

1 Tuesday, 25 January 2022

2 (10.30 am)

3 LADY SMITH: Mr Brown.

4 MR BROWN: My Lady, good morning.

5 Today, as Your Ladyship knows from last week, is the
6 Care Inspectorate day.

7 LADY SMITH: Yes.

8 MR BROWN: We'll start with a read-in from Iain Lamb, to be
9 followed by Marion Crawford giving live evidence.

10 LADY SMITH: Thank you very much.

11 MR BROWN: I'd invite my learned junior to begin.

12 LADY SMITH: Thank you.

13 Ms Bennie, when you're ready.

14 MS BENNIE: Thank you, my Lady.

15 Iain Lamb (read)

16 MS BENNIE: The read-in statement bears the reference
17 WIT-1-000000364. My Lady this is the statement of
18 Iain Lamb.

19 "My full name is William Iain Alexander Lamb. My
20 year of birth is 1956.

21 I worked as a member of the care staff for
22 Strathclyde Council in residential schools from 1973
23 until 1977. I worked with children who were regarded as
24 having 'emotional and behaviour difficulties' and some
25 were considered to be mentally handicapped.

1 I went to college and qualified as a social worker
2 in 1980. From 1981 until 1987 I worked as a social
3 worker for child guidance in Glasgow, where I was
4 attached to a residential school for boys with emotional
5 and behavioural issues.

6 From 1987 until 1988 I worked as the assistant head
7 of a residential school, developing and managing the
8 care of the pupils.

9 From 1988 until 2000, I worked as head of care in
10 a residential school for Quarriers with children and
11 young people who had severe emotional conditions.

12 From 2000 until 2002 I was manager of a Local
13 Authority care home for children and young people in
14 Dumfries and Galloway.

15 I joined the Care Commission in 2002 as
16 an inspector.

17 I have been involved in inspecting independent
18 boarding schools since our organisation began inspecting
19 them in 2005."

20 LADY SMITH: This man would have been one of the first
21 inspectors with the Care Commission, which was just
22 established in 2002?

23 MS BENNIE: Yes, my Lady.

24 LADY SMITH: Thank you.

25 MS BENNIE: "Care commission.

1 I have worked as an inspector with the organisation
2 in different forms since 2002. I have been involved in
3 the inspection of residential schools for children and
4 young people who had learning or physical needs. Over
5 my service with the organisation, I have inspected all
6 types of service, including childminders, nurseries,
7 residential services for children and young people and
8 services for adults.

9 When the Care Commission started in 2002, we tried
10 to get a global picture of what was out there. The
11 Scottish government didn't really know the number of
12 each type of service across the country because each
13 Local Authority had registered the ones within their own
14 area. The first few years were really spent looking at
15 everything and trying to develop some sort of
16 consistency.

17 Each Local Authority also had different levels of
18 care standards. One of the most obvious ones that
19 struck me when I started was childminders. We inspected
20 childminders and there were hundreds of them. South
21 Ayrshire had different conditions for childminders than
22 East Ayrshire. In one of them, the Local Authorities
23 allowed the childminder to have three children at any
24 one time, and the other one could have up to five
25 children. This meant that someone could be living

1 100 yards away from someone in a different Local
2 Authority and the standards would be different.

3 When everything came together as a national
4 organisation for registration and inspection, the care
5 standards were rewritten and the National Care Standards
6 were developed.

7 The team for the inspection of independent boarding
8 schools was put together and registered with us in 2005.
9 Since then, it has been carried out by a sub-team of
10 inspectors, initially drawn from teams across the
11 country.

12 When we started in 2005, there wasn't any regulation
13 of boarding schools. Education Scotland would do
14 an academic inspection, during which one of their
15 inspectors may have taken a walk around the boarding
16 house, but that was all. There wasn't anybody going in
17 to check on pupil well-being.

18 All the inspectors were asked if they wanted to
19 participate in this. People came in and out in the
20 first two or three years. Some people who joined
21 realised that it wasn't something they wanted to be
22 a part of, and it took some others some time to realise
23 it was something they wanted to be part of.

24 We were organised into geographically based teams
25 back then, so in 2005 I was part of the team in

1 Ayrshire. I volunteered for the boarding school team
2 because it was different and something I hadn't seen or
3 had experience of. I fancied the challenge.

4 Independent schools are inspected in line with the
5 Care Inspectorate's frequency of inspection rules, which
6 were initially in place for the Care Commission when we
7 started inspecting boarding schools. These have been
8 adjusted over time as our knowledge and understanding of
9 the schools grew and developed.

10 Specialist teams.

11 There weren't specialist teams for everything. All
12 inspectors had a generic case load, which included lots
13 of childminders, nurseries, some residential children's
14 services, adult care services, care homes for older
15 people. These were all on a geographical basis.

16 The case loads in the geographically based teams
17 were varied with all different types of services.

18 There weren't specific people who had a lot of
19 knowledge of boarding schools within the organisation.
20 It was felt that it would make sense to have one team
21 covering boarding schools rather than having many
22 inspectors from many different teams all over the
23 country. It was also felt that the organisation of
24 boarding school inspections should be coordinated by one
25 team manager, rather than a mix of team managers from

1 the geographically based teams from all over the
2 country.

3 The benefit was to get consistency across the
4 country. There weren't that many boarding schools. It
5 was felt that it made more sense to have the boarding
6 schools, since they were fewer, coordinated by one
7 person and one team.

8 The boarding schools had contact with each other and
9 the heads of boarding schools met on a regular basis.
10 I think it was felt that if there was a representative
11 of the Care Commission, then that person would be the
12 contact with that group, rather than 12 to 14 managers
13 from the Care Commission from all over the country being
14 in contact with the group.

15 The specialist teams, as we are now, were introduced
16 about five years ago.

17 After the introduction of specialist teams, the
18 inspectors for independent schools have all come from
19 the two teams which inspect services for children and
20 young people, and these inspectors have operated as
21 a sub-team, which has met regularly and attended shared
22 training and information sessions.

23 Training.

24 As a sub-team, we received regular training to
25 discuss the quality themes and how services should be

1 working towards meeting them. This allowed discussion
2 across the team to achieve consistency. I don't have
3 records of how often these took place but they did
4 happen regularly.

5 We did regular child protection training and can
6 access online training resources from our organisation,
7 the Scottish government and other agencies. We also
8 have regular discussions with the Scottish Council of
9 Independent Schools (SCIS) about child protection and
10 safeguarding matters.

11 There are not that many boarding schools. In the
12 early days of the inspection process, we used to inspect
13 boarding schools twice a year, so we used to meet as
14 a team about once every couple of months. We'd discuss
15 issues that we'd come across and how we dealt with it.

16 If any of us felt that there was an issue with any
17 of the schools, we'd raise that with the team leader,
18 who would either get access to an expert in that
19 particular field to give input and advice. We'd also
20 have the opportunity for all of us to sit together as
21 a team to discuss the issue we were concerned about,
22 what we thought was good practice and what we thought
23 wasn't.

24 For the last two years we have been meeting annually
25 as a large group of inspectors, together with the head

1 of schools in a meeting organised by SCIS. It is
2 a whole-day meeting where we look at the inspection
3 programme for the coming year and discuss any areas we
4 may be emphasising on and looking at closely. It gives
5 us the opportunity to discuss how the inspections are
6 done and the quality framework we work to, with the
7 relevant heads of boarding in boarding school.

8 The meetings include a bit of training and
9 discussion. Sometimes we have speakers come to give
10 a presentation to us. It is also an opportunity for
11 issues to be shared and discussed. We learn about what
12 schools are thinking and any changes to the way they
13 operate and also allows for us to describe to them what
14 our inspection process is and any changes made to our
15 processes.

16 Quality framework.

17 The old framework was the old National Care
18 Standards for mainstream boarding schools, which were
19 put together in 2005. They were very focused on the
20 schools operating within the legal constraints and
21 keeping the types of records they should keep.

22 Under them, we inspected independent schools against
23 the quality themes which described the ways in which
24 care should be provided across four areas. These were:

25 Quality of care and support.

1 Quality of physical environment.

2 Quality of staff and staffing.

3 Quality of management and leadership.

4 The new health and social care standards were
5 brought in. Then one of our members of staff was
6 seconded to develop the new quality framework. They did
7 that by meeting a group of pupils, asking them about
8 their experiences of inspections, how they thought it
9 could be more effective and taking their views.

10 In the past year we have begun to use a new quality
11 framework which is closely linked to the Health and
12 Social Care Standards. The quality framework for
13 independent schools is available on the Care
14 Inspectorate website.

15 The new quality framework is linked to the Health
16 and Social Care Standards for all different types of
17 services, not just boarding schools. They are very much
18 about the quality of the outcomes of the people who use
19 the services, so in boarding schools that is about the
20 boarders feeling safe, comfortable, receiving warmth and
21 nurture.

22 It is much more about their experiences and how they
23 can benefit from the care they receive. It is much more
24 focused on their well-being rather than the
25 effectiveness of the systems that the schools have in

1 place. That is the same standard for all schools across
2 the spectrum.

3 The quality framework was therefore developed after
4 taking the views from children from different schools,
5 as well as the content from the Health and Social Care
6 Standards.

7 What we do is provide inspectors and schools with
8 examples of good and poor practice. We encourage
9 schools to use the framework for self-assessment and as
10 a basis for discussion between staff teams.

11 We piloted the new framework in April, May and
12 June 2019 so we have not been using it for long. I find
13 it very effective in allowing schools to look at the way
14 in which they provide the care.

15 The one for other types of residential services for
16 children and young people has been on the go a bit
17 longer, but it does the same job.

18 Within all residential care, including boarding
19 schools, there is more emphasis on warmth and nurture
20 than there used to be, so children living away from home
21 feel much more comfortable than they used to.

22 As a team I would say that we have had about six
23 meetings since the new framework started in April 2019.

24 We had the draft framework sent to us before it was
25 implemented. We met as a team prior to the framework

1 being introduced and we discussed it as a team and made
2 suggestions for adjustments or changes.

3 We then met as a team right at the start of doing
4 the pilot inspections. We then met probably about three
5 times since we started using it to discuss how well it
6 was working and whether we had any issues with it.

7 These internal meetings are used for training and
8 discussion. We have a full-day team get together and
9 have a speaker coming from outside to speak to us about
10 things such as child protection or anything else that
11 would assist us. The rest of the day would be for us to
12 discuss matters and to exchange experiences.

13 We met up in February 2020, just before lockdown,
14 and we talked about how well the new framework was doing
15 and found out how the schools felt about it. They were
16 quite positive about it as a self-assessment tool.

17 The meetings have stopped in the last three months
18 with the coronavirus lockdown.

19 Inspection of boarding schools.

20 When we started to inspect the independent schools,
21 we would inspect them twice a year. The first
22 inspection would be within our inspection year, which is
23 April to March, and was an announced visit, and the
24 second one was unannounced. This was standard for all
25 of the schools and this had been decided by the Care

1 Commission in consultation with the Scottish government.

2 It was later decided that the frequency would change
3 and schools which had achieved grades of very good for
4 all quality themes and were of a low risk for the safety
5 of service users would be inspected on an unannounced
6 basis once every three years. Those schools which did
7 not achieve those grades would be inspected annually on
8 an unannounced basis.

9 As an organisation, all our inspections of all
10 services are carried out unannounced unless there is
11 a specific reason to provide very short notice of our
12 arrival. This could be for an office-based service
13 where the base is not staffed all the time. This saves
14 inspectors arriving to start an inspection and there not
15 being an office open. All residential services such as
16 boarding schools are inspected on an unannounced basis.

17 It is part of our remit to look at the child
18 protection processes that schools have in place, see
19 examples of how they have carried it out and to give
20 advice on it.

21 Preparations for inspections.

22 The inspection will be planned by the lead
23 inspector. This process will start by looking at
24 available information from the most recent previous
25 report, the content of the notifications received from

1 the service, the content of its annual return, and the
2 service's risk assessment. It would also be influenced
3 by any recent complaints which have been received and
4 their outcomes.

5 Where there are concerns about a school, as with any
6 service, it can be decided by an inspector in
7 consultation with their line manager to carry out
8 an inspection as soon as it can be organised. This
9 could be triggered by events or incidents in the school
10 coming to our attention from any source.

11 The number of inspectors are decided based on the
12 size of the school and the number of boarders.

13 Early questionnaires.

14 Over the last three years we have issued links to
15 electronic questionnaires for pupils to complete. These
16 take place before an inspection, so it alerts the
17 schools to an inspection being due, but there is no set
18 time between the issue of the questionnaires and the
19 commencement of the inspection. The processes have
20 greatly increased the amount of pre-inspection
21 information we have been able to use and also the amount
22 of feedback we receive from pupils.

23 I don't have access to the old questionnaires but
24 they were very basic questionnaires that had about six
25 questions. They were paper ones and a sample was sent

1 out to the school, so not every pupil had the
2 opportunity of filling one out. We sent out enough
3 questionnaires for about roughly 10 per cent of pupils
4 in big schools and a bigger percentage for the smaller
5 schools.

6 They were very basic questions, asking how long the
7 pupil had been at the boarding school, whether they felt
8 safe there, what the good things about being a boarding
9 pupil were, whether they had any concerns about their
10 boarding experience, did they have all the facilities
11 they needed made available to them. That was about it.

12 We sent them in a bundle to the school, so we had no
13 way of telling how the staff were organising it.

14 The pupils had to answer the questionnaires by hand
15 and put it in an envelope that was provided, which was
16 addressed to come back to us. I don't think most of the
17 schools necessarily let the pupils fill them out and
18 stick them in the envelopes themselves.

19 We didn't know if they were reading what the pupils
20 were writing and stopping any ones that they thought
21 were inappropriate or reflected badly on the school.

22 Some schools would choose which pupils would fill
23 them, sit them all in a room, hand them a questionnaire
24 and then fill them in and send them back to us. I think
25 Merchiston, Fettes and some of the prep schools had that

1 approach. I think prep schools felt it would have been
2 useful for younger kids in prep schools to fill them out
3 in an organised way.

4 Some other schools would just hand them to the
5 pupils and tell them to take it away, fill it in and
6 send back, so less of those would come back to us.

7 We tended not to get very many back and the numbers
8 we did get back varied amongst the schools because they
9 used them in different ways.

10 The responses came back to our head office. They
11 would then deliver the questionnaires to our office for
12 us to look at them.

13 That was the situation from 2005, when we began to
14 inspect, until we changed it in about 2017.

15 The reason for the change from the original
16 questionnaire was that it was felt that we weren't
17 getting the amount of communication, information and
18 feedback from pupils that we wanted. It also reflected
19 the changes in ethos of our organisation, where the move
20 was much more towards looking at the outcomes for the
21 people who were using the service.

22 In 2017, we started using a survey monkey. Now the
23 survey monkey link is sent out to the school to share
24 with all the pupils. We send the link out and get
25 answers back before the inspections take place.

1 This means that the school doesn't get to choose
2 which pupils to give the sample to and they all get the
3 link. We get more surveys back than we used to of the
4 written questionnaires. We now get a response rate of
5 more than three-quarters of the number of pupils.

6 The pupils can complete the survey online and it
7 immediately comes to us. It is anonymous unless the
8 pupil puts their name on it, so they feel more
9 comfortable putting their real feelings down. They are
10 also much more comfortable doing things online now,
11 than, hand writing them.

12 The survey is also much broader than the original
13 questionnaire. It is a standardised survey that is sent
14 to the pupils of all boarding schools and has about 20
15 questions on it, they each have option answers for the
16 pupil to tick, which are: strongly agree, agree,
17 disagree, strongly disagree, don't know or it's not
18 applicable.

19 One of the questions is:

20 If I needed to speak to someone about personal or
21 private issues, there are adults in the boarding house
22 who I trust and feel comfortable talking to.

23 We are trying to get a feel of the quality of the
24 boarding pupil's life and whether they feel safe and
25 comfortable, have people they can speak to and are able

1 to contact their parents.

2 There is a bit at the end of the survey where the
3 pupil can write comments. We get some surveys back with
4 comments at the end.

5 We feel the style of the questions now gives
6 a variety of opportunities for the young people to
7 express their views in a variety of different ways about
8 a variety of different aspects of their life in the
9 boarding school. The survey gives us a feel of the
10 atmosphere within the boarding houses.

11 The benefit of having the questionnaire and emails
12 before the inspection is that we have the feedback of
13 the people who are using the service. The pupil surveys
14 are much more honest in their responses now, so they
15 guide us towards anything we need to look at and should
16 be looking at where anything gives us a cause of
17 concern.

18 As an example, if a school has eight boarding houses
19 and the survey responses give you the impression that
20 two of the boarding houses are not happy places, then
21 we'll spend more time looking at those two during the
22 inspections to find out why they are not happy places,
23 rather than the houses that seem to have satisfied and
24 nurtured pupils.

25 The reason we do the survey monkey in boarding

1 schools is that there are huge numbers of pupils and we
2 want to get as much feedback as we can from a whole
3 broad spectrum instead of just a particular group.

4 Contact with parents.

5 Back in the early days we didn't send out emails to
6 parents. We didn't have much contact with them.

7 Most inspectors started emailing parents themselves,
8 because they felt they wanted to get more information
9 and feedback from them.

10 I started sending emails to parents around 2014 or
11 2015. I started writing my own emails and sent them to
12 the school and asked them to forward it on to the
13 parents. The reply address on the emails was to my
14 email address so that the parental replies came directly
15 to me.

16 When I started using the parent email, the questions
17 would vary depending on the school. As an example, the
18 pupils in prep schools were younger and wouldn't be away
19 from their parents as much as some of the older pupils,
20 so questions of parents would be different. I would ask
21 them if they got feedback from staff about their child
22 when they collected their child for the weekends.

23 That is still the system we use now, but the email
24 was standardised in about 2017. It wasn't formally
25 introduced as a rule, but an email is now passed by one

1 of our admin staff to the school in advance of
2 an inspection. We ask that it be sent to all parents of
3 the boarding pupils. The responses still come back to
4 the inspector directly.

5 The questions that are asked of the parent in the
6 standard email are:

7 1. How well do the school keep you updated
8 regarding your child and consult your views?

9 2. Do you feel able to raise concerns or
10 suggestions about your child's well-being, and who would
11 you speak to?

12 3. What do you think are the most positive aspects
13 of your child's boarding experience?

14 4. What could be better, and what would your child
15 say about this?

16 5. Do you feel your child is safe in their boarding
17 house?

18 6. Do you have any other comments?

19 We maybe get between 10 and 15 per cent of
20 responses. We can phone parents if we come across
21 an issue that we think needs our further attention or if
22 we are concerned about something. In this situation, we
23 ask the school for the parent's phone number and we
24 phone the parent to have further discussions.

25 If we received information or feedback from pupils,

1 parents or staff that was concerning, then this would be
2 followed up in a focused way, but if anonymity was
3 necessary, then it would be taken into account as we
4 investigated.

5 Annual return.

6 The annual return is a template that is put on our
7 system around Christmas time, and every service is
8 expected to complete it and get it back to us by the end
9 of February or thereabouts. They have about six weeks
10 to complete it.

11 The annual return provides basic factual information
12 to us, such as the name of the service, contact details,
13 who the manager is, the number of pupils they have.

14 It is up to the school to decide who they want to
15 put down as their registered manager. For most of the
16 schools, it tends to be the headmaster, even though they
17 may not be the person with the most direct links to
18 boarding.

19 It also provides the names of all of the staff who
20 are involved in the boarding situation and how long they
21 have been there. That includes resident tutors, as well
22 as tutors who work with children in the boarding
23 environment.

24 It gives information on any health-related incidents
25 that have taken place, or the death of service users.

1 Not all notifications are included in the annual return.
2 It doesn't even tell us what the number of notifications
3 are, because we have all the notifications on the system
4 anyway.

5 It is more like an audit that is about numbers and
6 gives us basic factual information. It doesn't give
7 a description about things.

8 The annual return doesn't include academic staff
9 from the school. Our responsibility is boarding pupils
10 and their care. We don't have a remit to look at the
11 care of day pupils so we don't ask for information about
12 the teachers in a school setting.

13 Carrying out inspections.

14 During the inspection process, our legal status
15 gives us the right to speak with anyone employed by the
16 service who we might wish to speak to and also gives us
17 the right to see any documents held by the service.

18 The early inspections were quite formal and we spent
19 more time in offices, studying records that schools kept
20 and the processes than we did actually speaking to
21 people.

22 At the start of the inspection, we would usually sit
23 down with the headmaster and say that we wanted to speak
24 to a certain number of senior and junior pupils, and the
25 school would choose who to come and speak to us. They

1 would be marched into a room and would sit down. We
2 would then sit in a chair in front of them and ask them
3 questions. You could almost hear them reciting the
4 answers that the school had told them to give.

5 At lunch time, we would be escorted into the school
6 dining room and we would have a space at a table with
7 a group of pupils that had been arranged by the school,
8 so they decided who we sat with.

9 As time has gone on, our way of doing inspections,
10 particularly in boarding schools, has changed so much.

11 Current inspections.

12 A lot of the changes came about in 2014/2015 when we
13 made it clear to schools that we were the regulators and
14 we wanted the whole story and factual information,
15 rather than the school choosing the story they wanted to
16 tell us.

17 We would choose when we carried out inspections and
18 stay for as long as we thought was necessary, including
19 weekends and unannounced visits. We got access to all
20 of the documentation and we chose who we wanted to speak
21 to, including staff, pupils, parents and governors.

22 Now, all of our inspections that we do on our own,
23 and not in conjunction with other organisations, are
24 unannounced inspections.

25 We wait until we get the responses to the survey and

1 emails back from pupils and parents before we go to the
2 inspections. The schools also know that we are coming
3 at some point because we have sent the survey and emails
4 out, but they don't know when we will turn up.

5 We adjust our inspection planning on the basis of
6 the responses we get from pupils and parents in the
7 surveys and questionnaire emails. We use that
8 information to inform our inspection.

9 The other thing we use to inform our inspection is
10 content from any notifications we get from the school.

11 We ask schools to notify us of certain events and
12 incidents when they take place. Schools have to notify
13 us where a child is injured and requires to go to
14 hospital or receive emergency medical treatment, if
15 there is an incident where a child or member of staff is
16 suspended or if there is an allegation of abuse.

17 We get quite a few notifications of injuries from
18 rugby incidents and we are told who has been hurt and
19 what treatment they got.

20 We see if there are a lot of suspensions from
21 drinking, taking drugs or being in an area of school
22 where they shouldn't be. If we see a pattern of such
23 incidents in one school, we adjust our inspection to
24 look at those.

25 Most inspections will take place over three or four

1 days, depending on the size of the service and the
2 number of boarding houses. Usually the inspection team
3 would be put together to allow this. If significant
4 issues are found, then the time would be extended to
5 ensure that they were properly investigated and ways of
6 dealing with them were established.

7 We now choose the documents we wish to see instead
8 of letting the schools choose what we see. The reason
9 for this is that there was a change of agreed attitude
10 across all inspections of boarding schools. I am not
11 sure it was written down anywhere but it is something
12 that was happening at all inspections. We had changed
13 our own inspection style so we were starting to look at
14 which pupils and staff we spoke to and which documents
15 we saw. We now look at a lot more.

16 Some services were more resistant than others, but
17 we had built up working relationships with schools over
18 the years.

19 As well as our inspection and regulation process,
20 there were changes going on within the schools as well.
21 As they modernised their own processes, it was having
22 an effect on things such as their punishment processes.

23 When we started doing inspections, Monday night was
24 letter writing night at all of the boarding schools,
25 where kids wrote home to parents. Whereas over the

1 years the kids would be Skyping their parents from
2 wherever they were so the parents could see what was
3 happening around their child.

4 2014 was about the time when pupils started to have
5 the means to have face-to-face conversations with their
6 parents anywhere in the world, and the parents could see
7 how the child was and their surroundings. If it
8 happened to be in a room with 24 beds, they might not
9 approve.

10 Things had to be much more open and clearer in terms
11 of how the schools were doing things.

12 Nowadays, we spend the time that we think is
13 appropriate speaking to pupils in their environment
14 where they feel most comfortable and we choose which
15 pupils to speak to.

16 We encourage the school to give us as much evidence
17 as they have. We don't narrow down what we are looking
18 at, and focus as much as possible on the outcomes for
19 the pupils, therefore we examine as wide a range of
20 evidence as possible.

21 Contact with pupils.

22 We now spend so much more time now having informal
23 conversations with pupils in different types of settings
24 during the inspection. We have found that this
25 encourages them to be open and honest in their views and

1 opinions about their care.

2 We spend a lot of time being there and go into the
3 boarding houses after school times, evenings and early
4 mornings. It could also be at a weekend if that was
5 thought to be appropriate and if a particular boarding
6 house that we felt requires more of our attention.

7 We sit and have informal conversations with pupils.
8 We do that with pupils one to one and in small social
9 groups.

10 Inspectors join pupils for meals whether these were
11 in the boarding house or in the central dining hall.

12 Pupils will be spoken with individually and also in
13 small social groups. The preferences of pupils as to
14 whether they speak to us in a private place or in
15 a social area will be taken into account. We would try
16 to speak to a representative group in each boarding
17 house, but there is no set percentage for us to have
18 contact with.

19 In the conversations with pupils we seek to hear
20 about their experience of being a boarding pupil, which
21 includes discussing their safety, comfort and
22 well-being.

23 We ask about routines, privacy and access to adults
24 they could confide in if they were concerned about
25 something. We ask them about their ability to contact

1 their family and friends when they wished, as well as
2 their social life with other pupils and in the local
3 community. We ask them if they were able to access any
4 resources or equipment they might need, such as sporting
5 facilities and music practice or art studios.

6 Contact with staff.

7 We speak to staff who care for pupils in the
8 boarding environment. This would include resident
9 housemasters, housemistresses and resident tutors. We
10 speak to tutors who come into the boarding houses for
11 set shifts to provide supervision and care.

12 We also speak to non-teaching staff who provide care
13 for boarders in their houses. These include care staff,
14 some of whom are resident. They have different titles
15 in different schools and many were traditionally
16 referred to as 'matrons'.

17 We would speak to staff in the school meeting centre
18 and anyone who provides a counselling service to pupils.
19 We would also speak to other school staff who have
20 an influence on the life of the boarding pupils to
21 establish their role and discuss their contact with the
22 pupils. These would include catering staff, ground
23 staff and property maintenance staff.

24 When speaking with staff, we seek to establish that
25 they were clear about their role and responsibilities in

1 relation to boarding pupils, including their safety,
2 well-being and happiness. We also ask about their
3 experience and training for their role and whether they
4 are able to access support and advice when it is needed.

5 We also ask about their understanding of any
6 specific needs that individual pupils might have and how
7 the pupils would be supported to meet these. These
8 conversations would vary, depending on the role of the
9 member of staff. We also ask if there were areas of
10 care for the boarders which they thought could be
11 improved.

12 We meet with senior staff who have a role or
13 influence in the boarding community. We ask about their
14 role and the frequency of their visits to the boarding
15 houses.

16 Contact with parents.

17 We would speak to parents of boarders who happened
18 to be bringing children back from visits after a weekend
19 or coming to collect them for a weekend. We would try
20 and speak to parents in that kind of situation.

21 If there was a particular reason or purpose to speak
22 to a parent, we would ask the school for the contact
23 details of a parent and contact them.

24 The kind of thing that would make us want to speak
25 to a parent is if we saw that a pupil had a major issue

1 with health or mental health, or if the pupil had been
2 involved in an incident. We would call the parents to
3 discuss whether the health issue was being looked after,
4 or any other issue had been dealt with.

5 One of the things that we could do and did do, from
6 time to time, was to attend a parents' group meeting if
7 there was one at the school. One of us would go along
8 to hear the views of the parents and perhaps ask
9 questions of the parents.

10 At some schools a large number of the pupils at the
11 school were from abroad so the chances of seeing the
12 parents at the school or a parents' group meeting was
13 remote.

14 Contact with governors.

15 All the board of governors at different schools are
16 made up differently, have different roles and styles.
17 There are no two schools who are exactly the same in the
18 way their boards are set up and what they do.

19 In the past, we didn't always ask to talk to
20 governors and only chose to do it if we thought we had
21 a reason to. The school would sometimes ask us to speak
22 to governors and sometimes schools wouldn't produce them
23 when we wanted to speak to them, or they would choose
24 which ones we spoke to. Occasionally we would be
25 wheeled into a governors' meeting during an inspection

1 and asked all kinds of questions. I think that was
2 intended to intimidate us. This changed around 2014.

3 We now make it a point to speak to governors and to
4 have more contact with them now than we used to.

5 At the beginning of an inspection, we find out from
6 the headmaster who on the board of governors has
7 responsibilities for particular areas, including
8 boarding or child protection, and we choose who we speak
9 to. We speak to as many of them as we feel are
10 relevant, which varies depending on how intensive the
11 inspection is, which in turn depends on the risk level
12 and the number of notifications received from that
13 school.

14 Sometimes we will have informal conversations with
15 governors. Sometimes the chair of the board of
16 governors will come to speak to us when they know that
17 we are there, and sometimes they want to be present when
18 feedback is given.

19 We ask them about their role in ensuring that pupils
20 are safe, comfortable and happy in the boarding
21 environment. We speak to governors who have oversight
22 of the child protection system and we ask them about how
23 they carry out their role and how they are able to
24 ensure the safety of the boarding pupils.

25 There is no legal requirement for schools to have

1 a governor in charge of child protection, but we make it
2 very clear that we think it is good practice and
3 recommend the school to have one.

4 I think all schools do now have a governor for child
5 protection. I can't think of any that don't. It has
6 proved very effective for schools, as it has provided
7 governors with access to information and situations that
8 they may not have looked at in the past. This means
9 that if there are any concerns about somebody's
10 well-being, it is not left to a direct line management
11 structure, but is seen by somebody very neutral who can
12 come in and look at the issue and environment.

13 We would then speak to governors about it in
14 subsequent inspections and ask if they had visited
15 boarding houses as suggested. Similarly, we would ask
16 the boarders if the governors had come in and spoke to
17 them, especially when they spoke about the facilities
18 needing to be updated or the place needing to be
19 redecorated.

20 Looking at records.

21 We would look at records kept about boarding pupils.
22 We would ask to see all personal plans which were in
23 place to support pupils who had additional needs,
24 whether these were concerned with safety, health or any
25 emotional issues. We would access these plans and their

1 effectiveness. This would include the systems in place
2 to initiate a plan and develop it as well as share it
3 with the pupil, their parents and all relevant staff who
4 would have a role in their care. We would check that
5 staff were aware of the needs of individual pupils and
6 the content of their plan and their role in meeting the
7 aims of the plan. We would also want to see that the
8 plans were routinely updated and adjusted as the
9 circumstances changed.

10 We look at systems in place to ensure safety and
11 well-being such as the child protection systems. We
12 would include discussions about child protection and
13 discussions with staff and pupils across the inspection
14 as well as checking that efficient systems were in
15 place. We would also examine systems such as
16 environment safety checks to ensure that these were in
17 place and being properly used. We would also look at
18 staff recruitment systems and records to ensure that
19 appropriate checks were being carried out and that staff
20 records had all required information.

21 Boarding school risk assessments.

22 We would expect risk assessments to be in place for
23 each boarding house so that whoever is responsible for
24 the day-to-day running of the boarding house would
25 identify risks and record them.

1 Examples of risks that we would expect the schools
2 to record are a range of pupils being injured for
3 whatever reason, pupils being absent from school, or if
4 there were a couple of staff off sick and the school had
5 a staffing issue. They would also be expected to record
6 environmental issues, such as if a toilet stopped
7 working or something.

8 If there was a particular event taking place, we
9 would expect schools to do a risk assessment for that
10 process, for example, holiday abroad.

11 We would expect the schools to complete the risk
12 assessment document on a week-to-week or monthly basis
13 and to use it as a working tool. We want it to be
14 a document that is up to date and relevant, that is
15 useful to them. They don't have to submit these
16 documents to us, but we would expect to see them when we
17 carry out inspections.

18 If the risk assessment document for a boarding house
19 hadn't been updated for a while, we would ask the senior
20 member of staff for that boarding school why this had
21 been the case. We would spend time talking to pupils
22 and other members of staff in that boarding house, and
23 looking at why it hadn't changed.

24 Feedback.

25 The inspection team would sit together as a team and

1 pull the evidence together. We would discuss what the
2 grades should be and what recommendations should be made
3 for improvements.

4 Then, we would meet with whoever the school decided
5 should be at the feedback meeting. This is sometimes
6 the headmaster alone, or the headmaster and the chief
7 governor and some senior staff members. Who attends the
8 feedback session varies across all the schools.

9 I always try to have a feedback session at the end
10 of the inspection visit because it can be stressful for
11 schools and staff, and you don't want to drag it out.
12 We also tell the school about any concerns we have so
13 that they can be dealt with sooner rather than later.

14 The school can make a comment about the content or
15 grading, but that doesn't mean we would change it. We
16 are the regulators and it is our responsibility to
17 inspect the service and based the evidence on what we
18 have found.

19 Where possible, we have discussions with the school
20 to explain how we came to the grades that we came to in
21 the report to help them to understand what to do to
22 improve. We are not trying to create a conflict
23 situation but help them to improve their service.

24 If the school is not happy with the grade, there is
25 not really anything they can do to change it. It is

1 unlikely that a grading would change after a discussion
2 with the school, but I can't say that it would never
3 happen. If we were presented with evidence that was
4 different to what we had based our decision on, then we
5 might look at changing a grade, but it would be very
6 unlikely for that to happen.

7 We might agree to come back later for a feedback
8 visit if we were still gathering information or waiting
9 for evidence to come back from somewhere else, from
10 parents, for example. Even then, we would arrange to
11 come back in a week or so, so that they weren't waiting
12 too long.

13 Report writing.

14 During the inspection, all members of the inspection
15 team keep notes on a record of inspection document
16 (ROI). This should contain all relevant evidence
17 gathered by the inspector during the inspection process.

18 At the end of the inspection, the team would meet
19 and the outcomes of the inspection would be discussed
20 and decided by the inspection team as a group. If there
21 were differences of opinion, then these would be
22 discussed at length and, if necessary, further evidence
23 would be used to establish agreement.

24 Following the inspection process, the report would
25 be written by the lead inspector, who would be the

1 allocated case holder for the service. It would be sent
2 out as a draft report to the service.

3 Error response form.

4 If the school finds any inaccuracies in the report,
5 they can access an error response form on our IT
6 systems, complete it and return it to us. This is only
7 for factual inaccuracies, for example if we have noted
8 the incorrect number of children in a boarding house or
9 class.

10 If we agree with what the school has said in the
11 error response form, we make the change.

12 The report is then published and made public.

13 The form does not give the school the opportunity to
14 question the quality of evidence or the assessment that
15 we have made. We have usually already had the
16 conversation about the grading with them at the feedback
17 session.

18 If the school does express views about the grading
19 in the report, it does not influence the inspection
20 outcomes. There have been times where schools have
21 tried to influence reports but this would not be allowed
22 to happen.

23 Risk assessments.

24 The risk assessment is a standard document that we
25 complete. The allocated inspector is expected to

1 complete the risk assessment and we are asked to update
2 the risk assessment document once a year, but we would
3 normally complete it after an inspection because that is
4 when we would have the most recent information.

5 The different sections of the risk assessment
6 document are regulatory outcomes, which records whether
7 there have been any requirements made for the school to
8 follow, such as a compliance order being made to them.

9 The second part is about self-evaluation and
10 planning to ascertain whether the school is planning
11 care in the way it should. The next bit is about
12 management and staffing and whether there are enough
13 staff to manage the people who are there, and if there
14 have been any new managers in the last year. If there
15 has been a new manager, we would record if they have
16 made a positive, negative or neutral effect.

17 We have a section on service user participation, to
18 see whether the views of pupils are taken into account.
19 Also, does the service have the appropriate risk
20 measures in place. There is a section on healthcare
21 governance, which records whether there has been any
22 healthcare mishaps, accidents or medication errors.

23 There is a question asking if there are any other
24 issues, or if there has been a serious incident. If you
25 click yes for the serious incident, it automatically

1 puts the risk level for the whole school on a high risk
2 level.

3 An example would be if there had been a fire in the
4 service and pupils had to be evacuated in the middle of
5 the night, or if there had been an incident of abuse
6 that hadn't been responded to properly.

7 We score all of these sections on a level of 1 to 5.
8 If something was triggered as a high risk, we would
9 contact the service user straight away and ask them what
10 their plan was to address the risk.

11 If the risk level is high in a service, we would
12 start an inspection as soon as we thought it was
13 necessary or relevant, making the service a priority.

14 If we hear about major incidents, we would notify
15 the Registrar of Independent Schools.

16 Inspections last as long as they need to and we can
17 be as flexible as we need to be to make sure we have the
18 opportunity to examine the risks that are there.

19 If I came across a situation during an inspection
20 where I thought there was a risk of harm or the
21 potential of risk of harm to a pupil, I wouldn't save it
22 to the end of the inspection. I would speak to the
23 responsible person there and then and tell them about
24 the concern and ask what they are going to do about it.

25 All inspectors and managers would have access to

1 that database. Normally we would keep an eye on the
2 ones in our case load, but if someone was off work, then
3 their manager or someone else could follow it up.

4 During lockdown, we were creating a buddy system so
5 that if someone is off sick or on annual leave, then
6 their buddy can keep an eye on things for them, check on
7 notifications coming in and change the risk assessment
8 if need be.

9 Recruitment of boarding school staff.

10 One of the things that surprised me when I started
11 inspecting boarding schools was that people would just
12 turn up and get a job in the school without any checks
13 having been done or references being asked for. Also,
14 that you could teach in a Scottish boarding school
15 without being a qualified teacher.

16 We would now expect PVG checks to be done on all
17 staff before they are employed, which are police checks
18 disclosing any convictions. We require a standard
19 disclosure check to be done, which is what would be
20 required of staff at any residential place.

21 While we cannot legally require it, we recommend
22 schools update PVG checks every three years. We would
23 also expect staff to fill in an application form and
24 provide reference, which would be taken up before
25 employment. We would require that for all staff who

1 would have any kind of contact with pupils, and as far
2 as I'm concerned, that is all staff in a boarding
3 school.

4 Schools are better at screening potential employees
5 because they know we are going to come and look at what
6 they've done and make sure that they're doing it
7 properly. They also want to make sure that the pupils
8 are getting the best experience possible at school, and
9 to do that they need the right staff to keep pupils
10 safe.

11 We know that screening of staff is more effective
12 now because the schools are going through the process
13 that we are asking them to. Staff are being checked
14 when they are employed as a matter of routine.

15 The children are safer now than before. I don't
16 think any system will be completely foolproof, but there
17 is much more clarity now on expectations of people
18 applying for jobs. We can see from speaking to staff at
19 boarding schools what checks and processes they went
20 through to get the job, and we can also access the files
21 on all staff.

22 If we have any concern or suspicion, we follow it
23 up, and we have more time and flexibility to do that now
24 than when we started.

25 Where there has been an allegation made against

1 a teacher or a member of staff in relation to a child
2 protection matter, we would expect that information to
3 be contained in the reference from the previous
4 employer. This is the same for any job where a person
5 will be working with children or young people.

6 If there has been sufficient reason for a school to
7 carry out an investigation following an allegation, we
8 would expect the school to mention the investigation in
9 a reference whether the allegation was found to be
10 proved or not.

11 If something is found to be proved, it means there
12 is evidence that it actually happened, and if that is
13 the case then an employer shouldn't be taking someone to
14 work with children who has a proven allegation against
15 them that they have been inappropriate, in whatever
16 format, with children.

17 We would expect that if an employer had concerns
18 about someone working with children, they should share
19 that concern with potential employers.

20 It is stated that it is expected that references and
21 checks will be properly carried out in the guidance from
22 the inspectorate to the school, but it doesn't go into
23 any detail. We would go into detail during
24 an inspection and sit down with the services and talk
25 about what we want to see around references.

1 Joint inspections with Education Scotland.

2 Education Scotland visit boarding schools about once
3 every three years. They contact us at the start of
4 their inspection year and they tell us the dates they
5 will be at the school. We tried to do the inspection on
6 the same day so that the school doesn't have two
7 separate inspections from both organisations.

8 At the beginning of each year, Education Scotland
9 and the Care Inspectorate agree the number of
10 inspections that they will carry out jointly at boarding
11 schools over the course of that year. I don't know what
12 that number is.

13 They have a responsibility for looking at day pupils
14 and we look at boarding pupils. We try to have some
15 consistency by looking at the academic as well as the
16 boarding sides of the lives of the pupils and get
17 an assessment of their overall experience.

18 Where the Care Inspectorate has a lot of concerns
19 about a school, we will contact Education Scotland and
20 suggest having a joint inspection to look at the issues
21 as comprehensively as we can.

22 The kind of concerns could include if there was
23 information coming out of abuse that had taken place at
24 the school, lack of checks being carried out on new
25 staff coming in, or a lack of oversight of the boarding

1 side of things.

2 We carry out pupil surveys before the visit.

3 The visit would be an announced visit so the school
4 would know when we were coming and arrive at the same
5 time as Education Scotland. It would be a big team of
6 four or five inspectors from us and about seven or eight
7 from Education Scotland.

8 The Care Inspectorate then decided that we wanted to
9 have an unannounced visit before the scheduled announced
10 one. This was introduced in 2018. The school would
11 know that we were coming because we would have carried
12 out the pupil survey, but they wouldn't know when.

13 The unannounced visits were so that we could see
14 what the boarding houses were like and whether any
15 preparation was taking place with regards to the safety
16 and decoration of the boarding houses in preparation for
17 our visit.

18 It was also so that we could have some informal
19 contact with the boarding pupils before the joint
20 inspection, which would be a large team.

21 We would arrive towards the end of the day and chat
22 to staff and pupils in the boarding house and get
23 an idea of the ethos of the boarding house.

24 Merchiston Castle School inspections.

25 I first became involved in inspecting Merchiston in

1 2007. Then again in 2011, but I had a very minor role,
2 which consisted of reading documents and was not
3 involved in decisions regarding grading or outcomes.

4 I was involved in the inspection in September 2013
5 when I assisted the lead inspector, Marion Neil, in
6 an inspection.

7 I became the allocated inspector for Merchiston
8 School at the beginning of October 2013. It is normal
9 for an allocated inspector to keep a service on their
10 case load for some time and this will mean that they
11 will be involved at inspections at the same service over
12 a period of time. I have been allocated inspector for
13 Merchiston School since the start of October 2013.

14 Other inspections that took place there were a joint
15 inspection with Education Scotland in October 2014,
16 May 2015, an inspection in September 2016 and
17 September 2019.

18 Merchiston inspection 2007.

19 I was asked at relatively short notice if I would do
20 the inspection because somebody had left. I wasn't the
21 allocated inspector. There wasn't the same strength of
22 allocation of caseloads in 2007.

23 It was a standard, announced inspection. In those
24 days, we were doing two inspections a year, one
25 announced and one unannounced.

1 While there we were told that there were concerns
2 about children going to an outdoor camp and swimming
3 naked there. The school had heard about this and they
4 volunteered the information to us during the inspection.
5 I think they had come to learn about it from the parent
6 of a pupil who had told the parent about it after the
7 camp.

8 I don't have clarity of recollection about how the
9 school raised the matter with us and what exactly was
10 said, but it was raised in a conversation. We didn't
11 get a formal notification about it.

12 I don't recall being told the name of the camp at
13 the time. We found out that the name of the camp was
14 Rua Fiola and the man who ran it was
15 Torquil Johnson-Ferguson some years later.

16 We were also not told that an adult was organising
17 the naked swimming. The school portrayed it as
18 something the boys had just done themselves as a prank
19 or dare and it was a one-off event.

20 I got the impression that the school thought it was
21 a minor event that wasn't of great gravity. It wasn't
22 portrayed as an abusive situation. As such we never
23 learned the name of the camp or the name of the person
24 who ran it at that time.

25 The school didn't tell us which children had been at

1 the camp and we didn't speak to any of the children
2 involved. On reflection, we should have.

3 The school were going to write a letter to the
4 person who ran the camp and express their concerns about
5 the children swimming naked. I was very clear with the
6 school that it was a child protection issue and that
7 there needed to be more investigation. The advice
8 I gave was that they should report it to the relevant
9 child protection authorities, which were Social Services
10 and the police. They were also asked to update us on
11 the outcome of the investigation.

12 At my request, and as far as I'm aware, Merchiston
13 reported the matter as a child protection issue to
14 Social Services in 2007. I don't know for certain if
15 they did do that, but my experience is that schools
16 normally do what we have asked them to do.

17 I didn't continue working with Merchiston after that
18 inspection. It was transferred to another inspector, so
19 I wasn't following up the incident after the inspection
20 in the way that I would have done if it was a service
21 that was allocated to me.

22 My understanding is that there wasn't really
23 an outcome from it, and that the child protection people
24 didn't really do anything about it.

25 We had less scope and flexibility in the

1 organisation then to be able to follow things up with
2 the service. We also didn't have the same working
3 relationship with them as we do now.

4 Nowadays we have a way of working where we build up
5 a working relationship with the service. If something
6 happens that triggers the school as a high risk, I would
7 be phoning the relevant person and asking what has
8 happened, what they are doing to change the
9 circumstances and what the outcome is. We would also be
10 following that up with the school.

11 Merchiston Castle inspection October 2012.

12 I was not involved in the inspection in
13 October 2012. The inspection in October 2012 was
14 carried out by the service's allocated inspector at that
15 time.

16 Merchiston Castle inspection September 2013.

17 I was attached to the inspection because the
18 allocated inspector was due to leave and it was likely
19 that I would become the allocated inspector, which I did
20 a month later.

21 It was just the two of us and we spent a relatively
22 short period of time there. I didn't feel that the
23 school was being as detailed as they could have been.
24 We spent more time with the staff than pupils during
25 inspections at the time, which has since changed.

1 More information about the camp the boys were going
2 to, which was camp Rua Fiola, came out during the
3 inspection in September 2013.

4 I was only partly involved in the feedback
5 conversations. The other inspector had done most of the
6 feedback with the headmaster before some other senior
7 managers and myself were invited in.

8 I wasn't involved in pulling the evidence together
9 and deciding the outcomes. In those days, the lead
10 inspector would write the report so I wasn't as included
11 in the process as I might have wanted to be. I didn't
12 see the content of that inspection report until it went
13 out.

14 The lead inspector at each previous inspection would
15 be the one who would have asked for a range of
16 documents. These would have included pupil files for
17 pupils who had health or mental health issues, records
18 of events that had happened in boarding houses, records
19 of disciplinary actions against pupils.

20 In the early days, we didn't really focus on staff
21 records in any great detail. We would have asked for
22 more details and looked at the staff records if we had
23 heard of any allegations.

24 Joint inspection of Merchiston October 2014.

25 The inspection in October 2014 was undertaken

1 following information from the school about child
2 protection concerns and allegations about the actions of
3 identified members of staff, Mr Rainy Brown and Mr Z
4 from Merchiston. We found out about the both of these
5 cases from Merchiston. These issues had been reported
6 to the police and the members of staff were no longer in
7 contact with pupils at the school. We had received
8 notifications from the school through our notification
9 system.

10 When we heard about the allegations, we notified the
11 Registrar of Independent Schools and the head of
12 inspections of boarding schools. They got in touch with
13 the Care Inspectorate and it was decided that there
14 would be a joint inspection between us and Education
15 Scotland. The decision was made by people more senior
16 than me.

17 As the allocated inspector for the service,
18 I discussed the situation with my line manager. Then
19 two managers from the Care Inspectorate were involved
20 and together we spoke to two representatives from
21 Education Scotland and decided on the areas that we
22 would look at.

23 Due to the seriousness of the allegations and
24 reported incidents, we decided to carry out a joint
25 inspection and focus on the systems in place to

1 safeguard the well-being of pupils as well as the staff
2 recruitment processes. The systems in place for
3 oversight of staff action and access to support for
4 staff would also be looked at.

5 The school was expecting an inspection due to the
6 seriousness of the recent events. Most staff were happy
7 to meet with us and discuss what had taken place and
8 express their views on the systems in place. Most of
9 the inspection was focused on the systems and processes
10 used by the school and the oversight of the board of
11 governors and their involvement in assessing the quality
12 and effectiveness of these. We did not spend as much
13 time with pupils as we do now, and so spent less time in
14 the boarding environment.

15 We looked at policies for safety and well-being of
16 pupils and examined how these had been put in place. We
17 also looked at the recruitment processes for staff and
18 the uptake of references from previous employers as well
19 as the checks undertaken with relevant national bodies.

20 During the inspection I spoke with a range of staff
21 who were provided by the school and I looked at policy
22 documents regarding child protection and safety
23 processes for activities.

24 We also spoke with pupils in groups and the pupils
25 were chosen by the school. This has since changed. We

1 did not speak to parents at that inspection.

2 By that time, the school also wanted to do
3 everything they could do help us with the issues that
4 were around. They were not resistant to us accessing
5 information.

6 The process had already been evolving by the time we
7 did the inspection in 2014 so we would have looked at
8 more records than before, but because of all the
9 allegations around Merchiston, we made sure we covered
10 absolutely everything at that inspection.

11 We looked at records that had been put together
12 about individual pupil needs and the way their needs
13 were being supported. We wanted to see correspondence
14 between the school and parents, which is now electronic
15 as opposed to letters. We wanted as broad a view as
16 possible about what work had been undertaken to assess
17 the individual needs of pupils and ensure their
18 well-being as much as possible.

19 We chose what papers we saw instead of getting
20 selected documents that the school gave us, because we
21 wanted to be sure that we were seeing everything we
22 needed to and could access any document we wanted to.

23 If we came across a piece of information that
24 referred to another document, we were able to access
25 that other document and follow up lines of inquiry

1 across the whole school that way.

2 We looked at all records kept centrally in the
3 school but also in the individual boarding houses as
4 well. This was not something we had done in previous
5 inspections.

6 Different boarding houses had different
7 housemasters, and slightly different regimes for how
8 they worked for children. Merchiston was one of the
9 schools that moved house as you moved through the years
10 depending on what ages and stage you were at, whereas in
11 Fettes the children stayed in the same house the whole
12 time they were there.

13 There were more of us at the inspection in 2014 than
14 in 2007. We were much more comprehensive in gathering
15 evidence than had previously been the case.

16 James Rainy Brown.

17 In 2013 and into 2014, we started hearing about
18 concerns about an ex member of staff called
19 Mr James Rainy Brown in the junior boarding school.
20 Merchiston had notified us about him.

21 We knew information had been passed on to the
22 police, who had an active investigation going on against
23 Mr Rainy Brown and some of his connections.

24 We had conversations with the police at the end of
25 2013 and beginning of 2014. We had to be careful that

1 we didn't cut across and interfere with their live
2 investigation.

3 We were hearing that Mr Rainy Brown was putting
4 children into cold showers, naked, or making them sit on
5 public benches, naked, for misbehaving. We also heard
6 that he was showering with the children, completely
7 naked. We were told that he would take kids for walks
8 in the country and if they came across water, he and the
9 children would all get naked and go for a swim.

10 Some of the punishments he was giving children were
11 horrendous. He showed no respect or dignity to the
12 children. None of this was previously known to us.

13 Mr Rainy Brown was retired as a housemaster but
14 still worked at the school. He had access to come in
15 and out of the school and was still involved with taking
16 the children out on trips. It is anybody's guess what
17 he did with the children on those trips, but privacy and
18 dignity wouldn't have been part of it.

19 When he was told there was a police investigation
20 and that police would be coming to see him, he went home
21 and killed himself.

22 Some of the allegations about what Mr Rainy Brown
23 had done were quite scary. These went back to the
24 1980s. They had been recorded by the school but they
25 had not been passed on to anybody else.

1 These included cold bath punishments. The
2 headmaster had written to him about his use of corporal
3 punishment and cold baths. He'd had various warnings
4 about his punishments.

5 He later retired in the 1990s, but was still allowed
6 to stay involved with the children and take them on
7 trips.

8 It was recorded in his staff file that there had
9 been times when he had gone swimming with boys with no
10 swimming trunks on.

11 The police had already seen that information and
12 when we carried out our inspection we had access to it
13 as well.

14 The headmaster who was in post in 2014 hadn't been
15 involved with Rainy Brown and had he dealt with
16 something like that, he would have taken much stronger
17 action than the previous headmaster had.

18 We wouldn't have looked at Mr Rainy Brown's files
19 and documentation relating to him in the previous
20 inspections because he wasn't an active member of staff
21 at Merchiston when we started inspections there in 2005.
22 We wouldn't have been looking at anything to do with him
23 unless we had specifically been alerted towards him.

24 Mr Rainy Brown was given notice to move off site in
25 May 2006, so he was still working there and involved

1 with Merchiston school until 2006. He continued having
2 some contact with the school and pupils right up until
3 the time of his death.

4 We were dealing with someone who was abusing all the
5 children in his care. My understanding following on
6 from the discussions about Mr Rainy Brown and what we
7 found out during investigations and also from the police
8 was that he was the link between Merchiston School and
9 camp Rua Fiola. He was the person who had organised the
10 start of Merchiston pupils visiting that camp. He was
11 also the connection with Mr Johnson-Ferguson.

12 We later discovered that there were a variety of
13 schools all over the country, not just in Scotland, who
14 had been sending pupils to Rua Fiola, where there were
15 fairly consistent levels of abuse. It turned out that
16 there was a network of people across the schools and
17 that Mr Rainy Brown was the contact person in Merchiston
18 for that network.

19 The other thing we were concerned about was that
20 when the school had come across the earlier incidents in
21 the junior boarding schools that had been recorded,
22 appropriate action hadn't been taken. We would have
23 expected that he would have been sacked and reported to
24 the police for prosecutions when it was discovered, but
25 he wasn't.

1 The overall ethos and tradition sense of punishment
2 that was around in Merchiston before we started as
3 an inspection organisation was something the previous
4 headmaster had allowed to continue and had not taken the
5 action that we think that he should have done.

6 The police said that they had spoken to
7 a considerable number of ex pupils who were saying that
8 this was just how things were in the boarding houses
9 back then. Some pupils had fathers who had also been
10 boarders at Merchiston, so if they went home and told
11 their fathers what was going on, their fathers also saw
12 it as normal and part of boarding life.

13 We think there were other members of staff who had
14 done similar things to Mr Rainy Brown with children and
15 the school hadn't taken the action that we would have
16 wanted them to take.

17 I don't know or have any notes of any of these other
18 staff, but in Merchiston's paperwork, Mr Rainy Brown is
19 referred to as Mr X and there was a Mr Y mentioned who
20 had worked with him in the junior boarding house called
21 Pringle House. I don't remember his name and I don't
22 have it in any of my notes. The police would know the
23 name.

24 Mr Z.

25 As we went into 2014, there was a member of staff

1 who had an issue at a previous school he had worked at
2 in England. That information hadn't been forwarded to
3 Merchiston in any of his references, but a male ex pupil
4 from the previous school in England had contacted
5 Merchiston and told them that he had been
6 inappropriately sexually abused by this teacher during
7 a school trip. This had happened to the pupil just as
8 he was of leaving age. He had found out that this
9 teacher was now working at Merchiston and thought that
10 they should know about it.

11 I can't remember the name of that teacher and
12 I can't find it anywhere. He is referred to as Mr Z in
13 all of the documentation I have on Merchiston.

14 This teacher was about to go into a promoted post at
15 Merchiston as this information was discovered.

16 The ex-pupil who was from Shrewsbury or Shropshire
17 in England first phoned Merchiston about the allegation
18 against Mr Z and then followed it up with a letter. It
19 was during the summer holidays and the school took
20 immediate action to let us know about it.

21 They also moved the teacher off site so he wouldn't
22 be living on the premises when he returned from his
23 holidays. The headmaster had two meetings with the
24 teacher and it was decided that the school had
25 sufficient concern to terminate his employment.

1 What became clear during that inspection was that
2 the references had not been taken up when employing new
3 people. We focused strongly on that so we spent enough
4 time looking closely in detail at all the staff records
5 and made sure we had access to all the records the
6 school had.

7 In previous inspections, looking at the recruitment
8 process and references wasn't something that we had
9 particularly focused on. There had not been allegations
10 about the actions of staff prior to the previous
11 inspections, therefore there was no perceived need to
12 look at all the staff recruitment processes in such
13 detail.

14 At previous inspections I believe that the school
15 had been asked for a range of documents and they would
16 have chosen which ones to provide. At the inspection in
17 October 2014 they were not able to choose which ones we
18 looked at and this has been the case ever since.

19 After finding out that Mr Z had been employed
20 without references being taken up, we focused on that
21 and we went through as many staff files as we thought
22 was necessary to get as much information as we needed
23 for the inspection.

24 Merchiston did have a reference from the previous
25 school in England, but it hadn't mentioned the incident

1 with the pupil at all.

2 There was a telephone call between the headteacher
3 of Merchiston to the previous employer in England.

4 There wasn't any certainty about why the school in
5 England hadn't included the information about the
6 allegation in their reference. There was a suggestion
7 from them that because the pupil was 18 years old and
8 was about to leave school, that the incident was
9 consensual.

10 We were very pleased that Merchiston had followed
11 this up, especially given everything that had happened
12 in the past where they hadn't taken the action that we
13 would have wanted them to. From my point of view, the
14 fact that he was a school pupil meant that it was not
15 consensual because the teacher was in a position of
16 authority.

17 Mr Z had denied the allegation when he was spoken to
18 about it by the headmaster at Merchiston.

19 Feedback to Merchiston Castle.

20 During the inspection, we were inspecting against
21 the National Care Standards and the staff from Education
22 Scotland were using the relevant legislation which they
23 worked to. As was the agreed practice at the time,
24 a single joint report was produced, which was published
25 by Education Scotland and it included a section on our

1 findings.

2 Senior managers from the school were given feedback
3 about the proposed content but were not allowed to
4 influence its content as far as I am aware.

5 In about 2015, we recommended that governors for
6 Merchiston spent a bit of time just dropping into the
7 boarding houses and having informal chats with the
8 boarders to get an idea of what they thought about their
9 boarding experience and environment. This was because
10 we felt the governors were a bit more remote from the
11 day-to-day life of the school and the views of the
12 boarders to modernise things weren't getting back to
13 them as clearly as they should have been. This may have
14 been because the governors were not exactly young, so
15 they could have benefitted from meeting the pupils in
16 their own environment to get a better understanding of
17 their lifestyles, including the online facilities they
18 required and methods of communication used to have
19 contact with their families. Ultimately, the boarders
20 are the customers here.

21 I have been asked about a female member of staff
22 called RCQ. I don't know if that was at the same
23 time as the other two allegations or if it came slightly
24 after.

25 I didn't have much involvement with RCQ. There

1 was no suspicion or any concern about her on the part of
2 the school during the time she was there. It was only
3 after she moved away from Merchiston that any
4 allegations were made against her.

5 The allegations had come from a group of ex pupils
6 from Merchiston. They had been on some reunion and one
7 guy had mentioned that when he came back to the boarding
8 house after being drunk one night, [RCQ] had invited
9 him into her accommodation in the boarding house and had
10 sex with him. Then another boy announced it had
11 happened to him too. It then turned out it had happened
12 to a few of the boys when they were there.

13 One of the ex-pupils then told the school. As soon
14 as Merchiston found out about these allegations, they
15 immediately contacted her new employer in England and
16 notified them and they told us. I didn't have the names
17 of the pupils involved or any other details of the
18 incidents.

19 The school gave us confirmation that they had
20 contacted her new employer immediately. We were pleased
21 to see that they were acting responsibly and
22 appropriately whereas in previous times they hadn't.

23 Inspections of Fettes and Loretto.

24 I was first involved in an inspection of Fettes
25 College in June 2008 as I was the allocated inspector

1 for the school. This was an announced inspection.

2 In 2008, I was the allocated inspector for Fettes.
3 I was struggling to get another inspector to go on
4 an inspection with me. One of our senior managers told
5 me to go by myself and spend a couple of days there,
6 because it wasn't an important service. I was quite
7 taken aback by that, but I think back then the boarding
8 schools weren't given as much time as they are now.

9 After that I was involved in unannounced visits in
10 March 2009, January 2011, March 2012 and October 2014.

11 As the allocated inspector for Loretto I was at the
12 unannounced inspections in March 2015, January 2016 and
13 December 2016.

14 These inspections were carried out in line with the
15 frequency arrangements in use by our organisation at the
16 time and were not a response to any specific concerns or
17 issues. In all these inspections there were teams of
18 inspectors and I was the lead inspector. In all of the
19 inspections we spent time talking with pupils and staff
20 across the boarding campus. We spoke with other staff
21 involved in their care, as well as having contact with
22 some parents as a routine part of the inspection. We
23 also looked at plans developed for individual pupils to
24 provide any needed support for their assessed needs and
25 the effectiveness of these plans.

1 None of these inspections indicated major concerns
2 but in some we asked for areas of improvement, such as
3 improving methods of communication between different
4 staff groups across schools. We also discussed the
5 involvement of pupils in development plans and their
6 involvement in day-to-day routines such as menu planning
7 and access to facilities.

8 None of these inspections resulted in low grades or
9 requirements.

10 Inspections of other boarding schools.

11 I was part of an inspection team at Queen Victoria
12 School in June 2017 and at Gordonstoun in November 2017.

13 These inspections were carried out using the same
14 systems as previously described. Neither of the
15 inspections indicated major concerns or indicated that
16 pupils were not safe.

17 I have been involved in inspections of a number of
18 schools which are not involved in the case study.
19 Generally, I think all the independent schools have made
20 progress in recognising the individual needs of pupils
21 and working to meet these needs.

22 There is much more communication between pupils and
23 staff about any support that is needed for individual
24 pupils than there used to be when we started visiting
25 the schools. There is also more privacy for pupils and

1 fewer multi-occupancy rooms than there used to be, which
2 contributes to better levels of privacy for students.
3 Pupils are able to have much more regular communication
4 with their family and friends than was the case when we
5 started to regulate the schools. This has meant they
6 feel less isolated from their family."

7 My Lady, I now move on to paragraph 318:

8 "Final thoughts.

9 Over time we have developed much more effective
10 inspections of the boarding schools. When we began to
11 regulate them, there was little knowledge within the
12 team of what boarding schools were like and what the
13 experience was like for boarding pupils. At the start
14 there was also a formal approach to inspection, which
15 meant that pupils would be anxious and reluctant to
16 speak with us about their experience. It was also the
17 case that our inspection processes were focused on
18 records and systems rather than the outcomes for the
19 pupils.

20 As time has passed we have developed our methodology
21 and, in line with our overall ethos, we have begun to
22 work with services to help them to improve the outcomes
23 for the pupils.

24 Through working with services we have developed more
25 positive working relationships with relevant school

1 staff, which has enabled us to more fully understand the
2 boarding experience for pupils. It has also meant that
3 we communicate with senior staff outwith inspections to
4 discuss issues and advise on improvements.

5 I feel our inspections and overall work with the
6 independent schools has had a positive impact on pupil
7 well-being and their safety. Our use of different
8 methods of seeking feedback from pupils and parents and
9 our informal time in the boarding environment has meant
10 that we are now much more likely to hear from pupils and
11 their parents if there are concerns about safety and
12 care. We are also clear that schools are much more
13 effective in screening potential employees who will have
14 direct contact with pupils and this has contributed to
15 the safety of the pupil care.

16 I have no objection to my witness statement being
17 published as part of the evidence to the Inquiry.
18 I believe the facts in this statement are true."

19 My Lady, the statement is signed and it's dated
20 14 July 2020.

21 LADY SMITH: Thank you very much, Ms Bennie.

22 MR BROWN: My Lady, it would be appropriate now to have the
23 coffee break and hopefully start as soon as we can.

24 I'll speak to the witness briefly, I hope she is
25 here.

1 LADY SMITH: Very well, thank you.

2 I'll break now and then we'll return to hear from

3 a witness in person.

4 (11.47 am)

5 (A short break)

6 (12.13 pm)

7 LADY SMITH: Mr Brown.

8 MR BROWN: My Lady, we now have the live witness,

9 Marion Crawford.

10 LADY SMITH: Thank you.

11 Marion Crawford (affirmed)

12 LADY SMITH: A couple of things before we begin.

13 First, how would you like me to address you? Some

14 people like their first names to be used, others prefer

15 a more formal address. I'm happy with either --

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

17 LADY SMITH: If I call you Marion, that's okay, is it?

18 A. Yes.

19 LADY SMITH: You have two microphones there, the one with

20 the red light is particularly important, it will enable

21 you to be heard throughout this space and importantly

22 through the sound system for the stenographers'

23 purposes.

24 The red folder has a hardcopy of your very helpful

25 statement in it and it will also come up on the screen

1 in front of you. You might find it helpful to use your
2 statement as we go along but you don't have to, if you
3 prefer just to answer the questions Mr Brown puts to you
4 or I might have some questions for you.

5 If you have any queries or concerns while you're
6 giving your evidence, please don't hesitate to tell me.
7 It's important that we do what we can to make you as
8 comfortable as possible.

9 A. Thank you.

10 LADY SMITH: If you're ready, I'll hand over to Mr Brown and
11 he will take it from there. Is that alright?

12 A. Yes, that's fine, thank you.

13 LADY SMITH: Mr Brown.

14 Questions from Mr Brown

15 MR BROWN: Thank you, my Lady.

16 Good afternoon. As her Ladyship has said, it is
17 important to use the microphone. I may chivvy you to
18 speak into it. Please, if you don't hear me, do the
19 same.

20 You are Marion Crawford and you've produced
21 a statement, WIT-1-000000535. It's in the red folder,
22 it's on the screen in front of you. If we could go to
23 the last page, please, page 34, we can see that you
24 signed this statement on 25 November 2020.

25 A. Yes.

1 Q. The last paragraph, 141, confirms you have no objection
2 to your witness statement being published as part of the
3 evidence to the Inquiry and that you believe the facts
4 stated in it are true?

5 A. That's right.

6 Q. And that remains the position?

7 A. Yes.

8 Q. Thank you.

9 As I've just explained to you, outwith the Inquiry
10 hearing room, we don't have to labour a lot of the
11 background that you've very helpfully put in. I just
12 want to talk to you about some general issues about the
13 development of the Care Inspectorate, allied with your
14 experience, first as a teacher and then, obviously, we
15 will come to look at Merchiston in particular.

16 A. That's fine.

17 Q. You're now 73, I think?

18 A. Yes.

19 Q. You worked with the Care Inspectorate under different
20 titles from 2001, I think, to 2013?

21 A. Yes.

22 Q. But as we see prior to that, you -- this is all set out
23 in detail, which we don't need to trouble ourselves
24 with -- first began teaching in the early 1970s?

25 A. Yes.

1 Q. In economics?

2 A. Yes.

3 Q. Then progressed through teacher management; is that

4 fair?

5 A. Yes.

6 Q. You were a principal teacher, guidance and designated

7 officer for child protection, as we see in 1989?

8 A. Yes.

9 Q. Then you go and work for Tayside regional council as

10 an assistant child protection co-ordinator, so you're

11 veering away from teaching into child protection?

12 A. Yes.

13 Q. Then you're education manager, again with a council?

14 A. Yes.

15 Q. Before joining the Care Inspectorate?

16 A. Yes.

17 Q. What I'm interested in generally, when you started

18 teaching in the 1970s, was child protection something

19 that registered?

20 A. Not at all, we really didn't have --

21 LADY SMITH: Marion, sorry, I'm going to interrupt. It's

22 the microphone.

23 A. Is it?

24 LADY SMITH: I can hardly hear you, actually.

25 A. Sorry.

1 LADY SMITH: You're naturally very softly spoken. The arm
2 moves. You might manage to move it to get it nearer to
3 you.

4 A. Is that better?

5 LADY SMITH: Okay.

6 A. When I first started teaching, there really wasn't any
7 information about child protection. I think especially
8 when I moved into guidance, we were aware of the fact
9 that a lot of our pupils had difficulties and that some
10 of them had very poor home lives, but there wasn't any
11 training or anything available for us, and in fact when
12 I moved into child protection with Tayside region, that
13 was in a seconded post for either 18 months or two years
14 and my job was as assistant to the child protection
15 co-ordinator for Tayside region, and our main focus was
16 to deliver child protection training to teachers, dinner
17 ladies, nursery nurses, et cetera, across Tayside, which
18 we did set about doing.

19 MR BROWN: That is in the mid-1990s?

20 A. That was in the mid-1990s.

21 Q. I think that, from recollection and what we've heard
22 from other people --

23 A. Yes.

24 Q. -- is when it becomes a matter of importance within
25 education. Parliament becomes involved, Acts are

1 passed. It's really in the mid-1990s that child
2 protection as a topic has currency. Is that your
3 recollection?

4 A. I would say so, yes.

5 Q. I'm just interested because you had been, as we see from
6 paragraph 4, principal teacher, guidance and designated
7 officer for child protection from a school in Dundee
8 from 1989.

9 A. Yes.

10 Q. In the five/six years between 1989 and you working for
11 the council teaching child protection, what did child
12 protection mean?

13 A. Sorry, could you say that again?

14 Q. Sure. You were working, from 1989 I think, in a school
15 in Dundee and you set out your post was principal
16 teacher, guidance and designated officer for child
17 protection.

18 A. Yes.

19 Q. From what you've just said, child protection really
20 takes off in the mid-1990s. What I'm interested in,
21 what did it mean, from your perspective, from the late
22 1980s to the mid-1990s?

23 A. In the late 1980s, I think that was when, as
24 an organisation, education became aware of the
25 importance of child protection and they started to

1 provide some training for teachers because there was
2 a requirement that all schools had a designated officer
3 for child protection, so obviously they had to provide
4 training to that person.

5 And I'm sure I had that post before I went on the
6 secondment, but I also -- if I have a wee look at when
7 that was, I did a course in child protection, which
8 was -- it was 1993 that I did the course in child
9 protection.

10 So I think we probably just had in-service training
11 on child protection prior to 1993 in the school.

12 LADY SMITH: That's what we see in paragraph 1, and that was
13 when you did your Scotvec --

14 A. Yes.

15 LADY SMITH: -- with the higher national unit --

16 A. Yes.

17 LADY SMITH: -- including child abuse and young children.

18 A. Yes.

19 MR BROWN: Thank you.

20 One of the perhaps pictures we get across the last
21 30 years is things developing.

22 A. Mm-hmm.

23 Q. But, for example, thinking of the Care Inspectorate, it
24 starts, but presumably it developed considerably in the
25 time you worked for it?

1 A. It did. It also changed its name.

2 Q. Indeed. But would I be wrong to say that every time
3 there's a new institution, Care Commission, Care
4 Inspectorate, it has to go through a learning process to
5 be able to work effectively?

6 A. At the very beginning, it definitely was a learning
7 process for everybody. When it changed its name the
8 first time, it was more a change of name and it didn't
9 really change the processes that much, but as we became
10 more experienced at regulation, then the process of
11 regulation changed.

12 So -- sorry, I'll just get a wee drink of water.

13 LADY SMITH: No, do. Help yourself. (Pause)

14 A. I think I joined the Care Inspectorate a year and a half
15 to two years after they were first formed, and they had
16 spent a lot of time in consultation with service
17 providers explaining what the regulation was going to
18 look like and what the processes were going to be like,
19 and of course people had been consulted in helping the
20 organisation to develop the care standards and there
21 were a set of care standards for each type of
22 organisation.

23 Now, the boarding schools didn't come on board at
24 the start of the Care Inspectorate. They didn't come on
25 board until about -- I think three years into the Care

1 Inspectorate, and that was because -- I mean it was
2 a massive task to develop all those standards for all
3 the different kinds of organisations and they were one
4 of the last ones to come on board. So they weren't
5 inspected at the very beginning of the Care
6 Inspectorate.

7 When we first started inspecting, we very much
8 inspected absolutely against the Regulation of Care
9 (Scotland) Act and the National Care Standards to make
10 sure that people were adhering to the regulations in the
11 first instance and that they were providing a service
12 that met the care standards.

13 As time went on, we realised that people needed
14 a bit more guidance and a bit more information and there
15 was a decision taken -- which I don't think coincided
16 with the name change, I think it was separate from
17 that -- that we should introduce a grading system so
18 that people would feel that they were being inspected
19 against a very transparent system which applied grades
20 that were perhaps less subjective than just the written
21 reports, which they had had previously. And that was
22 a really pretty big change in the Care Inspectorate,
23 maybe about halfway through my working time there.

24 LADY SMITH: I should probably confirm with you that --
25 I think I'm right about this -- when you're talking

1 about name change, it was the change from "Care
2 Commission" to "Care Inspectorate", do I have that
3 right?

4 A. Yeah, yeah, yeah. It was the Scottish Commission for
5 the Regulation of Care was the first one --

6 LADY SMITH: Yes.

7 A. -- and then it changed to the Care Inspectorate, yes.

8 LADY SMITH: Thank you.

9 Mr Brown.

10 MR BROWN: Just thinking back to those very early days,
11 boarding schools really didn't feature --

12 A. No.

13 Q. -- for a couple of years --

14 A. Yes.

15 Q. -- because presumably there were so many other services
16 that were taking priority, put simply?

17 A. Yes.

18 Q. The other thing that stands out from your statement is
19 initially the background of inspectors was varied?

20 A. Yes.

21 Q. And people who had experience of boarding schools
22 presumably were very few?

23 A. I think it would be probably true to say there weren't
24 any who had experience of boarding schools.

25 Q. None at all?

1 A. There were teachers, but I don't think there were any
2 from a boarding school background.

3 Q. As you know, I've told you that we've just heard the
4 statement of Iain Lamb --

5 A. Yes.

6 Q. -- who you worked with and mention in your statement,
7 read out. He talks about -- this is 2008 -- having the
8 feeling from one of his managers that, really, boarding
9 schools weren't considered that important, if I can put
10 it very simply. Is that something you would recollect
11 too?

12 A. No.

13 Q. No.

14 A. No.

15 Q. All right.

16 A. I -- I felt because of the way it was set up that we
17 were in teams with a manager -- I suppose really it
18 depends on who your manager was, whether or not they
19 valued all the services the same. But on top of being
20 in a team, we were also part of, if you like,
21 a subsection because we met regularly with the manager
22 with responsibility for the boarding schools, so that
23 person was very much committed to making sure that
24 boarding schools were just as important as all the other
25 services and we did exchange views with the other Care

1 Inspectorate inspectors to make sure that we were
2 inspecting them in a fair and transparent way.

3 Q. But I think again, thinking back to the very beginning,
4 you describe as a care inspector you would have
5 responsibility for a number of establishments, which
6 could vary from nurseries --

7 A. Yes.

8 Q. -- to boarding schools, the same inspector?

9 A. Yes.

10 Q. So no particular focus on one area?

11 A. Yes.

12 Q. Also, I think we've heard this from what you say and
13 also from what Iain Lamb was saying, initially it's
14 different Local Authorities?

15 A. Yes.

16 Q. So the requirements would differ from one authority to
17 another. Potentially, thinking of childminding, for
18 example, as an extreme?

19 A. How do you mean the requirements would differ from one
20 Local Authority?

21 Q. I think Iain Lamb talked about in terms of the number of
22 children for example a childminder could look after was
23 different in one Local Authority to the next.

24 A. Right, I have to be honest and say I never came up
25 against that in my career.

1 Q. Right.

2 A. Because at the end of the day the childminders had to
3 care for the amount of children that was laid down in
4 the -- not the regulations, in the Care Standards.
5 In the Care Standards it was very clear about how
6 many children you could look after if you were
7 a childminder, and that's what they were being inspected
8 against, not what had happened in the past with the
9 Local Authority. But obviously there was
10 a transition --

11 Q. Yes.

12 A. -- at the very beginning, because they had been before
13 looked after by Local Authorities.

14 Q. Presumably every time this had changed, and you've
15 already talked about various changes, forgetting names
16 but in terms of inspection standards, for example, there
17 was a period where the inspectors have to learn the new
18 system?

19 A. Yes, yes. But at the same time the bit that didn't
20 change, I believe it has changed now, but the bit that
21 didn't change in the time I was working was the
22 Regulation of Care Act was the same and the standards
23 were the same, the National Care Standards were the
24 same, and that's what you were inspecting against.

25 Q. I think one of the things that you do talk about

1 changing was the introduction of greater self
2 assessment, thinking of boarding schools --

3 A. Yes.

4 Q. -- and more broadly?

5 A. Yes.

6 Q. Why was self-assessment thought to be a good way
7 forward?

8 A. To be honest, I think answering that question was
9 probably above my pay grade. But if I can make
10 an attempt at it ... (Pause)

11 The reason why they moved to self-assessment was
12 because it was to encourage providers -- give them the
13 opportunity to explain to the Inspectorate what they
14 were doing well and what they thought they should
15 improve on, and by producing that document prior to
16 inspection for us to review, we used that as a basis for
17 our risk assessment of the service, along with other
18 factors like notifications and whether or not there had
19 been complaints and things like that, but that
20 definitely made the process -- if I can use the word --
21 a bit slicker, because it meant that we weren't having
22 to find out all that information when we actually went
23 out.

24 So it was, if you like -- it was a different way to
25 do the inspection, but it did mean that the providers

1 had an opportunity to explain what they thought they
2 were doing well, so it gave us a benchmark for us when
3 we went out to go and have a look at.

4 LADY SMITH: I suppose you might not agree with them?

5 A. Absolutely not.

6 LADY SMITH: That of itself would tell you something
7 important?

8 A. Yes. Exactly, exactly. And also as well, the way they
9 filled in the self-assessment was often very telling,
10 because some of them just didn't have an understanding
11 about what some of the quality standards were in the
12 self-assessment, so therefore, you know, when you got
13 the self-assessment in and you were reading it through,
14 you realised, "Uh-uh, they've not quite got this,
15 they're missing the point entirely. There's a big
16 education job to do here".

17 LADY SMITH: Mr Brown.

18 MR BROWN: Thank you.

19 That's the upside. Was there a cost element, do you
20 think?

21 A. Probably. I think that bit's above my pay grade.

22 Q. No, it's just simply --

23 A. But, I mean, I think as an organisation they were
24 working out the best and most efficient way to carry out
25 this enormous task of regulating all the services in

1 Scotland and I'm absolutely certain that cost would come
2 into it.

3 I think -- I can remember when we first introduced
4 the self-assessment and a lot of us as inspectors were
5 quite sceptical about the process and we weren't sure if
6 it would work, but I think once we got into it and once
7 we saw the way it was graded and the kind of -- the
8 guidelines we were given as to how we applied the
9 gradings, which did make it much more I suppose fair,
10 really, because then providers knew exactly what they
11 had to do to get a 6, what they had to do to get a 4.

12 A 4 was good.

13 A 5 was very good.

14 A 6 was excellent.

15 And, you know, what kinds of things would cause them
16 to get a grade of weak, et cetera, and I think it was
17 a bit more transparent for them, which I think on the
18 whole helped.

19 Q. As you say, it threw up deficiencies?

20 A. Yes, absolutely.

21 Q. One of the themes that comes through from your statement
22 is thinking of boarding schools, there was with some
23 boarding schools a real reluctance to engage with the
24 Care Inspectorate?

25 A. Yes.

1 Q. Again, just taking your statement in the round, that
2 changes over time, is that fair?

3 A. I think that's very fair. I think a lot of the boarding
4 schools were very long-established schools, who had good
5 reputations. They were very apprehensive about the
6 thought of the Care Inspectorate coming in and
7 regulating them, and even although it had been explained
8 to them, they didn't really understand why they would
9 have to come under that umbrella.

10 And some of them were quite -- in the initial years,
11 some of them were quite difficult to work with.

12 Once inspectors had been in and carried out
13 inspections, they'd had the reports, they'd been through
14 the process, then they started to see the benefit,
15 because at the end of the day, if you are an inspector
16 and you're going to more than one boarding school, which
17 those of us who did the boarding schools were, it's
18 an opportunity to share good practice and it's also
19 an opportunity to share the best care practice, which
20 isn't necessarily just from boarding schools, it's from
21 other organisations that are 24-hour services, so they
22 were gaining expertise from other areas and they did
23 find that useful.

24 But it was about building that relationship with the
25 headteachers and the staff that you met to ensure that

1 they saw the process as being a fair one and one that
2 would benefit them as well as being regulatory.

3 Q. At the extreme you talk about one school, the name
4 doesn't matter, where the headmaster just never
5 accepted --

6 A. No.

7 Q. -- that this was necessary.

8 A. No.

9 Q. And it took for him to be replaced -- it's not one of
10 the seven schools we're interested in.

11 A. No.

12 Q. The other thing you talk about a number of schools
13 really was: we've never had issues, for example, with
14 child protection.

15 A. No.

16 Q. Was there an assumption that you saw with schools
17 generally, and some specifically -- again, not
18 interested in names -- where they just assumed it's
19 never happened in the past so it won't happen in the
20 future?

21 A. There were definitely three or four that I inspected
22 where they were totally naive about child protection.
23 It wasn't that they didn't -- if you talked to them
24 about it, they understood why child protection was
25 important, but it was definitely the attitude, "We've

1 never ever had a problem here and there isn't going to
2 be a problem, so why are you telling us all these things
3 we have to do", you know?

4 And again it was about education and about
5 explaining to them and encouraging them to take
6 advantage of all the good child protection training that
7 was about at that time, which eventually they all did.

8 Q. You have talked about the benefit of learning from other
9 schools but also from areas --

10 A. Yes.

11 Q. -- remote from boarding schools, but subject to the same
12 care requirements.

13 A. Yes.

14 Q. Was there a willingness, thinking on the first part of
15 that, from what you saw, to share experience and best
16 practice with other boarding schools?

17 A. I think they probably did do that, because they were all
18 members of the Scottish -- I'm going to get the name
19 wrong -- Scottish Council for Schools?

20 LADY SMITH: Scottish Council for Independent Schools, SCIS?

21 A. That's the one, that's it.

22 And I think on the training days that they had
23 through that, they definitely did have an opportunity to
24 share experiences and learn from each other.

25 MR BROWN: So SCIS was a body you were aware of who were

1 trying to focus --

2 A. It was a body that we were aware of and it was a body
3 that occasionally our senior managers met with as well
4 and kept informed about our regulation and any changes
5 that were taking place.

6 Q. Did they ever provide you with training, SCIS?

7 A. No.

8 Q. I'm just interested in page 12 of your statement, you
9 talk about training on child protection and
10 safeguarding. This is paragraph 46.

11 A. Yes.

12 Q. You make the point that you did not receive direct
13 training on child protection and safeguarding from the
14 Care Inspectorate.

15 A. Yes.

16 Q. "Such training wasn't offered. We did ask for it, but
17 the only training we had was more geared to the
18 inspection aspects of inspecting child protection and
19 safeguarding."

20 A. Yes.

21 Q. You, I suppose, are in the ideal position that you've
22 previously trained such issues --

23 A. Yes.

24 Q. -- so you knew, by good fortune rather than design.

25 A. Mm-hmm.

1 Q. What about your fellow inspectors?

2 A. I can't speak for all of them, but I do know from some
3 of the colleagues that I worked with closely that they
4 felt they would have benefitted from some specific child
5 protection training, which they thought should have been
6 offered by the Care Inspectorate. Particularly if they
7 were inspecting Children's Services like children homes
8 or involved in the boarding school inspections or
9 schools for social, emotional and behavioural
10 difficulties.

11 And I do think that if you're trained in the
12 subject, it obviously enhances your knowledge and
13 understanding and helps make you a better inspector, but
14 at the same time the whole process of inspection is so
15 huge, I do recognise that they couldn't give us in-depth
16 training on every single subject.

17 For example, we had to look at fire safety records,
18 we had to look at the administration of medication,
19 which was not a problem for those nurses -- those
20 inspectors who had previously been in the nursing
21 profession, but obviously if you hadn't, you had to have
22 a quick crash course on the proper administration and
23 recording of how to administer medication, et cetera.

24 But it's the difference between the knowledge that
25 you need to ensure that they're adhering to the

1 standards required and the in-depth knowledge that you
2 need, which I think is perhaps more important in child
3 protection because it's such an important area.

4 Q. During your career, did you ever get the training you
5 were asking for?

6 A. Not from the Care Inspectorate, no.

7 Q. No.

8 A. But I had -- in my time at the Care Inspectorate, I had
9 additional training in child protection because I worked
10 in sport in a voluntary capacity and I had a lot of
11 extra child protection training for that.

12 Q. Yes, but that's purely because you were --

13 A. Yes.

14 Q. -- volunteering in other organisations which involved
15 children?

16 A. Yes, exactly, exactly.

17 LADY SMITH: If the Care Inspectorate had, in your time,
18 organised training for their inspectors, from what you
19 say it sounds as though that would be a substantial task
20 that would probably involve having a full-time employee
21 dedicated to it, that would involve more disruption of
22 the schools from which the inspectors may have been
23 seconded, if they weren't full time with the
24 Inspectorate. Are these the sort of things that might
25 have discouraged them from doing it?

1 A. I think you're probably right. I would like to maybe
2 correct one thing you said.

3 LADY SMITH: Please do.

4 A. The care inspectors were -- the inspectors were all
5 full-time employees --

6 LADY SMITH: Oh, they were?

7 A. -- or part-time. They weren't seconded from anywhere.

8 LADY SMITH: I'm thinking of the Education Scotland academic
9 inspectors, of course, who would probably be full-time
10 teachers for the most part, giving time from the school.

11 A. Yes. No, we were full-time employees.

12 LADY SMITH: All of the care inspectors?

13 A. Yes. Maybe some of them worked part time, but it wasn't
14 because they were seconded from another organisation.

15 LADY SMITH: Thank you. Thank you for confirming that.

16 Mr Brown.

17 MR BROWN: Thank you, my Lady.

18 Her Ladyship just touched on, Education Scotland,
19 because again we can see and we know that following the
20 creation of Care Commission, Care Inspectorate, there
21 was a parting of the ways. Initially, as you'll
22 remember, HMIE which had traditionally inspected
23 education took on the role of the care side to begin
24 with in the 1990s until the Care Commission was created.
25 Is that your recollection?

1 A. I wasn't aware of that, because I wasn't involved with
2 boarding schools at that time. No.

3 Q. No. But what is clear, again as a generality, from your
4 statement is that when you were inspecting a boarding
5 school there were certain areas which you wouldn't go
6 into, which is the teaching staff --

7 A. Yes.

8 Q. -- because they are not under your watch, they fall
9 under Education Scotland?

10 A. Yes.

11 Q. So you have a twin-track approach looking at one
12 school --

13 A. But it was actually difficult, because what you found
14 was some boarding schools had dedicated boarding staff
15 who weren't teachers, but some boarding schools had
16 boarding staff who were teachers as well, so, for
17 example, when we did our inspection of boarding schools
18 where we had a focus on Safer Recruitment, I cannot
19 remember what year it was, we were able to look at all
20 the recruitment files for all the boarding staff,
21 regardless of whether or not they were teachers, but we
22 couldn't look at the actual teachers who weren't
23 boarding staff. We couldn't look at their files,
24 because that was outwith our remit.

25 Q. Was that something that you thought was unsatisfactory?

1 A. At the time, not really, because the locus for that was
2 Education Scotland.

3 Q. Would it not be better -- I know that at times there are
4 joint inspections where both sides are coming in --

5 A. Yes.

6 Q. -- so everything is being looked at under the umbrella
7 of a joint inspection --

8 A. Yes.

9 Q. -- but would you agree it would be better for you, as
10 a care inspector, to have a whole picture of the school,
11 for example in terms of recruitment, so that the
12 policies are understood across the board?

13 A. I have to say, I think that -- in the case of boarding
14 schools, I think that would be helpful, because things
15 like Safer Recruitment and child protection, if we were
16 able to check the records as inspectors to make sure
17 that all the Safer Recruitment had been carried out for
18 all staff in the school, including ancillary staff --
19 which the Care Inspectorate did look at -- and also if,
20 for example, we could check and make sure that all
21 staff, including ancillary staff and teaching staff, had
22 had appropriate child protection training, I think that
23 would have been a lot better. But we couldn't do that.

24 Q. Because I think we're aware, to give you an example, of
25 a teacher being recruited to teach, but having been

1 recruited, then has childcare responsibilities urged
2 upon him?

3 A. Yes.

4 Q. That sort of scenario, do you think you would pick him
5 up, if he'd been recruited as a teacher?

6 A. Only if we were focusing on Safer Recruitment. We
7 didn't routinely review the recruitment records unless
8 there had been new staff. I think we might have picked
9 it up if it was just a new appointment, but for
10 historical ones, then no. If that makes sense?

11 Q. Yes. I think we know that teachers, going back some
12 decades, could be appointed without any teaching
13 qualifications?

14 A. Yes.

15 Q. Without even subject qualifications?

16 A. Yes.

17 Q. Without references being taken up?

18 A. Mm-hmm.

19 Q. Was that something that you were seeing regularly in
20 your experience as a care inspector?

21 A. Well, you have to remember we didn't really look at
22 teaching files, right? So the answer to that is
23 probably no. But on the boarding side we absolutely
24 came across situations where members of staff did not
25 have proper references and had not been recruited

1 properly, and in that case we had to, you know, make
2 requirements or recommendations that they would follow
3 through with some proper checks and make sure the person
4 was properly recruited.

5 Q. You said requirements or recommendations. Can you
6 remember which it would be?

7 A. It would have been a requirement. I mean, it depended
8 what it was. I can remember being at a boarding school
9 and it was actually a member of ancillary staff, one of
10 the kitchen staff, and they had obtained one reference,
11 not two. There was a note on the file that they'd tried
12 to obtain the second reference and they hadn't managed
13 to. You know, like they'd phoned up to get a phone
14 reference and they hadn't been able to get hold of the
15 person, but nobody had followed it up.

16 Now, I think, in my head, if that provider was
17 a good provider and I was confident that he would
18 absolutely do something about that and follow up that
19 second reference, I probably would have made that as
20 a recommendation. But if for one minute I thought that
21 there was no way they would follow this up, it would
22 absolutely be a requirement.

23 But there's a difference between not getting two
24 references and not getting any. If they didn't have
25 any, they would definitely be getting requirements.

1 Q. But presumably going into a boarding school where staff
2 may have been in situ for 20 years, were you looking
3 back into files with that level of depth?

4 A. We -- we didn't look back in that level of depth even
5 when we did the Safer Recruitment focus, I don't think.

6 Q. That's what I'm interested in. If someone is in with
7 the building, having been there for 30 years, presumably
8 would they have just not featured because there would be
9 an assumption on your part they must be all right?

10 A. Yes, there is a possibility that that's the case.

11 Q. The picture you paint of the inspection, and it's very
12 full, is that you will look at the self-assessment and
13 the returns, you will carry out a risk assessment
14 yourself of what state the school is in.

15 A. Yes.

16 Q. Thinking of recruitment, for example, would that be
17 a routine factor in that risk assessment or was that
18 something separate?

19 A. I'm trying to think. I think it was routine, but
20 I think it would only be for new staff, if it was
21 routine.

22 Q. Okay.

23 A. We did, as an organisation, have a real focus on Safer
24 Recruitment one year, and this was after we introduced
25 the quality statements. They had inspection focus areas

1 as well as the quality statements, and each year the
2 inspection focus area was different, and it -- because
3 there were so many different kinds of organisations of
4 care that we were inspecting, it meant that it wasn't
5 always -- you know, not every organisation would get
6 an inspection focus area.

7 So, for example, if you had an organisation where
8 there was no administration of medication at all, then
9 if the inspection focus area was medication, that
10 wouldn't apply to that particular one.

11 With the boarding schools, definitely they had
12 a Safer Recruitment inspection focus area, because I can
13 remember doing that.

14 Q. But not necessarily, from what you're saying, every
15 year?

16 A. Not necessarily every year, no.

17 Q. Again, I appreciate both from reading reports and also
18 from what you're saying that there are a plethora of
19 areas you could look into --

20 A. Yes.

21 Q. -- presumably the reality is you don't have time to look
22 into every one every year?

23 A. You don't have time to look at everything, but there are
24 certain records that we always looked at, and it's
25 detailed at the front of the report, where it says, "We

1 looked at such-and-such records", and the majority of --
2 some of those ones that are in that list at the front of
3 the report are ones that we have to look at by law --
4 well, we have to look at, because they are things the
5 school must adhere to by law.

6 So things like fire safety, the
7 administration/recording of medication, child
8 protection, et cetera, those ones are ones that we
9 absolutely looked at every single time.

10 Q. I think if we look, for example, at one of your
11 reports --

12 A. Yes.

13 Q. -- this is SGV83779, and if we could go to page 7. This
14 is the report from October 2012 of Merchiston. We can
15 see, just if we go to the top, one thing to get it over
16 with:

17 "The level of inspection we carried out.

18 In this service we carried out a low intensity
19 inspection. We carry out these inspections when we are
20 satisfied that services are working hard to provide
21 consistently high standards of care."

22 A. Yes, and we decide on that following the desktop review
23 of the self-assessments, complaints notifications,
24 et cetera.

25 Q. There's a paper exercise which allows you to --

1 A. To start --

2 Q. -- make an assessment of what level of inspection has to
3 be followed up?

4 A. Yes.

5 Q. If the paper exercise is satisfactory from material
6 provided to you by the school --

7 A. Yeah.

8 Q. -- then the inspection can be light?

9 A. Yes.

10 Q. Then, next paragraph:

11 "This report was written following an unannounced
12 inspection visit on 3 October 2012 and three arranged
13 visits on [three other dates] the inspection visits
14 took approximately 25 hours in total ... low intensity
15 inspection".

16 And you look at all four themes, quality of care and
17 support, quality of environment, quality of staffing and
18 quality of management and leadership:

19 "We looked at evidence for two quality statements
20 under three of these themes and three quality statements
21 under quality of staffing."

22 Because you can't do it all?

23 A. No.

24 Q. Fair?

25 A. Yes.

1 Q. "The service, as requested, sent us an annual return and
2 a self-assessment form. We talked to the headmaster and
3 the senior deputy head and members of the boarding staff
4 teams. We talked to them about the service and the
5 progress made since the last inspection visit. We
6 looked at a sample of the service's policies and
7 procedures. We paid particular attention to the
8 documents relating to a concern which was raised with us
9 by a parent ..."

10 If you get that sort of thing, that's what you will
11 look at?

12 Then, going down to the bottom of the page:

13 "We looked at a sample of the service's record
14 during the visit ..."

15 I think this is what you may have been talking to --

16 A. Could you -- you went past the beginning of it. So they
17 must display the certificate of registration and the
18 staffing schedule, they must display the public
19 liability insurance and they must have proper records of
20 medication administered.

21 So I think we go over the page.

22 Q. Yes, that's right.

23 A. Can we go over the page?

24 They have to have accidents and incidents and
25 written risk assessments, and the rest of them are

1 things that they don't have to have.

2 Q. So the rest are a selection --

3 A. Yes.

4 Q. -- that you've requested of them?

5 A. Yes.

6 Q. The constants, it would appear, are registration

7 certificate and staffing schedule, public liability

8 insurance, records of medication administered and any

9 accidents or incidents?

10 A. Yes.

11 LADY SMITH: And risk assessment or not?

12 A. Yes, written risk assessments.

13 LADY SMITH: That's always required as well, is it?

14 A. Yes.

15 LADY SMITH: And there were --

16 A. I think so. I can't actually remember, to be honest,

17 but I think so.

18 LADY SMITH: There we're talking about the school's own risk

19 assessments?

20 A. Yes.

21 LADY SMITH: The Inspectorate separately were doing

22 something called a risk assessment?

23 A. I can't remember whether or not written risk assessments

24 are a legal requirement. The accidents and incidents

25 and the other ones above that, they are a legal

1 requirement, but I can't remember whether written risk
2 assessments are. I think they might be.

3 LADY SMITH: We can check. Thank you.

4 MR BROWN: Yes, thank you.

5 The point, going back to the idea of recruitment
6 being a focus, is it's not one of the --

7 A. No.

8 Q. -- annual --

9 A. No.

10 Q. -- or biannual requirements?

11 A. No.

12 Q. Is it really just on -- "whim" is the wrong word, but
13 it's when the inspectors decide that they want to look
14 at it?

15 A. I wouldn't -- I wouldn't say "whim".

16 Q. No, I acknowledged it was the wrong word. It was
17 an introduction to you to --

18 A. It's -- as an inspector you would become concerned if
19 there was a huge turnover of staff and you would pick
20 that up from the information that they have to give you
21 in the self-assessment that they supply, because they're
22 asked questions about things like that. And so if
23 something like that flagged it up for you, you would
24 definitely follow it through by looking at the
25 recruitment.

1 If everything -- there hadn't been a huge turnover
2 of staff and everything had previously been
3 satisfactory, unless there had been a complaint relating
4 to staffing, I don't think it would be flagged up for
5 you to look at.

6 If you thought: do you know what, it's four years
7 since we did the focus on recruitment, maybe we'd better
8 revisit it, then yes, we could put it in.

9 Q. If you decided to revisit it three or four years since
10 you'd last done it, from what you're saying, the only
11 files you would look at would be the new staff?

12 A. Would be the new ones, yes.

13 Q. That's only if they are engaged with pupils in the care
14 setting rather than just being teachers?

15 A. Yes.

16 Q. So it's a pretty partial view of --

17 A. And ancillary staff.

18 Q. And ancillary staff.

19 A. They came under our remit.

20 Q. Absolutely, but thinking of teachers where --

21 A. Yes, not teachers, no.

22 Q. -- there seem to have been issues with some schools --
23 okay.

24 That's the process in advance. We then have your
25 very helpful accounts of what would happen when you went

1 to the school, and I think we see from differing reports
2 there's low intensity, medium intensity and high
3 intensity, as we know from one of the reports we have
4 for Merchiston after you have retired.

5 That will reflect greater time, potentially
6 a greater number of inspectors. If it's a high
7 intensity, things are bored into with much more depth?

8 A. They're bored into in much more depth.

9 When I was about to retire, there were moves afoot
10 in the Care Inspectorate to have only one inspector
11 carrying out an inspection, and a lot of the care
12 inspectors were extremely concerned about that because
13 we felt that working with a colleague in large
14 organisations like the boarding schools was absolutely
15 vital, because of the breadth of material that we had to
16 look at, the depth of our inspection, how we had to
17 go -- drill down in different aspects of it, and it was
18 really important to have two inspectors.

19 We didn't ever get strict guidelines about, you
20 know, it should only take you so many hours to do this,
21 but there was an expectation about how long it would
22 take you to do an inspection.

23 And that inspection that we just had that little
24 quick look at, I was there for a lot longer than I would
25 normally have been, and that was because of the incident

1 that the parent had told us about that he wanted looked
2 at, and that took quite a lot of extra time.

3 Q. That's you responding to a complaint by a parent?

4 A. Yes.

5 Q. I think, as we know, the child is no longer in the
6 school?

7 A. He didn't make it as a formal complaint.

8 Q. No. The issue was raised, put it that way.

9 A. The issue was raised, yes.

10 Q. But that's really what much of the focus of your
11 inspection, which was light, is in relation to that one
12 matter which has been flagged up for you?

13 A. Yes.

14 Q. So you were being quite responsive?

15 A. Yes.

16 Q. And having to be only responsive, perhaps, rather than
17 proactive, because you were on your own?

18 A. Yes.

19 Q. Did that policy of having only one inspector change
20 before you retired?

21 A. No, we were still inspecting in pairs when I retired.
22 And I don't know if they implemented it.

23 Q. Thank you.

24 Listening to Iain Lamb's statement, he talked about
25 changes in 2014 and 2015, obviously after your

1 retirement, which, reading from one of the paragraphs of
2 his statement, was that, "We are the regulators, we
3 wanted the whole story and factual information rather
4 than the schools choosing the story they wanted to tell
5 us".

6 What he was referring to is: we decided who we spoke
7 to and what documents we looked at.

8 A. Mm-hmm.

9 Q. He seemed to think that that was a good thing, because
10 presumably -- this is your experience prior to that --
11 documents were selected by the school for you to
12 consider, and in terms of pupils you spoke to, they were
13 selected by the school?

14 A. I didn't ever come across documents being selected by
15 the school. We always told the school what documents we
16 wanted to see and what areas we wanted to review. They
17 did -- they did -- usually -- you weren't necessarily
18 specific as to which pupils you wanted to see because
19 you didn't know who the pupils were, but, for example,
20 I would say, "Well, could you send me four prefects,
21 three fourth years and half a dozen first years", and
22 they would select them.

23 I think it would be quite difficult as an inspector
24 to go into a school and say, "I want to see X, Y and Z
25 pupils", because you don't know them.

1 So the school did have a little bit of choice about
2 who they let you speak to.

3 In that particular case in that inspection report
4 that you have in front of you, I was very specific about
5 who I wanted to speak to. I asked to speak to all the
6 pupils who had been involved in the incident with the
7 little boy and they produced all the pupils and I was
8 able to track that back to the accident report that they
9 were the right pupils that I was speaking to.

10 Q. Indeed so.

11 A. So I was able to cross reference it.

12 Q. But had it not been for that one parental input --

13 A. Yeah.

14 Q. -- that focus wouldn't have been available to you and it
15 would have been really for the school to say:

16 "You wanted to speak to some prefects, here are some
17 prefects that we have selected."

18 A. Well, it would in that -- for example, when we review
19 accident records in the schools, you're reading through
20 the accident reports. Now, if anything jumps out at you
21 that you feel they've not dealt with it properly, the
22 pupil would be named in that and you could ask to speak
23 to that pupil. So you do still as an inspector have the
24 ability to be specific about pupils you want to speak to
25 for specific incidences.

1 And also, for example, if there were complaints. If
2 there were complaints you would absolutely be very
3 specific about who you wanted to speak to, because you
4 would know who they were.

5 Q. Indeed, because something's been alerted to you that you
6 can respond to.

7 A. Yes.

8 Q. I'm interested. Were you ever concerned that schools,
9 and speaking broadly, were attempting to guide the
10 course of an inspection by selecting carefully pupils
11 and documents?

12 A. No. Well, they couldn't really select the documents.

13 Q. Okay.

14 A. But I wasn't -- generally speaking I found them
15 cooperative, and also we tried to provide additional
16 opportunities for pupils to speak to us in
17 an inspection, because we were there, for example, in
18 the boarding school -- I actually visited that time on
19 three different occasions. We got them to put a notice
20 up saying:

21 "The inspectors are in school, they're going to be
22 working in the library from 10 o'clock to 12 o'clock on
23 that particular day. If anybody would like to speak to
24 them, please feel free to come and speak to them."

25 We would also do things like have lunch with the

1 pupils and just sit at random with pupils so that we
2 could speak to, at random, pupils, rather than somebody
3 who had been sent to us. So we tried to make sure that
4 there were opportunities to speak to pupils outwith the
5 ones that had maybe been selected.

6 But I was never really aware of boarding schools
7 trying to guide the inspection, and, to be honest,
8 I think we'd have picked up on it --

9 Q. All right.

10 A. -- you know, and pulled them up.

11 Q. I think in fairness, the reason I ask is if we could
12 look very briefly at SGV83781, which is an inspection
13 from 4 December 2015. If we go to page 15, please, and
14 if we go down -- this is areas for improvement. If we
15 go down to the third paragraph, you can read:

16 "There was some feedback from some young people that
17 their views were not being listened to and they appeared
18 frustrated specifically in relation to mandatory
19 elements of the school week. We also heard from some
20 young people that they had been 'prepared' for some
21 questions from inspectors. One young person we spoke to
22 was unhappy about this and was clear that he wanted to
23 give his own opinions."

24 A. I am really surprised at that. Well, the second part.

25 Q. That wasn't your experience?

1 A. No. That wasn't my experience.

2 Q. If we can focus on Merchiston, though.

3 A. Yeah.

4 Q. You were engaged with Merchiston, as we know, in 2012
5 and 2013?

6 A. (Witness nods)

7 Q. Prior to that, had you had much dealing with them? Do
8 you remember?

9 A. Yes. I have to say, I'm a wee bit hazy as to the dates,
10 et cetera, but I was definitely the inspector from the
11 school at the time when the allegation was made against
12 James Rainy Brown.

13 Q. Yes.

14 A. Because the headteacher contacted the Care Inspectorate
15 to tell us that he had been informed by the police that
16 this was taking place and I am sure I went out and
17 visited the school as a result of that phone call, and
18 he definitely kept us up to date with what happened.

19 Q. We'll come to that. Just in the round, I think we see
20 paragraph 92 of your statement, you say:

21 "I can't remember when I was first involved in
22 inspecting Merchiston boarding school. I think
23 I inspected it for about four years and one of the
24 inspections may have been a joint one with HMIE.
25 I think I carried out inspections in 2010, 2011, 2012

1 and 2013. I am fairly certain that I was the only lead
2 inspector in 2012 and 2013."

3 A. Yes.

4 Q. You talked about the headmaster there. That's
5 Andrew Hunter?

6 A. Yes.

7 Q. Did you understand that he'd been there in post for over
8 a decade when you first had contact with him?

9 A. Yes.

10 Q. He had been there and was embedded in the school for
11 some time when you first joined?

12 A. Yes.

13 Q. We know, for example, Iain Lamb was involved in 2007.
14 That's an inspector that you shared --

15 A. Yes.

16 Q. -- I think the 2013 inspection with. When you start
17 going to a school like Merchiston, what
18 information-sharing is there with you so that you can
19 learn what's happened in previous inspections and just
20 about how the school is viewed by your colleagues over
21 perhaps the previous decade?

22 A. When you get a new case allocated to your case load and
23 you haven't inspected it before, I certainly would
24 always contact the previous inspector and ask how they
25 found the service, what it was like, was there any

1 specific things that they were concerned about,
2 et cetera, and of course because we were inspectors we
3 also had access to all the information that was there
4 about that service that was logged in our systems, which
5 included notifications of incidents and accidents that
6 were severe and also complaints and any other
7 information that they had had to report to us, so we
8 were able to read up on all that as well as look at past
9 inspection reports and liaise with the previous
10 inspector.

11 Q. For example, thinking of a matter that Iain Lamb talked
12 about in 2007, which were complaints about or concerns
13 with an outward bound centre the school used, Rua Fiola.

14 A. Yes.

15 Q. Were you aware of that when you took over Merchiston in
16 2012 or 2011?

17 A. Yes, because -- you see, I -- this is where the dates
18 get all muddled up, but I was definitely involved with
19 Merchiston, possibly as a second officer or perhaps it
20 was on my case load, and I was aware that the school
21 went on these -- I suppose they were like outward bound
22 weeks with some of the pupils, and that particular
23 centre was mentioned.

24 Unfortunatley, it was also mentioned in the
25 newspaper and I was particularly concerned about that,

1 and one of the inspections that I went on, which was
2 prior to 2012, the school said that there was to be
3 an outward bound week at a place in the Borders
4 somewhere, but that was a sister organisation -- well,
5 or another part of the -- sorry, I can't pronounce --

6 Q. Rua Fiola.

7 A. Yes.

8 Q. Is the place you're thinking of Solwaybank in
9 Dumfriesshire?

10 A. I'm not sure where it was, I really can't remember, but
11 I think it probably was because I think they were the
12 two that were connected.

13 And when I heard that, I spoke to Andrew Hunter
14 about it and the trip was cancelled and the school
15 stopped using them.

16 Q. I think that's later on, perhaps.

17 A. Is that later on?

18 Q. Yes. We'll come back to that. But just talking
19 generally, you would know that over the previous
20 inspections, in fact for all the inspections under the
21 new system of quality assessment, Merchiston had done
22 very well, broadly?

23 A. Yes.

24 Q. It was either good or excellent?

25 A. Yes.

1 Q. Did that colour your view of Merchiston; do you think?

2 A. (Pause)

3 I think it colours your view in that you are

4 expecting it to be, under the new system,

5 a low-intensity inspection because there had not been

6 any major issues raised in the past. I don't think

7 it -- I hope it doesn't colour your view too much about

8 what to expect when you go there, because all the

9 schools are different and their traditions, et cetera,

10 are different as well, and the way they conduct

11 themselves is different, and so you really do have to

12 take each one on their merit when you go.

13 Q. The reason I ask is you talk at paragraph 111 on page 27

14 of the risks of what you describe as regulatory capture.

15 A. Yes.

16 Q. Which is where, putting it simply, the same inspector is

17 inspecting the same establishment, and it becomes

18 assumed that the service, which has performed well and

19 is consistently performing well, will perform well?

20 A. Yeah, yeah.

21 Q. There is merit, I think from what you're saying, in not

22 allowing that complacency to be allowed to take place --

23 A. Yes.

24 Q. -- because you move people around?

25 A. That is part of -- it's part of regulation, and when we

1 did our training in regulation, we had to do
2 a postgraduate course in regulation as part of being
3 an inspector, and that was one of the things that was
4 discussed at great length and a lot of -- there's a lot
5 of research, et cetera, on it, which shows that it is
6 possible, you know, if you have the same inspector all
7 the time, there are advantages to that, but there are
8 also huge downsides and the regulatory capture is one of
9 them.

10 But, as an inspector you do know that and that is
11 why it is also very useful, I always thought, to have
12 two inspectors, particularly if your second inspector
13 was a different person than had come the time before,
14 because you had a fresh pair of eyes on it.

15 So that whole thing about regulatory capture is
16 important, but I think the majority of the inspectors
17 were aware of it and knew about it and so, you know,
18 were trying to avoid it.

19 Q. Okay.

20 A. It's difficult, because that is the flipside of the fact
21 that the research shows that you get a better result
22 from regulation if you're able to build a positive
23 relationship with the provider so that they will listen
24 to you and they will take on board what you say, but
25 there's a fine line between the two. If that helps.

1 Q. Yes, it does.

2 How would you describe your relationship with

3 Andrew Hunter?

4 A. I had a positive relationship with Andrew Hunter. He

5 was very good at phoning up and asking for advice. He

6 was also very good at informing us of things that we

7 needed to know. And when you came across things that

8 were not right, he was very quick to put in place

9 something to make sure that it was resolved and made

10 better.

11 Q. So you viewed him well?

12 A. Yes.

13 Q. Thank you. Could we look at document MER289, page 2.

14 While that's coming up, just to set the scene,

15 you've talked about James Rainy Brown, a teacher who had

16 been at Merchiston man and boy, I think as you would

17 discover, a pupil and then he returned to teach?

18 A. Yeah.

19 Q. Who committed suicide in April 2013.

20 A. Yes.

21 Q. You were alerted to that background by Andrew Hunter?

22 A. Yes.

23 Q. These are documents from Merchiston, because you would

24 be aware, from having spoken to Andrew Hunter, that

25 there was a colossal amount of fallout.

1 A. Yes.

2 Q. If we go to the bottom of that page, we see minutes
3 taken by Merchiston:

4 "Wednesday 24 April -- ARH conversation with MN of
5 the Care Inspectorate."

6 That would be you?

7 A. Mm-hmm.

8 Q. "ARH discussed the matter, including concerns about
9 potential child protection issues since 1998."

10 A. Mm-hmm.

11 Q. Do you remember being told of child protection issues
12 since 1998?

13 A. Not in detail as to what they might have been, no.

14 Q. Can I take it if in general terms Andrew Hunter was
15 telling you of child protection concerns since 1998,
16 that was news to you?

17 A. (Pause)

18 Yes, because I asked for a copy of the audit of the
19 file and what they had done was they had audited all the
20 child protection concerns that had been raised in the
21 school over that period of time, and I asked for a copy
22 of that along with the formal notification, and all of
23 the things, however minor, that had been notified had
24 been, as far as I could see, appropriately handled. If
25 it had been necessary to report them on, they had been,

1 but there weren't any -- I can't remember there being
2 any ones where they'd had to notify the police.

3 So there might have been one, but it looked as
4 though it had been dealt with appropriately, from the
5 information he provided.

6 Q. All right. It goes back to the question I was asking
7 you about when you take over a school, how much
8 information do you know.

9 A. Yes.

10 Q. What you certainly didn't know was there'd been
11 potentially child protection issues with a long-serving
12 teacher for the previous decade?

13 A. No, didn't know that.

14 Q. You didn't know that?

15 A. No.

16 Q. But it's the last bullet point, you apparently
17 reaffirmed:

18 "We have no concerns, we are confident in, and of,
19 all of the school's child protection processes."

20 A. Yes.

21 Q. Do you think that's a fair and accurate account of what
22 you would have said?

23 A. Can you tell me what year that was?

24 Q. This is 24 April 2013.

25 A. 2013, yes, because when I did the inspection in 2012,

1 one of the things that I had done was go over the child
2 protection policies and procedures with
3 a fine-tooth comb and also go over all their incidents
4 that had been reported and how they had dealt with them,
5 and so I was confident at that time that they were being
6 addressed properly.

7 Q. But you weren't aware of incidents involving
8 James Rainy Brown since 1998?

9 A. No, no.

10 LADY SMITH: I don't suppose you can remember what was in
11 your head when you were talking about going over the
12 incidents that had been reported? Reported by whom to
13 whom, what type of incident?

14 A. (Pause)

15 I honestly can't remember. I honestly can't
16 remember. I know he had -- I know he had a -- a file.
17 He had -- he had audited all the child protection
18 concerns that had been raised, but I can't remember the
19 detail at all.

20 And I have to be honest and say I don't remember any
21 of them in particular, since 1998, referring to
22 James Rainy Brown.

23 MR BROWN: I think one can see --

24 LADY SMITH: Mr Brown, can I just check?

25 MR BROWN: Yes.

1 LADY SMITH: I certainly don't want to rush this witness.
2 Would it be better if we stop now for a lunch break and
3 then resume --
4 MR BROWN: I think it probably would be, there's a bit to
5 go, perhaps only for 20 minutes, but it's a long
6 session. Could I maybe just finish with this document?
7 LADY SMITH: Yes, let's do that and then we'll give you
8 a break.
9 MR BROWN: I think what if we go back to page 1 of this
10 document -- this is the Merchiston document where
11 they're talking about what was discovered by them.
12 A. Yes.
13 Q. If we go to the top:
14 "Issue regarding member of staff Mr X [Rainy Brown].
15 A former pupil has contacted Police Scotland."
16 Reading short, line 2:
17 "... now has his own family and feels that, on
18 reflection, some of the actions of this member of staff
19 were highly inappropriate and he recognises this all the
20 more now that he has his own family."
21 Then it sets out:
22 "The Halloween tradition of apple ducking, two boys
23 in the shower with up to 30 age 10 to 13 all equally
24 naked around the shower, two volunteers at the time
25 ducking on their haunches. Mr X present. One boy

1 wanted to wear swimming trunks and he was told to get
2 out."

3 So there's nudity.

4 Joining in physical rugby training, no pupil allowed
5 to wear underwear. Pupils would be requested to sit in
6 a circle and be checked as to whether or not they were
7 wearing underwear.

8 Descriptions of him staring at naked boys as he drew
9 back the curtain in the communal showers, under the
10 guise that boys were making too much noise in the
11 shower:

12 "I felt him staring at my testicles, he was always
13 tactile and always hugging boys."

14 Then over the page, at the top of page 2, response
15 of the headmaster:

16 "ARH immediately indicated that this type of
17 behaviour was not news to him and since his arrival in
18 1998, he and other leading staff had been watchful of
19 the actions and behaviour of this member of staff,
20 observing him particularly closely and working to ensure
21 good working practices are followed at all times.

22 ARH indicated that there had been episodes since
23 September 1998.

24 A repetition of boys not wearing jock-straps for
25 sport.

1 Boys not wearing swimming costumes at Blakerston
2 Camp.

3 Mr X rubbing deep heat into the thigh of an injured
4 boy."

5 None of that background was something you would be
6 aware of, I take it?

7 A. No.

8 Q. Although it would appear from ARH's response, to use his
9 words, this type of behaviour was not news to him?

10 A. (Pause)

11 In 2012, he was at the school. He was living on the
12 premises -- I mean the campus in a house, as far as
13 I know, and I think he still had some contact with the
14 pupils because he drove their minibus sometimes.

15 LADY SMITH: The "he" you're referring to there is
16 James Rainy Brown?

17 A. Yes, it is.

18 MR BROWN: Thank you, my Lady. That would be an appropriate
19 time to break.

20 LADY SMITH: We'll take a break now for the lunch break, and
21 if we sat again at 2.15, would that give you long
22 enough --

23 A. Yes, that would be fine.

24 LADY SMITH: -- to become refreshed, to hopefully give you
25 a bit of a rest?

1 A. That's lovely.

2 LADY SMITH: We'll break now and at 2.15 we will resume.

3 (1.30 pm)

4 (The luncheon adjournment)

5 (2.15 pm)

6 LADY SMITH: Marion, are you ready for us to continue?

7 A. Yes.

8 LADY SMITH: Thank you.

9 Mr Brown.

10 MR BROWN: Thank you.

11 Marion, before lunch we were talking about the

12 meeting you had in April 2013.

13 A. Yes.

14 Q. And you saw the documentation.

15 A. Yes.

16 Q. I think over lunch you've been reflecting on that

17 chapter --

18 A. Yes.

19 Q. -- is there something else you would like to add?

20 A. I was trying to think why I wouldn't have seen that

21 document before, but the reality is when you go to do

22 an inspection, you're inspecting from the last time

23 an inspector was out until when you go, so you're only

24 looking at documents, et cetera, from the last six

25 months or the last year. And so, you know, something

1 like that, that was historic, wouldn't have necessarily
2 been flagged up to us because it would have been dealt
3 with previously. One would hope.

4 Q. If it had been shared?

5 A. If it had been shared, yes. That is the big thing, if
6 it had been shared.

7 Q. That's the point I think I was making before lunch.
8 You're responding to what you are being told?

9 A. Told, yes, yes.

10 Q. Or -- and that can be from the school, or, for example,
11 from a parent flagging something up?

12 A. Yes. When the incidents first happened, the Care
13 Inspectorate wasn't -- was just started?

14 Q. Mm-hmm.

15 A. Yes. But as the regulations became enforced, the Care
16 Inspectorate got better as saying to services, "These
17 are the things you absolutely must report", and there
18 are a long list of notifications that they have to make
19 to the Care Inspectorate now, and major incidents or
20 major concerns of a child protection nature, I'm pretty
21 certain, are in there.

22 So if that were to happen now, they would have to
23 tell us straight away.

24 Q. Yes. Whether they do or not --

25 A. I know.

1 Q. -- is a moot point.

2 A. Yes.

3 Q. Whether they stand their responsibilities will depend on
4 communication.

5 A. Yes.

6 Q. Have you ever thought about communication being an issue
7 from Care Inspectorate to schools, for example?

8 A. In the very beginning, yes, because they didn't
9 understand they had to tell us about things, but as time
10 went on, no, because we did definitely educate them to:
11 "This is what you have to do and these are the
12 things that you must report to us."

13 An example of that is infectious diseases. So, for
14 example, if they got an outbreak of sickness bug,
15 E. coli, which is really infectious, they would have to
16 report that to us. And in the beginning they didn't
17 really understand it, they thought, "We could just deal
18 with it ourselves", but now they do understand that they
19 have to report these kinds of things to us.

20 Q. It's a learning experience from their point of view too?

21 A. Yes, as well as from us.

22 Q. But you would hope, once they discover, for the sake of
23 argument, that they haven't been approaching staff
24 histories adequately --

25 A. Yes.

1 Q. -- they would then report that?

2 A. Yes.

3 Q. They would look back, rather than you looking back?

4 A. Yeah. You would hope so.

5 Q. Because the Care Inspectorate wouldn't look back --

6 A. No.

7 Q. -- 20 years?

8 A. No, we wouldn't.

9 Q. Okay.

10 The document we're looking at, 289, was page 2.

11 Could we go to page 86, because you had the conversation

12 with Andrew Hunter in April 2013 and then, as we can

13 see -- this is Merchiston documentation, it's

14 a headmaster's progress report and it's talking about:

15 "Unannounced Care Inspectorate of Merchiston Castle

16 School.

17 Tuesday 3 and Wednesday, 4 September 2013.

18 Lead inspector: [you].

19 Inspector: Iain Lamb."

20 A. Yes.

21 Q. Can we take it that your antennae were particularly

22 sensitive because of what you had been discovering in

23 April?

24 A. (Pause)

25 Q. You're obviously reading the text. Can we come back to

1 the text. (Pause)

2 Marion, the question I ask --

3 A. Is Sharon Dow --

4 Q. That's the secretary.

5 A. I was going to say, that's the secretary, yes, and she

6 was absolutely distraught about what had happened,

7 because the guy had committed suicide.

8 Q. Yes.

9 A. And I was trying to point out to her that the school did

10 not have any choice, they had to suspend him, which they

11 did, straight away.

12 Q. Right. Can I just stop you there?

13 A. Yes.

14 Q. You're jumping ahead --

15 A. Oh, I'm sorry.

16 Q. -- because you read the words.

17 LADY SMITH: Hang on a minute, Marion, because Mr Brown had

18 a preliminary question for you, which is quite an

19 important one.

20 A. Oh, sorry.

21 MR BROWN: Which I think went past, because you were

22 focusing on reading.

23 When you went to the school in September 2013 --

24 forget the screen for a minute -- you have had

25 a conversation five months before with the headmaster

1 where you were discovering that in fact things had been
2 known about, he had known about things since 1998 and
3 you didn't?

4 A. Yes.

5 Q. It hadn't been shared with the Care Inspectorate?

6 A. Yes.

7 Q. Were your antennae not particularly sensitive because of
8 that background?

9 A. Definitely, definitely.

10 Q. You are going in because you are worried? Or was this
11 just routine?

12 A. We were going in -- right. The inspection -- there
13 would have been another inspection. It would not have
14 been as early as it was, as soon after the last one, if
15 I can say it like that. We were going in because, yes,
16 we were concerned.

17 Q. I think as we know from the report, and we'll come to
18 that in a moment --

19 A. Yes.

20 Q. -- you say, and just let me read it to you:

21 "We carried out a medium intensity inspection."

22 A. Yes.

23 Q. "We carry out these inspections when we need to follow
24 up concerns which have been notified to us by the
25 school, in this case historical child protection

1 issues."

2 A. Yes.

3 Q. You are having a conversation with Sharon Dow, who's

4 an important person in Merchiston, we would understand?

5 A. Yes.

6 Q. The head's PA?

7 A. Yes. And she was responsible, I think, for doing most

8 of the Safer Recruitment of the boarding staff, if

9 I remember correctly.

10 Q. Was HR her function?

11 A. It seemed to be.

12 Q. It seemed to be. There wasn't a specific appointment?

13 A. No, no. She was personal assistant to the headmaster.

14 That was her appointment. But she definitely had

15 a responsibility for HR for the boarding staff.

16 LADY SMITH: Do you know if she had any qualifications in

17 HR?

18 A. I don't know.

19 LADY SMITH: Thank you.

20 A. I don't think so.

21 MR BROWN: The first passage that you've been reading about

22 is about another teacher, whose name doesn't matter.

23 A. Mm-hmm.

24 Q. But I think you are expressing the view that this

25 younger teacher, you think, has probably been groomed,

1 to use your word, by James Rainy Brown?

2 A. Mm-hmm.

3 Q. In context, is that because he was a James Rainy Brown
4 supporter and had talked about various things to other
5 teachers following the death which had been shared with
6 you?

7 A. (Witness nods)

8 He also shared them with me. He was a housemaster.
9 I interviewed him, and I knew that his background was
10 that he had come to the school as quite a young man and
11 his mentor had been JR Brown. And he was very open with
12 me that he thought it was utterly wrong the way the
13 school dealt with JR Brown. It was wrong to suspend
14 him. It was particularly awful that the guy then
15 committed suicide, and he was absolutely appalled about
16 it.

17 And in the course of the conversation, it was
18 absolutely clear that he did not think that JR Brown had
19 done anything wrong in his time at Merchiston, and that
20 some of those incidents that you -- we referred to
21 earlier in the session, he thought they were perfectly
22 okay.

23 And I reported all that to the headmaster and the
24 guy was let go.

25 Q. Well, I think he was suspended whilst investigations

1 took place.

2 A. Yes.

3 Q. I think in context, because we have heard evidence about

4 this, he was talking about events in the 1990s.

5 A. Mm-hmm.

6 Q. And acknowledged to his colleagues that he would not

7 behave that way now, thinking of 2013.

8 A. He didn't acknowledge them to me.

9 Q. Well --

10 A. When he spoke to me, he said -- oh, right, there was

11 actually two teachers, so I'm not sure which one we're

12 talking about.

13 Q. I think it's in your statement.

14 A. One was a sports teacher and one was a housemaster.

15 The housemaster, when he spoke to me, said that

16 things like skinny dipping and -- with the boys and

17 things like that, they were perfectly okay and it was

18 just because Scotland and Britain had a very narrow, you

19 know, society and didn't approve of things like that,

20 but actually they were fine.

21 Q. Well, thank you.

22 A. So.

23 Q. But that caused you concern?

24 A. It definitely caused me concern.

25 Q. This is, so far as James Rainy Brown is concerned,

1 behaviour that would appear to have been known about by
2 the school but nothing had been done?

3 A. Yes.

4 Q. We then go on to the second half of that page:

5 "Notes taken at Andrew Hunter and Peter Hall
6 feedback meeting with the Care Inspectorate ..."

7 That will be you, presumably, and Iain Lamb?

8 A. Yes.

9 Q. This being September 2013.

10 A. Yes.

11 Q. Under item 5:

12 "ARH was asked:

13 'Looking back at these historical issues, would you
14 have acted differently now?' ARH was able to acknowledge
15 his normal answer: report to child protection officer,
16 report to outside agencies, report to chairman of the
17 board of governors, et cetera. ARH stressed again that
18 the nature, personality, challenge of the member of
19 staff and his relationship with board governors, JRB was
20 at the heart of why some of these processes did not
21 happen."

22 Do you remember that?

23 A. I don't remember that last bit.

24 Q. Okay. And then item 6 --

25 A. But I did -- I mean, I was aware of the fact -- because

1 Andrew Hunter was quite open -- that JRB did seem to
2 have a particularly, if you like, special relationship
3 within the school. You know, the fact that he -- he was
4 really quite old and he was still living on campus,
5 albeit in a separate premises, I mean it was very
6 bizarre. You would have thought, especially given that
7 there was a history, that they'd have been bending over
8 backwards to get rid of him, but he was still there.

9 Q. Item 6:

10 "Merchiston's knowledge of child protection has
11 developed a lot since 1998 [which is when, I think,
12 Andrew Hunter took over]. ARH was able to discuss ..."

13 Various things and how he might have handled better
14 issues, and he goes into detail. It's the last line,
15 reading from the penultimate line:

16 " ... alongside the present child protection
17 officer, this team would go through its own audit of
18 issues 1-14 and how we would handle these now."

19 A. Yes.

20 Q. Do you remember there being multiple concerns being
21 thrown up beyond JRB?

22 A. No. No. There were other things that had been thrown
23 up since 1998, but they were not major child protection
24 issues. They were minor things and they had all been
25 dealt with appropriately, according to the audit.

1 Q. Right.

2 A. But he basically was offering to sit down with the child
3 protection team and go back through them and say, "If
4 you were dealing with this now, what would you do?" To
5 make sure that they all knew exactly what the process
6 was now for dealing with any of the issues that were
7 there in the audit.

8 Q. Were you aware, for example, of multiple complaints
9 about a member of staff who would position himself to
10 look up boys' kilts?

11 A. No. That one was never talked about at all.

12 Q. Again, you're reliant on what you're told?

13 A. Yes.

14 Q. Number 7:

15 "The audit and record keeping at Merchiston is
16 meticulous and this has to continue to be the case, as
17 this meticulous record keeping allows employment law to
18 be used effectively. What still needs to happen in the
19 record keeping is forming the links on a member of
20 staff's record, ie a member of staff could keep his
21 slate clean for a period of time, during which time
22 a previous transgression can be forgotten. The links
23 were not made with JRB's disciplinary record. So, the
24 tracking of staff misdemeanours must be even more highly
25 effective."

1 Was it even effective, given James Rainy Brown
2 hadn't been thrown up?

3 A. I think in the past it wasn't effective. I would hope
4 it was effective by the time we were inspecting. But it
5 certainly doesn't look like it was in the past.

6 Q. No. A gloss would appear to being put on it?

7 A. Yes.

8 Q. "ARH raised the point that it is being considered which
9 challenging staffing issues should be reported to the
10 board and why."

11 Point 8. It would appear that there was a degree of
12 subjectivity rather than simply reporting everything?

13 A. Mm-hmm.

14 Q. Now, against all of that background, you carried out
15 your inspection.

16 A. Mm-hmm.

17 Q. I think as we go over the page on page 87 the school has
18 summarised its understanding of the report and we see,
19 and we can see this in the report itself, that all the
20 grades were excellent, the best possible, is that fair?

21 A. Yes, it's actually quite interesting, because I think
22 this was the report where Iain Lamb and I initially gave
23 the quality of management and leadership as "very good",
24 not "excellent", and we had a very long and lengthy
25 discussion with the Senior Management Team during

1 feedback as to whether or not it should be excellent.

2 But I think you have to put it in the context of we
3 were grading what we found on the day, or the days, and
4 also in the last six months -- well, since the previous
5 inspection, it wasn't even six months. And that the
6 fact that they didn't deal with things appropriately
7 historically couldn't really come into the grade that we
8 gave at the time for the inspection. Because there's
9 a phrase in the Care Inspectorate:

10 "You can't go on a fishing expedition, you have to
11 inspect against what you've said you're going to inspect
12 against."

13 Q. We'll come back to that in a moment, if we may. We're
14 just looking at the last paragraph on this page, down at
15 the bottom:

16 "Conclusion.

17 The school continues to provide an outstanding
18 boarding experience for pupils. Boarding staff are
19 enthusiastic and motivated about their roles in the
20 boarding houses. Along with the medical team, domestic
21 and catering teams, they provide an exceptional level of
22 care to boarding pupils. The staff teams are led in
23 an ideal way by the school's senior leadership team."

24 A. Yes.

25 Q. It doesn't really get any better, does it?

1 A. No, no.

2 Q. Let's look at the report itself, which is CIS89. Could
3 we start, please, at page 29 where we're looking at the
4 quality of management and leadership. As you've just
5 told us, initially -- I think this is confirmed from
6 some documents we have seen from the school -- you were
7 going to give a lower than excellent but the school
8 fought impact effectively --

9 A. Mm-hmm.

10 Q. -- and provided documentation over the last six months
11 showing how good they were?

12 A. Yes.

13 Q. At process, perhaps?

14 A. Yes.

15 The other thing is that subsequent to leaving the
16 school and giving feedback, I would have discussed this
17 at some length with my team manager and she would have
18 advised me as to whether or not she thought it was fair
19 to give them an excellent or whether it should remain as
20 a very good. So I had her backing on the grounds of
21 what we found at the inspection to give an excellent.

22 LADY SMITH: Marion, the picture I'm getting seems to be
23 that if in year one, let's say, a school gets away with
24 it in that the inspectors don't pick up a significant
25 problem --

1 A. Yeah.

2 LADY SMITH: -- fast-forward by three years. Inspectors
3 pick it up then, but if you follow the processes and
4 system you've just described, it can't feature in
5 a report. Do I have that right? If all it is that they
6 pick up that three years earlier there was a significant
7 problem, they can't write about it in the report in year
8 three, from what you're telling me.

9 A. It depends on what the problem is and what the knock-on
10 effect is.

11 LADY SMITH: No, I'm saying say there's no knock-on effect
12 but there's certainly something that was concerning that
13 happened three years earlier --

14 A. And it hadn't been dealt with properly --

15 LADY SMITH: -- and it doesn't feature in that report, it
16 will never feature in any future report?

17 A. Especially if they don't give you the information, it
18 wouldn't. You wouldn't be able to pick it up.

19 LADY SMITH: So to use my colloquialism, they get away with
20 it?

21 A. Yes. I mean, I --

22 LADY SMITH: Hang on. If you'd been left to yourself in
23 2013 and able to choose, would you have said something
24 in the report then regarding what you had discovered
25 about, for example, Andrew Hunter knowing there were

1 problems with James Rainy Brown recorded as early as
2 1998?

3 A. No, I wouldn't. Because it was -- it was outwith the
4 scope of the inspection.

5 LADY SMITH: I get that --

6 A. I know.

7 LADY SMITH: -- but if you had had choice as to what
8 instinctively you felt would have been right, would you
9 have said something about it?

10 A. Possibly, yes, but I would have qualified it with the
11 fact that the school had done a lot of work on training
12 and had moved forward from that.

13 LADY SMITH: I can see that.

14 A. Yes.

15 LADY SMITH: But wouldn't it be better if inspectors were
16 not bound to stay silent in circumstances like that?

17 A. I think it's the prescriptive way we are asked to do the
18 inspections. You know, we're inspecting against the
19 standards and the quality statements that are there.
20 And so if they're -- I'm speaking as though I'm still
21 an inspector.

22 LADY SMITH: That's fine.

23 A. Sorry. But I think the thing is that even though he
24 hadn't dealt with it appropriately at the time, what was
25 evident from the evidence that we saw was that he had

1 then taken some steps -- and there were some -- I mean,
2 it's alluded to in that other document. There's some
3 sort of link between the guy and some of the members of
4 the board and there was something about they couldn't
5 just get rid of him, and I never properly got to the
6 bottom of why they couldn't just get rid of him.

7 LADY SMITH: Thank you.

8 A. They kind of put him out to pasture on the campus. Why
9 not make sure he was off the campus? It didn't make
10 sense.

11 LADY SMITH: Mr Brown.

12 MR BROWN: Thank you.

13 Just taking forward the point her Ladyship made: so
14 essentially, if a school is canny about it, they don't
15 tell you for a year, then throw up, "We've discovered
16 this", but it won't feature in the report because it's
17 not within the six months?

18 A. Yeah. It might not.

19 Q. Just looking at page 30, and it uses the language of the
20 Care Inspectorate in terms of what is for you familiar,
21 what is for schools familiar, but it's summed up in that
22 statement 4:

23 "We use quality assurance systems and processes
24 which involve service users, carers, staff and
25 stakeholders to assess the quality of service we

1 provide."

2 Then you go on to justify why we gave the school
3 a grade 6, excellent. Reading short: because the school
4 was carrying out regular audits --

5 A. Mm-hmm.

6 Q. -- and because the school's self-assessment document,
7 reading down the page, detailed the school's quality
8 assurance systems, where they say:

9 "We promote quality assurance in many different ways
10 including the following ..."

11 And then have a long litany of all manner of
12 meetings with all manner of people, and that goes on
13 over the page onto 31. Now, you're looking at
14 evidence --

15 A. I was going to say we would look at evidence that those
16 meetings had actually taken place.

17 Q. Yes.

18 A. Yes.

19 Q. So they give you a list of the things they've done, you
20 confirm that meetings do indeed take place. But there
21 doesn't seem to be analysis thinking of what has
22 happened in the previous six months, a teacher has
23 committed suicide and a can of worms has opened up, that
24 any of those meetings have addressed the root problems.

25 A. Yes.

1 Q. That they haven't been looking, to go back to page 86 of
2 the other document, at staff records to see if there are
3 problems and the recognition that the school needs to
4 track staff misdemeanours even more effectively. So by
5 their own admission, they're not doing things properly
6 and yet none of that is reflected in your report.

7 A. That's back to the fishing expedition.

8 Q. After this report, I think you retired?

9 A. I did.

10 Q. You would be aware that the following year there was
11 a joint inspection between Care Inspectorate and
12 Education Scotland in October 2014.

13 A. Mm-hmm.

14 Q. One question, and if you can answer it only, please do.
15 2013, putting it simply, was a bad year for Merchiston
16 because the can of worms was opened --

17 A. Mm-hmm.

18 Q. -- the police become involved, it's all under the
19 microscope. Why did it take 13 months for there to be
20 another inspection? Do you know why?

21 A. What, the joint inspection?

22 Q. Mm.

23 A. The Care Inspectorate and Education Scotland draw up
24 these inspections -- the programme of inspections
25 together. Now, the Education Scotland inspections are

1 not anything like as frequent as the Care Inspectorate
2 inspections, and sometimes they haven't been into
3 schools for five and six years.

4 Now, I would imagine -- this is from my past
5 experience when I was working -- if they knew there was
6 a joint inspection planned, then they wouldn't have
7 another one, but I have to say, I am astonished it was
8 13 months because they should have had one -- they
9 should have had two within the next calendar year.

10 So possibly -- no, the joint one would have counted
11 as one, but they should have had one in between.

12 Shortage of staff? Bad planning? I don't know.

13 Q. Okay.

14 A. But they should have, because they're supposed to by law
15 have two inspections a year on a 24-hour service. In
16 a calendar year.

17 Q. But if we look at another document now, MER97, this
18 being a joint inspection -- this is a letter that was
19 sent to parents and carers, but the same letter was sent
20 to others -- we have what is the product of a joint
21 inspection, which is a very different sort of report.

22 A. Mm-hmm.

23 Q. It runs to four pages, the last of which is noise, but
24 the first three pages set out the view in very brief
25 terms. Then we get to page 3, where there's Care

1 Inspectorate recommendations and requirements.

2 If we go to page 3, please.

3 If we go to the top of that page, the bottom of
4 page 2, I'll just read:

5 "The governors and the headmaster have a clear
6 vision for Merchiston Castle School upholding its strong
7 history and many traditions. The headmaster has already
8 put in place a number of improvements to strengthen the
9 school's approaches to safeguarding."

10 LADY SMITH: Is that at the foot of this page?

11 MR BROWN: It's the foot of page 2, I'm just reading it as
12 narrative:

13 "... the headmaster has already put in place
14 a number of improvements to strengthen the school's
15 approach to safeguarding. He now needs to build further
16 on this to ensure the necessary improvements in
17 safeguarding are made. He recognises the need to review
18 and strengthen leadership approaches to support this
19 significant area of work. We agreed with the governors
20 and the school leadership team that, as a matter of
21 urgency, they now need to implement a clear strategy
22 focused on prevention supported by robust quality
23 assurance and monitoring systems including ..."

24 Then it goes through the bullet points focusing on
25 recruitment.

1 A. The thing about that is it does not -- right, I'm going
2 to go back. Education Scotland can't make
3 recommendations and requirements. They have to be made
4 by the Care Inspectorate, because the Care Inspectorate
5 has got the legislation behind them, ie the Regulation
6 of Care Act. Education Scotland doesn't, okay? So they
7 come across as being Care Inspectorate recommendations
8 and requirements.

9 What they don't say is which staff those
10 recommendations and requirements pertain to. So when
11 I read that, which I did, I don't know, about two years
12 after I retired, I thought it possibly referred to Safer
13 Recruitment of teaching staff and also child inspection
14 roles and responsibilities of teaching staff as well.
15 But I don't know, because it doesn't say.

16 Q. Well, I think you find the language of this perhaps
17 a little woolly?

18 A. Yes.

19 Q. It's not detailed enough?

20 A. No.

21 Q. Although, when one looks at the recommendations, they're
22 pretty plain:

23 "The provider should support the Child Protection
24 Co-ordinator to ensure that the pro forma documents
25 developed to make the school's child protection systems

1 as effective as possible are always used to report child
2 protection concerns."

3 A. So that sounds as though they had -- something else came
4 up and they hadn't used the proper forms that they
5 already had.

6 Q. Or perhaps what we were talking about, that you hadn't
7 been told about?

8 A. Yes, yes.

9 Q. Next bullet point:

10 "The provider should ensure that the school uses its
11 HR systems effectively and that employment applications
12 are consistently audited to ensure they are
13 complete ..."

14 By inference, perhaps, they hadn't been doing that
15 in the past.

16 A. Yes. And, again, I think that would have been of
17 teaching staff. Because the ones that we reviewed when
18 we did the Safer Recruitment were okay.

19 Q. "The provider should review its staff disciplinary
20 procedures to ensure that pupils are safeguarded in the
21 event of allegations being made."

22 That, one takes it, is going back to Rainy Brown,
23 who was under the remit of the Care Inspectorate. But
24 you didn't know?

25 A. But we didn't know, no.

1 Q. Would you agree there's a tension between the
2 "excellent" that they received in 2013 --
3 A. Yes.
4 Q. -- following your guidance --
5 A. Yes.
6 Q. -- with the reality of the situation we see from the
7 joint report?
8 A. Yes.
9 Q. Just as a matter of --
10 A. I think it is very, very complicated, because you can't
11 inspect everything. I was there on my own, because of
12 staff shortage, for 25 hours and I still didn't cover
13 everything and I still didn't get all the information
14 that possibly I should have. But at the same time you
15 can only review what you're given. And I did ask for
16 things, but perhaps they just didn't give them to me.
17 I don't know.
18 Q. Well, that's going back to a conversation we had before
19 lunch, whether you had anxieties that you were just
20 being given what the school wanted you to see.
21 A. Yes.
22 Q. Because I think we know from other documents that the
23 next time there's a Care Inspectorate solo -- as in just
24 them rather than with a joint inspection -- in May 2015,
25 care in sport is graded as weak, management and

1 leadership is down to adequate, environment is very
2 good, staffing is good.

3 A. Mm-hmm.

4 Q. So there is a sea change --

5 A. Yes, yes.

6 Q. Do you understand that sea change or were you surprised
7 by it?

8 A. Surprised by it.

9 Q. Why were you surprised?

10 A. (Pause)

11 Because all the documents that I reviewed were fit
12 for purpose and up to date and reflected what I was
13 looking at in terms of what I was inspecting against.
14 The school came across -- the pupils you spoke to were
15 happy, they didn't have any concerns and the staff
16 didn't raise any concerns either.

17 There was a change in the Senior Management Team
18 just before the 2013 inspection. They had a deputy head
19 who, I think, took retirement, so I don't know who he
20 was replaced by -- I do, in fact. He was replaced by
21 another member of staff. Now, I don't know if that
22 other member of staff was appropriately recruited, shall
23 we say, because we weren't looking at recruitment in
24 that inspection, and I would say he definitely was
25 a much weaker character than the previous deputy head.

1 So I suppose on reflection, it is possible that
2 there would be a kind of ... you know, it didn't keep up
3 its standards.

4 Q. The alternative, I suppose, is that the inspections in
5 2015 -- this is going back to Iain Lamb's statement --
6 that there was a change in that he selected documents,
7 he selected pupils.

8 A. Yes.

9 Q. There was less control, as he would see it, by the
10 school.

11 A. Yes.

12 Q. That that in fact revealed a different picture to the
13 one you were being given.

14 A. Yes.

15 Q. Because I think by December 2015 -- this isn't
16 Iain Lamb, but other inspectors -- quality of care in
17 sport is down to weak, as is quality of management and
18 leadership. It's down from a 6 to a 2, in the space of
19 two years.

20 A. Yes.

21 Q. And, as you know, requirements were put on the school.

22 A. Yes.

23 Q. I think you were surprised that requirements were put on
24 the school?

25 A. Mm-hmm.

1 Q. Why was that?

2 A. (Pause)

3 The requirement that was put on the school in that
4 joint inspection, I just -- the reason why I was
5 surprised was because I couldn't work out what they were
6 actually saying. I mean, in light of some of the things
7 that you've said today, I can see why they made that,
8 but reading it, you know, just without any of the
9 background knowledge, I was actually quite surprised by
10 it because I didn't fully understand what they meant by
11 it. Because I thought their safeguarding policies and
12 procedures were sound at the time. The ones that they
13 were using, when I inspected on those two occasions.

14 Q. I think the point that we may have established is that
15 certainly your assessments based on what you were given
16 might justify, but they were somewhat devoid of reality
17 because it pre-dated and also there was material that
18 clearly you didn't see.

19 A. I can't understand that bit about Iain saying he asked
20 to see different documents, because he was with me in
21 some of those inspections.

22 Q. I think, to be fair, he's talking about a different
23 approach that was taken by Care Inspectorate from
24 2014/2015 on.

25 A. Oh, right.

1 Q. They were much more proactive, rather than merely
2 responding to what they were given.

3 A. Right, right, right. Because if you are inspecting
4 against certain things, you know, like the medical
5 records, for example, you go to the medical centre in
6 the school and you ask to see all the medical records
7 for the last six months of administering medication.
8 You check all the medication. But what else could they
9 have asked for? Unless they are actually withholding
10 stuff. Well, you wouldn't know if they were withholding
11 stuff.

12 Q. Quite so. But equally, you could go and ask for staff
13 files, but the process didn't seem to involve going back
14 into history to see if there were problems lurking
15 there.

16 A. Yes, yes. When we did the Safer Recruitment inspection,
17 I can't remember the fine detail, but there was
18 definitely something about -- there was a time limit on
19 it. We weren't told that we were to go right back to
20 when they were first recruited to any organisation.
21 I think there was a time limit of something like about
22 five years, we had to go back five years of records.

23 Q. One thing you've said is -- you've talked about having
24 a good relationship and you positively wanted to build
25 a good relationship with the schools because it would be

1 better, in your view, for child protection, for one
2 example, because if you're working well with someone,
3 they'll respond better.

4 A. Yes.

5 Q. I think one of the things you said was you were
6 surprised that requirements were put in place with
7 Merchiston, because the relationship with Merchiston was
8 good, and, as you've said, Andrew Hunter would respond
9 to things.

10 A. Yes.

11 Q. Is that correct?

12 A. Yes.

13 Q. You couldn't work out why they'd gone so low, save to
14 justify requirements being put in place. Is that right?

15 A. If you put requirements in, your grades are definitely
16 going to go down, dramatically. And if you read what
17 the requirement is, the requirement is basically
18 a reiteration of what the recommendation is up above,
19 more or less, and so they must have had concerns that he
20 wasn't going to make the changes that they required, to
21 make it a requirement, which, to be honest, did surprise
22 me because any other time when we made suggestions, Iain
23 made suggestions or I made suggestions, he did take them
24 on board and he did implement them.

25 Q. Although, as you have recognised, for example, you

1 didn't know about a teacher looking up kilts.

2 A. Didn't know about that, no. And I don't remember that
3 being the in the audit, either. I mean the audit that
4 they did of the child protection issues, I don't
5 remember that one.

6 I remember the other ones, the Rainy Brown ones, but
7 not that one.

8 Q. All right.

9 I appreciate that you have been away from the Care
10 Inspectorate now for nine years.

11 A. Ten.

12 Q. Ten. Thinking back and recognising that much may have
13 changed, I think, from Iain Lamb's statement we know
14 that things have moved on, are there any particular
15 issues that you think should have changed since you left
16 and you would be happy to have seen changed, if you
17 follow?

18 A. I think they should definitely give child protection
19 training to their staff. Definitely.

20 Q. And the issues we've talked about this afternoon, being
21 bound within the confines of --

22 A. Yeah. I think -- I think it's a -- I think it would be
23 helpful if the Care Inspectorate acknowledged that there
24 has been historical abuse in a lot of these 24-hour care
25 organisations and that obviously where there has been,

1 it will have had some kind of an effect on staff and
2 that maybe they should talk to inspectors about how they
3 should deal with that and whether or not they are
4 allowed to look into things like that and see whether or
5 not it has had knock-on effects.

6 Because, otherwise, it is almost like brushing it
7 under the carpet.

8 MR BROWN: Marion, thank you very much indeed.

9 Unless there's anything else, I have no further
10 questions.

11 LADY SMITH: I'm not aware of there being any outstanding
12 applications for questions of you, Marion, and you
13 probably think we've exhausted all that you have in your
14 available memory. I'm very conscious of the fact that
15 we are asking you about things that happened a long time
16 ago --

17 A. Yes.

18 LADY SMITH: -- and I'm very grateful to you for the detail
19 that you have helped us with --

20 A. Thank you.

21 LADY SMITH: -- both in your written statement and in coming
22 here today and talking so frankly, openly and, if I may
23 say, thoughtfully, with us.

24 A. Yes.

25 LADY SMITH: It's been of real assistance to me, so thank

1 you for that.

2 A. Thank you.

3 LADY SMITH: You're now free to go and I hope you're able to

4 relax for the rest of the day.

5 A. That's fine, thank you.

6 LADY SMITH: Thank you so much.

7 (The witness withdrew)

8 LADY SMITH: Mr Brown.

9 MR BROWN: My Lady, thank you.

10 That concludes today's evidence. Tomorrow we will

11 have Andrew Hunter.

12 LADY SMITH: Very well. At 10 o'clock?

13 MR BROWN: At 10 o'clock, yes.

14 LADY SMITH: Very well. I'll rise now for today and I'll

15 sit again at 10 o'clock tomorrow. That will be our last

16 witness in this section; is that right?

17 MR BROWN: No.

18 LADY SMITH: No, no, no, I'm losing track. Thursday.

19 MR BROWN: The tape isn't quite that close.

20 LADY SMITH: No.

21 MR BROWN: On Thursday we will have the Chair of the Board

22 of Governors, Gareth Baird, and then the current head,

23 we hope.

24 LADY SMITH: Yes. But it's the last witness who is talking

25 about the history of Merchiston, we move to current

1 thinking/current time?

2 MR BROWN: Just so, my Lady.

3 LADY SMITH: Thank you.

4 (3.01 pm)

5 (The Inquiry adjourned until 10.00 am on

6 Wednesday, 26 January 2022)

7

8

Iain Lamb (read)1

9

Marion Crawford (affirmed)66

10

Questions from Mr Brown67

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

