.

3 Q. But what you do know is that the matter didn't end in

4 1992.

5 A. No.

6 Q. Because it was resurrected, I think, in 1997?

7 A. It was resurrected at regular intervals, whenever there

8 was something that could be popped into the papers about

9 us, I believe.

10 Q. And we would understand that there was a great deal of

11 press --

12 A. Yes.

13 Q. -- back and forth?

14 A. (Witness nods).

15 Q. Did that help the mood of the school?

16 A. I think largely people were intrigued by how the press

17 was dealing with it. I think the pressure on CXL

18 must have been enormous, and what was remarkable about

19 CXL was I never saw him allow it to affect him in

20 the way he operated in any way at all. He was

21 a remarkable man.

22 Q. But I think we know that in 1998 you were spoken to by

23 the police?

24 A. Yes.

25 Q. And this is in relation, I think, to Bill Stein's

1 behaviour in 1992?

2 A. Yes.

3 Q. From your perspective, where did that go, that police

4 inquiry?

5 A. The police inquiry, I heard nothing more. I assumed

6 that, as I thought, there was no further case to answer.

7 And I must have dismissed it from my mind because

8 actually I found it difficult to recall that interview.

9 Q. I think we can see two documents. One is Fettes 321 at

10 page 9, that on 17 June 1998 the then chair of the board

11 of governors issued a press statement confirming that:

12 "Fettes College has been informed by the Procurator

13 Fiscal that Lothian and Borders Police have submitted

14 their report in connection with certain allegations made

15 recently against the swimming instructor. This report

16 has been carefully considered by the Procurator Fiscal

17 who has decided the evidence does not justify criminal

18 proceedings being taken against him."

19 Does that trigger a memory?

20 A. Not really. I may have seen it. I would be delighted

21 if I had seen it because I thought that looks good,

22 because I'd always thought Bill acted in the best of --

23 with the best of intentions and that appeared to be

24 borne out.

25 Q. Again could we look at one document briefly, PSS342.

1 This is a memorandum from a Detective Inspector to the
2 Assistant Chief Constable, Mr Brown, and the Assistant
3 Procurator Fiscal and it sets out his police report
4 summarising matters.

5 If we go on to the second page, do we see in the
6 second paragraph it says:

7 "On the 3rd of March 1998 I called at 'Iona's' home
8 and noted the attached statement [from 'Iona']. 'Iona'
9 has devoted much time and effort to her concerns that
10 pupils at Fettes College are being or have been abused
11 by members of staff. Following this visit I arranged
12 for her daughter 'Claire' to be interviewed at her home
13 in Cambridge. 'Iona' travelled to Cambridge and was
14 present during the interview of her daughter. The
15 content of 'Claire's' statement is identical to the
16 statement of her mother and the letter of November
17 1997."

18 And reflects the allegations that I think you'd
19 first heard in 1992 from 'Claire'. And then it talks
20 about other statements being taken. You were
21 interviewed, going down to the paragraph at the foot of
22 the screen, on 5 May, and you set out what we discussed,
23 issues were raised and you explained that:

24 " ... although he considered these concerns to be of
25 a minor nature, he did create a set of guidelines for

1 Mr Stein to follow."

2 And then the officer expresses his opinion that:

3 "'Iona' had resurrected the allegations of 1992 made

4 by her daughter and 'Betty' to generate adverse

5 publicity for Fettes College in continuance of her

6 campaign following her son's expulsion that year."

7 A. Yes. That seems very relevant, yes.

8 Q. But matters didn't stop at that. There was a further

9 police inquiry in 2015?

10 A. Yes, there was, after I'd retired and was -- yes.

11 Q. Do you remember, did the police just contact you out of

12 the blue?

13 A. I don't remember how the initial contact was made, but

14 they agreed to come and talk to me in my home in

15 ██████████, which they did.

16 Q. If we look at one final document, CFS35, and this

17 was November 2016, the report to the Crown, and I think

18 if we go to the foot, this inquiry had a name, Operation

19 Alecost:

20 " ... is an enquiry led by the National Child Abuse

21 Investigation Unit based in Livingstone into reports of

22 potential physical and sexual abuse committed by both

23 staff members and pupils at Fettes College over a period

24 of years ranging from the 1960s through to the 1990s.

25 These reports were received from 'Iona', who is the

1 mother of three children who were formerly pupils at the
2 school."

3 In terms of background it then sets out her history
4 and connection with the school and at the foot of page 2
5 we see:

6 "The incidents involving Mr Stein are believed to
7 have taken place around 1992 and were not reported to
8 the police at the time. They were however brought to
9 the attention of Lothian and Borders Police in 1998, it
10 would appear as a result of ongoing issues between the
11 school and 'Iona', and investigated ..."

12 As we have seen.

13 If we go on to page 4 and halfway down, under the
14 heading, "Police inquiry 2015 Operation Alecost":

15 "In June 2015 officers from Police Scotland
16 contacted 'Iona' in connection with a separate
17 investigation. At that time she made them aware of the
18 previous police inquiry, stating that this had not been
19 resolved and that she could provide information about
20 not only the conduct of Mr Stein but also other matters
21 linked to Fettes College that she believed required
22 further investigation.

23 She thereafter submitted several lengthy and
24 detailed reports by email which, after consideration,
25 were passed to the National Child Abuse Investigation

1 Unit for further enquiry in August 2015.

2 Extensive enquiries were carried out in respect of
3 all potential instances of criminality with no evidence
4 whatsoever of any criminal offences have been committed
5 either by staff or pupils at Fettes College or persons
6 linked to the school."

7 And I think if we then go down to the third full
8 paragraph on page 5:

9 "A significant number of former pupils and staff
10 were interviewed as part of the 2015 investigation,
11 including 20 former pupils, 17 of whom agreed to provide
12 statements. This included 'Claire', who also ... she
13 was unaware of the current police investigation, however
14 did provide a statement in which she repeated her
15 previous reports ..."

16 Of Mr Stein. Moving on:

17 "Of the other pupils interviewed almost all spoke of
18 Mr Stein in glowing terms, referring to him as
19 an avuncular playful grandfather-type figure, they
20 referred to a short period at the end of swimming
21 lessons where they're allowed to play and occasionally
22 Mr Stein would enter the pool and play sharks with
23 them."

24 Et cetera.

25 "None of the former pupils spoken to witnessed the

1 incident involving 'Claire' or were aware of her making
2 any comment about it afterwards."

3 Going on to page 6, bottom paragraph, and this is
4 under the general heading 'Conclusion':

5 "In addition to the reports again Mr Stein there
6 were several other matters reported by 'Iona' which she
7 believed involved instances of potential physical and
8 sexual abuse. These were drawn from several sources,
9 including published books and historical press reports,
10 all connected to Fettes College and dating from the
11 1960s. Exhaustive enquiries over a period of months
12 were undertaken into these with there being no evidence
13 to indicate any offences having been committed and as
14 such details are not referred to herein."

15 You were spoken to by the police, we know, in 2015.
16 Was the outcome of that inquiry shared with you?

17 A. I heard no -- nothing further from them and I assumed
18 that they, like me, assumed there was no case to answer.
19 That appears to confirm it.

20 Q. When you retired in 2012, did you think that would be
21 an end of these matters?

22 A. I did, yes. Especially as I thought they had been
23 adequately dealt with previously, so.

24 Q. Last thing. You obviously worked in education for 22,
25 23 years?

1 A. Education as a whole, 30, 33 years.

2 Q. Including the Army Education.

3 A. Including the Army Education, 38 years.

4 Q. All right. Did you carry on teaching after Fettes?

5 A. No.

6 Q. You will have seen a transformation in the approach over

7 that time --

8 A. Yes.

9 Q. -- to the issues that are of interest to us, which is

10 child protection, safeguarding and an awareness --

11 A. Yes.

12 Q. -- of the potential for abuse.

13 A. Yes.

14 Q. What, if any, advice -- because you talk about helping

15 the Inquiry and you talk about recruitment and the need

16 for common sense in caring situations.

17 A. Yes, I've tried in that -- answering that to look at

18 sort of principles of good childcare, good child

19 protection, rather than specifics. As my son, who works

20 in a school, pointed out to me, he said I'm well out of

21 date with current practice and I wouldn't understand

22 this and I wouldn't understand that, but I thought what

23 I've actually written, I've tried to write as principles

24 that if they're applied correctly would lead to good

25 child protection and good child safety. I think you've

1 got to get the right people in, in the first place.
2 I think you have got to make sure that they are trained
3 adequately. I think you have to make sure they are
4 comfortable that they're being observed without having
5 somebody looking over your shoulder all the time. That
6 they feel what they do is known about. That they have
7 advice and help. That they're regularly reviewed and
8 appraised. And that there are people who can build
9 a good rapport with the children in their care. And
10 I don't think everybody who goes into teaching would
11 fall into that category. But I think if you can achieve
12 that, you'll have people who will be good at childcare.
13 I think the important thing is not to build
14 a structure that forces people to become bureaucratic in
15 the name of it being accountable. I think it's
16 important that it works in practice rather than it works
17 on paper. I don't know if that makes sense.
18 LADY SMITH: Just to tease that out a little bit further,
19 Andrew, are you saying that people mustn't think that
20 writing what looked like good processes is enough?
21 A. Yes, I am saying that, yes.
22 LADY SMITH: Would you accept that what looked like good
23 processes being identified and written down does need to
24 be done?
25 A. That needs to be done because that's what people need to

1 understand to begin with, yes.

2 LADY SMITH: But it's not enough?

3 A. But then you need to have practical ways of making it

4 work that are manageable and not simply bureaucratic,

5 yes.

6 LADY SMITH: Thank you.

7 MR BROWN: My Lady, that was what I was going to come to.

8 I don't need to say another word.

9 Andrew, thank you very much indeed. I have no

10 further questions.

11 LADY SMITH: Are there any outstanding applications for

12 questions?

13 Andrew, there are no further questions for you.

14 Thank you so much for engaging with us as helpfully as

15 you have done, both by providing your written statement

16 under the pressures or constraints of lockdown and then

17 being prepared to come along and expand on it really

18 quite considerably in evidence today, which does make

19 your recollections both just of life at Fettes in the

20 long time that you were there and these particular

21 matters that we've explored with you come alive for me.

22 It's been really good to be able to hear from you.

23 Thank you very much.

24 I'm now able to let you go and I hope relax back

25 into your retirement for the rest of today.

1 A. Thank you.

2 (The witness withdrew)

3 LADY SMITH: Well, I think it's time for morning break,
4 Mr Brown.

5 MR BROWN: It is, my Lady, and then we will have another
6 witness before lunch. I think we can keep within the
7 regular hours.

8 LADY SMITH: Good.

9 MR BROWN: And then finish with the third witness in the
10 afternoon.

11 LADY SMITH: Thank you very much.

12 (11.42 am)

13 (A short break)

14 (12.05 pm)

15 LADY SMITH: Mr Brown.

16 MR BROWN: My Lady, the next witness is Saffy Mirghani.

17 LADY SMITH: Thank you.

18 Saffy Mirghani (affirmed)

19 LADY SMITH: Saffy, I should have checked, are you
20 comfortable with me using your first name or would you
21 prefer me to call you Ms --

22 A. My first name is fine, thank you.

23 LADY SMITH: Is that okay? That red folder you'll need, it
24 has a hard copy of your statement in it. You'll also
25 see it coming up on the screen, taking you to the parts

1 that you'll be referred to from time to time during your
2 evidence.

3 A. Okay.

4 LADY SMITH: So use either or neither, whichever works for
5 you, please. Also, if you have any questions or
6 concerns during your evidence, please let me know and
7 I'll do what I can to answer and help. It's very
8 important to me you're as comfortable as you can be
9 while you're giving your evidences, so what works for
10 you will work for me, including if you want a break at
11 any time.

12 A. Thank you very much.

13 LADY SMITH: I'll hand over to Mr Brown just now if that
14 will work for you and he'll take it from there, okay?

15 A. (Witness nods).

16 LADY SMITH: Mr Brown.

17 Questions from Mr Brown

18 MR BROWN: My Lady, thank you.

19 Saffy, good afternoon.

20 A. Good afternoon.

21 Q. We'll start with the statement which you have copies in
22 paper form and on the screen in front of you. It has
23 a reference number WIT-1-000000666, and as we see, it
24 runs to 30 pages and on the final page we see you signed
25 it on 19 April this year.

1 A. Yes, I did.

2 Q. Correct. And the last paragraph you will have read
3 before signing it is:

4 "I have no objection to my witness statement being
5 published as part of the evidence to the Inquiry.
6 I believe the facts stated in this witness statement are
7 true."

8 And you would have read through I imagine and been
9 satisfied that the statement was good to sign, you were
10 happy with it?

11 A. Yes, I am.

12 Q. Thank you. Please understand, as I think you're aware
13 already, the statement is in evidence. We don't need to
14 go through it literally page by page talking about
15 everything. We have read it, we will read it again.

16 A. (Witness nods).

17 Q. I'm just going to talk about certain themes, perhaps, in
18 it.

19 The other factor is you obviously make mention of
20 some of your contemporaries at school. You have chosen
21 not to be anonymous.

22 A. Yes.

23 Q. But they are entitled to anonymity and in terms of your
24 statement you make mention of a number of people. If we
25 just talk generally rather than naming people for things

1 that have happened. You follow?

2 A. Yes, that's fine. Thank you.

3 Q. You're now 26, you're doing a PhD still?

4 A. Yes.

5 Q. And your interest, as we see on page 2 -- sorry, not

6 page 2, at the end of the statement where you're talking

7 about what you're doing now is the impact of a Russian

8 writer on African American literature; is that right?

9 A. Yes, I'm looking at the impact of the influence of

10 Fyodor Dostoevsky on 20th century African American

11 authors.

12 Q. Yes. Cosmopolitan?

13 A. Yes, it's certainly a niche area of study but I very

14 much enjoy it, yeah.

15 Q. But it shows a breadth of countries, societies. It's

16 an interesting correlation between Russia in the 19th

17 century and America and African American influence

18 a century later?

19 A. Yes, certainly. I mean, since the 1950s I think only

20 half a dozen scholars have written in this field.

21 However, you would be surprised in regard to the nature

22 and the intensity of the kinship between these two

23 traditionally disparate traditions.

24 Q. Yes. We'll come to that again perhaps towards the end,

25 but let's go back to your childhood and for most of your

1 childhood you've lived or you lived in Edinburgh?

2 A. Yes.

3 Q. Prior to carrying on with academic studies abroad and
4 now in London. And you went to a number of Edinburgh
5 schools. We'll come to Fettes, obviously, because that
6 is the focus of our Inquiry at the moment, but just to
7 touch on the other schools that you went to, you went to
8 St Margaret's, which was an all girls' school in
9 Newington?

10 A. Yes, I did.

11 Q. And you went there until it closed, I think, in 2010?

12 A. Yes, correct.

13 Q. So by that stage you would have been 15?

14 A. Exactly, 15.

15 Q. And you speak about your time at St Margaret's fairly
16 warmly.

17 A. Yes, it was certainly a positive experience. I really
18 didn't encounter many troubles at all there. I would
19 say the racism I experienced there was virtually nil.

20 Q. Could I ask you perhaps just to -- you've just
21 instinctively leaned forward to the microphone. Could
22 you perhaps bring the microphone --

23 LADY SMITH: The arm should bend towards you if you try.

24 A. Okay. Is that a bit better?

25 MR BROWN: It is a bit better. It's just we want to hear

1 you, obviously.

2 LADY SMITH: Thank you.

3 MR BROWN: In terms of the student make-up at St Margaret's,

4 was it more varied than schools you subsequently went

5 to?

6 A. (Pause). No.

7 Q. It wasn't?

8 A. It wasn't.

9 Q. Okay. But notwithstanding that, the majority of

10 children would be white?

11 A. Yes.

12 Q. And from Edinburgh?

13 A. Yes.

14 Q. Rather than international students?

15 A. Exactly, yes.

16 Q. But there was no racism, and racism is obviously the

17 focus of much of your statement?

18 A. Yes. There was no racism there. The students treated

19 me as an equal. The staff treated me as an equal.

20 I was not made to feel as if I were an outsider, and

21 racism was -- was essentially not a part of my

22 experience there.

23 Q. Was it something you really thought about at all?

24 A. No. No, no, no.

25 Q. It didn't register?

1 A. No.

2 Q. Okay. But you then moved to, on the closure of
3 St Margaret's, to another Edinburgh day school?

4 A. Yes.

5 Q. And that, is it fair to say, is where your experience of
6 racism began?

7 A. Yes.

8 Q. You say, looking at paragraph 13 on page 3, you became
9 the source of mockery for many white male students?

10 A. Yes. It was particularly the white male students who
11 became quite occupied, quite intensely occupied with me,
12 which I found quite strange. I didn't see myself
13 necessarily as any different from the white female
14 students at the school. I didn't see -- I didn't
15 conceive of myself as someone who -- who would
16 necessarily garner particular attention. So I did find
17 it strange. So from the beginning there was an intense
18 focus on me from the white male students.

19 Q. Just in terms of numbers, how many other black students
20 were there?

21 A. So in my year group at [REDACTED] there were around
22 300 students. I was the only black female student.
23 There was one other black male student, that was it.
24 There were a couple of students of Asian heritage,
25 I would say no more than half a dozen.

1 Q. Okay.

2 LADY SMITH: Sorry, that would be a much larger year group
3 than you'd experienced at St Margaret's, I think, yes?

4 A. Yes, much larger.

5 LADY SMITH: Can you remember what your year group size was
6 at St Margaret's latterly?

7 A. That's quite hard for me to remember. It was certainly
8 a small school, it was a small year group. We were all
9 very familiar with one another. I'd say at the most 40,
10 at the very most.

11 LADY SMITH: Thank you.

12 MR BROWN: So it's an entirely different experience on
13 a whole number of levels, small year group to large year
14 group and single sex to mixed?

15 A. Exactly, yes.

16 Q. So from your perspective, was that quite a shock, the
17 transition from one to the other?

18 A. No, it wasn't necessarily a shock because I -- I wasn't
19 necessarily concerned with the social dynamics when
20 I went to the school. For me, since I was very young,
21 the function of school was to be taught the materials
22 which would allow me to sit my examinations in order to
23 enter university, so I had this sort of tunnel vision,
24 tunnel focus and that was it.

25 Q. You had a career path or educational path mapped out in

1 your mind and that was what you were following?

2 A. Yes, that was sort of the culture, the narrative that
3 sort of existed at home. I saw my parents working most
4 of the time and not really concerned with the social
5 aspect of things. They were just more concerned with --
6 with working hard and providing me with a good education
7 so I focused primarily on my education.

8 Q. Yes. And again by way of background, because I think
9 this may be relevant later on, both your parents are
10 consultant surgeons?

11 A. Yes, they are. Yes.

12 Q. And have worked in the UK for decades?

13 A. Yes, certainly. I think when they first had me they
14 were sitting their graduate level examinations. I think
15 they obtained their advanced degrees from the Royal
16 College of Surgeons when I was pretty young and since
17 then, yes, they've obviously continued to work very
18 hard. So I received a good example from them in terms
19 of a work ethic.

20 Q. And you are replicating their work ethic in what you do?

21 A. Yes, indeed.

22 Q. Indeed. But going back to [REDACTED] what you're
23 saying is that you heard -- and this is paragraph 16 --
24 there was no overt racism to begin with?

25 A. Yes.

1 Q. But what you describe it as is simply:

2 " ... inane puerile language which is perhaps quite
3 standard for how some 15-year-old boys speak."

4 Did you feel that part of the rationale, if there
5 was one, for the behaviour towards you was the folly of
6 adolescent males or was it more than that?

7 A. I think essentially what it was -- I would not
8 characterise [REDACTED] as institutionally racist.
9 This is because the staff were not racist and there
10 really was not this intense culture among the students
11 of racism at all. There was casual racism, but
12 I wouldn't characterise it as an intense culture.
13 I guess what I mean when I say that is that you can't
14 guarantee -- it is not -- it was not the case in
15 [REDACTED] that the majority of the students were racist
16 or exhibited racist behaviour. That wasn't the case.

17 Specifically in response to your question with
18 regard to the male students, I think that young men at
19 that age, young boys are just sort of -- they need to
20 exert some energy, they need to let off some steam,
21 they're a bit insecure, finding themselves, and I think
22 myself, I was the easiest target as someone who just
23 simply looked -- looked different.

24 So this is why the ... this is why I wouldn't
25 characterise the racism from the male students in

1 [REDACTED] as -- I wouldn't characterise the mockery that
2 they directed towards me as very dangerous.

3 Q. You talked about difference. Was difference, forgetting
4 racism for a moment, was difference what led to mocking?

5 A. Yes. It was that I was different from the other
6 students, and also I think what intensified the mockery
7 and made it sort of so intense and made it so that
8 I ultimately decided to leave the school a little bit
9 early, and I think I mentioned as well that I sort of
10 stopped attending French classes, is because I stood up
11 for myself. I'm pretty strong-willed and I didn't see
12 that sort of behaviour exhibited by the other female
13 students.

14 Q. Okay. But I think we see paragraph 19, page 4, you
15 weren't discussing your anxieties, such as they were, at
16 [REDACTED] with your parents, but there were occasional
17 flare-ups and we read about that at paragraph 20 and 21
18 where you felt the staff didn't deal with matters
19 quickly enough and there were counter-allegations which
20 you thought they should have followed up but didn't?

21 A. Yes. So unlike the school I attended following
22 [REDACTED] as I mentioned previously, my experience with
23 the staff was not one of racism. They just seemed sort
24 of -- the race issue was something a bit alien to them
25 and they weren't too well versed in sort of tackling it

1 and dealing with it appropriately.

2 Q. Although I think you mention one teacher who was
3 concerned that there was racist abuse at [REDACTED] and
4 spoke to boys about it.

5 A. Yes. I considered him to be a little bit different.
6 First of all, he was wasn't Scottish, he was French, he
7 had a strong French accent, I think. He was very much
8 sort of a French culture. But yes, he certainly spoke
9 up. But if I hadn't overheard him speaking to another
10 teacher, perhaps I wouldn't have even been aware of the
11 fact that he had noticed this behaviour from the male
12 students and that he was concerned on my behalf.

13 Q. Okay. But in 2011, you moved to Fettes from [REDACTED]
14 [REDACTED] and I think you summarise why at paragraph 30
15 on page 6, the mockery you experienced from male
16 students:

17 " ... as well as some interpersonal animosity which
18 developed between myself and some female students,
19 caused me to feel so uncomfortable that I decided to
20 leave [REDACTED] after a year."

21 So you've found the passage I'm reading from?

22 A. Yes, I've found it.

23 Q. Page 6. And you chose to go to Fettes, you say in
24 paragraph 32. Just to be clear, it was your choice that
25 you went to that school?

1 A. Yes. If I'm being completely honest, I had my sights
2 set on Fettes from when I was in St Margaret's, because
3 Fettes is a very well-known institution in Edinburgh,
4 of course. It's -- I think as I mentioned in my
5 statement, it has a very prestigious academic reputation
6 and I was sort of very much taken by that reputation.
7 But in particular, obviously, impressed by the high
8 academic standards there.

9 So I wanted to go to Fettes and then I believe
10 I wanted to read English -- I wanted to go to Fettes so
11 that I would be best prepared to read English at I think
12 it was Oxford.

13 Q. Yes. That was in your mind when you started in 2011?

14 A. Yes, when I was in my -- in my early teens.

15 Q. But I think, as we see on page 9, paragraph 45, you
16 start as a day pupil, and we can read about the process
17 that you went through to do this, but you say:

18 "The Fettes system is a well-oiled machine which was
19 new to me. The fact that I struggled to acclimatise to
20 their system for whatever reasons, but I think primarily
21 due to my personal disposition, caused the staff and
22 students to rapidly develop a number of negative
23 assumptions about me which led to quite a damaging
24 experience for me at the school."

25 You then go on in the next paragraph to say:

1 "I believe that I did not conduct myself in the way
2 in which they would have liked: I committed small
3 errors, which they obviously deemed rather significant,
4 here and there at first. I wouldn't always complete my
5 homework and sometimes, when I completed my work, it was
6 a bit sloppy. I would also arrive late to class on
7 occasions. These were small defects in the way that
8 I carried myself which certainly needed to be
9 rectified."

10 Going to Fettes, from what you say in those two
11 paragraphs, was not a straightforward transition for
12 you?

13 A. No, it was not a straightforward transition for me at
14 all. But, for example, there was one other female
15 pupil, a white female pupil, who studied with me in my
16 year group at [REDACTED] who was also accepted at Fettes
17 and who also entered Fettes with me, and she didn't --
18 it was much easier for her to acclimatise than it was
19 for me.

20 I think it just depends on -- it just depends on the
21 pupil, how ... (Pause). I had not known people prior to
22 attending Fettes, I had not known people who had gone to
23 boarding schools or who had gone to Fettes and I was not
24 familiar with how sort of these institutions operate.
25 It's so institutionalised, sort of ... (Pause). In

1 St Margaret's and in [REDACTED] I was exclusively
2 concerned with performing well in my examinations. At
3 Fettes, this is not really what they're only concerned
4 with. They're concerned with many other aspects.
5 They're concerned with how you fit into their community,
6 how you represent them, how well you perform at sports.
7 You need to sort of project this very good image of
8 a sort of top student and an intelligent individual,
9 both to students and to staff, and if they don't
10 perceive you as such, then you start to experience
11 significant problems.

12 Q. It's simply that you've talked already about the work
13 ethic that you had seen from your parents and which you
14 took on yourself.

15 A. Yes.

16 Q. And yet what you're describing there is really quite
17 contrary to what you were describing at previous
18 schools. I'm just interested, you talk about your
19 personal disposition. What was the problem from your
20 perspective that caused you not to do work as well as
21 you perhaps had done before or to turn up late?

22 A. Okay, I certainly understand this tension in my
23 statement that you're referring to. Okay. So those
24 errors that I made at the beginning were not due to any
25 maltreatment or any racism that I was subject to at

1 Fettes. The sort of poorer performance I exhibited at
2 later stages or sort of performance that wasn't
3 excellent was due to the racial abuse that I started to
4 experience. But those errors at the beginning, I think
5 I was quite jaded by my experiences at [REDACTED] and
6 I think I was used to just doing things my way and it
7 had always worked for me, and my way was I'm quite
8 casual during most of the year and then when it came to
9 exam time, I worked extremely, extremely hard and I got
10 the grades that I wanted.

11 Q. But that wasn't the way Fettes operated?

12 A. Not at all.

13 Q. So there was a tension between your approach and their
14 approach?

15 A. Yes, correct.

16 Q. Okay. And I think it's fair to say that we have seen
17 some records from the school where I think in response
18 to your father coming to talk to staff about your
19 progress, broadly all your teachers seemed to think that
20 you were academically able, but there are concerns that
21 you weren't working perhaps as well as you might.

22 A. Mm.

23 Q. Those are from 2012, I should explain. So in your
24 second year at Fettes.

25 A. In my second year? Could you possibly elaborate with

1 regard to these teachers stating that I wasn't working
2 as well as I might? Does this imply that they felt that
3 I possessed the raw materials or that I was talented
4 enough, however I was not --

5 Q. For example, if we look at one, FET417, page 3, this is
6 English:

7 "Insaf's off ill again so progress is once again
8 fitful. I find her a really interesting character with
9 a real touch for the subject but she can be
10 infuriatingly inconsistent too. We've recently been
11 looking at Evelyn Waugh's A Handful of Dust and she was
12 the only one in the set to have failed to complete the
13 reading of the novel over the holidays."

14 So you see what I mean, there's a recognition of
15 your ability, but you don't seem to be --

16 A. Okay, so I remember this in particular and I'll explain
17 this. This was during the Christmas holidays.

18 Q. I think the email, just to cut across you briefly,
19 is May 2012.

20 A. May 2012? Okay.

21 LADY SMITH: It's at the top of the document, do you see
22 that, Saffy?

23 A. Thank you for directing me to that. May 2012. I think
24 she was referring -- was she referring to -- okay.
25 Well, what I do remember was that I would complete my

1 readings. However, there was -- the only time that
2 I didn't was during one -- there was one Christmas
3 holiday break when I personally had read about six books
4 just for my own personal enjoyment and we were also
5 directed to read a book that was assigned to us by our
6 teacher. By that time, in the second year, I had
7 already begun to experience an enormous amount of
8 maltreatment and discrimination, so you have to
9 understand that those errors I made when I was being
10 sloppy and things, I only did that probably within the
11 first month and then I rectified things very quickly,
12 but at the school they didn't give me a chance to
13 improve. They took that and they really used that
14 against me. So whenever I would do very positive
15 things, it wasn't recognised.

16 Q. Well, just reading on for completeness that email, after
17 the comment about reading over the holidays, the author
18 goes on:

19 "Her writing is usually handed in a few days late
20 but what she produced is extraordinarily detailed and
21 hugely literate. She digs deep and expresses herself
22 with fluency and precision (yes, I will be cutting and
23 pasting this for the UCAS comments in my end of term
24 report). I think she's really widely and interestingly
25 read and, although we have yet to pin down a precise

1 title for her EE, her suggestions are great. I'm seeing
2 her tomorrow period 2, I think, to discuss things and
3 probably to dissuade her from an Oxbridge
4 application ..."

5 Would you accept that that seems to be positive in
6 terms of your ability?

7 A. Yes, of course, to a certain extent, but what I would
8 like to explain is that, as I said, I made -- I was --
9 I made those errors that I made within the first month
10 of going to Fettes. After that, I rectified my
11 behaviour very quickly. However, as I said, I was sort
12 of not given a chance to sort of start afresh or to
13 rectify my behaviour by the staff. Whenever I made
14 errors after that initial month, they sort of really
15 magnified these errors and sort of really wanted to make
16 me feel badly for these errors. And as I said before,
17 when I would have successes, although these successes
18 are mentioned here in their internal communications, it
19 was never -- I was never openly praised for these
20 successes. So, as a result, when you're in
21 an environment in which you're not really encouraged,
22 you're not really praised, your teachers don't really
23 vocalise any positive opinion that they have towards
24 you, you start to become a little bit jaded.

25 So from what I can remember, even though this was

1 sent in May, there was one particular Christmas holiday
2 when I read, as I said, six books for myself and then
3 I was so jaded by the school that had such sort of --
4 that seemed to have such little faith in me that I sort
5 of left that school book towards the end and I didn't --
6 I didn't prioritise it as much as my personal reading.

7 But the important thing, and I think this is very
8 important, I had read 80 per cent of that book.
9 I had -- I don't remember how many chapters there were,
10 but say there were 20 chapters, I had read 18 chapters.
11 Then we went to the English class and the teacher said
12 "Who has not completed the book?" and I raised my hand
13 and I said, "Look, I have two chapters left", and
14 suddenly the teachers took this as I've not read the
15 book at all.

16 Now, this is people trying to take a negative slant.
17 If they wanted to take the angle of the truth, they
18 would say, "She did not complete the book, she read the
19 majority of the book", but they said she did not read
20 the book at all. And I think the language is
21 interesting here:

22 "She can be infuriatingly inconsistent ..."

23 I think this sort of lack of professionalism, this
24 extreme anger that they had really translated in their
25 interactions to me and that was not helpful.

1 Q. Okay.

2 LADY SMITH: Saffy, can I just check with you, I know you
3 went to Fettes in 2011.

4 A. Yes.

5 LADY SMITH: Because you tell us that. Did you begin at the
6 start of the autumn term in 2011?

7 A. Yes, correct.

8 LADY SMITH: So that would be September?

9 A. Yes, correct.

10 LADY SMITH: That you started. So by the time of this
11 email, you're coming to the end of your first year in
12 the school? That would be right, wouldn't it?

13 A. Yes.

14 LADY SMITH: May 2012. I just want to get the chronology
15 right.

16 Now, one other thing. I probably should know this
17 but I'm sorry, I don't. Your EE? What was that?

18 A. So it's extended essay.

19 LADY SMITH: Oh, extended essay, of course.

20 A. Yes.

21 LADY SMITH: And I know that UCAS is to do with university
22 admission.

23 A. Yes.

24 LADY SMITH: Because you'd be coming to the end of your
25 penultimate year at the school looking ahead to making

1 your university application in the autumn of 2012, that
2 would be right, wouldn't it?

3 A. Yes, correct.

4 LADY SMITH: Thank you.

5 Mr Brown.

6 MR BROWN: I think you've been very clear about your views
7 and the explanation of why. But returning to your
8 statement and in comparison with perhaps what you
9 described as the casual racism at your previous school,
10 that was not what you found at Fettes; it was much more
11 than that?

12 A. I mean, it was -- it was insane.

13 Q. Well, I think if we go to the statement, in particular
14 I was just looking at students to begin with, your
15 opening line is:

16 "I endured inhumane treatment throughout my two
17 years at the school. From my earliest times there
18 I recall that a white male pupil refused to take
19 a pencil from me during class because I am black."

20 It began very quickly, in other words?

21 A. Yes.

22 Q. And continued throughout the two years you were there?

23 A. It continued throughout the two years, and in regard to
24 my academia, those errors, that sort of sloppy output
25 that I exhibited within the first month was held against

1 me for two entire years, and that was partly, I believe,
2 due to the racism. Yes.

3 Q. And there were particular -- I'm sorry, we don't need to
4 go into the detail because you've set it out so fully
5 over the next four pages of pupil treatment, but there
6 were certain pupils in particular who were regularly
7 racially abusing you?

8 A. Yes, definitely.

9 Q. Again, I've asked you about the make-up of classes. In
10 Fettes -- you said at [REDACTED] you were the only
11 black female -- what was the position at Fettes? Was it
12 a more international school in terms of students from
13 abroad?

14 A. More international, yes, in terms of students from
15 abroad. Ethnically international, not at all. So in
16 terms of nationality? Yes. In terms of ethnicity, no.
17 So once again I was the only black female in the year
18 group. However, I think, as I mentioned in my
19 statement, there was another female student whom
20 I characterised as black. She was from Trinidad and
21 Tobago. However, I don't think she characterised
22 herself as such. But yes. So I would say there were
23 two black female students, myself and another girl.

24 Q. But the other one didn't characterise herself as black?

25 A. Well, I wasn't aware of that at the time, but I became

1 aware of that after leaving the school. But certainly
2 she exhibited a different approach in response to the
3 racism that -- that she experienced and that I saw her
4 experience. She exhibited a different approach to
5 myself.

6 Q. Was she receiving the same treatment as you from other
7 pupils?

8 A. No, it was certainly not near the same intensity as
9 I experienced.

10 Q. Okay. And her response was what?

11 A. She did not stand up for herself. She did not fight
12 back, so to speak. She did not try to tell any of the
13 students that what they were saying or doing was wrong.
14 She just seemed so much like she wanted to be -- to be
15 accepted and she didn't want to make any -- any wrong
16 moves or sort of stand out.

17 Q. Whereas you called people out for their behaviour?

18 A. Yes. I feel a strong sense, a strong need to defend my
19 own personal dignity. Look, when I went there, I wasn't
20 trying to dominate anyone else or impose myself on
21 anyone else. I just went there with the belief that
22 I have a certain human dignity that should be respected
23 in equal measure to everyone else. So just -- I went
24 there viewing myself as a human being and that I should
25 be treated as such. But the students, the male students

1 in particular, had a problem with that. They -- they
2 seemed to feel that I should have walked around, carried
3 myself in a way that embodied my belief that I was
4 slightly inferior to them because I am not white and
5 because I am not extremely wealthy.

6 Q. You talk about the student body and you've focused
7 perhaps more on males. Thinking of your year group,
8 what proportion, do you remember, were racist towards
9 you?

10 A. In reality, I would say about 60 per cent. But if you
11 look at that practically, that's pretty high, you know.
12 So I'd say 60 per cent.

13 Q. And what were the rest doing?

14 A. They were silent and they were just not really concerned
15 with what they saw happening to me.

16 Q. You mention a particular male -- who, as I say, we don't
17 need to mention -- who was Eastern European.

18 A. Yes.

19 Q. Did you think that was reflective of his culture or the
20 Fettes culture?

21 A. Both. Definitely both.

22 Q. He started off with an outlook that was racist, but
23 Fettes did nothing to reduce that?

24 A. Yes. So I'm sure in his home country in Eastern Europe
25 racism was normalised, and I know that because I know

1 people who are also of that nationality and I'm familiar
2 with -- with the culture there. I mean, I am studying
3 Slavic literature and I study history in regard to that
4 area and I'm aware of sort of like cultural and
5 political matters in regard to that area anyway.

6 Racism is normalised in his home country, and then
7 these racist beliefs must have been legitimised for this
8 young man when he went to Fettes and Fettes was -- and
9 what he witnessed at Fettes was a sort of --
10 an environment of institutionalised racism. His views
11 were once again justified.

12 Q. As we see in paragraph 64 to 67, you complained about
13 his behaviour, but this is where wealth seems to
14 feature, he was very rich and your perception is the
15 school were not interested in taking the matter on
16 because of that. Is that a fair summary?

17 A. Yes. However, that particular experience that
18 I mentioned, that particularly difficult episode that
19 lasted for a couple of days, that was not the only
20 opportunity teachers and students, particular teachers
21 had to witness this behaviour, this abuse that he
22 exhibited towards me. I mean, it was very openly -- it
23 was openly done most of the time. I mean, this young
24 man sort of epitomised the worst of the racism at that
25 school and he had sort of -- I mean, he must be a very

1 strange man in particular because he developed a certain
2 fixation with me. The others were racist, definitely,
3 but there wasn't this fixation. He exhibited
4 a fixation. So, I mean, every day he would sort of
5 approach me multiple times. He would want to know where
6 I was, what I'm doing, get involved and all this stuff.

7 So I'm saying this to say that -- and he did it very
8 openly, so I'm saying this to say that it was very well
9 known what he was doing to me. It was sort of a joke
10 among the students and teachers definitely knew what was
11 going on. He would do it openly in classes. Particular
12 classes, like history, where the teacher was a bit
13 more -- you could tell the teacher wouldn't put up with
14 that, the teacher was a bit more respectable, he
15 wouldn't do that. So we'd have history in the morning,
16 he wouldn't do that. We'd have lunch and then an hour
17 later [REDACTED] and he'd start doing it.

18 This was something that was just accepted by the
19 staff, that he would act this way towards me. So that's
20 why I was not surprised during this particularly, as
21 I said, insufferable incident or period of a couple of
22 days during [REDACTED] when the abuse sort of reached
23 an extreme degree.

24 Q. That's what I was going to come onto, because you
25 detail, as I've said already, very clearly the episodes

1 of racism from students and the particular people who
2 focused on you, including that male pupil. But from
3 what you've just said, apart from some teachers who were
4 perhaps stricter and where this overt behaviour wouldn't
5 be tolerated so it didn't happen, in other classes it
6 did happen and nothing was done. It was allowed to
7 continue by the staff is what you're saying.

8 A. Yes. I mean, not only was nothing done, the staff at
9 times sort of encouraged it and participated in it.
10 Sort of -- I mentioned one particular incident in my
11 statement when I asked a very relevant sort of question
12 in [REDACTED] class and the teacher then made fun of the
13 question and then this young man who would sort of
14 obsessively abuse me also made fun of the question and
15 the teacher was sort of laughing with him and this sort
16 of -- a similar incident occurred during a [REDACTED]
17 class. Yes, the teachers did nothing.

18 I mean, it's very clear from their behaviour that
19 the teachers, you know, possessed a racism themselves.
20 These other students, they are teenagers but they are
21 not dumb. They can see that the teachers were treating
22 me a bit differently, quite differently, and they were
23 using my academic behaviour as an excuse.

24 So I just want to quickly point out that that
25 internal communication you made reference to, I think by

1 that time, by May 2012, I had already experienced nearly
2 a year, or the best part of a year of abuse, so even the
3 fact that I was producing extraordinary, insightful and
4 very literate material is really impressive considering
5 what I was going through, and the fact -- I even think
6 that sort of handing things in late, da da da, was sort
7 of -- I mean, it was a child acting out in response to
8 an extreme abuse. If they had forgiven me for my sloppy
9 behaviour within that first month and they treated me
10 like a human being and I wasn't walking around scared
11 every day and every positive move I made wasn't ignored,
12 I'm pretty sure I wouldn't have continued to make these
13 small errors, which one also makes because one's scared.
14 I was young, I didn't fully believe in myself, and
15 that's why I made such errors. So I think it's
16 impressive that I didn't make even more errors than
17 I did and my behaviour wasn't different than it actually
18 was.

19 Q. Thank you. Again in terms of the statement, please
20 understand that you've been very clear about a number of
21 teachers and your views of the way they treated you and
22 the impact it had. But allowing for the fact that we
23 can read all of that, you did progress, clearly, to
24 university and now to a doctorate, so your efforts have
25 been successful.

1 A. Yes, indeed. Thank you.

2 Q. But can I just show you one other document, which is
3 FET340, and page 7. I'm sorry, the print is small but
4 I'm sure we can zoom out. We've talked about UCAS and
5 there's a reference obviously the school writes for you.

6 A. Mm.

7 Q. Have you seen this before?

8 A. No, I haven't.

9 Q. "Insaf has overcome the challenges of attending three
10 very different schools in the past three years, in
11 addition to changing IB subjects lately. She is
12 a reflective thinker with sharp analytical ability and
13 a distinctive fascination with ideas, independent of
14 mind, it is not a surprise that she has chosen to read
15 English at university. Her application is driven by
16 genuine interest and a commitment to the subject. She
17 has enough confidence and independence to thrive on
18 a challenging university course.

19 Insaf is one of the most interesting students her
20 English teacher is teaching. She has settled quickly
21 into a new routine and a new set of academic
22 expectations and her instinctive sensitivity for the
23 subject quickly shone through. She responds with
24 interest and enthusiasm to all new material, often
25 showing greatest interest in the most stylistically

1 challenging authors. The German author WG Sebald's
2 explorations of 20th century memory and loss can be very
3 elusive and difficult to write about. Her responses
4 were more excitingly exploratory than anyone's in the
5 class and the breadth of her wider reading coupled with
6 the depth of her own analysis was inspiring to behold."

7 It would appear that your efforts were also
8 recognised by some staff, would you agree?

9 A. Yes indeed.

10 Q. Does that surprise you?

11 A. Yes, it surprises me very much so. Yes.

12 It was not made clear to me the -- the -- the nuance
13 and the sophistication of the staff -- or this
14 particular staff member's assessment of me was not made
15 clear to me at all. I mean, I feel like I was told only
16 the negative things about me. I mean, I was. I wasn't
17 told any positive things.

18 So I'm sort of almost astonished by this because
19 clearly this teacher is very much perceptive and very
20 much had a -- had a very -- very accurate understanding
21 of myself at the time in terms of my talent and how
22 gifted I am for the subject, but also in terms of my
23 idiosyncratic approach and in terms of sort of the
24 differences that the -- the different way in which
25 I conducted myself, predominantly due to the nature of

1 the environment there.

2 So, yes, this does surprise me. All I heard was

3 negative things. So this almost seems like completely

4 different teachers to the teachers who spoke to me, so

5 I'm very surprised.

6 Q. Okay. But from your perspective at the time, that

7 wasn't how you saw them understanding you?

8 A. If someone had shown me this at the time -- I mean,

9 I just had a total -- totally sort of abject

10 self-conception with regard to my -- I had

11 an increasingly abject self-perception with regard to my

12 competency in the subject due to all the sort of

13 negative feedback I'd get, so this really would surprise

14 me. Very much so.

15 Q. Okay. Can we touch on one other thing, because this is

16 relevant moving on to another chapter, which is your

17 response to Black Lives Matter and speaking out to the

18 press.

19 A. Yes.

20 Q. One of the things, because the press coverage of your

21 complaints last November --

22 A. Mm-hmm.

23 Q. -- was widespread, you'll remember.

24 A. Yes.

25 Q. And one of the issues that was highlighted by the press

1 was the issue of mock slave auctions at Fettes.

2 A. Yes.

3 Q. And you talk about that on page 24 of your statement and

4 say:

5 "I'm not sure when the tradition of the mock slave

6 auctions initially began, but it was a longstanding one

7 arranged by prefects in the upper sixth form and only

8 involved students in the upper sixth form."

9 That's correct, it had been, as you understood

10 things, it had been going for some time?

11 A. Yeah, I mean, that was an assumption I made because it

12 certainly wasn't started when I was there, it had

13 existed from before and it doesn't seem like a practice

14 of the new age, it seems like something that had

15 probably existed at Fettes for a while.

16 Q. Okay. But you weren't involved personally?

17 A. No.

18 Q. But you were aware of it?

19 A. Yes.

20 Q. And we should understand that there was a charitable

21 purpose behind it in the sense that prefects became the

22 slaves of other sixth formers who paid for the

23 privilege?

24 A. Yes.

25 Q. And the money went to charity?

1 A. Yes.

2 Q. Do you remember which charity?

3 A. No.

4 Q. But this obviously concerned you, this is in 2013,
5 I think, your second year at the school.

6 A. If I'm being totally honest with you, it didn't --
7 (Pause). It partially concerned me, but it didn't
8 concern me as much as it should have and it didn't
9 concern me as much as it concerned me when I was
10 recollecting it many years afterwards, because it was
11 just ... it was just so normalised. The sort of status
12 quo of sort of ... (Pause).

13 Q. So when you say in paragraph 113:
14 "What was unnerving about them was that it was
15 people like [the Eastern European boy you mentioned in
16 your statement] who became masters due to these
17 auctions."
18 Thinking back on it later, is this what you're
19 saying, you were fearful that there would be further
20 abuse and racist abuse because of that potential?

21 A. What was fearful about the slave auction was that --
22 I wasn't involved in the auction, so it wasn't fearful
23 in that -- I wasn't fearful in the sense that I felt any
24 active threat as part of the auction. It was more that
25 it would give these young men, these students who were

1 sort of being racist and discriminatory towards me and
2 who were sort of singling me out and who were sort of
3 very threatening towards me, it would give them more of
4 this sense of power. They would be placed more in this
5 position of power and in turn then to sort of -- they
6 would feel that they would be able to engage in a higher
7 intensity of abuse towards me, if that makes sense.

8 Q. Yes.

9 A. But I did want to be completely honest and say that due
10 to the fact that this sort of, like, culture of sort of
11 inequality in the sense that the students differentiated
12 themselves from other students who weren't in Fettes,
13 et cetera, this culture of, like, the students at Fettes
14 being this special breed of people, et cetera, sort of
15 normalised the auction to a certain extent. So I wasn't
16 as surprised by the auctions at the time as I should
17 have been and as I was when I was recalling it
18 afterwards, but what I do remember at the time is I felt
19 this general sense of increased threat during the time
20 of the auction because these students who had been sort
21 of bullying me previously were walking around sort of
22 with even more power.

23 Q. From what you're saying, it reflected the culture, the
24 fact they were having an auction reflected the culture
25 that you found traumatic.

1 A. That's exactly the central point, yes.

2 Q. Okay. You obviously left school in 2013. You say as
3 far as you're aware there wasn't a slave auction the
4 following year because the year group didn't have one.

5 A. Mm.

6 Q. It was down to the year group, from what you say, rather
7 than the school itself formally?

8 A. I'm not sure at all about that.

9 Q. But you've heard from other sources that it may have
10 resurrected in 2015?

11 A. Yes, I heard from one particular female student who also
12 spoke on the record as part of the article.

13 Q. Yes.

14 A. She said that it was resurrected because she witnessed
15 it and she had spoken with other pupils who were in her
16 year group at the time. During the time that the
17 article came out, she told me that she had spoken with
18 other pupils who were in her year group at the time who
19 also recalled the auction and I took her word for it.

20 Q. Sure. I think, and let's move on to present day and
21 what you think should be done and what is perhaps being
22 done, your approach to the press to talk about this,
23 would I be correct in saying, was triggered by you
24 reflecting as the Black Lives Matter movement took up
25 last year, no doubt it had been in your mind but was

1 that the trigger for you going to the press?

2 A. Partially, but that wasn't the real trigger. The real

3 trigger was when I read an article online, I think it

4 was the Daily Mail, out of all sources, wherein a number

5 of schools had promised, a number of the top private

6 schools in the country had promised and had pledged that

7 they would use the Black Lives Matter movement as

8 a catalyst for real change and that they were looking to

9 decolonise their curriculum and Fettes was one of the

10 schools. And I am going to be completely honest, I read

11 that and it just -- I was shocked but I was infuriated,

12 because here was a school sort of placing itself at the

13 forefront of -- of this very progressive new movement in

14 society, which not only asserts that equality is very

15 important and that students should be treated equally,

16 but sort of a movement that challenges the very nature

17 of the curriculum, moving away from a Eurocentric

18 curriculum and the school sort of said that that -- that

19 they were active -- that they were actively pursuing

20 that. And so in that sense the school was -- was

21 advancing this image of itself as a very advanced sort

22 of new wave, on the cusp school -- like on the cusp

23 of -- of -- of modernity school, but that wasn't the

24 case at all. My experience of the school was the

25 complete opposite.

1 So I just sort of took it as this sort of virtue
2 signalling, so to speak, this sort of performative
3 posturing which I had always seen the school engaging
4 and which actually attracted me to the school in the
5 first place in the sense that this is what caused them
6 to -- this is what allowed them to maintain this very
7 prestigious image.

8 Q. What would you have preferred them to do?

9 A. A school that talks about decolonising a curriculum is
10 a school that is not institutionally racist. That's
11 a school that first of all treats all its students
12 equally, that doesn't have slave auctions, okay, where
13 every student feels comfortable and safe and doesn't
14 feel like they are -- when I was there, I just felt
15 every day like, okay, I'm at a disadvantage because I'm
16 black, I'm at a huge disadvantage because I'm black.

17 So a school that is interested in decolonising
18 a curriculum already has all of that sorted, okay?

19 Q. I suppose one might observe that you're talking about
20 the period of 2011 to 2013 and this is seven years later
21 in 2020.

22 A. Seven years later, but then I was contacted by a black
23 female student who had left the school, I think, in
24 2015, 2016. Her abuses were the same as mine. I know
25 this is not relevant because this is about me, not about

1 her, but she was multiple times on multiple occasions
2 called the N word. I wasn't called the N word. Called
3 the N word in front of staff and staff did nothing,
4 staff laughed. And I believe her because she was going
5 to go to the press about this, but she just -- she
6 pulled out at the last moment and she -- I mean, she has
7 no reason to -- to lie. I'd be very surprised if the
8 school has changed considerably since I was there.
9 Obviously they've changed a little bit, I mean they have
10 no slave auctions.

11 Q. I think from what you've shared following the report in
12 the newspapers three pupils who were still at Fettes
13 contacted you; is that right?

14 A. Yes, that's true.

15 Q. And four Old Fettesians contacted you, and the age range
16 would be from your contemporaries to one person who was
17 now in their 30s; is that correct?

18 A. That's correct.

19 Q. So seven people contacted you. I think we do know, and
20 you confirmed this in conversation, that the current
21 head, who was not the head at the time you were there --

22 A. Mm-hmm.

23 Q. -- wrote to former pupils and pupils prior to the
24 article coming out in the newspaper, but I don't think
25 you got the email because the email address they had for

1 you was out of date. Is that correct?

2 A. Yes. The head -- the current head of the school, the
3 head of the school at the time that the article came
4 out, who is still the head of the school, did email
5 myself and the other students who had shared their
6 experiences on the record in the article, yes, and it's
7 exactly true what you've mentioned, that I ended up --
8 I ended up receiving the email, I think, after the
9 article came out. I don't know how long. Quite a few
10 days after, yes, because they had my old email on file.

11 Q. I think we can see the email she sent, which is FET421.
12 This was on 13 November last year. She says, second
13 paragraph:

14 "We were obviously distressed to hear this account
15 and I am keen to express my sincere regret that you had
16 to go through this.

17 I wonder if you would feel able to come back to
18 Fettes so I can apologise in person, listen to you and
19 learn. Your experience matters to me and I want to make
20 sure that the environment you describe has absolutely no
21 place in the Fettes of today."

22 And then she goes on about:

23 "In recent years we have instigated some key
24 changes ..."

25 And then there's a statement that Fettes issued to

1 the press in response to your statement.

2 A. (Witness nods).

3 Q. Did you make contact with the head of the school in

4 response to that email?

5 A. No, I did not make contact with the school.

6 Q. Why not?

7 A. (Pause). I very much appreciated the email. It was

8 clearly very sincere, very genuine, and I believed

9 everything that the head was saying. However,

10 an apology is very nice, but it is not enough because

11 I'm not just concerned with receiving an apology for my

12 experiences, I'm concerned with trying to change the

13 culture there, which is why I went to the press, which

14 is why I'm here, and I thought that apologise --

15 I thought that sort of accepting the apology and then

16 going back to the school didn't really work as part of

17 this plan I had in mind, which involved changing the

18 culture there.

19 We -- I had -- so the former students who had

20 contacted me after the article came out, they had

21 expressed that they had wanted to go to the press as

22 well, so I thought, okay, I'm not going to respond to

23 the head before the second article comes out or anything

24 like that.

25 And ... (Pause). So I wanted that second article to

1 come out first before responding to her, but of course
2 that -- that fell through.

3 And look, I'm going to be honest. There was this
4 sense of mistrust, you know. Her words -- I felt the
5 words to be sincere, but ... (Pause). But, I mean, this
6 is just something of course -- I thought maybe -- okay,
7 I -- I -- I want to formulate this in the clearest way
8 possible.

9 I wanted more than an apology. I wanted the school
10 to know I wanted more than an apology, which is why
11 I did not respond and which is why I went through the
12 route of this instead, of this Inquiry.

13 Q. Okay.

14 LADY SMITH: Saffy, I'm not sure I quite follow that. If
15 you wanted the school to know, wouldn't the most
16 straightforward way to do that be to speak to the head
17 yourself?

18 A. (Pause). I wasn't interested in speaking, I was
19 interested in actions, and I did not trust the school to
20 take action themselves without a force outwith the
21 school putting -- exerting pressure upon them, such as
22 media articles existing about the racism there or such
23 as this Inquiry sort of bringing this to light.
24 I didn't trust the school that they sincerely would want
25 to tackle this issue, that they wouldn't just try to

1 brush this under the rug.

2 Why? Why was I sceptical? Well, the students who
3 currently attend the school who had contacted me said,
4 "I'm scared to share anything further with you because
5 they've told us at the school" -- this is after the
6 article came out -- "they've told us at the school that
7 if we speak to anyone from the press, you will get
8 expelled", so this does not tell me that this is
9 a school that is concerned with making a real change.
10 This tells me that this is a school that's concerned
11 with engaging in very quick damage control and -- and
12 trying to sort of preserve its reputation.

13 LADY SMITH: Saffy, am I right in thinking you didn't
14 respond in writing at all to this email?

15 A. Yes, I did not respond in writing.

16 LADY SMITH: So you didn't respond at all?

17 A. I did not respond at all.

18 LADY SMITH: You could have put all that in writing,
19 explained why you didn't want to have a meeting. Didn't
20 it occur to you to do so?

21 A. How could I possibly trust that the school in which
22 I was racially abused would take my words seriously in
23 this regard? I understand that the headmistress' words
24 were very sincere here, but ...

25 LADY SMITH: Am I to take it from that that it didn't occur

1 to you to write?

2 A. It occurred to me but I had absolutely -- the

3 possibility occurred to me, the option, but I had --

4 I had no inclination to do so.

5 LADY SMITH: Okay. Thank you.

6 Mr Brown.

7 MR BROWN: Well, simply just to follow up, looking back at

8 the letter, the third paragraph is:

9 "I wonder if you would feel able to come back to

10 Fettes so I can apologise in person, listen to you, and

11 learn. Your experience matters to me and I want to make

12 sure that the environment you describe has absolutely no

13 place in the Fettes of today."

14 A. Yes.

15 Q. Would you agree that that offer might be helpful if you

16 could take it up so that she could learn?

17 A. As I said, it was a very nice, good email to receive,

18 very sincere, very genuine. It showed that at least the

19 individual writing it was concerned with my experiences

20 and was concerned with ensuring that such experiences

21 were not replicated again, and ... I mean, as long as

22 sort of there's no limit in terms of when I can reply,

23 I would still be open to replying and open to -- open to

24 taking up the offer, as long as responding a year later

25 isn't too late.

1 Q. Well, I think we may hear from the author of that letter
2 tomorrow.

3 A. Okay.

4 Q. And she will no doubt update the Inquiry about what
5 steps have been taken, and it may be that you could read
6 that.

7 A. Okay.

8 Q. And contact as you wish.

9 A. Okay.

10 Q. Because what we can agree on is you want change.

11 A. Yes.

12 Q. Because change is necessary, and we see that explicitly
13 set out in your statement.

14 A. Yes.

15 MR BROWN: Saffy, thank you very much indeed. I have no
16 further questions for you, but is there anything else
17 you would wish to add?

18 A. Just in regard to this last point to do with the email
19 that I received from the headmistress, I would like to
20 make it very clear that I was in no way -- I am in no
21 way dismissing the email or dismissing the intentions,
22 the words and the sentiments expressed in this email
23 simply because it comes from someone from Fettes.

24 I mean, clearly I think Fettes is capable of change and
25 I want change there, which is why I am involving myself

1 in such efforts and which is why I've stated that as
2 long as the offer is still open, as long as the offer
3 hasn't expired, I will consider certainly the
4 headmistress' kind offer and responding to her message.

5 I just think it's understandable that I had some
6 hesitancy with regard to direct communication with the
7 school, since from my experience I couldn't even trust,
8 from my experience, that there was a collective moral
9 compass there, even, which was capable of directing the
10 school to make real change in a humane direction.

11 MR BROWN: Thank you.

12 A. Thank you.

13 LADY SMITH: Are there any outstanding applications for
14 questions of Saffy?

15 Saffy, that does complete the questions we have for
16 you. Thank you so much for engaging with the Inquiry.
17 I have your written statement, I've read it, it will be
18 reread, but it's also really helpful that you came along
19 today and you've been able to let me hear from you about
20 your experiences and about what we've explored in oral
21 evidence with you. So thank you very much for that.
22 I'm now able to let you go and I hope you can take the
23 rest of the day off because you've worked hard with us
24 this morning and I'm grateful to you. Thank you.

25 A. Thank you very much, Honourable Lady Smith.

1 (The witness withdrew)

2 LADY SMITH: Well, we'll stop now for the lunch break.

3 MR BROWN: My Lady, yes.

4 LADY SMITH: And try to start, maybe if we can get back at

5 2.10 or thereabouts, it's still going to give us long

6 enough for this afternoon's witness, isn't it?

7 MR BROWN: Absolutely, yes, thank you very much.

8 (1.16 pm)

9 (The luncheon adjournment)

10 (2.12 pm)

11 LADY SMITH: Good afternoon. Now, Mr Brown, are we ready to

12 continue?

13 MR BROWN: We are, my Lady. The next witness is

14 Michael Spens.

15 LADY SMITH: Thank you.

16 Michael Spens (sworn)

17 LADY SMITH: Can I begin with what I hope's an easy question

18 for you: how would you like me to address you? Mr Spens

19 or your first name, Michael?

20 A. I'm equally happy either way, my Lady.

21 LADY SMITH: Well, most people seem comfortable with me

22 using first names, so I'll call you Michael, if I may.

23 A. Perfect.

24 LADY SMITH: Michael, the red folder that you're pushing

25 away actually you're going to need, it has the hard copy

1 of your statement in it and I know Mr Brown will be
2 asking to you look at that in a moment. But you'll also
3 see your statement coming up on screen and the parts
4 that we refer to from time to time will be there, so do
5 use either or neither, whatever works for you.

6 Also, please let me know if you have any queries or
7 concerns giving your evidence. It's very important to
8 me that you're as comfortable as you can be and I'll do
9 what I can to help with that. If you need a break, let
10 me know if you need a break.

11 A. Thank you, my Lady.

12 LADY SMITH: If otherwise you're ready, I'll hand over to
13 Mr Brown and he'll take it from there.

14 A. Yes.

15 LADY SMITH: Thank you.

16 Mr Brown.

17 Questions from Mr Brown

18 MR BROWN: Thank you.

19 Micheal, good afternoon.

20 A. Good afternoon.

21 Q. In the red folder you'll have seen before you get to the
22 statement there is a front sheet with a list of
23 pseudonyms and you understand that given the nature of
24 some of the matters we are talking about, that people
25 are not being identified by their own names and there

1 are a list of pseudonyms. You'll be delighted to learn
2 we won't be touching on most of the ones on this list,
3 but there will be one or two, and I'll lead you to them
4 when we come to those parts of the evidence, okay?

5 A. (Witness nods).

6 Q. But if you would bear that in mind. For example, your

7 [REDACTED] at Fettes SNR [REDACTED] is known as

8 CXL [REDACTED]. Okay?

9 A. Yes; thank you.

10 Q. Going back to the statement, it is in front of you both
11 in paper form and on screen and it will move, as we
12 talk, on screen. We see it runs to 19 pages and on the
13 final page after a paragraph reading:

14 "I have no objection to my witness statement being
15 published as part of the evidence to the Inquiry
16 I believe the facts stated in this witness statement are
17 true."

18 You signed the statement on 26 October last year.

19 A. Indeed.

20 Q. And you will signed it, having read through it,
21 I imagine, to confirm you were happy with?

22 A. Yes, indeed.

23 Q. As we have discussed, it is now in evidence and we do
24 not need to meticulously go through every last detail.
25 It has been read already and it will be read again.

1 But if we go to the beginning, we see that you are
2 now 71?
3 A. (Witness nods).
4 Q. And after university, you have worked as a teacher of
5 science, speaking loosely, at a number of schools in
6 England, and then obviously you were headmaster of
7 Fettes College from 1998 to 2017.
8 A. (Witness nods).
9 Q. You go on to mention that you still work as an education
10 consultant and that's with a company that deals in the
11 appointment of heads, amongst other things?
12 A. Indeed. Exactly so.
13 Q. And you are a senior advisor, given your background of
14 working at the level of head in a significant school,
15 and we'll come back to recruitment, both in terms of the
16 work you do now but as a general subject of interest, in
17 due course. All right?
18 A. Yes.
19 Q. But going back to your experience of education prior to
20 Fettes, the two schools you mention, were they boarding
21 school?
22 A. They were, both Radley College and Caldicott.
23 Q. Had you been to a boarding school yourself?
24 A. I was, yeah, both at prep school and at senior school.
25 Q. So boarding was familiar to you?

1 A. (Witness nods).

2 Q. And was your experience of it, just out of interest, as

3 a student or pupil a happy one?

4 A. I think my experience was probably very typical. The

5 early years were difficult, later years were great fun.

6 Q. And why were they difficult?

7 A. Because life at boarding schools in the distant past

8 when I attended them was very hierarchical and when you

9 were at the bottom of the pile, that's where you were.

10 And as you moved up, life became relatively more

11 straightforward.

12 Q. Did it ever become totally straightforward?

13 A. I don't think life is ever totally straightforward.

14 Q. But within the school context, we've heard often from

15 witnesses speaking to the Inquiry that things actually

16 by the time you get to sixth year are okay because at

17 that stage you're the top of the tree and even if you're

18 not at prefect level, you tend to be left alone. Does

19 that sound familiar?

20 A. Yes, I think that would be polarising life a little bit

21 more than I would choose to do so. To suggest you were

22 being left alone rather implies you were not being left

23 alone lower down. I think what I was saying about the

24 early years in a boarding school is that you basically

25 kept your head down and got on with life, it doesn't

1 mean to say your life was made unpleasant for you. But
2 as I say, life was very hierarchical and your point is
3 well made that when you get to the top of the school, be
4 you a prefect or not, you are just that, you're at the
5 top of the school and therefore you enjoy what comes
6 with that position.

7 Q. You would have been in your secondary school in the
8 1960s.

9 A. (Witness nods).

10 Q. At that stage, again just out of general interest,
11 you've talked about a school hierarchy, was the ethos
12 that the prefects day to day ran most things and there
13 was a distance as between house staff and the pupils?

14 A. Yes, up to a point, and it varied a lot from school to
15 school. I think the school that I attended it was less
16 extreme. But certainly the prefects were very important
17 figures within the hierarchy of the school.

18 Q. Just moving on to your time at Caldicott and Radley, did
19 that inform your approach to teaching, your experience?
20 Were there things you thought actually these could be
21 done a great deal better?

22 A. Oh, certainly.

23 Q. What sort of things were you thinking of?

24 A. I think you -- you're probably informed by your own
25 mistakes more than anything else, and I remember when

1 I started teaching at Radley, one was, as you imply,
2 informed by your own school career, but increasingly you
3 ask questions about whether what you were doing and why
4 you were doing it was right, and I hope that during my
5 time as a teacher that my approach to teaching did
6 change.

7 Q. For example, we see that you became head of Caldicott
8 from 1993. In real terms, you are presumably able to
9 change things more realistic than you've ever been able
10 to change. Did you in Caldicott, for example, try to
11 effect change because now you had the chance?

12 A. Yes, but not change of a really significant nature. It
13 would be more changes to do with uniform and our
14 relationships with the parents and so on.

15 Q. It's simply because at that stage we would understand in
16 terms of society's approach to teaching and particularly
17 inspection, by the mid-1990s it wasn't simply
18 inspection, certainly in the Scottish sphere, that was
19 being looked at, there was a recognition that there were
20 wider issues that should be inspected. That was
21 presumably true in Caldicott?

22 A. Indeed, we were inspected by Ofsted during my tenure as
23 headmaster there.

24 Q. And did that throw up, from your perspective as head,
25 things that needed to be changed or were they being

1 changed already?

2 A. An inspection of a school is a really useful thing
3 because it does an awful lot of research for you. The
4 sorts of things it threw up were not -- not related to
5 pastoral care. The changes were really to do with
6 teaching and learning and how we could do that better.

7 Q. You've just said that you learn a lot from
8 an inspection. Working in education for as long as you
9 have, did you welcome inspections of whatever form?

10 A. Absolutely. Before they happen there's a degree of
11 feeling this is a pain because there's an awful lot of
12 preparation to be done, but in my experience they were
13 always positive and you learn a lot from them and
14 inspectors basically come in with an agenda to help the
15 school to improve, and that is to be welcomed.

16 LADY SMITH: Michael, am I right in thinking that
17 preparation ranges from what can be quite extensive
18 paperwork you're asked to do to the practicalities of
19 when they're going to be at the school, how you're going
20 to divide up where they're going in the school and have
21 meetings with them and so on?

22 A. (Witness nods). The work really is the paperwork. The
23 actual logistics of organising an inspection was more
24 straightforward, not least because the Inspectorate told
25 us pretty clearly what they wanted to do.

1 LADY SMITH: Thank you.

2 MR BROWN: And in that scenario a cynic might say that's
3 unfortunate because it allows you to prepare in advance.

4 A. Well, the paperwork is all in the public domain anyway.
5 What one is trying to do is bring it all together to
6 save the inspectors having to trawl through and find it
7 for themselves. So it's not that you're covering
8 anything up, and I'm sure if you speak to inspectors,
9 they would reassure you that having the wool pulled over
10 their eyes is not something they'd allow to happen.

11 Q. One of the things we've heard over the totality of the
12 evidence is the way inspections changed from education
13 purely to, as you say, interest in perhaps the pastoral
14 side, but also engaging with pupils. Was that something
15 that you welcomed? Or did you fear engagement by
16 inspectors with pupils?

17 A. No, absolutely not. Welcomed, because pupil voice is
18 a very important element of school life and you were
19 asking earlier about what was different 50 years ago.
20 Well, there was no such thing as pupil voice 50 years
21 ago, certainly not if you were lower down the school.
22 And increasingly over time that has been recognised to
23 be very important and a central part of any inspection,
24 if it's going to be rigorous and effective, is to
25 consult with pupils as well as all the other

1 stakeholders in the school.

2 Q. You came to Fettes in August 1998. The process for
3 engaging you, I imagine, was lengthy?

4 A. Yes. Not onerously so, but yes. A fairly
5 straightforward typical process.

6 Q. And in terms of you've been a head, was there further
7 training required when you came on board at Fettes?

8 A. There was. Heads of schools like Fettes tend to be
9 members of professional bodies. In my case it was the
10 headmasters' and headmistress' conference and there is
11 required training that HMC undertakes with heads when
12 they're appointed, (a) before they take up their post
13 and then following up afterwards.

14 Q. Did you understand when you applied for the job at
15 Fettes and got it that there were particular issues the
16 board of governors, who are your bosses, effectively,
17 any things they wanted you to do? Or was it simply you
18 were replacing a predecessor?

19 A. More the latter. We discussed at some length the
20 strategic plan that the governors had put in place and
21 indeed wanted to put in place, but no, there wasn't --
22 I didn't come in with an agenda from the governors
23 saying we need change in this area or another.

24 Q. Were you aware of SNR [REDACTED]'s experience with
25 a parent which had been going on, as we've heard, for

1 some years prior to and including 1998?

2 A. [REDACTED] was very open and frank with me before
3 I took up the post.

4 Q. Did you get a sense that that in any way impacted the
5 school, the experience that he had undergone?

6 A. It had impacted the school, yeah, undoubtedly. I think
7 the most obvious impact was the fact that there was
8 a considerable amount of adverse press coverage of the
9 school, bad publicity for the school. I think that was
10 the most obvious impact. Internal impact, not so much.

11 Q. Were you aware of it before you went to Fettes? Had you
12 heard about it in the educational world?

13 A. Yeah, peripherally.

14 Q. Peripherally, okay. The reputation of a school matters.
15 It is -- and I'm not being pejorative -- in Fettes'
16 case, it is a charity but it is a business at the same
17 time. Pupil numbers, as we've heard in relation to
18 Fettes and other schools, matter very much.

19 A. Mm-hmm.

20 Q. How much does the reputation of a school matter to
21 a head?

22 A. It matters a great deal. And not only for the reasons
23 that you mention, but also because as head you're
24 leading an institution and you invest a great deal of
25 yourself into that job. It is much more than a job. We

1 talk about it being a way of life, in many ways it is.
2 And so if the reputation of the school is impugned, you
3 tend to take that very personally.

4 Q. And again, this is not meant as a criticism but is there
5 a slightly defensive mentality about the school: you've
6 got to protect that reputation above anything else?

7 A. I think that is fair comment. Reflecting on coming to
8 give evidence today, it's one of the things that I have
9 reflected upon, is that perhaps in those early days at
10 Fettes there was undoubtedly a defensive mentality in
11 terms of reputation.

12 Q. Coming from the governors?

13 A. Coming from the leadership of the school, be that
14 governors, the senior leaders in the school. As you've
15 implied, the school does not enjoy bad publicity,
16 particularly if it's felt that it's unfair. And
17 undoubtedly SNR [REDACTED] had a very torrid time at the
18 hands of the press, and I think that -- and this is no
19 criticism of anyone, but I think that had created,
20 instilled a defensive mentality.

21 Q. And you [REDACTED] came into it. Can you
22 remember, having reflected upon it, how that mentality
23 impacted some of the things you did that you may now
24 think, "I could have done that better"?

25 A. Yes, I think there was a danger that one would look too

1 much at potential impact on the school rather than
2 looking beyond that at the substance of whatever you
3 were discussing.

4 Q. All right. Just you've been reflecting about it, how
5 does one address that? What can one do to prevent that
6 taking place?

7 A. A really, really good question. Part of it is you learn
8 from experience, and as you go through the job, you
9 appreciate actually what is important and what isn't and
10 that the people matter far more in the end than
11 reputation and the one will lead to the other anyway.

12 And I think you need to -- you have to change your
13 perceptions of life and understand that what happens in
14 the papers one day will be forgotten very soon
15 thereafter. In the great scheme of things, that is not
16 the most important thing in the world. What is
17 important is the well-being of the people in the school.
18 The pupils, obviously, but pupils and staff and parents
19 and everyone involved in the school.

20 Q. I think one possible example of that was the experience
21 -- if we can look to a document which will appear on the
22 screen in front of you, FET30. These are minutes of
23 a board meeting on 20 September 2005. If we go to
24 page 2, or the second page of this document, there's
25 reference at paragraph 5.8 halfway down there's a large

1 blacked-out area but then it talks about you:

2 "The headmaster had followed up with a meeting with
3 chief constable ... and the head of the CID ...
4 in September. A full report on that meeting following
5 the meeting was circulated to governors. In summary,
6 the headmaster had been informed that a trawl through
7 police files had not revealed ..."

8 Et cetera. This relates to a pupil from the 1970s
9 who had come, I think, to speak to you in 2004, perhaps,
10 2005 because he was reporting that he had been abused by
11 a teacher in the junior school?

12 A. (Witness nods).

13 Q. You remember this?

14 A. I do, yes.

15 Q. If we go over to page 3 of the document, you outlined
16 more the background to the affair, reading from the top:

17 "... which had been discussed at some length. Both
18 the chief constable and the head of CID had been
19 helpful."

20 Again, these are in the happy days when there's
21 a large police station, in fact a headquarters a cricket
22 ball's throw away from the front gates.

23 A. (Witness nods).

24 Q. So do you literally have close relations with the
25 police?

1 A. Yes, we did. Largely very positive, I'm happy to say.

2 Q. Yes. Reading in the second paragraph:

3 "The chief constable had been conscious of the
4 sensitivities of the case, but thought it likely that
5 press publicity would ensue. He'd recognised the values
6 had changed since the 1970s and was not critical of the
7 school for not having reported the incident to the
8 police at the time."

9 And then there's further details of meetings with
10 the police and meeting with the former pupil involved.
11 And then you confirm in the brief paragraph:

12 "The headmaster closed his report by confirming that
13 a press statement was held in readiness, and a strategy
14 decided in case the story broke.

15 The governors fully supported the upfront approach
16 which had been taken in this matter in the form of the
17 school itself approaching the police."

18 So what might be characterised as positive but also
19 you were worrying about how it's going to play out
20 publicly.

21 A. (Witness nods).

22 Q. Quite a defensive response?

23 A. I think -- I can only say that's fair comment.

24 Q. It was damage limitation and being prepared for it
25 should the storm break?

1 A. Yes.

2 Q. Was that informed by the experience in the 1990s?

3 A. Oh, undoubtedly. The governors and therefore by

4 implication myself, we were very sensitised to the press

5 getting hold of stories. And going way beyond this, we

6 had bad relationships with the press and people leaking

7 stories about the school, either true or untrue, but

8 there was unquestionably a defensive approach.

9 Q. If we go to FET319, and I think this is the letter from

10 the pupil where it's first -- this is dated 4 January

11 2005 and this is the pupil saying:

12 "I am writing to you to discuss a sensitive

13 matter ..."

14 Do you remember what your response was when you

15 first read that? This is obviously revealing -- long

16 before your time, but abuse that has caused profound

17 impact to this former pupil.

18 A. Oh, the response was what you would anticipate it to be.

19 I was very shocked and obviously saddened that it should

20 have happened, and of course it arrived completely out

21 of the blue, so it was something of a surprise to read

22 it.

23 Q. But the correspond continues, and if we go to page 4 of

24 the document, there's a letter which is now from May

25 2005, five months down the line:

1 "I have finally found the time to write to you in
2 response to matters as discussed in my meeting with [the
3 chairman of the board] and you. Frankly the meeting
4 raised more questions than it answered. I appreciate
5 that as a damage limitation exercise it was in the
6 school's interest to cover all the bases with regards to
7 its responsibilities in this matter but the account you
8 put forward is at odds with the facts in several
9 respects and the school did not meet even a rudimentary
10 duty of care in respect of my mother and myself."

11 And obviously it carries on in a similar vein, but
12 over the page on 5, you had a meeting, and I imagine you
13 remember that meeting, with the chairman of the board?

14 A. Yes.

15 Q. It became acrimonious, is that fair?

16 A. Sorry?

17 Q. It became acrimonious?

18 A. I don't know that it became acrimonious, and I have to
19 acknowledge my memory is quite hazy. But as I'm --
20 I think I wrote in the statement fairly clearly, I had
21 hoped the meeting would be at least conciliatory and we
22 would listen sympathetically to what had clearly been
23 a ghastly situation. But it became more confrontational
24 and I don't remember why or how it did, but I remember
25 thinking at the end of the meeting a mixture of we could

1 have handled that better and that was not the outcome
2 that we were hoping for.

3 Q. You reported matters to the police.

4 A. Indeed.

5 Q. Did you contact the student body to say, "We've had
6 a report. Has anyone else experience that you may think
7 is relevant?" We've heard of schools doing that much
8 more recently, I hasten to add.

9 A. When you say the student body, do you mean the current
10 student body at the time?

11 Q. No, Old Fettesians of that year group.

12 A. No, we didn't.

13 Q. Why not?

14 A. In all honesty, I don't think it ever occurred to us to
15 do that.

16 Q. Allowing you a moment to reflect -- I'm sorry, you're on
17 the spot -- do you think you should have?

18 A. It's a really, really good question. It wouldn't -- if
19 we were to have done it and if it were to have been
20 a helpful thing to do, it would have to have been done
21 extraordinarily carefully. It certainly wouldn't have
22 been a blanket communication to all former pupils. At
23 the time it was not -- it didn't cross our radar as
24 something that we thought about doing, and therefore
25 I'm -- you know, if I sound a little bit hesitant about

1 it, it's because this is the first time I've really
2 thought about that.

3 Q. One of the witnesses who has spoken to the Inquiry talks
4 about meeting you at a function at the dome, which was
5 talking about Fettes. This man has spoken to us about
6 being abused by the same teacher as the man you met in
7 2005 and he talked about trying to raise that with you
8 but you walked away. Now, that's his memory. Do you
9 remember that?

10 A. I don't remember it. But if that did happen, that is
11 precisely what I would have done because I would have
12 said to the person, "If you have a serious matter like
13 this to raise, then this has to be done formally at
14 a meeting in my study, not at a function in the dome."

15 Q. I think as he recollects it, for completeness, that
16 middle part was missing, that there wasn't the
17 engagement --

18 A. Well, in all honesty, I cannot comment on that because
19 I don't remember the incident.

20 Q. Yes. You've been very candid in saying it didn't occur
21 to you to contact the relevant contemporaries of the man
22 who was coming to you in 2005. You report matters to
23 the police. Do you remember, was any action taken to
24 see if the teacher involved was still engaged in
25 teaching?

1 A. By us or by the police?

2 Q. By you.

3 A. I don't believe we did any more. We handed the matter

4 to the police and the assumption was that the police

5 would then carry out relevant inquiries, which would

6 include is the said person still involved in teaching?

7 Q. Okay.

8 A. And to be honest, if we'd done any research of our own,

9 the first point of contact in any event would have been

10 the police.

11 Q. Moving on to the last stages of your tenure as head,

12 would you have dealt with a similar issue differently in

13 2017 than you did in 2005 do you think?

14 A. Undoubtedly differently.

15 Q. What do you think would have been different?

16 A. I think it refers back to what you were asking about

17 a moment ago. I think the response would have been far

18 less defensive and much more sympathetic, and we would

19 have hopefully engaged in a conversation with the

20 individual to discuss ways of taking this forward in

21 a constructive manner.

22 Q. Thank you. I think I'm correct in saying that the

23 chairman of the board of governors that you met in 2005,

24 with the pupil from the 1970s, was the same head of

25 governors who had been dealing with the issue that you

1 learned about in 1998; is that correct?

2 A. I think that's correct, yes.

3 Q. In terms of the culture of Fettes when you joined in

4 1998, did anything surprise you? We've talked about how

5 matters had progressed throughout your career, you'd

6 seen changes from the time you'd been at school. What

7 did you think of the Fettes you found? Did you see

8 an immediate need for change?

9 A. In that you're asking really about relationships with

10 pupils?

11 Q. With any aspect of the way the school functioned.

12 A. Oh, in terms of change there was a great deal that

13 needed to be changed, but that was much more to do with

14 the fabric and less to do with people. When we

15 inherited Fettes, from a people point of view it was

16 a school in very good order and my predecessor had

17 worked very hard to achieve that. But not that it's

18 relevant to this Inquiry, where the change was required

19 was in the fabric of the buildings, which were not in

20 good order.

21 Q. All right. I'm sorry, it's a well-known cliché, turning

22 a supertanker. Presumably with something the size of

23 Fettes, with all its constituent parts, you can only do

24 so much so soon.

25 A. (Witness nods).

1 Q. You had inherited a school where in terms of -- and we
2 heard about this this morning -- bullying had been
3 an issue previously and had been taken on. Initiation
4 ceremonies, we heard, had been stopped. Does that make
5 sense to you?

6 A. Yes, indeed.

7 Q. But when you come aboard in 1998 what has perhaps not
8 been looked at is very practical things like fabric and
9 that has to be attended to too?

10 A. (Witness nods).

11 Q. One of the things you talk about, paragraph 39, page 9,
12 is as part of observations on discipline and punishment
13 prefects were trained and encouraged to engage with
14 other pupils and achieve desired outcomes through
15 reasoned argument. Was that in place when you started?

16 A. Yes and no. There was prefect training and that had
17 certainly been put in place by SNR but we
18 developed it further. What we tried to do over the
19 course of my tenure -- and I say we because it certainly
20 wasn't just me, my deputy head was very centrally
21 involved in this -- was really to try and train prefects
22 in how to manage a school, how to manage their peers in
23 an environment where they have virtually no ability to
24 sanction. So if they were to achieve results, it had to
25 be done through example, and as I've said, through

1 reasoned argument. They had to -- they had to learn
2 those leadership qualities rather than the prefects of
3 50 years ago who, if they want something done, they
4 would just simply either demand it or require it at the
5 risk of a punishment.

6 Q. In that sense, was Fettes like your previous school --

7 A. Fettes was quite like Radley in the sense that they were
8 both boarding schools. Obviously Fettes co-ed rather
9 than Radley boys only. But when I left Radley, that was
10 just at the end of the 1980s, early 1990s, Radley hadn't
11 moved forward as far. Certainly it has now, but the
12 whole concept of prefect training was not well developed
13 while I was a housemaster at Radley, it was much better
14 developed at Fettes when I arrived there.

15 Q. You've talked about single sex and co-ed. Fettes when
16 you joined was progressing towards co-education, the
17 process had started, I think, as with many former boys'
18 schools, with girls joining in the sixth year and then
19 progressively filling in?

20 A. Yes, I think the word "progressing" I would take issue
21 with. The girls first arrived in the 1970s and full
22 co-education was from 1981, so it was definitely well
23 established as a co-educational school by the time we
24 took over.

25 Q. Yes. Forgive me, but had you worked in

1 a co-educational --

2 A. No.

3 Q. -- environment before? No?

4 A. No, that was my first -- first experience with

5 co-education.

6 Q. Were you conscious in your time at Fettes of tensions

7 arising as between boys and girls?

8 A. In all honesty, far fewer than I was anticipating.

9 Q. It was something you thought would be a problem?

10 A. Well, it's one of the naiveties, if you worked in

11 a single sex school, you tend to think that the issues

12 you will be likely to deal with as a headmaster will be

13 relationship issues between boys and girls. Obviously

14 of a sexual nature which could lead to very serious

15 consequences. The reality that I discovered when I took

16 over a co-educational school, relationships between boys

17 and girls are much -- much more typically

18 brotherly/sisterly than they are of an emotionally

19 charged nature. So I think I was surprised by the fact

20 that it was just more straightforward in every sense.

21 It's a much more natural way of being educated, boys and

22 girls together, and I was very -- very encouraged by how

23 well it worked and by the absence of tensions.

24 Q. We've heard about the Fettes ethos of you are there to

25 become -- and I'm speaking obviously at an extreme

1 level -- you are there to become a leader, a doer.
2 There was a certain -- I'm not being critical, a certain
3 arrogance: you were at Fettes and you would go on to do
4 great things. Is that something you would recognise?
5 A. It's an interesting way of putting it. I think we would
6 always, certainly in my time, we would always encourage
7 Fettesians, be they boys or girls, of whatever ability,
8 to be the best they could be.
9 We certainly didn't, and we did work very hard to
10 combat any feeling of entitlement, that just because you
11 were at Fettes you were therefore going to succeed. You
12 would succeed on your own merits. But don't
13 underestimate what those merits might be.
14 Q. We've also heard a great deal about Fettes and sport and
15 the importance of sport.
16 A. Mm-hmm.
17 Q. Certainly in the past being perhaps as important as
18 anything else, if not at times more so, and the status
19 of being in the First XV, for example. Was that present
20 when you were a head?
21 A. Yes, to a diminished extent, but what you say is
22 certainly what I picked up from former pupils, that 50
23 years ago, in the time that I was at school, sport was
24 everything and the First XV were everything. In my time
25 at Fettes it mattered a lot how the First XV did. It

1 also mattered how the girls First XI hockey did. If you
2 talked to the girls they would probably think they
3 always came second best, but that isn't actually the
4 reality of it.

5 So I think the short answer to your question is
6 sport remained important, but an important part of life
7 rather than the all-important part of life.

8 Q. Would sport provide a hierarchical status within the
9 school? If you were good at sport, you were high up in
10 the echelons of the pupil body; if you weren't, you
11 would be somehow seen as different?

12 A. I think increasingly less so over time. But having said
13 that, there is no doubt -- and it's probably even true
14 today -- that if you are good at sport, it eases your
15 path in boarding school life.

16 Q. What do you do to address that?

17 A. You address it by making -- doing everything in your
18 power to ensure that you live out the example and you
19 demonstrate that all aspects of life are important. And
20 whereas, yes, the rugby team matters, so does the choir,
21 so does the CCF, so does -- whatever you like. But you
22 have to be even-handed in your leadership of the school.

23 Q. And is that something you think changed over your
24 19 years at Fettes?

25 A. Mm, undoubtedly. And not -- not purely through my

1 efforts. It is a team, a collegiate achievement.

2 Q. Do you remember ever there being tensions as between the
3 treatment of girls by boys in your time at Fettes?

4 A. In what sense?

5 Q. Well, complaints being made that girls were being
6 treated badly by boys? Sexualised comments, abuse,
7 an arrogance that girls were somehow less or objects of
8 sexual attraction and little else?

9 A. I mean, the honest answer to that is there would
10 undoubtedly have been elements of that. If it ever came
11 to the attention of anybody in authority, it would have
12 been addressed. But that was certainly a battle that
13 had to be fought and continues to be fought.

14 Q. I appreciate we're talking about events now 10, 15, 20
15 years ago. We have heard evidence of a girl who was at
16 Fettes in the 2000s who was highly critical of (a) the
17 behaviour she and her fellows suffered from boys, but
18 (b) was condemnatory of the school's response, which was
19 not to approach the problem but to treat the girls and
20 boys as really the same problem. That doesn't ring
21 bells?

22 A. Well, not specifically.

23 Q. No, of course.

24 A. No.

25 Q. What about racism? Was that an issue you had to deal

1 with?

2 A. We didn't think so. But that isn't to say it didn't
3 happen. Fettes was quite multicultural throughout my
4 time, and we did all we could to ensure that there
5 wasn't any racism or any other sort of discrimination in
6 the school. But could I put my hand on my heart and say
7 it never happened? Of course I couldn't. I could
8 certainly -- well, I have the advantage of having three
9 children who went through the school and if you talked
10 to my children, certainly to my daughters, they would
11 say yes, some of our friends were on the wrong end of
12 racist comments.

13 Q. Was that after you stopped being headmaster or at the
14 time?

15 A. You mean when my children told me about it?

16 Q. Yes.

17 A. Actually after, because it was only really when they
18 were reflecting on their time that it came out.

19 Q. And when you heard that, what did you think?

20 A. Deeply disappointing.

21 Q. We've heard that there were slave auctions.

22 A. There were.

23 Q. When did they start?

24 A. That's a really good question and I cannot say for
25 certain whether that was something that was there in --

1 before we arrived or it happened after we arrived.

2 Q. Were they annual events?

3 A. It was part of prefects doing what we were talking about

4 earlier, trying to engage with the school. One of the

5 schemes they had for a fun event that would engage with

6 the school.

7 Q. And the fun event? How was it a fun event?

8 A. It would have been a Saturday evening activity and

9 prefects offered themselves to be auctioned as slaves.

10 Q. Do you remember --

11 A. In inverted commas, though.

12 Q. Do you remember whose idea this was at the very

13 beginning? I appreciate you're not sure whether it was

14 in place when you joined, but was it something that was

15 simply done by the prefects as a yearly event or was it

16 done with the assistance of the school authorities, if

17 I can put it that way?

18 A. It will undoubtedly have been discussed with the school

19 authorities. They wouldn't just have done it.

20 Q. No. You left in 2017. Were slave auctions still going

21 on?

22 A. No.

23 Q. Why did they stop?

24 A. Because we decided they were not a good idea.

25 Q. Why not?

1 A. Open to misinterpretation. And just not helpful when
2 you're trying to put across messages of tolerance and no
3 discrimination and anti-bullying and all of that. It
4 just -- a worthy intention, it was meant to be
5 light-hearted and positive in nature. The result was
6 unhelpful.

7 Q. And was there anything that led you to that conclusion,
8 it having, from what you're saying, been a tradition
9 over years?

10 A. A cumulative thing. You reach a point where you decide
11 tradition or not, we're going to end it.

12 Q. And to be clear, was it the student body that decided
13 enough, they thought that, or was that something that
14 was imposed by the school?

15 A. In the end I think it came very much from the staff, but
16 that isn't to say that the staff weren't responding to
17 comments from pupils.

18 Q. Were you aware of pupils saying this really shouldn't be
19 going on?

20 A. Undoubtedly there would have been an element of that,
21 otherwise they wouldn't have come to an end. Forgive me
22 if I'm being rather vague, but I haven't got a clear
23 recollection of that.

24 Q. All right.

25 LADY SMITH: Michael, you said earlier that your

1 recollection is that Fettes was multicultural. In
2 saying that, were you referring to the number of
3 nationalities at the school or did you have in mind the
4 number of ethnicities at the school?

5 A. I think the former, my Lady, rather than the latter.

6 LADY SMITH: Which doesn't necessarily indicate
7 a multicultural community, isn't that right?

8 A. Indeed it doesn't. I think to be fair to Fettes, we
9 tried very hard to embrace different cultures, and there
10 would be celebrations of, for instance, Chinese New Year
11 that would be very much built into the timetable of the
12 school.

13 LADY SMITH: Thank you.

14 Mr Brown.

15 MR BROWN: Thank you, my Lady.

16 You talk at page 10 of your statement at
17 paragraph 46:

18 "As far as I am aware, there were no concerns raised
19 about the school per se, but inevitably over the years
20 there were occasions when concerns were raised about how
21 a particular individual or individuals had been treated.
22 Such occasions were not frequent but, when they
23 occurred, they were dealt with appropriately."

24 Is the slave auction an example of that or were you
25 thinking of something else?

1 A. No, I wasn't thinking of that at all, actually. I was
2 thinking more in terms of parents coming to see me or
3 even pupils coming to see me saying they had been
4 bullied or there was bullying behaviour going on and
5 that would have been dealt with, as I say,
6 appropriately.

7 Q. I think you recognise, paragraphs 43 to 45, having
8 started saying that you were confident:

9 " ... because the systems, procedures and protocols
10 that were in place were designed to ensure that abuse or
11 ill-treatment of a pupil could not go undetected.
12 Because those systems improved and became increasingly
13 robust during my time at the school, I would feel
14 greatest confidence in my stated position in relation to
15 my latter years in post."

16 And that's going back to the statement:

17 "Looking back on my time at Fettes, I am as
18 confident as I can be that any incident of a child being
19 abused or ill-treated would have come to light
20 contemporaneously."

21 At paragraph 44 you say, reasonably perhaps:

22 "Notwithstanding the above, I am, and was during my
23 time as headmaster, conscious that no system, however
24 well-constructed, is completely infallible. One of the
25 most intractable difficulties associated with the care

1 and welfare of children arises when an individual who
2 might be suffering abuse or ill-treatment does not tell
3 anyone about it."

4 It is, as you say, perhaps, and we have heard
5 inevitably a lot of evidence from just such children,
6 it's an intractable difficulty. What do you think were
7 the key things that perhaps eroded that difficulty to
8 allow people to come forward?

9 A. By constantly putting that message across. And Fettes
10 now, I'm delighted to say, has a very, very robust
11 safeguarding child protection system, and one of the
12 most important messages that comes through to pupils
13 from the moment they arrive at the school is that you
14 must talk to people. If you're unhappy, if you feel you
15 are being taken advantage of in any way, talk to people.
16 It's not a sign of weakness to talk. That is what we're
17 here to do.

18 But what I've said there will remain the case. It
19 is intractable. And there is amongst pupils still
20 a code of honour, if you like, that you fight your own
21 battle and you find your way through life, which in some
22 ways is admirable, but you are battling against it
23 because it also can lead to people putting up with
24 things that they shouldn't put up with and the school
25 can only address issues if they know about it.

1 Q. Your statement talks about the way recording improved as
2 technology improved.

3 A. Yes.

4 Q. And you will have seen a transformation in your time as
5 a teacher from paper records perhaps being common or
6 not, depending on individuals and attitudes within
7 particular establishments, to a culture where recording
8 was seen as vital?

9 A. Totally vital.

10 Q. And as part of the process to address the intractable
11 issue.

12 A. Yes, because what you need to have in a school is
13 joined-up thinking, and the pastoral side and the
14 academic side of the school and the co-curricular side
15 of the school are all feeding in comments, observations
16 about individuals so that you have the best possible
17 chance of picking up issues and picking up problems and
18 addressing those intractable issues of boys or girls who
19 are not talking. They're unhappy, but they're not
20 talking about it.

21 Q. So at that point presumably the school is proactive with
22 that child?

23 A. Yes, absolutely.

24 Q. When did that start at Fettes?

25 A. Well, I think as I've said in my statement, it evolved.

1 It was always there, but it was much, much more
2 effective at the end of my tenure than at the beginning.
3 The whole focus on safeguarding and on child protection
4 changed dramatically, not simply within Fettes but
5 nationally in Scotland and throughout the UK. The whole
6 focus on that aspect of life became much more important,
7 and rightly so, and it was raised in everybody's
8 consciousness and became an integral part of staff
9 training for all members of staff.

10 So there isn't any one point in time where you'd say
11 there was a sudden moment, an epiphany when things
12 changed, but we got better at it and that improvement
13 accelerated markedly during the second ten years of my
14 tenure.

15 Q. You talk about change happening gradually. We would be
16 aware that there are a number of organisations, you've
17 talked about headmasters' and headmistress' conference.
18 Is that an exchange of ideas?

19 A. Yes, certainly, and there are many other like it. And
20 you talked about inspection earlier. Output, outcomes
21 from inspections would feed into that as well. And the
22 whole impetus within Scotland, within the Care
23 Commission and more widely in England, the whole agenda
24 around keeping children safe in education, that has
25 gathered momentum over the years and that's why I say it

1 has evolved to an extent now where safeguarding is,
2 quite rightly, at the top of the agenda, not just for
3 boarding schools, for any schools.

4 Q. SCIS is an organisation you will have worked with
5 throughout your time at Fettes.

6 A. Indeed.

7 Q. Helpful?

8 A. Very.

9 Q. But would I be wrong to say that many schools -- and I'm
10 not just looking at Fettes but just across the board --
11 that schools were responsive, they were waiting to be
12 told about things by bodies such as SCIS or HMC, rather
13 than being particularly proactive themselves. They
14 follow rather than lead individually. Is that a fair
15 observation at all?

16 A. I think that depends hugely on the school, to be honest.
17 And certainly in terms of the way you evolve as a school
18 leader, I think you become more proactive as you gain
19 experience in a school. So a good school -- if you take
20 SCIS as the example. SCIS could draw on what was
21 happening in good schools and best practice in schools
22 would be shared and SCIS was a very good vehicle for
23 sharing that. So they weren't simply leading, but they
24 were facilitating.

25 Q. Thinking back to your reflection about perhaps the

1 over-defensive response in the first years of your
2 headship of Fettes because of the experience that SNR
3 SNR had had, was that something you shared with
4 SCIS or HMC to say, "Look, this is something that
5 I think I could have done better, or we the school could
6 have done better; disseminate that more widely"?
7 A. Yes. It's a simple answer to that question. They're
8 the sort of things you would discuss at SCIS or at HMC
9 meetings where the most useful parts of any conference
10 are those private chats you have with colleagues who are
11 doing the same job in different schools.
12 Q. It's just in terms of looking ahead and intractable
13 problems.
14 A. Mm.
15 Q. Presumably one very obvious thing to do is to share
16 experience, and from what you're saying, that is done
17 now. Was it always done?
18 A. No, not so much. Again it depended -- different schools
19 and particularly different heads would have different
20 approaches. But there was perhaps more of a competitive
21 silo mentality amongst schools 20, 30 years ago than
22 there is now. I think there's a much more collegiate
23 approach between schools. And rather than being worried
24 about a rival getting a jump ahead of you, you work more
25 on the basis of let's all try and get better together.

1 Q. I was coming to that because you are all competitors at
2 the end of the day.

3 A. We are, but we're also all looking after the welfare of
4 children and that's what one has to bear in mind all the
5 time.

6 Q. Which has primacy? Which of the two?

7 A. The welfare of children, of course.

8 Q. But that wasn't perhaps the mindset 30 years ago?

9 A. Perhaps not.

10 LADY SMITH: Michael, can I just ask you on a small point of
11 detail that's nothing to do with the generalities you're
12 discussing just now. You went to Fettes in 1998. At
13 that time were pupil records all hard copy or had they
14 become digitised?

15 A. My Lady, they were entirely hard copy.

16 LADY SMITH: And would copies of records relating to
17 individual pupils be kept in each house?

18 A. Sorry, kept in?

19 LADY SMITH: Would there be any records in relation to
20 individual pupils kept in their house?

21 A. In their boarding houses?

22 LADY SMITH: Yes.

23 A. Yes, there would have been.

24 LADY SMITH: Thank you.

25 Mr Brown.

1 MR BROWN: I think we talk about this, my Lady, at
2 paragraph 69 of page 14, I think.

3 You seem to be a little bit equivocal. It could
4 either be central or with the house, one or the other.

5 A. (Witness nods).

6 Q. But they would be accessible because they could only be
7 in two places, I take it.

8 A. (Witness nods). The whole record-keeping system was not
9 very efficient at Fettes. I don't think it was
10 particularly a Fettes thing. I think Radley was
11 probably very similar. But records would tend to be
12 kept of individual pupils in their boarding house, but
13 not exclusively, because if that pupil had been involved
14 in something on a school-wide basis, there might have
15 been records kept in the headmaster's office or the
16 deputy head's office.

17 At the end of a pupil's career, all those documents
18 were amalgamated into a file that was then put into
19 store.

20 Q. Yes.

21 A. But I think as I've implied in the -- or stated,
22 I should say, in my witness statement, the completeness
23 of those records varied considerably depending on the
24 assiduousness of the housemaster or housemistress or
25 other member of staff involved.

1 Q. And you make the general comment:
2 "Historic records could typically contain relatively
3 little relating to reports or complaints made by
4 an individual pupil."
5 Again, the culture was not one to write down
6 everything.
7 A. (Witness nods). Correct.
8 Q. You then had the additional factor of someone who might
9 not care to write down anyway.
10 A. Yes, that is fair comment.
11 LADY SMITH: Could you conceive of a new housemaster
12 arriving and finding that there were no pupil records at
13 all in the boarding house?
14 A. No, my Lady, there would always be records, but they
15 would be -- at a minimum, they would be the enrolment
16 card, there would be fortnightly report cards, there
17 would be copies of the end of term report. There might
18 not be anything of a personal nature, letters from
19 parents, of that sort.
20 LADY SMITH: But there would be something?
21 A. There would be something.
22 LADY SMITH: Mr Brown.
23 MR BROWN: One would hope.
24 A. Sorry?
25 Q. One would hope.

1 A. One would -- no, don't let me give the wrong impression.
2 There would certainly be records. But if you compared
3 the extent of a record of a pupil in the 1960s, 1970s,
4 to the extent of a record of a pupil in the 2020s, it's
5 a very different thing.

6 Q. It's simply we heard this morning evidence of a head of
7 the junior school taking over against a background of
8 his predecessor not wanting to move and one of the acts
9 apparently was to remove the records.

10 A. Ah.

11 Q. So there were none for his predecessor to find. Any
12 comment on that sort of conduct?

13 A. Totally unprofessional and unacceptable and probably
14 explains why the person was removed from the position
15 they were in.

16 Q. Quite so.

17 Can we talk about recruitment.

18 A. Indeed.

19 Q. Now, as we agreed at the beginning of your evidence, you
20 have been working as a senior advisor with a private
21 company which assists schools in finding suitable
22 candidates for headships. Is that a fair summary?

23 A. Yes, or deputy headships, yes.

24 Q. Yes. Senior management positions of establishments of
25 the size of Fettes or smaller?

1 A. Or larger.

2 Q. Or larger?

3 A. Indeed.

4 Q. Is Fettes a small school compared with others nowadays?

5 A. Oh yes. There are other venerable establishments within

6 this city who are -- or which are considerably larger

7 than Fettes.

8 Q. I suppose we may have general managers of schools with

9 physical presences in many countries, particularly

10 China.

11 A. Mm.

12 Q. It's that level. Would you describe a headmaster as

13 an educator or a business manager now?

14 A. It's a question we ask a lot. The best headmasters are

15 educators. They may also be effectively CEOs, but

16 they're first and foremost educators.

17 Q. When you were head of Fettes, you would have inherited

18 recruitment processes when you joined. You went through

19 the process. You will, I take it, have formed your own

20 views on what was good practice and what was not good

21 practice.

22 A. (Witness nods).

23 Q. Can you remember, going back to the late 1990s, early

24 noughties, what the practice was for appointments in

25 terms of references and speaking to referees?

1 A. It was less rigorous. We would go through essentially
2 the same process. So if you were recruiting a member of
3 staff, you would advertise the role, you would get
4 applications in, you would interview, and that interview
5 process would involve different members of the staff so
6 you weren't doing it entirely yourself. And then you
7 would have a meeting to discuss and you'd appoint.

8 References would not at that stage have been
9 followed up other than to discuss a particular aspect of
10 a particular applicant. So, for instance, in the early
11 days I might well have phoned the -- it was often the
12 headmaster of the school that the applicant was
13 currently working in just to follow up on points --
14 often points that have not been --

15 Q. Sorry, just a distraction.

16 A. Are we okay?

17 Q. We are.

18 A. To discuss what might not have been said in the
19 reference. One thing you learn when you read
20 a reference is you read between the lines and what has
21 been left out, and quite often a referee in those days
22 would almost be saying, "Give me a ring to talk about
23 this person". But that would have been the exception
24 rather than the rule in those days. Now, of course,
25 references are always followed up, every referee is

1 contacted (a) to verify they did in fact write the
2 reference, and (b) then to have a follow-up
3 conversation.

4 Q. When did that change?

5 A. That again has evolved, but you will have heard of Safer
6 Recruitment as a principle. When Safer Recruitment
7 first came into being, and forgive me I can't give you
8 a date. Let's try 2011, somewhere around there. That
9 was one of the basics of Safer Recruitment is you always
10 follow up a reference and validate it.

11 Q. Did you ever have experience, given the time span of
12 your educational background, of teachers gently being
13 moved on from another school because they were a problem
14 and they were just got rid of and passed on to someone
15 who had no idea why they were being passed on?

16 A. The only honest answer to that question is yes. There
17 were undoubtedly times, not often, where you look back
18 and think, "My goodness me, that person was passed on to
19 us", and then you ask yourself the question, "Why didn't
20 I check more carefully.

21 Q. Or why weren't the school honest with you.

22 A. (Witness nods).

23 Q. When are you thinking of? What stage of your career did
24 that last happen?

25 A. Not within the last ten years, so that would have been

1 earlier in the career.

2 Q. Not in the last ten years, so did that happen to you at

3 Fettes?

4 A. Yes.

5 Q. What steps did you take when you discovered that, if

6 any?

7 A. When the opportunity arose, I had a fairly direct

8 conversation with the referee along the lines of, "You

9 passed that one on to us, didn't you?"

10 Q. And presumably there was shame and embarrassment?

11 A. In some cases. Perhaps less shame and less

12 embarrassment in others than there should have been.

13 Q. Did you think of taking it further as a matter, thinking

14 of HMC, SCIS, saying --

15 A. In an extreme case you could have done that, but no,

16 I didn't.

17 Q. Again, I'm not being critical but I want to know why.

18 A. If it had been somebody who had been passed on when

19 there was something that absolutely had to be said and

20 it hadn't been, then you would undoubtedly have raised

21 that with HMC. If it was a question of a head passing

22 on a teacher who was okay but not very good and giving

23 them a glowing reference in order to get rid of them,

24 you have to just shake your head and say ...

25 Q. "I'll learn a lesson from that."

1 A. Mm-hmm.

2 Q. Is that partly what drove perhaps the more rigorous
3 approach?

4 A. Undoubtedly, yeah. Although I think the main driver of
5 the more rigorous approach is to stop people slipping
6 through the net who, you know, could be a potential
7 danger to the school.

8 Q. That's looking at teachers that you inherited and
9 perhaps rued afterwards. Let's look at it the other way
10 round and teachers who you know have aspects to their
11 experience, character which are less than ideal. What
12 do you do in that situation?

13 A. When you write a reference?

14 Q. Yes.

15 A. You write it very carefully and you -- what I used to do
16 was always put a line at the bottom, "Please give me
17 a ring".

18 Q. The alternative, I suppose, is to be absolutely honest.

19 A. Yes, they are. But as I said to you a moment ago, there
20 are things that are not said in references.

21 Q. Well, that's what I'm alluding to. Surely the answer is
22 just to be totally honest so it's not by relying on
23 inferences of someone reading and implications from you,
24 but just: this is the reality and you make your decision
25 on that.

1 A. And I think the answer is what you say is irrefutable.
2 Of course references should be full and totally honest.
3 In these difficult litigious times in which we live,
4 referees have to be very careful about what they put in
5 writing, which is why following up with phone calls is
6 so important.

7 Q. I'm just interested because if we could look at
8 a document, which is FET32, now again this is where one
9 of the pseudonyms is on your list and I think it's at
10 the foot of the -- FET322. It's page 17, please.
11 You'll see there's reference to a witness -- a person we
12 are going to call FGN bottom of the first list.

13 A. Yes.

14 Q. And you'll recognise the name as being a former member
15 of staff at Fettes; is that correct?

16 A. He was a member of staff at Fettes, yes, indeed.

17 Q. This is an episode that you will remember. He, I think,
18 putting the matter short, formed a relationship with
19 a pupil.

20 A. Mm-hmm.

21 Q. Which was not sexual but was emotionally very
22 significant for both. Fair?

23 A. Yes.

24 Q. Because of your discovery of that, you took the view --
25 I'm sorry, I think if we start at page 13. After

1 a discipline meeting in [REDACTED] 2011, and you set out
2 the history in the full paragraph that we see at the
3 bottom of the screen, where you say, last three or four
4 lines:

5 " ... furthermore it was a clear and direct breach
6 of the explicit instruction that I had given you in
7 February that you should distance yourself from the
8 pupil and observe the requirements of an appropriate
9 professional relationship. You were unable to follow
10 these instructions and you breached them in a flagrant
11 fashion by allowing the pupil to visit you in your flat
12 on her own and by arranging to meet her in Cambridge
13 during term time when you shared a room in a B&B
14 establishment.

15 You are therefore demonstrably in breach of my
16 specific instructions and in breach of your contract and
17 the child protection rules and guidelines."

18 And this amounts, reading short, to gross
19 professional misconduct. And over the page you dismiss
20 him. You remember this?

21 A. I do.

22 Q. Were you asked to write references for him?

23 A. I was.

24 Q. And I think we see the reference starting on page 10 and
25 you set out his history and second paragraph you say:

1 "He proved himself to be an excellent appointment on
2 many fronts."

3 And you then talk positively about him, summing up
4 at the foot of page 10:

5 "He has very many qualities that make him a fine
6 schoolmaster and someone who contributed most
7 constructively to life at this busy boarding school on
8 a variety of fronts."

9 But then you go on on page 11:

10 "Unfortunately FGN does have a flaw that
11 ultimately proved his undoing and was the reason he had
12 to leave Fettes. There is a certain naivety about him
13 that on one level is an appealing facet of his character
14 but which was in my view the principle cause that led
15 him to make a very serious error of judgement."

16 Then go on to discuss in detail what led to his
17 demise at Fettes and you conclude at the foot of
18 page 11:

19 "However, there have to be question marks about
20 FGN judgement and these cannot be minimised."

21 And then finally, page 12, you don't believe that he
22 poses any danger or risk to children of prep school age:

23 "I have no problem, indeed no reservation in
24 expressing the personal view that I could see no reason
25 why he should not be employed in a role where he would

1 have close access to young children. However, were he
2 to be applying for a role in a secondary school, I would
3 not be able to be quite so sanguine."

4 Then you express views about the relationship that
5 he did have but then you go on:

6 "There has to be an element of risk involved in any
7 decision to offer FGN a teaching role but I believe
8 that level of risk to be low. He is fundamentally
9 a decent man as well as a talented teacher; my hope is
10 that he will receive a second chance.

11 If I can help any further ... please do not hesitate
12 to contact me ..."

13 You have your views of the man, but in 2011 you're
14 setting out pretty bluntly what has gone on. There's no
15 inferences to be drawn, you've just been full. Is that
16 not the better approach?

17 A. Well, clearly I thought so, that's why I wrote that
18 reference.

19 Q. Well, that's why I'm puzzled that you were somewhat
20 reticent, it may have seemed, to the idea of just being
21 absolutely blunt in a reference.

22 A. I was talking generally. You asked about references
23 generally and I'm afraid the reality of life today is
24 that referees are increasingly reluctant to put things
25 in writing.

1 If you were to show that reference which I wrote on
2 FGN to educators today, they would be very
3 surprised that that level of detail had been gone into.
4 I'm not saying that is a good thing. I would write the
5 reference in the same way again and I did indeed follow
6 it up with a telephone conversation. And references
7 from my point of view have always got to be honest.

8 Q. But from what you're saying, by writing a reference
9 which is not straightforward but alludes somewhat
10 vaguely to issues that you want to talk about, are you
11 not just introducing (a) the scope that whoever reads
12 your reference doesn't pick up the references you hope
13 will be seen with the potential result that someone who
14 has issues may then get a job they are ill-suited to?
15 Or it's simply another stage in a process that will lead
16 to the same result if you had written an entirely candid
17 reference?

18 A. I mean, you are covering a range of different issues in
19 one here and there are conflicting issues. On the one
20 hand, talking generally, your point is absolutely right,
21 references should be full, open and candid. On the
22 other hand, there is the risk that the writer of
23 a reference runs of being, for want of a better word,
24 sued by the person he's writing the reference on if they
25 saw what had been written and felt it was unjust. And

1 that is a tension that referees have when they're
2 writing references.

3 I think the follow-on to what you're saying is the
4 importance of training, and training heads in particular
5 in this context, about reading a reference and about the
6 importance of following up a reference with a phone call
7 and of probing anything in that reference that might be
8 alluded to, as you put it, rather than specific. The
9 advantage --

10 LADY SMITH: Sorry, Michael, can I just intervene there?

11 A. Sorry, my Lady, I apologise.

12 LADY SMITH: I'm not following why you feel that somebody
13 like a head could be worried about being sued if all
14 they do is say, "This is what happened, these are the
15 reasons this person was dismissed as were intimated to
16 him, he did not appeal". I take it FGN did not
17 appeal as you appropriately told him he could?

18 A. No.

19 LADY SMITH: End of story. I would have thought that where
20 the problems are going to begin to arise is offering
21 your judgement -- the referee's judgement of the extent
22 to which the person presents a risk. Isn't that right?

23 A. You think the danger is offering a judgement?

24 LADY SMITH: I think that looks far more dangerous than
25 simply setting out plainly and factually what happened

1 that cannot be challenged by the subject of the
2 reference. Because heads, however experienced, are not,
3 for example, experts in the psychology of abusers, I can
4 say that, or the psychology of people who could harm
5 children. That to my mind is where one gets into
6 dangerous territory.

7 A. I wouldn't disagree with that.

8 LADY SMITH: Mr Brown.

9 MR BROWN: I'm just intrigued because one might have thought
10 that the greater risk would be being opaque and someone
11 could then come and say, "You gave a reference for this
12 guy and you didn't say that", whatever, and therefore
13 that is the more risky approach because it might be
14 termed misleading.

15 A. Again, you make very fair points. All I can do is
16 illustrate the way I would write a reference, which you
17 have in front of you. And my metae would be to be
18 candid, possibly as Lady Smith has indicated, to
19 a fault, but I would always seek to be candid rather
20 than conceal.

21 Q. Well, quite. And that being so, does the two-stage
22 process that you seem to be envisaging where there is
23 allusion and you hope whoever's reading it phones you
24 back so that you can then be more candid on the
25 telephone, presumably to avoid a written record which

1 you would fear might result in you being sued, the worst
2 of all worlds is you don't get that phone call, what do
3 you do then?

4 A. Yes, but the point I'm making is you must make that
5 phone call.

6 Q. Even if they don't pick up the signals you're hoping
7 they pick up?

8 A. It goes back to training heads to read references. But
9 the training around Safer Recruitment is very clear that
10 those phone calls are essential. And within the phone
11 call, you do ask key questions relating to safeguard as
12 a minimum.

13 Q. If we can just change tack slightly, you're now working,
14 obviously, with a recruitment organisation. In terms of
15 questionnaires for appointment, they are, we would
16 understand, pretty common? Is that correct?

17 A. Do you mean an application form?

18 Q. Yes.

19 A. Yes.

20 Q. And it would be expected, and we've heard evidence of
21 this, that in schools not just for teaching appointments
22 but for all appointments, the question baldly is asked:
23 is there anything, any reason you know of, that this
24 candidate should not work with children? That's stock,
25 is it, nowadays?

1 A. That is standard, yes.

2 Q. Is there anything do you think -- and I ask this because
3 you act for a private company filling posts -- that can
4 be improved in the recruitment process? Are there
5 questions that should be asked as a matter of routine?

6 A. I think it's as rigorous and robust as it can be. As
7 you say, the application form requires that
8 self-declaration. Referees have to answer direct
9 questions about safeguarding. And it is an absolute
10 requirement that in final interviews safeguarding
11 questions are asked by the safeguarding governor or the
12 person responsible for safeguarding in the school. So
13 I think it's about as rigorous as it can be now.

14 Q. So perhaps the concerns that we were discussing a moment
15 ago about what references say can be addressed by
16 ensuring that questions that can't be elided are asked.

17 A. I think the questions I'm referring to are not
18 safeguarding ones. I think the safeguarding ones are
19 covered off. What we were talking about earlier, the
20 allusions in a reference, would be more to do with is
21 this person a really good teacher, not whether they're
22 a danger to children. That is an absolute and would
23 clearly be covered off in all the ways that you've
24 indicated.

25 Q. Though in the past that may not have been so obvious?

1 A. In the past, no.

2 Q. You conclude your statement on page 17, 18, looking at
3 ways that the Inquiry might benefit from your experience
4 of decades in education. One of the things you talk
5 about is the need for steps to be taken to prevent
6 complacency because staff may change, having been
7 appointed and appropriately, over time.

8 That's paragraph 83:

9 "A constantly vigilant approach is required."

10 You can't rest on your laurels. Do you say that,
11 out of interest, because of any experience you've
12 actually had?

13 A. Not a direct experience. It is more a comment about the
14 importance of -- I'm using my words carefully because
15 one doesn't want to convey a suggestion that staff
16 should be spying on each other in any sense at all, but
17 it's very important that all members of staff understand
18 their responsibility to report anything that they might
19 see in one of their colleagues that caused them concern.
20 I think that's what I'm referring to when I say that
21 constant vigilance.

22 Q. Is that an extension then of what we were talking about
23 in terms of recording, thinking of pupils, there is
24 recording of everything from all aspects to paint
25 a picture of a pupil, that should actually extend to

1 staff?

2 A. And indeed it does.

3 Q. When did that start, practically, at Fettes?

4 A. Again, I couldn't give you -- I could not give you

5 a date on that. It's -- I talk at several points in the

6 statement about things evolving over time and one of the

7 things that has evolved and has become much more robust

8 is staff training in the area of safeguarding. And

9 every year when you get updated training, there will be

10 new things being put in or a change of emphasis, and one

11 of the changes of emphasis over time has been that

12 importance of being vigilant and of what to do if you

13 have a concern about a colleague. Or indeed what to do

14 if you have concern about the head. It's not limited to

15 your immediate peers.

16 Q. No, it's staff generally.

17 A. Indeed.

18 Q. Is there anything else? I take it you read your

19 statement last night in advance of today?

20 A. Mm.

21 Q. On re-reading it and reflecting, is there anything else

22 you would like to add?

23 A. No. I think when I re-read it, as you rightly indicated

24 I did, I thought, okay, that's fine, I stand by what

25 I've written there.

1 The thing I thought you might ask about is where are
2 the loopholes still?

3 Q. And?

4 A. I think the most difficult -- the most tricky one, or
5 the one perhaps heads have to be the most careful about
6 now, are new entrants to the profession, and I have to
7 choose my words very carefully, but if you are a young
8 graduate coming into teaching, references will often be
9 written by university lecturers, your tutors, and some
10 universities are better at doing this than others. Some
11 know their students better than others.

12 I think if there is a loophole, it is those people
13 coming in at the beginning of the profession. Do we do
14 enough digging and research and checking of references
15 for them? I don't know. I think it's an open question.

16 Q. That can't be a new problem.

17 A. No, but it's a -- it's a problem that has become --
18 brought more into focus by the whole raising of
19 consciousness of child protection and safeguarding.

20 Q. I'm sure that's true, but is it something that is more
21 on your mind because of experience?

22 A. No, it isn't, actually, and I would not be casting
23 aspersions at any young teacher at all, but when
24 reflecting on possible loopholes, it's at that stage in
25 your career where your referees are likely to know you

1 least well. Put it that way.

2 Q. Presumably that is why we have a period of probationary

3 contract?

4 A. Indeed.

5 Q. And you as a head, would you be looking particularly

6 closely at young teachers of the kind you describe for

7 that reason?

8 A. You absolutely would, indeed.

9 Q. And can we take it that that's something that is

10 discussed by SCIS, HMC, amongst heads?

11 A. (Witness nods). But bear in mind you'd have

12 a probationary period for any new teacher, whatever age

13 or stage, they would have a probationary period.

14 Q. But the point I'm making is, is that sort of concern one

15 that you have shared more widely already?

16 A. It's something that one certainly talks about.

17 Q. Just to keep on that issue for one more question, you've

18 talked about it's been discussed, but I get the sense

19 from what you're saying it's more discussed one-to-one

20 with colleagues at perhaps meetings rather than putting

21 it into the general arena, is that right?

22 A. No, it will certainly be in the general arena also. I'm

23 betraying my slight cynicism of conferences when I say

24 that the most valuable conversations you have tend to be

25 one-to-one with your colleagues about specific

1 instances. You get some very good talks and some very
2 good courses, but actually it's picking the brains of
3 your colleagues is the most valuable thing you do.

4 Q. That may not be, for what it's worth, restricted to
5 education, but it's not perhaps the best way of
6 disseminating important information.

7 A. And to be fair to the authorities, important information
8 is disseminated. The key thing is to make sure it is
9 disseminated within your school, and Fettes, like any
10 good school, has very good systems for doing that.

11 Q. I'm sure we will hear more of them tomorrow from the
12 current head.

13 A. (Witness nods).

14 MR BROWN: I have no further questions, my Lady. Thank you.

15 LADY SMITH: Are there any other outstanding applications
16 for questions?

17 Michael, that does complete the questions we have
18 for you. Thank you so much for engaging with us, both
19 in terms of your written statement, which I have read
20 and will read again, that's part of your evidence, but
21 particularly for coming along today to talk further
22 about what you can assist us with. It's been really,
23 really good for me to hear it. I'm not going to
24 apologise for pressing you on occasions because I think,
25 as you yourself have recognised, at the heart of what

1 we're talking about here is the welfare of children and
2 protecting children now and for the future, and I hope
3 you've taken it in that vein.
4 A. Absolutely.
5 LADY SMITH: Thank you for your co-operation and thank you
6 for your contributions this afternoon and I'm now able
7 to let you go and have a rest.
8 A. Thank you, my Lady.
9 LADY SMITH: Many thanks.
10 (The witness withdrew)
11 LADY SMITH: So, Mr Brown.
12 MR BROWN: My Lady, that concludes today's evidence and we
13 finish this part of the Inquiry tomorrow with the
14 evidence of Helen Harrison, which we'll start hopefully
15 at 10 o'clock.
16 LADY SMITH: 10 o'clock. Very well. I'll rise now and
17 we'll look forward to hearing from Helen Harrison at
18 10 o'clock tomorrow morning. Thank you all.
19 (3.43 pm)
20 (The Inquiry adjourned until 10.00 am
21 on Thursday, 9 December 2021)
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