

1 Thursday, 27 January 2022

2 (10.00 am)

3 LADY SMITH: Good morning.

4 Mr Brown.

5 MR BROWN: My Lady, good morning.

6 The final day of evidence for Merchiston will begin  
7 with Gareth Baird.

8 LADY SMITH: Thank you.

9 Gareth Baird (sworn)

10 LADY SMITH: First of all, an easy question: how would you  
11 like me to address you, your first name or Mr Baird?

12 I'm happy to use either.

13 A. First name, please.

14 LADY SMITH: Gareth, thank you for that. The microphone you  
15 can see is switched on, it's very important that you use  
16 it, not just so that you can be heard in the room right  
17 to the back but so that the stenographers can listen to  
18 you through the system.

19 That red folder has a hard copy of your statement in  
20 it, for which thank you very much. You'll see your  
21 statement also coming up on the screen as and when we  
22 refer to it. You might find it helpful to use those.  
23 I don't know, you don't have to, but feel free if you do  
24 find it of some use.

25 Otherwise, let me know if you have any concerns or

1 queries as you're giving your evidence. Very happy to  
2 try and deal with them, don't hold back. If you want  
3 a break, tell me and you can have a break. If it works  
4 for you, it will work for me.

5 A. Thank you.

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

8 Mr Brown.

9 Questions from Mr Brown

10 MR BROWN: Gareth, good morning again.

11 A. Good morning.

12 Q. You have your statement in front of you. This is  
13 prepared by you and thank you for it. You're  
14 Gareth Baird, you're 64, and you are the current chair  
15 of the board of Merchiston?

16 A. Yes.

17 Q. You've been a governor at Merchiston since 2014 and  
18 chair of the board since 2015?

19 A. Yes.

20 Q. I think, as is obvious, your appointment to the board  
21 was perhaps with a view to you becoming chair fairly  
22 swiftly?

23 A. Yes.

24 Q. You knew Merchiston, obviously, very well.

25 A. (Witness nods)

1 Q. As we see from your statement, family wise you were the  
2 [REDACTED] to go to Merchiston --  
3 A. (Witness nods)  
4 Q. -- [REDACTED] was at Merchiston. He was on the board  
5 for 20 years and [REDACTED] in due course went to  
6 Merchiston --  
7 A. (Witness nods).  
8 Q. -- and from your experience and his experience, it was  
9 a good experience at Merchiston?  
10 A. Yes, it was. I think -- as I said in my statement,  
11 I think I was one of the fortunate ones. I was able to  
12 take advantage of all the strengths of Merchiston and  
13 I enjoyed my time there and it left me with an awful lot  
14 of lifelong friends.  
15 Q. Yes. You also, as we see from the statement, began at  
16 St Mary's, Melrose?  
17 A. (Witness nods)  
18 Q. Was the same true, you had a good experience there?  
19 A. Yes, indeed. It was a more robust environment in those  
20 days -- well, hugely different from what it is now. It  
21 was all boys then, but again it was a good school, gave  
22 us a great foundation. I think, you know, going away at  
23 eight years old to board was quite challenging for --  
24 but as has been said so many times through the course of  
25 listening to the evidence here: that was then. And

1 I think it was probably harder on mum than me, but there  
2 you go.

3 Q. Okay. You know St Mary's now because you've been  
4 a governor at St Mary's I think, having chatted with  
5 you, for about 25 years?

6 A. Yes.

7 Q. And you've been the chair of that board, of St Mary's,  
8 for about 15?

9 A. Yes.

10 Q. We'll talk about governance as a discrete issue later,  
11 but if I can just touch upon your experience, you  
12 described St Mary's as robust and it is now very  
13 different. Would that apply equally to Merchiston or  
14 was it less robust?

15 A. I think less so. Because obviously -- when I say  
16 St Mary's was robust, I think I would refer more to the  
17 early days there. When you got used to it, you know,  
18 going from a home environment. Moving up to Merchiston  
19 and going into Pringle House, it was very enjoyable  
20 indeed. Obviously much wider facilities at the school,  
21 swimming pool and all that sort of thing. I enjoyed my  
22 sport and a very wide curriculum.

23 So I think it would -- in educational terms, it was  
24 widening out quite a bit. And it was enjoyable.

25 LADY SMITH: Gareth, would I be right in thinking it would



1       be about 1969 when you went up to --

2   A. 1970, my Lady.

3   LADY SMITH: 1970, thank you.

4   MR BROWN: You remained there, as we see from paragraph 5,

5       until 1975?

6   A. Yes.

7   Q. You touched on the fact that you enjoyed your sport.

8   A. (Witness nods)

9   Q. And, having sat through the evidence, would you accept

10       that you were one of the boys who fitted in easily to

11       the Merchiston ethos?

12   A. Yes, I think that's fair, a fair comment. I think

13       having -- unquestioningly having been at St Mary's

14       prepared me well for Merchiston. I always enjoyed my

15       sport. I was not in the top echelon, but sort of

16       verging on that, and -- but -- but the width of activity

17       was enormously exciting and interesting for me.

18       I suppose, just going on to a senior school and all that

19       it offers.

20   Q. As you say, you were one of eight moving from

21       St Mary's --

22   A. Yes.

23   Q. -- up to Merchiston --

24   A. Yes.

25   Q. -- albeit the other seven went direct to Chalmers West?

1 A. Yes.

2 Q. And you went into Pringle House?

3 A. Yes.

4 Q. Which perhaps initially you felt a little bit hard done  
5 by?

6 A. Well, it was a bit of a surprise, I suppose. I -- due  
7 to contracting flu, I was unable to sit my Common  
8 Entrance and I do remember going up for interview and  
9 meeting Andrew Hunter and Barbara in their house.

10 Q. Do you mean Andrew Hunter?

11 A. So --

12 Q. Do you mean Andrew Hunter?

13 A. Andrew Hunter, yes.

14 Q. Going to the school?

15 A. At Merchiston.

16 Q. Yes. Sorry, we're talking about you joining the school  
17 in your Common Entrance exam.

18 A. Yes, which I couldn't sit -- sorry, I've not explained  
19 this very well. I was unable to sit my Common Entrance  
20 exam to Merchiston.

21 Q. I follow that, but we know Andrew Hunter became  
22 headmaster in 1998, which I think was a little after you  
23 left.

24 A. Yes, that's absolutely correct, sorry. No, it must have  
25 been -- no, it was Donald Forbes, sorry.

1 LADY SMITH: You'd have been due to do your Common Entrance  
2 in 1969 or 1970?  
3 A. 1970, sorry, I beg your pardon.  
4 Yeah, wrong headmaster, it was Donald Forbes, and  
5 a very warm interview indeed. And I do remember  
6 afterwards that he asked me would I like to start  
7 playing an instrument, and for some obscure reason  
8 I said the trombone. I have no idea why, and I spent  
9 the whole of the summer holidays worrying about having  
10 to go and take the trombone when I arrived at  
11 Merchiston.  
12 Q. All right. But again in terms of being set up for  
13 Merchiston, you've been to St Mary's, you're going with  
14 an existing group of friends, presumably, or people you  
15 know.  
16 A. Yes.  
17 Q. So you have a society formed already.  
18 A. Yes.  
19 Q. And, simply because we've heard this, you are a farmer  
20 from the Borders. Is that correct, an awful lot of  
21 boys -- we've heard this --  
22 A. Yes, but I think that perhaps has been overplayed in  
23 some of the witness statements. There were a lot from  
24 the farming community, from the Borders, from  
25 Dumfriesshire, Perth and Angus, and some from the

1 Highlands, but it certainly wasn't saturated with  
2 farmers.

3 Q. Right. But I think, as distinct with some boys, and  
4 again we'll come back to this in terms of what is done  
5 currently in the school and your concerns about it,  
6 albeit, I think, these are concerns formed when you were  
7 at school --

8 A. (Witness nods)

9 Q. -- you might be said, sweepingly, to have fitted in from  
10 the outset.

11 A. Yes.

12 Q. Fair?

13 A. Yes.

14 Q. But, equally, there were children who I think have been  
15 described variously as outsiders or outliers is a word  
16 I think you use.

17 A. Yes.

18 Q. You would see that, presumably, when you arrived at  
19 Merchiston, the boys who didn't have the structures in  
20 place that you did?

21 A. Not initially, because Pringle was such a warm,  
22 welcoming house and there was much fewer of us, so to  
23 some extent I was meeting -- well, I met them all for  
24 the first time, and to the best of my knowledge they  
25 would have been in -- the other boys would have been in

1 a similar position. But it was so -- so small, I think  
2 it was easy for us to meet other boys.

3 With regards to the outlying bit, I think that  
4 really took a wee while to manifest itself as we went up  
5 through the school. And then potentially became more  
6 concentrated.

7 Q. All right. You started in Pringle. You have described  
8 it as a warm, friendly, welcoming place.

9 A. Yes.

10 Q. James Rainy Brown was the housemaster --

11 A. (Witness nods)

12 Q. -- and was that warm welcome from him?

13 A. Very much so.

14 Q. Was it his, as we've heard, domain?

15 A. Absolutely.

16 Q. You have nothing ill to say as a child from your time  
17 at --

18 A. No, I never witnessed any aberrant behaviour from him  
19 whatsoever.

20 Q. Nudity we heard about in various scenarios, was that  
21 something you saw, of children?

22 A. No. No.

23 Q. I think you make mention of the camp -- this is  
24 paragraph 9 -- Splinters Camp, which is in Berwickshire,  
25 on the Whiteadder river, that's Blakerston?

1 A. That's Blakerston.

2 Q. I think Andrew Hunter told us yesterday that he thought  
3 that was owned by Torquil Johnson-Ferguson; that is not  
4 right?

5 A. I don't think so. I knew the original owner when we  
6 went camping there, he was a great Merchistonian,  
7 a former Scottish rugby internationalist, and then --  
8 and I know the family who own it now. I just can't  
9 imagine how Johnson-Ferguson would be involved there,  
10 unless he was there with James Rainy Brown.

11 Q. All right. But you say you attended the camp there for  
12 three years?

13 A. Mm-hmm.

14 Q. It was boys' own stuff and enormous fun?

15 A. Yeah.

16 Q. And JRB was there, but so were three other teachers?

17 A. Yes.

18 Q. And there was no skinny dipping?

19 A. Absolutely none.

20 Q. Would skinny dipping have been tolerated, do you think,  
21 with the other teachers?

22 A. No.

23 Q. You say that quite firmly.

24 A. Well, these were highly respected teachers and I --  
25 I think perhaps in those days, whether there was -- you

1 know, whether it was more accepted or not I don't know,  
2 but I never saw it in my time at school, ever, and I'm  
3 thinking back about the other teachers there, I'm  
4 absolutely certain they would not have tolerated that in  
5 any way.

6 Q. Thank you.

7 A. And if I might just add, certainly from their  
8 perspective, as far as they were concerned, swimming,  
9 I can't imagine in a million years that they would  
10 have -- they would have bathed naked.

11 Q. No.

12 When you were at school, you had a good time at  
13 Pringle?

14 A. (Witness nods)

15 Q. [REDACTED] had a good time at Merchiston, including  
16 Pringle?

17 A. No, sorry he was --

18 Q. He was Chalmers West?

19 A. He was Chalmers West.

20 Q. Thank you. Were you ever aware, prior to being  
21 a governor, of any anxiety about James Rainy Brown?

22 A. No. Following his suicide, I did ask [REDACTED] whether he  
23 and his peer group had any -- had heard anything or  
24 witnessed anything. I think there was chat amongst  
25 them, but certainly nothing to be certain about.

1 Q. All right. No chat from your experience, but by [REDACTED]  
2 [REDACTED] generation, there was some chat?  
3 A. I think so, yeah.  
4 Q. All right. Going back to your experience as a pupil,  
5 though, warm start, welcoming start in Pringle in 1970,  
6 and then you go into the remainder, the rest of the  
7 school with Chalmers West, et cetera.  
8 A. Yeah.  
9 Q. You were put into Pringle for the reasons set out in  
10 your statement, it was thought for younger boys that  
11 might be a better start and you were thought to be  
12 perhaps a good influence, in essence?  
13 A. Maybe that's -- yeah.  
14 Q. What was the start like for those who went straight into  
15 Chalmers West? You've heard me asking lots of questions  
16 about was there any induction, was there a warm welcome.  
17 A. (Witness nods)  
18 Q. The views on that seem to be somewhat mixed. You just  
19 picked it up as you went along, essentially.  
20 A. Yeah.  
21 Q. Was that your experience?  
22 A. Well, these other lads were obviously good friends of  
23 mine and I certainly didn't ever pick up anything  
24 negative. The housemaster at that time was the  
25 housemaster there for a long time, was known to be firm



1 but fair, and I suppose we were all becoming accustomed  
2 to the ways of Merchiston and things, but I never heard  
3 any -- anything out of line.

4 Q. No, but you've already been in Merchiston for a year in  
5 Pringle.

6 A. Yeah.

7 Q. For those who started as a first year, that was their  
8 first experience of Merchiston.

9 A. Absolutely.

10 Q. Was there a welcome that you remember for them?

11 A. I couldn't really say about the initial days with them,  
12 but obviously I would see them in the class times and on  
13 the sports field and at different activities and there  
14 was -- there was never any feeling that I got from them  
15 that they were having a miserable time and that they,  
16 you know, hadn't settled reasonably well.

17 Q. Okay. But you would be observing new boys when you went  
18 up to Chalmers West. You knew the system, but they  
19 didn't.

20 A. Yes.

21 Q. Did you think that they were welcomed from what you saw  
22 when you were in Chalmers West?

23 A. Yes, yes, I think so.

24 Q. Okay.

25 A. I'm sure it will be a more inclusive welcome now, I have

1       absolutely no doubt about that, but time's moved on,  
2       of course.

3   Q.   Yes.  You talked about [REDACTED] generation, there  
4       being talk about Rainy Brown --

5   A.   (Witness nods)

6   Q.   -- but nothing more concrete?

7   A.   No, no, absolutely not, no.

8   Q.   Thinking back to your time at Merchiston, 1970-1975, was  
9       there talk -- because I know you're not talking about  
10       any instances that you experienced, but was there talk  
11       about any teachers that you remember, thinking of the  
12       evidence we've heard over the last three weeks?

13  A.   There was undoubtedly talk about Mervyn Preston.  Not in  
14       terms of anything gross.  I -- other teachers would  
15       be -- would be talked about, but that was from the  
16       perspective of relatively young boys, you know, who  
17       probably like to gossip a wee bit and things like that.

18       There was a very eccentric English teacher there  
19       during my time, who I must say my parents didn't take to  
20       at all, but we just found him absolutely fascinating  
21       because he was living in an age -- or seemed to be  
22       living in an age gone by.

23  Q.   This is [REDACTED] OZK [REDACTED] ?

24  A.   Yes.  Who was a very, very good teacher.

25  Q.   But so far as Mervyn Preston was concerned, what was the

1        understanding from your generation?

2    A.   Well ... (Pause)

3        It's rather difficult to articulate. I think that

4        when we were -- because he was never a housemaster of

5        ours, he had moved on by then, I -- I -- he was a rather

6        remote figure. We knew he was very senior within the

7        school. He was an extremely boring teacher, who

8        actually I don't think taught the younger years

9        particularly frequently.

10       And then as we went up through the school, you would

11       know that -- so, for instance, I played a lot of Rugby

12       fives at school -- which is a game similar to squash

13       without a racket in a court -- and he was master of

14       Rugby fives and I remember straining my back one day

15       playing and he came across and gave it a bit of a rub,

16       which of course did absolutely no use, no good

17       whatsoever, and it wasn't aggressive in any way, but

18       I -- you know, I was one of the fortunate ones that

19       would just shake that off. I completely understand that

20       some of my peers, it would have had a very serious

21       impact on them.

22    Q.   Okay. You enjoyed your time at Merchiston. You moved

23       on and went into business and success?

24    A.   (Witness nods)

25    Q.   You talk briefly about -- and this is coming back to

1 Andrew Hunter when he was headmaster --

2 A. Yes.

3 Q. -- speaking to James Rainy Brown when [REDACTED] is at  
4 school.

5 A. Yeah.

6 Q. I was struck by -- this is the top of page 3, end of  
7 paragraph 10:

8 "... James Rainy Brown being complimentary about  
9 Andrew Hunter and him saying that the new head had had  
10 a hard look at Merchiston when he started and  
11 understandably this unsettled some members of staff.  
12 JRB thought that Andrew was absolutely correct to carry  
13 out this review."

14 Did that, given the evidence we've heard about the  
15 obduracy of James Rainy Brown, both from the paperwork  
16 from David Spawforth's time and from what Andrew Hunter  
17 was telling us yesterday, make you think what an odd  
18 thing to say?

19 A. Possibly. But James Rainy Brown's behaviour aside,  
20 there's no question he was enormously, probably far too  
21 much, committed to Merchiston. I do think that  
22 James Rainy Brown would have always wished the best for  
23 Merchiston, and I do believe that he meant what he said,  
24 because it was -- you know, it's a practice for any new  
25 head or any chief executive coming into a business or

1       organisation to really have a hard look at it. And that  
2       was reassuring to me to hear from James Rainy Brown that  
3       Andrew Hunter had done that.

4   Q.   Though, when you get down to the nitty-gritty and  
5       Andrew Hunter might be trying to do things with  
6       James Rainy Brown, he would appear to take a rather more  
7       individual stance?

8   A.   Absolutely.

9   Q.   Okay.

10       As you confirmed, you were involved with the board  
11       of St Mary's before you became involved with the board  
12       at Merchiston.

13   A.   (Witness nods)

14   Q.   In paragraph 11, you talk about being chair of the board  
15       of governors and having to make a decision about  
16       Rua Fiola --

17   A.   Yes.

18   Q.   -- and Torquil Johnson-Ferguson. As you say:

19       "It was almost a rite of passage that the senior  
20       pupils ... would attend the camp at Rua Fiola."

21       [REDACTED] did without incident.

22       "We always sent a member of staff with them, but  
23       when question marks around Johnson-Ferguson's behaviour  
24       arose we ceased sending pupils to the camp."

25       When was that, do you remember?

1 A. I actually contacted our head at St Mary's recently,  
2 because I couldn't remember exactly what year. He  
3 thought it was 2014.

4 Q. That is presumably when it becomes known that there may  
5 be criminal proceedings?

6 A. Yes.

7 Q. That was the trigger?

8 A. Yes. And it all seemed to emerge or erupt quite  
9 quickly.

10 Q. Yeah.

11 A. So then we took steps, which I may say was not -- well,  
12 it was very different for our parents to understand what  
13 the circumstances were, but because it was -- because  
14 the children enjoyed the camp so much and it had such  
15 a reputation, it was very difficult to relay to parents  
16 of the children who in that year would have gone to  
17 Rua Fiola, that we would no longer have an association  
18 with them.

19 Q. Are you aware if there had been any concerns voiced from  
20 St Mary's about Rua Fiola in previous years?

21 A. No, no, not at all.

22 Q. Although presumably, the decision having been made at  
23 St Mary's as it was in other schools, you would learn on  
24 joining the board at Merchiston, as part of the fallout  
25 from Rainy Brown's suicide and the investigations, that

1        Rua Fiola had in fact been the subject of some concern  
2        within Merchiston, it would appear, in 2007 and 2012, or  
3        is that something that you didn't know the detail of?  
4    A.   I didn't know the detail of that until -- until  
5        Merchiston stopped sending boys there.  
6    Q.   Thinking in your capacity as the governor of another  
7        school, is that the sort of thing you would wish to have  
8        been shared?  
9    A.   Yes, if there were -- if there were concerns there, yes.  
10   Q.   But that doesn't appear to have been the way, because  
11        there were concerns, obviously given the prosecutions  
12        and they didn't relate to Merchiston or  
13        Johnson-Ferguson, there were concerns but the broad  
14        knowledge didn't seem to be understood --  
15   A.   No.  
16   Q.   -- until it gets to the formality of the court case?  
17   A.   No, not at all.  
18   Q.   Okay. The last sentence of paragraph 11 is:  
19        "I do remember having concerns when I heard that JRB  
20        was a friend of Johnson-Ferguson."  
21        Now, in context is that because of what happened  
22        after his death?  
23   A.   Yes.  
24   Q.   Had it not been for the suicide and the inspections and  
25        the revelations, I take it you wouldn't have concerns?

1 A. No, because I really didn't know anything about  
2 Johnson-Ferguson. It was only following  
3 James Rainy Brown's death that we understood the  
4 structure of ownership at Rua Fiola, and indeed at  
5 Solwaybank, which we didn't even know existed prior to  
6 James Rainy Brown's death.

7 Q. Okay. So the turning point is the death of  
8 James Rainy Brown?

9 A. (Witness nods)

10 Q. You weren't a governor at that stage. You would have  
11 been aware in 2013 that it's happened and there's  
12 an outpouring of grief from the Merchiston community,  
13 broadly?

14 A. Yes.

15 Q. Were you aware, prior to becoming a governor, of the  
16 other voices who were coming forward saying --

17 A. (Witness shakes head)

18 Q. -- actually it wasn't as good as you're saying?

19 A. No, I wasn't.

20 Q. You talk about -- and I used the word agonies -- of the  
21 fallout in terms of dealing with the family, the bequest  
22 or the legacy, which was significant.

23 A. Yes, it was.

24 There was two sides to this. So there was, if you  
25 like, my generation and -- well, and perhaps subsequent



1       generations, and certainly the older generations who had  
2       grown up with James Rainy Brown. So there -- and had  
3       obviously complete ignorance about this behaviour.

4           And then on the family side there was a disbelief  
5       about the charges levelled at him. And I think by that  
6       time James had lost one brother and I think this case  
7       severely affected another brother, who subsequently  
8       died, and that left, I think, certainly one, maybe two  
9       brothers left. And the brother with whom Merchiston was  
10      in contact with absolutely refused to accept the charges  
11      that were levelled against him. At that time.

12   Q. You became a governor in 2014.

13   A. Yes.

14   Q. At what stage had proceedings reached in terms of how  
15      the school would approach remembering James Rainy Brown  
16      and accepting or not accepting?

17   A. When I joined the board, which was September 2014, the  
18      debate was live as to what to do with the bequest, the  
19      considerable bequest that was there from  
20      James Rainy Brown and what to do about any memorial for  
21      him. But that was a very protracted consideration.

22   Q. When did matters finally resolve?

23   A. I think when the police came out and said -- you know,  
24      and gave us details about his appalling behaviour, and  
25      then the board was -- it became very clear that we could

1           neither accept the bequest nor have a memorial for him  
2           with the wider Merchistonian community.

3   Q.   You joined in September 2014. Was that final  
4           decision -- and we have the paperwork, just if you can  
5           remember -- had you become chair by then?

6   A.   No.

7   Q.   You were still just a governor?

8   A.   Yes.

9   Q.   All right.

10           Coming onto the board in September 2014 -- we are  
11           turning to the issue of governance -- what was the board  
12           like from your perspective? We've heard that  
13           traditionally, and this reflects other schools too,  
14           boards have fixed appointments --

15   A.   Yes.

16   Q.   -- connected with professional bodies, universities, and  
17           we know that's true of Merchiston, but broadly the  
18           remainder would be old boys, traditionally?

19   A.   Yes.

20   Q.   And the chairs would be longstanding, membership of  
21           a board would be a long-term thing. Was it a static  
22           board when you joined?

23   A.   Pretty much so. There was quite a few changes as time  
24           went on after that, and obviously in reaction to the  
25           greater level of resource we needed on the board in

1 terms of child protection and well-being.

2 Q. When you joined, board wise, what provision was there

3 for child protection?

4 A. There was a senior governor looking after that element

5 of it, along with education, so that was a joint

6 committee and those roles were separated quite quickly

7 as we moved on and through the inspection and --

8 process.

9 Q. So the inspection that the school underwent had clearly

10 impact on the school itself --

11 A. Yes.

12 Q. -- but it had profound impact on the board?

13 A. Absolutely. And made very obvious the need for more

14 resource, both with staffing and board activity.

15 Q. Come back to Merchiston very shortly, but if we can just

16 jump back to St Mary's, by that stage you would have

17 been on the board of St Mary's for perhaps 15 --

18 A. Yeah.

19 Q. -- plus years, possibly?

20 A. (Witness nods)

21 Q. You would be the chair of St Mary's?

22 A. Yeah.

23 Q. Thinking of the St Mary's board, had it gone through

24 an evolution already?

25 A. I think to some -- to some extent, we had -- I think it

1       would be fair to say that in the development of board  
2       positions, we looked for governors who would specialise  
3       in particular areas.

4               Were we ahead of the Merchiston development?  
5       Perhaps, but not massively so. I can't speak for where  
6       other schools were and how their board structure and  
7       responsibilities developed, but St Mary's definitely did  
8       develop along those lines. Halfway through my  
9       chairmanship we appointed a new head, and with his  
10      colleagues they developed, along with regulator  
11      guidelines, I would say more formal structures.

12   Q. I just wondered whether you were brought in to  
13      Merchiston, you have a connection with the school,  
14      you're a known quantity, but were you brought in because  
15      the other governors knew you and knew that at St Mary's  
16      as chair you had been effecting change already?

17   A. I wouldn't claim credit for that. I think it was more  
18      an evolutionary process, really, than -- and I think  
19      that, you know, my appointment in the first place as  
20      vice-chairman and then chairman a year later --

21   LADY SMITH: So that's at St Mary's?

22   A. No, that was at Merchiston.

23   LADY SMITH: At Merchiston?

24   A. Yes.

25   LADY SMITH: So as soon as you went on the board you were

1       vice chair?

2   A.   Yes, I was.

3   LADY SMITH:   In 2014?

4   A.   Yeah.   I think that was perhaps more to do -- I would

5       not claim any expertise in this whatsoever, but I did

6       have a reasonably wide experience in that regard with

7       school boards and with St George's council.

8   MR BROWN:   I was coming to that.

9   A.   Sorry, okay.

10   Q.   No, no, not at all.

11   A.   Well, I hope, you know, there would have been some sort

12       of absorbing of good practice and what have you.

13   Q.   Well, I was focusing on Melrose because that's clearly

14       where you had the longest and still do have the longest

15       connection, but you were on the council of St George's

16       for 12 years.

17   A.   (Witness nods)

18   Q.   Comparatively then, adding that third school into the

19       mix, had St George's been ahead of the other two in that

20       case in terms of developing board structures and the

21       sort of things that were required to be put in place in

22       Merchiston from 2014 on?

23   A.   I think that would be a fair comment.   And that was

24       accompanied by an absolutely first class senior

25       leadership team.   There was a real feeling of really

1           good operators across the board.

2   Q.   At St George's?

3   A.   Yes.

4   Q.   Is it really more your experience of St George's, which

5           is very well regarded --

6   A.   Yes.

7   Q.   -- that you were brought in and appointed vice chair?

8   A.   Yes, I -- yeah, I -- yes. And I think just the wider

9           experience across the board on it.

10   Q.   One hears of this in business, but you bring people in

11          to fix things. Were you a fixer?

12   A.   (Pause)

13           Well, I ... I suppose, similar to what we're

14          speaking about the headmasters, you know, it takes you

15          a wee while to get to grips with things. There were

16          certainly areas that I felt very strongly about, and

17          there wasn't any resistance of kick back on that -- I'm

18          speaking about Merchiston -- at all.

19           I think Merchiston was a much more complicated beast

20          than St George's, inasmuch with the boarding aspect. It

21          definitely -- although there was an absolutely

22          exceptional boarding facility at St George's, but it was

23          more complicated in that regard.

24   Q.   Coming in in 2014 as vice-chairman and then being

25          elevated to chair in the following year, what required

1 to be fixed?

2 A. (Pause)

3 I was very struck by Andrew Hunter's evidence  
4 yesterday inasmuch as there was an awful lot going on,  
5 and it did seem to me that at times, as I've said, it  
6 was very complicated. The boys were very happy, there's  
7 no question about that. I think the education was  
8 excellent. The extracurricular activities were first  
9 class. And for me, a real part of it was that there  
10 were very happy boys indeed.

11 I did get the impression at times that -- that --  
12 particularly for Andrew, who took a lot on his own  
13 shoulders, that he was running very hard, and of course  
14 he had had significant illness issues on top of that,  
15 and then when the -- as I think he articulated very  
16 clearly yesterday, when the -- when the Care  
17 Inspectorate issues appeared, it was very difficult for  
18 him.

19 And then -- so with regard to being a fixer, I tried  
20 my very best to have a measure of calm about it and that  
21 we would work our way through the demands that the Care  
22 Inspectorate and Education Scotland required us to do  
23 so. It was -- it was very tough work indeed. We had  
24 some exceptional governors with great experience of  
25 education and child protection and well-being who were

1       very much to the fore on this, and so we worked very  
2       hard as a team, and eventually, after a lot of work and  
3       ups and downs, I think we got there.

4   Q.  You talk about this in paragraphs 17 and 18, and clearly  
5       it's interlinked between what is happening in the  
6       school, systems in place in the school for dealing with  
7       the matters the Care Inspectorate were concerned about  
8       and that were thrown up by the inspections that the  
9       school had itself instructed with Scotland,  
10      Kate Cherry --

11  A.  Yeah.

12  Q.  That's at the school level, but then there's the  
13      governance side.

14  A.  Yeah.

15  Q.  Thinking exclusively with the board, and there's clearly  
16      a very clear connection between the two.  In  
17      paragraph 18, you say:

18            "In reading back on my notes of this time, I was  
19      struck by the amount of work needed to implement and  
20      adopt this new framework and the steady guidance given  
21      to us by the regulators.  The improvement required  
22      happened steadily over time and internal review was  
23      strengthened by recruitment of new governors to the  
24      board who were expert in education, health and pastoral  
25      matters.  This process of completely reviewing our child



1 protection and well-being policies and practices, and,  
2 crucially, then implementing them placed a considerable  
3 additional workload on all staff, but particularly on  
4 our headmaster and senior leadership team."

5 Looking first at the board, by implication the board  
6 was lacking in terms of experience of certain areas.

7 A. I would ... with regard to child protection and  
8 well-being, I -- I -- I've felt that -- I think it  
9 was -- it was -- it appeared to me that our policies in  
10 particular were way behind. So would I say that we were  
11 lacking in the board? I think the practices and the  
12 oversight of the pupils to me seemed to be relatively  
13 well-prepared and the oversight was reasonably good.

14 My memory of it was that our written policies were  
15 very far adrift from what the Care Inspectorate -- their  
16 models were adrift of what was laid down.

17 And there was a -- a difficult time in setting out  
18 policies, to get those corrected.

19 I do think that Andrew Hunter and his team and the  
20 governors involved with the policies, their practices  
21 were in reasonably good order. I think from the  
22 paperwork side of it was -- that was very clear that  
23 they needed upgrading.

24 LADY SMITH: Can you remember -- this may not be a fair  
25 question -- how old the policies were, the written

1 policies were, when you started this task, the existing  
2 ones?

3 A. I'm sorry, I don't know at that time.

4 MR BROWN: The impression I think we have from paperwork,  
5 but also from Andrew Hunter's evidence yesterday, is  
6 that he was spending much time creating policies.

7 A. (Witness nods)

8 Q. There were policies galore at Merchiston.

9 A. Yeah.

10 Q. And policies galore which had presumably been subject to  
11 board oversight --

12 A. Yes.

13 Q. -- and which had been accepted both by the staff, but  
14 also by the board.

15 A. Yes, I'm sure that's a fair comment.

16 Q. So, going back to what you say, there was improvement by  
17 recruitment of new governors with expertise in  
18 education, health and pastoral matters.

19 A. Yes.

20 Q. I'm not trying to knock people down --

21 A. No, no.

22 Q. -- but presumably there was some provision for pastoral  
23 care.

24 A. Yes.

25 Q. We know this, in terms of governors having been in

1 place, Sally Kuennsberg going back some years.

2 A. Yes.

3 Q. But from what you're saying, on paper and now, the

4 oversight and perhaps the structure wasn't good enough.

5 A. That may well be the case. Particularly with

6 Sally Kuennsberg and a former headmaster, Mike Ridley,

7 they put in a colossal amount of work along with the

8 Care Inspectorate and Education Scotland, and it may

9 well be that the policies weren't -- they certainly

10 weren't up to speed as far as the Care Inspectorate were

11 concerned.

12 Q. I appreciate, we know that there had been great change

13 in the requirements put on all schools, and I think the

14 WithScotland report makes the point that they weren't

15 bedding in adequately, the changes, in Merchiston. So

16 the application of policies was perhaps less than ideal.

17 But from what we've heard it may be that you talk

18 about Andrew Hunter running hard in terms of the

19 teaching staff, senior leadership and the board, there

20 really wasn't adequate resource for these areas, would

21 you agree with that?

22 A. Yes, I would.

23 Q. Was that the real problem, do you think?

24 A. Well, I think clearly, and the school recruited a senior

25 deputy head (pastoral), who came in with considerable

1 expertise in that area. And that certainly triggered  
2 a chain of improvement.

3 Q. Yes. I'm sorry to try and split this when perhaps it's  
4 the whole that we have to look at, but thinking of the  
5 board then and the board now, what's changed?

6 A. Well, we -- we had recruitment of new governors who were  
7 expert in child protection and well-being, and whilst we  
8 went through the modernisation and, I would say, the  
9 correct setting out of policies and practices, which was  
10 undertaken by Sally Kuennsberg and Mike Ridley, along  
11 with Andrew Hunter and his particular -- in particular  
12 his senior deputy heads, that change moved things  
13 forward.

14 Following that time, both Sally Kuennsberg and  
15 Mike Ridley retired, and we have had new governors  
16 appointed in that route -- in that resource, and I think  
17 we are much tighter now, but that's -- I'm not  
18 criticising either Sally Kuennsberg or Mike Ridley on  
19 that at all, because they were involved in a phenomenal  
20 amount of work, and the new governors in those roles  
21 have picked that up very well, along with -- with that  
22 extra resource that -- in appointments with staff.

23 Q. All right.

24 A. And indeed, just recently, we have -- following on from  
25 retirements, we have a new deputy head (pastoral) in

1       that regard and a new assistant deputy head (pastoral).

2   LADY SMITH:  Gareth, when you recruited new governors

3       specifically for child protection and well-being

4       purposes, how did you go about doing that?

5   A.  We sought out individuals with experience and skill set

6       in pastoral matters.  We were -- we identified two

7       ladies in particular with huge experience and asked them

8       if they would consider coming onto the board, and

9       thankfully they did so.

10  LADY SMITH:  But practically, how did you identify them?

11       How did you find out about them?

12  A.  One lady, who is a GP, was a former parent of a boy, and

13       the other lady we heard through friends -- actually, who

14       was another parent of a boy, as it happens, but they

15       were not involved in the school in any way when we

16       recruited them.  And we had just heard about them

17       through their tremendous reputations through the

18       grapevine.

19  LADY SMITH:  We'll no doubt come back to this, and I'm not

20       asking the question because I'm critical in any way of

21       using that route and I can see sometimes that might be

22       the best way to find the best people rather than

23       a public process, really.

24  A.  Yes.

25  LADY SMITH:  But we'll perhaps cover that later.

1 MR BROWN: Yes. We can come to it now, because we spoke  
2 broadly beforehand about -- there has been much more  
3 focused guidance for charities such as Merchiston from  
4 the Charity Commission, albeit in London. You'll be  
5 aware of that?

6 A. Yeah.

7 Q. Part of that has led, just from broad knowledge, to many  
8 charities undergoing skills audits --

9 A. (Witness nods)

10 Q. -- to identify what they as a given charity require to  
11 run effectively and properly their charity.

12 A. (Witness nods)

13 Q. Was that done at Merchiston following the Inspectorate's  
14 intervention?

15 A. I would -- our -- the constitution of our board, the  
16 roles, expertise and remit has been very well covered  
17 with regard to the Merchiston board, and we consistently  
18 look for potential candidates for the board who would  
19 add expertise to the running of Merchiston.

20 Q. Was a skills audit carried out which threw up that you  
21 were lacking in some respects, which led to the experts  
22 you talk about in your statement and you've just talked  
23 about now?

24 A. I don't think these individuals were lacking in the  
25 areas of expertise that were needed. The big challenge

1       is finding people to succeed good governors.

2   Q. All right, so there's -- I understand there's

3       a continuity issue --

4   A. Yeah.

5   Q. -- you must succession plan.

6   A. Yeah.

7   Q. It's simply, to go back, I'm sorry to labour this, but

8       you say in your statement the board is strengthened

9       impliedly by recruitment of new governors who had

10      expertise. That's not to say there wasn't expertise in

11      the past, but was that expertise better focused? You've

12      talked, for example, about roles being split.

13   A. Oh yes, yes. Yes, it definitely was better utilised in

14      that regard.

15   Q. The other thing that Charity Commission guidance would

16      talk about is that boards should not be static, that

17      time on boards -- and I appreciate this is from your

18      perspective rather at odds --

19   A. Yes.

20   Q. -- but the suggestion is you might be in single figures

21      on a board in terms of years --

22   A. Yeah.

23   Q. -- because you need change and fresh eyes.

24   A. Yeah.

25   Q. Agree with that?

1 A. I do. I'm very, very aware of that. I'm extremely  
2 aware of that. It is -- and I know the -- the systems  
3 whereby there should be rotation and replacement of  
4 governors.

5 I've found it through my life that rotation of  
6 directors is an awful lot easier than rotation or  
7 replacement, succession of governors.

8 Q. There are all manner of tensions. You don't want to  
9 lose institutional knowledge. If people are doing  
10 a good job, you really don't want to shift them.

11 A. (Witness nods)

12 Q. They may not want to be shifted.

13 A. I -- as far as governors are concerned, I've never found  
14 that ... when it was time for a governor to retire,  
15 they've not hung on for grim death. And genuinely, in  
16 all cases, I've found they are honourable people wanting  
17 to do their very best. I think that perhaps a role of  
18 the chair's point is to seek -- along with the other  
19 governors and in tandem with the headmaster or  
20 headmistress -- to identify governors to come on with  
21 particular skill sets which allows for sitting governors  
22 to move on and retire. But it's a very tricky one.

23 Q. It's difficult. The other aspect, to pick up  
24 Lady Smith's point, is how do you find new governors.  
25 Now, traditionally, Merchiston, along with many boarding



1 schools that we've looked at, have relied upon the pool  
2 of old boys or girls.

3 A. (Witness nods)

4 Q. That was the way it was at Merchiston for decades,  
5 presumably?

6 A. Yes.

7 Q. How much has that changed? By the sounds of it, you're  
8 still using connections rather than the open  
9 advertising, which I think may be being suggested as  
10 an alternative way forward.

11 A. Yeah.

12 Q. Not a better way forward, but something to be thought  
13 about.

14 A. Yeah.

15 Q. Comments on that?

16 A. We have used both methods to recruit. It's fair to say  
17 that we've put advertisements with regard to Merchiston  
18 to bring people on to the board, and it's -- it's proved  
19 very difficult to get people with the requisite skill  
20 sets and a feeling for the school, and in my view that's  
21 important because it's -- these are people giving up  
22 their time freely and without any question the burden on  
23 governors has increased markedly. And if we can't find  
24 governors who are going to fit into the mould -- and by  
25 that I certainly don't mean that they don't challenge,

1       because they have to challenge, but getting the right  
2       people I've found has become very difficult.

3       And Merchiston never operated a system such as other  
4       schools did, who had people from particular institutions  
5       who would always find -- who would identify governors to  
6       come onto the school board.

7   LADY SMITH: I take it from that, there's nothing to that  
8       effect written in the constitutional set up in  
9       Merchiston?

10   A. No.

11   LADY SMITH: Although we know there are some independent  
12       schools in Scotland that have no choice.

13   A. (Witness nods)

14   LADY SMITH: They have to have a person from X and Y  
15       nominated by whoever is in the overall leadership role  
16       of X and Y.

17   A. Yeah.

18   LADY SMITH: No doubt originally thought to be a good thing,  
19       because that would insert some outside influence.

20   A. Yeah.

21   LADY SMITH: But it maybe doesn't work in the modern world  
22       quite so well?

23   A. I think speaking to that about Jonathan Anderson, our  
24       headmaster, we were just speaking about this generally  
25       and he said in his experience those set positions are

1       tending to wane, rather, across independent schools.

2   MR BROWN: Articles can be rewritten.

3   LADY SMITH: So far as length of service on a school board

4       is concerned, that of course can be curtailed by

5       specific terms being written about into articles of

6       association if it's a company limited by guarantee or

7       a trustee varied or whatever.

8       But you say it's not in the Merchiston founding

9       documents?

10   A. It is in the constitution.

11   LADY SMITH: It's in the constitution?

12   A. Yes. And then of course there's an opportunity to

13       co-opt for members who have gone through that. And

14       St Mary's is exactly the same.

15   LADY SMITH: So your time at Merchiston as a chair of

16       governors and governor will come to an end quite soon,

17       will it?

18   A. Either one year or two years.

19   LADY SMITH: What about St Mary's?

20   A. I'm in the process of trying to identify a successor to

21       me.

22       I think perhaps the other part of it is that -- and

23       during my time in St Mary's and Merchiston I've been

24       involved with the appointment of four headmasters, and

25       there is an element of trying to preserve some

1 continuity as new heads settle down, and it is a very,  
2 very hard job. I wouldn't be a headmaster for all the  
3 tea in China, I can assure you. I think as  
4 Andrew Hunter very clearly said yesterday -- and this  
5 rings with the experience I've had -- it takes three  
6 years for a head to start becoming where they want to  
7 get to, or he or she wished to get to.

8 LADY SMITH: And he also very frankly said, it can be a very  
9 lonely time, being a head.

10 A. Oh, absolutely. Absolutely. And so many influences for  
11 them. And change -- change is very difficult for  
12 everybody. For the -- for the staff, because as we  
13 talked about, the new head's going to have a good look  
14 at what's going on and got to satisfy him or herself  
15 with the systems that are in place. Huge change for the  
16 parent body, and, needless to say, the pupils.

17 LADY SMITH: Mm.

18 Mr Brown.

19 MR BROWN: Thank you.

20 The tenure you have presumably can be extended. Is  
21 that written into the ...

22 A. I think it is. It certainly is at St Mary's, but ...

23 Q. It's simply Merchiston has had the most direct evidence  
24 of inspection and everything being reviewed. You lived  
25 through that. You may have been brought in, in part at

1       least, to address that. Changes have been effected.

2       I'm focusing on the board. We'll come to the school in  
3       just a moment.

4   A.   (Witness nods)

5   Q.   It's simply, as a chair of the board, chair of other  
6       boards, having educational experience, what advice would  
7       you give to other schools about their boards? What's  
8       the ideal?

9   A.   The first thing I would do is to have a very experienced  
10       and wise educationalist on the board. Every -- in my  
11       experience, that's always been absolutely key. It's  
12       blindingly obvious you need practitioners in child  
13       protection and welfare. You need people to look after  
14       the financial side of the school. You need people to  
15       look after the facilities, the campus. And these skill  
16       sets are absolutely key to keeping the -- the ship, you  
17       know, sailing well.

18       And I think the other thing is it needs constant  
19       support to the head at all times, because you can have  
20       absolutely strong policies and all the rest of it, and  
21       if there's one thing that is sure, you're going to have  
22       to deal with ... incidences are going to come up that  
23       you've never come across before and that your team's  
24       never come across before, and it needs a very wide  
25       holistic approach to it and it needs real trust there

1 with the head and the senior leadership team and the  
2 board around particular areas of expertise.

3 Q. You talked about the burden of being on the board of  
4 a school. Did you have any idea what that burden was  
5 when you joined Merchiston and accepted being head?

6 A. Well, no. I -- I was -- I remember very clearly when  
7 Andrew Hunter asked me if I might be interested in  
8 joining the board, and I did as much homework as I could  
9 on the financial aspect of the school, where we were,  
10 and academic, extracurricular and all the rest of it.  
11 But what settled it for me in the end was going around  
12 the campus and seeing the -- seeing happy boys and  
13 a fantastic relationship between the pupils and the  
14 staff. It was -- it was excellent. Just as I'd seen at  
15 St Mary's.

16 Clearly, we had no idea of the maelstrom that the  
17 board and everyone else were walking into, but I hope  
18 very much that we've been able to work our way through  
19 that and the school's a stronger place for it.

20 Q. If nothing else, board members need to understand what  
21 they're getting involved with?

22 A. We, in terms of induction now of any new governors, we  
23 are very, very clear on what the responsibilities are,  
24 and taking -- you know, take them back across issues  
25 we've had over the time and how we dealt with it. So

1 I think they are -- they're well-sighted on what the  
2 issues and challenges are.

3 Q. You have to be open with them?

4 A. Yes.

5 Q. And you also have to train them?

6 A. Indeed.

7 Q. You said you wouldn't be a headmaster for all the tea in  
8 China.

9 A. (Witness nods)

10 Q. And you've referred, I think twice, to Andrew Hunter's  
11 description of the loneliness of being a head.

12 A. Yeah.

13 Q. This is not about criticism, it's about learning. One  
14 might get the impression that the structures in  
15 Merchiston prior to inspection and the death of  
16 Rainy Brown, which revealed many things, was less than  
17 ideal because it was far too much for an individual.

18 A. Yeah.

19 Q. Would you agree with that?

20 A. Yeah. I think I was very taken by Andrew's evidence  
21 yesterday. I mean, he said that, and, you know, he  
22 talked about a lot of -- if he could put the clock back.  
23 He was very honest in what he said.

24 Q. He tried to take on too much?

25 A. I think so.

1 Q. And he was allowed to try and take on too much?

2 A. Probably a fair comment, aye.

3 Q. There wasn't adequate oversight by the board in that

4 regard of the struggles he was having?

5 A. Yeah, I think that's a fair comment.

6 I would qualify that with saying that the school was

7 very, very successful. That's not to say that in these

8 areas that have been -- have been flagged up, that more

9 was being needed. I think for the board I would imagine

10 that they would see that success as -- you know, as --

11 Q. That's perhaps the point. The ship is sailing on

12 ostensibly in good form.

13 A. Yeah.

14 Q. The course is true, children are happy, everything's

15 wonderful. Except it wasn't.

16 A. I think --

17 Q. And they didn't notice the wasn't part.

18 A. (Witness nods)

19 LADY SMITH: Gareth, when you say the school was very

20 successful, would you like to try and define success?

21 A. Ah, that's a fair comment, my Lady. You know, in all

22 the sort of headline KPIs in terms of the school role

23 was very strong, the exam results are exceptional, the

24 extracurricular was very -- was very strong and very

25 popular. And for the vast, vast majority of it, we have



1           very, very -- had very, very happy boys. And  
2           speaking --

3   LADY SMITH: And winning at competitive sport?

4   A. They were very competitive, yeah.

5   LADY SMITH: And good, their sports performance was good?

6   A. Yes.

7   LADY SMITH: Let's be honest, that's always mattered at  
8           Merchiston?

9   A. No, I think that's unfair. If I go back to, you know,  
10       ██████'s experience at Merchiston, the width of activity  
11       was just fantastic. And a lot of his very, very close  
12       friends are not sport -- sport people at all.

13   LADY SMITH: I wasn't suggesting that the picture we got  
14       from Merchiston's earlier days of rugby being king and  
15       Merchiston not being the only school that's given me the  
16       impression that there were certainly periods of that  
17       being so, but I did have the impression that if  
18       Merchiston is engaging in competitive sport, it goes for  
19       it.

20   A. Oh, sure.

21   LADY SMITH: And does well and likes to do well.

22   A. Yeah.

23   LADY SMITH: So various elements to success, but is there  
24       a danger, when you see all these successes stacking up,  
25       of assuming that's the whole story?

1 A. I think that's a fair comment.

2 LADY SMITH: What do you do about that?

3 A. Well, I think that our experience through that very

4 demanding series of inspectors we have and the upgrading

5 of our policies and practices, the expertise that we

6 have amid -- amongst -- on the board and in particular

7 in our staff at school I think has changed that around.

8 I think we are much, much tighter now on the areas of

9 school where we were found wanting.

10 LADY SMITH: What can a chair of governors do in the way the

11 relationship with the head is conducted to ensure that

12 there is this important focus on where the school might

13 be failing or where the school is at risk of failing?

14 A. The governors who are charged with looking at particular

15 areas -- well, for instance, let's take child protection

16 and well-being -- I'm very confident that those able

17 governors are going to get right under the bonnet, as it

18 were, and find what's going on. They are very involved

19 with our headmaster. I know that our headmaster

20 charged -- sorry, our governors charged with that

21 responsibility will bring that to the board. Well, they

22 report at every board meeting on this, on these

23 responsibilities. So --

24 LADY SMITH: Does the head of school attend their committee

25 meetings?

1 A. Yes.

2 LADY SMITH: Because, of course, heads of school won't  
3 necessarily attend all the committees. It depends how  
4 many committees a board has, but it may not be possible  
5 for the head to be at all of them.

6 A. In the major committees, he will be there all the time.

7 LADY SMITH: And then -- I'm sorry if I'm taking over,  
8 Mr Brown, but one thing while it's still fresh in my  
9 head. So far as the chair of governors is concerned,  
10 how or what does the chair do to conduct an open  
11 dialogue with the head so as to enable problems to come  
12 to the surface? So as to enable there to be frank and  
13 open discussion that would lead to discovering where  
14 things might not be as rosy in the garden as people  
15 think they are? What do you do?

16 A. On the heads that I've been involved in the appointment  
17 of, we have a very open understanding of no surprises.  
18 That was -- the two boards that I'm involved with at the  
19 moment, both the heads have been very, very clear that  
20 that is an open channel.

21 LADY SMITH: Thank you.

22 Mr Brown.

23 MR BROWN: The tension, obviously, between the chair of the  
24 board trying to take on an executive function, but what  
25 there must be, presumably, is communication. You don't

1       run the school --

2   A.  No.

3   Q.  -- you oversee?

4   A.  Absolutely.

5   Q.  That's where presumably you are perhaps a little wary of

6       becoming too involved, as are the board.  It's not for

7       the board to make executive functions, but there has to

8       be open lines of communications and regular contact

9       between both sides.

10  A.  Absolutely.

11  Q.  Has that increased over the time you've been chair?  Do

12       you see the head more often, for example?

13  A.  It was always an open and frequent communication in any

14       case.  I think that particularly when a head is in the

15       early years of his or her position, that there will be

16       more communication -- from both directions.

17  Q.  But the other thing that we see from your statement --

18       we don't need to go into the detail of it, but there

19       was -- it was recognised there had to be a substantial

20       increase in resource to provide the supports for the

21       head.

22  A.  (Witness nods)

23  Q.  In terms of the deputy head (pastoral).

24  A.  Yes.

25  Q.  It wasn't -- to be very simplistic about it -- all on

1       one man's shoulders?

2   A.  No.  No, and after the deputy head (pastoral) was  
3       appointed, both the deputy heads at Merchiston had  
4       a huge input into this, and I should say that one of the  
5       deputy heads fell quite ill during that and his  
6       colleague took on a huge amount of responsibility and  
7       workload for that and was quite extraordinary in  
8       delivering the -- what he did.

9   Q.  But again perhaps that's repeating, by the sounds of it,  
10       what Andrew Hunter was having to do to be the heroic  
11       head, to use his words.  That's relying very much on  
12       an individual.  All I'm saying is there has to be  
13       support and boards have to be aware of that.

14  A.  Yes, yes.

15  Q.  Do you think that was lacking prior to your time?

16  A.  Well, I think early on it clearly was, because the  
17       regulators required us to take on more resource, and  
18       that was accepted very quickly, immediately.

19  Q.  The other aspect -- this is interesting that you talk  
20       with such enthusiasm of having input from the deputy  
21       head from Firhill High School.

22  A.  Yes.

23  Q.  That's seeking help from outside?

24  A.  Yes.

25  Q.  Again, this is not criticism, but was the tradition

1       before that it was all Merchiston, one wouldn't think of  
2       looking outside for help?

3   A.  I think that's -- that's a fair comment.  I do remember  
4       this lady helped us so much, and we were pointed towards  
5       her by the Care Inspectorate, which was wise advice, but  
6       it was almost a different language, and of course the  
7       framework of paperwork that we were -- that we needed to  
8       adopt, and as you saw we were pointed towards the  
9       Edinburgh City Council model and then this lady, the  
10      deputy head, came in and helped us to -- to deliver on  
11      that framework.

12  Q.  Thank you.  I think the other areas that you refer to in  
13      your statement are, because you have experience of it,  
14      the horizontal system.

15  A.  (Witness nods)

16  Q.  We've been hearing about the pros and cons of horizontal  
17      and vertical, and you talk about this in paragraphs 14  
18      and 15 on page 4 of your statement.  You mention it's  
19      been the subject of external review?

20  A.  Yes.  The debate around the pros and cons of the  
21      horizontal system had been going on for -- I suspect for  
22      many years.  So when I joined the board, we had three --  
23      two or three external reviews looking at that, looking  
24      at co-education and, you know, what systems -- what  
25      other systems we might look at for Merchiston going

1 forward in a strategic fashion.

2 The discussion about horizontal houses I know has

3 been well versed and I was -- I was really struck

4 yesterday by Andrew Hunter saying that -- I can't

5 remember the name of the school, not Worksop, the other

6 school, who have retained --

7 Q. Bradfield.

8 A. Bradfield. For the first year at Bradfield for people

9 joining the school and they go into a horizontal house

10 then. I think that's a very interesting structure

11 indeed.

12 Q. I think, putting it short, his view on that is that it

13 allows everyone to get the basics --

14 A. Yeah.

15 Q. -- of the ethos, the kindness, the friendship, and then

16 you can move on into a vertical house.

17 A. Absolutely. And to make strong friendships with their

18 immediate peers. It's very interesting.

19 Q. So you ground the new entrants into the school --

20 A. Yeah.

21 Q. -- and then you can let them --

22 A. Absolutely.

23 Q. -- loose in vertical. One practical concern though,

24 which I think was implied in what he was saying, and

25 this is again going back to resources, with Merchiston

1 with the horizontal system, every year there's  
2 a colossal strain put a housemaster, who gets 50 or 60  
3 new boys.  
4 A. Yes.  
5 Q. Who he doesn't know.  
6 A. Yes, indeed.  
7 Q. Is that something that as a board you have been  
8 concerned about and can do anything about?  
9 A. We have considered that at length, and I think it's fair  
10 to say that some housemasters absolutely love the  
11 horizontal structure and like the challenge of getting  
12 known to boys. As I said in my statement, other  
13 housemasters like the opportunity to help boys who maybe  
14 need more care or development or whatever and would like  
15 to have a longer time with them as their housemaster.  
16 So there's all sorts of -- yeah -- considerations.  
17 Q. Things to balance?  
18 A. Aye.  
19 Q. The concern is, and I take the point about once you have  
20 a child, you're getting to know them and then they  
21 disappear and that's perhaps less than ideal. But the  
22 big concern, and this is going back to what we touched  
23 on, the outliers, the outsiders, with the horizontal  
24 system you have a great influx, how easy is it to spot  
25 the outlier in all the noise?



1 A. Can I just say that I'm absolutely -- I'm really  
2 confident now that our team at Merchiston will find the  
3 outliers very quickly. Do I think they would have been  
4 found any easier if we'd had a vertical structure? I'm  
5 not sure about that at all.

6 Q. In fairness, that's a question we can perhaps ask the  
7 next witness --

8 A. Aye.

9 Q. -- since he has to deal with it. But I think what's  
10 clear from your statement and from what you've said is  
11 you know, having been at Merchiston in the 1970s, there  
12 were pupils who were on the outside --

13 A. Yes.

14 Q. -- and it wasn't really picked up.

15 A. No. It's -- for them it must have been pretty grim.

16 Q. I know that you've asked yourself: what did I do?

17 A. Mm-hmm.

18 Q. And do you remember?

19 A. (Pause)

20 I -- I think there's two aspects to this. When we  
21 started off at school -- well, as I said earlier, we  
22 weren't aware of outliers at Pringle. And I'm not sure  
23 that we were aware of them in our first year in Chalmers  
24 West. I think the older we got, probably the -- we were  
25 more aware that these pupils were -- were outliers,

1       that, you know, Merchiston wasn't for them, in some  
2       ways. I'm not blaming the school in that. What -- did  
3       we do enough, as their peers? Oh, you know, we didn't  
4       have the knowledge or the experiences to do that.

5               Were we kind enough to them? I'm sure at times we  
6       weren't.

7   LADY SMITH: Gareth, before you beat yourself up about this  
8       too much, was that an era that the school wasn't  
9       thinking about how to guide boys to support each other  
10      appropriately?

11   A. No, I -- you know, if the -- they would have -- they  
12      would not have allowed us to bully people. You know,  
13      I've no doubt about that. These were, you know, good  
14      folk.

15   LADY SMITH: I wasn't so much thinking about bullying as  
16      thinking before you get to that, of what you do to --  
17      how you learn to help people who we're calling the  
18      outliers.

19   A. Were we taught about how -- probably not, no.

20               It's also the case that some of the outliers -- you  
21      know, it's difficult to get close to them.

22   LADY SMITH: Going back to possible merits of a horizontal  
23      system, I was wondering whether, if you as a housemaster  
24      are housemaster of a particular house for years that  
25      always takes the same age group, is there potential for

1       you becoming really quite an expert in what that age  
2       group is all about and how best to be a housemaster to  
3       that particular age group? Do your antennae get  
4       sharpened in a particular way so as to be alert to their  
5       needs?

6   A. I think that's a very fair point. you know, going back  
7       to my own time at school, when we were younger the  
8       housemasters were excellent at that. And then  
9       I remember when we got to sort of 16 years old,  
10      I remember that being quite a difficult time, you know,  
11      as you're sort of physically changing and starting exams  
12      and things, and those housemasters had different skill  
13      sets, which were appropriate. So I think that's a very  
14      fair point you made.

15   LADY SMITH: Thank you.

16               Mr Brown.

17   MR BROWN: I think, looking to paragraph 22, going back just  
18       to the approach to the outliers, you make the point --  
19       and this is important, we can ask the current head --  
20       that there is now a proactive approach to seek out --

21   A. (Witness nods)

22   Q. -- and that's what was lacking, perhaps, in your day?

23   A. I think that's fair comment. I think -- yes, yes.

24   Q. But is it fair to say that your experience has guided  
25       you to where you are now in terms of what you want for

1       the school you chair the board of?

2   A. Very much so. And one of the -- the bits personally  
3       that I find very fulfilling is seeing these young boys  
4       or young men almost coming out the end and they've  
5       fulfilled what they're capable of, and that's -- in  
6       amongst that year group, there will be a whole series of  
7       achievements that they've made. And, you know,  
8       hearing -- hearing the housemasters going after these  
9       outliers early on so that they get in the right route  
10      and the right pathway quick is really important.

11   Q. You talk in your statement about -- we've seen you here  
12      every day listening to every piece of evidence -- it's  
13      not been an easy experience?

14   A. Yeah, it's been ... (Pause)

15        It's been quite tough at times, but I -- I would  
16      absolutely say that as far as I'm concerned that's just  
17      really small beer. That some of these people -- we  
18      talked about some thoughts I had why there might be  
19      outliers when we spoke earlier. I mean, that's just  
20      been -- that's affected them their whole life. Yes.

21   Q. We're very grateful for your input, in terms of the  
22      statement which we can read the detail of. Is there  
23      anything else you would wish to add --

24   A. No, thank you.

25   MR BROWN: -- while you're here?

1           My Lady, thank you.

2   LADY SMITH: Are there any outstanding applications for  
3           questions of Gareth?

4           Gareth, it just remains for me to thank you very  
5           much indeed, both for your written statement and for  
6           coming today to allow us to probe beyond and further  
7           than you may have anticipated originally. I'm really  
8           grateful to you for your patience in listening to us and  
9           in dealing with our wide range of questions. My thanks  
10          certainly go with you as you leave today, as do my good  
11          wishes for the remainder of your time chairing two  
12          schools. That's a tough gig, as they say. I wish you  
13          well in it.

14   A. Thank you.

15   LADY SMITH: Thank you.

16                               (The witness withdrew)

17   LADY SMITH: Time for the morning break, Mr Brown?

18   MR BROWN: Yes, my Lady.

19           Then we'll conclude, I would hope before lunch, with  
20          Jonathan Anderson.

21   (11.33 am)

22                               (A short break)

23   (11.58 am)

24   LADY SMITH: Mr Brown.

25   MR BROWN: My Lady, we call the last witness for Merchiston,

1 Jonathan Anderson.

2 LADY SMITH: Thank you.

3 Jonathan Anderson (sworn)

4 LADY SMITH: Is it all right if I once more address you by

5 your first name, Jonathan?

6 A. Please do.

7 LADY SMITH: Thank you, Jonathan.

8 You'll know that your statement in hard copy is in

9 the red folder in front of you, and you'll also see it

10 coming up on screen. As I say to all witnesses, if you

11 have any queries or concerns when you're giving your

12 evidence, please speak up, don't keep them to yourself.

13 If you want a break, that's absolutely fine by me.

14 Otherwise, if you're ready, I'll hand over to

15 Mr Brown and we'll take it from there. Is that okay?

16 A. Thank you, my Lady, yes.

17 LADY SMITH: Mr Brown.

18 Questions from Mr Brown

19 MR BROWN: My Lady, thank you.

20 Jonathan, welcome back.

21 A. Thank you.

22 Q. You were last here on 30 March last year?

23 LADY SMITH: Not here. A different building.

24 MR BROWN: Yes, in the emotional sense. Yes, I'd forgotten

25 it was a different building, first thing this morning.

1           On that occasion, we spoke for quite a long time  
2           about many things and in particular how things had  
3           changed at Merchiston from the inspection period up  
4           until that point, so we don't need to revisit much of  
5           that evidence.

6    A.   (Witness nods)

7    Q.   But thank you for providing an updated statement.  There  
8           are a number of things that I'd like to talk to you  
9           about.

10   A.   (Witness nods)

11   Q.   But we know your background and we can just progress on,  
12          looking at the statement, to the second page.

13          You have been listening to the evidence remotely.

14   A.   Yes.

15   Q.   For which thanks, given the circumstances.  Yesterday  
16          you heard your predecessor giving evidence.

17   A.   (Witness nods)

18   Q.   He talked about his experience of leading Merchiston.

19   A.   Yes.

20   Q.   And recognised that in terms of his background it was  
21          different to yours, because what he hadn't had as a post  
22          in between housemaster and becoming head of Merchiston  
23          was a deputy head's job.

24   A.   Yes.

25   Q.   You did.  Do you think you were luckier, having had that

1 experience?

2 A. I -- I think the experience served me well. When I was  
3 at Christ's Hospital, there was a colleague,  
4 a particularly talented colleague, who went from being  
5 a head of department straight to the headship and was  
6 a very successful head -- indeed, as Andrew was a very  
7 successful head. I remember the head at the time  
8 advising me that that wasn't necessarily the right thing  
9 to do. Get a deputy headship first. I don't know why  
10 he thought I was going to go straight from being  
11 housemaster to a head, because I hadn't been -- it  
12 wasn't my intention, but he was very keen to encourage  
13 anybody going up the ladder to go through the steps, and  
14 in going to Worksop to become the senior deputy head  
15 there, I do feel that served me well, yes.

16 Q. Because there's a big jump between housemaster to head?

17 A. Yes. And you get exposed to areas of leadership and  
18 school management that as a housemaster I simply  
19 wouldn't have had sight of those.

20 Q. What sort of things are you thinking of in terms of  
21 leadership?

22 A. So as a deputy head I was involved with a restructuring  
23 process, involving conversations around redundancy.  
24 I was also involved in disciplinary processes, where  
25 I was either the investigator or indeed the chair of the



1 investigation. And as a housemaster I wouldn't have had  
2 that experience.

3 Q. So you were dealing with things which, at a human level,  
4 are hard --

5 A. Mm.

6 Q. -- and require tough decisions?

7 A. Yes.

8 Q. Presumably, as a head, you only get more of those?

9 A. Yes, that's correct.

10 Q. So a little experience of that sort of -- the need to be  
11 hawkish?

12 A. Yes. It doesn't always totally prepare you, because,  
13 you know, as a deputy head there is always that sense  
14 that there's somebody there to sweep in if you don't  
15 quite get it right or if you need to second-guess your  
16 judgement, whereas as a head it tends to be that the  
17 buck stops with you. Although I've always been careful  
18 to have in the team around me as a head people that  
19 I can speak to and I do speak to and we speak openly and  
20 frankly about decisions and tough decisions that we have  
21 to make before we -- before we make them.

22 LADY SMITH: Jonathan, would you agree that whilst  
23 fulfilling the role of deputy head a person has an ideal  
24 opportunity to view at close quarters what's involved in  
25 being head and then work out for themselves whether it

1 looks like a job that they want to do or not?

2 A. I think that's absolutely fair, my Lady, yes. I -- you  
3 see the challenges, you see the difficulties. I was  
4 very fortunate with the two heads that I worked with as  
5 deputy head that they shared their concerns, their  
6 frustrations, their -- for want of a better way of  
7 putting it, their insecurities about certain decisions  
8 they had to make and you see the -- the struggles that  
9 they sometimes have in coming to make difficult  
10 decisions. And it's about that balance of -- of  
11 compassion and making the -- ultimately the right  
12 decision, and sometimes that can appear callous, it can  
13 appear hawkish, but you see that struggle played out.  
14 And it was very useful to have that experience and  
15 understand that it's important to share those concerns  
16 with people around you when you're in that position  
17 yourself.

18 LADY SMITH: But also, as I say, the opportunity to  
19 self-reflect and work out whether you have got the skill  
20 set for that job in addition to having a deputy head  
21 skill set.

22 A. Indeed. I remember when Roy Collard was interviewing me  
23 for the role of deputy head at Worksop, he asked me what  
24 my ambitions were and I said, "Well, I'll see how well  
25 I get on in this job before I take the next step", which

1 I think at the time I thought was the wrong answer, but  
2 on reflection I think was probably the right answer.  
3 LADY SMITH: Thank you.  
4 Mr Brown.  
5 MR BROWN: Thank you.  
6 You've talked there about talking to people.  
7 A. Yes.  
8 Q. You as a deputy head would talk to your head. Would you  
9 be a sounding board to try and assist him in his role?  
10 A. Yes. Yes, I think so, yeah.  
11 Q. A counter voice as necessary?  
12 A. Yeah, a critical friend, devil's advocate, a sounding  
13 board, all of those things, yes.  
14 Q. The impression one got yesterday from Andrew Hunter's  
15 evidence was that -- it's the cliché, the loneliness of  
16 command -- at times in Merchiston he clearly felt very  
17 lonely?  
18 A. Sorry?  
19 Q. He clearly felt very lonely?  
20 A. Yes. That is always a feeling, I think, when you're in  
21 a position. I certainly have at times felt lonely. But  
22 it's never been a feeling that has stopped me from doing  
23 my job or stopped me from reaching out and asking for  
24 help when I have felt I've needed it.  
25 Q. The structure you have at Merchiston now, as compared

1 with Andrew Hunter's time, has changed.

2 A. Yes. It has.

3 Q. I think it had changed perhaps by the time you arrived

4 in 2018?

5 A. It was in the process of changing, yes.

6 Q. Can you remind us, what has changed?

7 A. So I suppose the leadership structure is a little

8 flatter now. There's no longer a senior deputy head.

9 We have a deputy head well-being, who is responsible for

10 the pastoral side of the school. We have a deputy head

11 academic, responsible for the academic side of the

12 school and assistant head on either side. Also on the

13 leadership team we have the bursar and the head of --

14 a head of admissions.

15 Q. Does that impact on the role you perform in terms of

16 having avenues of communication, to play the devil's

17 advocate?

18 A. Yes, I think so. I think I see my leadership as quite

19 consensual. We talk a lot about decisions that we're

20 going to make. We make decisions where we can as

21 a team. I like to hear input from my colleagues on the

22 leadership team before we make decisions on -- on any

23 matters, but particularly those critical matters that

24 sometimes arise.

25 Q. Ultimately, the buck stops with you --

1 A. Quite.

2 Q. -- but you can, at least, throw it open for discussion?

3 A. Yes. And I don't profess to get that right all of the

4 time, but that's certainly what I want to do with the

5 team that I have around me.

6 Q. Do you think that flatter structure is better in terms

7 of just managing a school?

8 A. I think it works for me. I think it depends on the

9 individual and it depends on the team around you as

10 well.

11 Q. Is there anything you would change that you would think

12 is a good model for all boarding schools?

13 A. I think having a team that is connected to the next

14 level down is important and that that next level down,

15 whether it be heads of departments or housemasters, they

16 are empowered to do the job that they do, but equally

17 they know that there's support for them, should they

18 need it.

19 Q. All right. It sounds as if you're really describing

20 a structure of whatever form that has lines of

21 communication going -- and open lines of communication

22 going up and down?

23 A. Yes.

24 Q. In terms of issues of staffing, as we've just been

25 discussing, new levels of staffing were put in place

1 following the various inspections. But your statement  
2 talks about -- we've heard evidence about this -- the  
3 roles that can be played.

4 Looking to paragraph 33, and this is looking at  
5 page 8 and this is the role of a housemaster, you say:

6 "Traditionally that role has been filled by  
7 a teacher who wants to pursue a pastoral role ..."

8 A. Yes.

9 Q. " ... this was the route that took me to housemastering.  
10 We have explored non-teaching housemaster roles,  
11 recruiting one housemaster to role from a social care  
12 background."

13 A. Yes.

14 Q. "... both routes have validity ..."

15 Have you experience of the social care background  
16 housemaster anywhere else?

17 A. No, I've had experience of the non-teaching housemaster  
18 in both previous schools. One of the houseparents at  
19 Worksop was from a military background, had come from  
20 the social care aspect of military education, and they  
21 became a housemaster -- houseparent, sorry, I beg your  
22 pardon, at Worksop, and similarly at Christ's Hospital  
23 we had a member of staff who was involved in childcare  
24 but hadn't been a qualified teacher, who then went into  
25 housemastering.

1 Q. You say both have validity, but is your view changing on  
2 this or is it --

3 A. I do think the role of housemaster -- I think the sector  
4 is turning to this approach increasingly. I think the  
5 role of housemaster is becoming more specialist. On one  
6 hand there is I think an expectation from a parental  
7 point of view that housemasters are academics, that  
8 they've come from an academic background, that they will  
9 be able to nurture your child in the academic sense and  
10 have that -- that -- there's that cachet of being  
11 an academic. But I think the role itself is becoming --  
12 it -- it's not changing radically, but I think the focus  
13 on the breadth of the role means that those with skills  
14 in care of young people, specific care of young people,  
15 people who have a professional background in that area,  
16 I think they are becoming more increasingly sought out  
17 by schools.

18 And, indeed, the Boarding Schools Association  
19 conference last year we heard from speakers in Australia  
20 and they had certainly seen a shift in the appointments  
21 of houseparents in boarding houses to non-teaching  
22 roles, but people who have made housemastering,  
23 housemistressing, houseparenting, their vocation as  
24 opposed to an academic route.

25 Q. It's simply over the course of the Merchiston evidence,

1 but also the other schools, it is apparent that -- to  
2 put it very simply, as ever -- you have an absolutely  
3 intense term life, but then good holidays to take stock  
4 and breathe.

5 A. Yes.

6 Q. And yet the hours that were being worked by  
7 a housemaster, because they would be teaching, then they  
8 would be doing housemastering, is it too much?

9 A. We -- when people come for interview to Merchiston, we  
10 liken life to being on a submarine or on an oil rig,  
11 where you are working intensively for a period of time  
12 and then you come up for air or you get the chance to  
13 breathe, and yeah, it reflects what you're saying there  
14 in terms of the intensity.

15 With our teaching housemasters, we do give them  
16 timetable reductions, and they have a support team  
17 around them as well to make sure that they are not  
18 solely carrying the entire housemastering load. There  
19 are other resident members of staff, for example, who  
20 can give them evenings off and give them some respite.

21 But it is -- you know, I did it myself. I know it  
22 is a challenge. You've got a balancing act to do. And  
23 as the -- you know, I suppose as we learn more about the  
24 expectations of what good housemastering is all about,  
25 the attraction of a non-teaching housemaster, it does



1       become more appealing, I suppose, in terms of wanting to  
2       do the very, very best for the boys.

3   Q.   If we go back to paragraph 26, page 7, and this is under  
4       the broad heading "Pastoral leadership and governor  
5       oversight".

6   A.   Yes.

7   Q.   You're talking about the flatter leadership structure at  
8       the top and greater support from the senior leadership  
9       team. On the pastoral side, the structure is set out.

10       But it's at the foot of that paragraph, the last  
11       sentence:

12       "If required, the deputy head well-being's other  
13       responsibilities can be reallocated to allow them to  
14       focus on any child protection issue demanding their full  
15       attention."

16   A.   Mm.

17   Q.   It's the same problem, presumably they have a day job --

18   A.   Yes.

19   Q.   -- which has to be shoved aside because the prime  
20       concern is child welfare and protection?

21   A.   Yes. And the same is true of housemasters. If  
22       a housemaster is having a particularly challenging time  
23       with -- I mean at the minute actually with things like  
24       Covid it's been quite interesting, where housemasters  
25       have had to perhaps, you know, be in sort of almost

1 isolation with the boys who have been in the boarding  
2 house who have been ill. There has had to have been  
3 a reallocation of their other duties. So it does  
4 require constant management.

5 Q. And being alert to the potential that if you don't have  
6 adequate resources to let the job be done properly, it  
7 may not happen?

8 A. Indeed.

9 Q. The point I'm getting to, the Child Protection  
10 Co-ordinator, you're talking about the importance of  
11 having such positions in leadership or having leadership  
12 roles. I suppose there's an anxiety that if you have  
13 leadership roles, that may be lost sight of.

14 A. I think when their primary responsibility is  
15 safeguarding and child protection, you simply don't let  
16 that happen. You don't let them lose sight of it. It's  
17 their number one priority.

18 Q. You'll remember the evidence of Prini Garcia?

19 A. Yes.

20 Q. Who thought that Child Protection Co-ordinator should be  
21 an independent appointment?

22 A. I think there should be independent support and help,  
23 but I think fundamentally that role sits well within  
24 leadership because it is a significant responsibility.  
25 And, again, it speaks to what I was talking about

1 earlier on around sharing those responsibilities and  
2 talking openly about problems that you have and you can  
3 do that with a team that know the school, that know the  
4 staff, the boys involved, but also I think there is --  
5 there is validity in having some external support, and  
6 again you've talked previously about the LADO, and  
7 having that point of contact. I think that's where  
8 value could be added.

9 LADY SMITH: Is that the sort of thing you had in mind when  
10 you said a moment ago that you think there should be  
11 independent support and help?

12 A. Yes. Yes, my Lady.

13 LADY SMITH: Is there room for something more than that? Or  
14 not? More of an ongoing advisory relationship, if you  
15 like, I suppose is what I have in mind.

16 A. Yes, I think -- I think a LADO-style appointment has the  
17 ability to develop into that. You know, certainly my  
18 experience at Worksop was that we did have a very strong  
19 and regular contact with the LADO, not because we were  
20 constantly dealing with crises but we were just keeping  
21 them appraised of what we were doing and they wanted to  
22 know, and we were fortunate that we did have a good LADO  
23 in that particular part of the country.

24 I know that some other schools in other parts of the  
25 country don't have that same experience.

1 LADY SMITH: Was that, then, dependent on you taking the  
2 initiative in getting in touch with them?

3 A. It largely fell to the strength of the relationship  
4 between our designating safeguarding lead and the LADO  
5 at the time, yes.

6 LADY SMITH: Is there any room for looking at the  
7 possibility of something, whether it's like LADO or not,  
8 that involves regular contact? The scheduling of  
9 regular contact with somebody outside the school --

10 A. (Witness nods)

11 LADY SMITH: -- that the Child Protection Co-ordinator will  
12 catch up with?

13 A. I think that would be a great step forward, yes.

14 LADY SMITH: I'm thinking aloud in --

15 A. Absolutely.

16 LADY SMITH: -- suggesting this, Jonathan.

17 A. Yes, my Lady, I think when you are faced with some very  
18 complex, complicated safeguarding matters, the more  
19 information you can have from trusted sources and from  
20 listening ears, the better. It can only help.

21 LADY SMITH: Keeps you up to date on what the news is in  
22 that area that you might not hear about otherwise, for  
23 example?

24 A. Absolutely, absolutely. I mean, there are informal  
25 structures there. Boarding heads, boarding pastoral

1 deputy heads. They have working groups where they do  
2 share best practice and they bounce around ideas, but  
3 actually having a formal structure in place I think  
4 would be a great step forward, yes.

5 LADY SMITH: Thank you.

6 Mr Brown.

7 MR BROWN: Thank you, my Lady.

8 What structures exist now? Who do you speak to?

9 A. You -- you can go to the Care Inspectorate. You can go  
10 to social care direct. We have a new link inspector and  
11 we have a new deputy head well-being at Merchiston and  
12 they have developed a good relationship, and I think  
13 that is borne out of a sort of re-establishment of the  
14 trust in the Care Inspectorate in what we do, and  
15 I think that's been affirmed by our two most recent  
16 inspections.

17 So I think perhaps, you know, what has changed since  
18 March, I think -- when I said that there were maybe  
19 limited opportunities, I think I'm certainly seeing  
20 an improvement in the relationship that we've now got  
21 with our link inspector at the Care Inspectorate, but  
22 I think there is capacity for that to grow even further.

23 Q. Thank you. But thinking beyond Care Inspectorate,  
24 I think we've had a sense of this from other heads, the  
25 heads perhaps in part because of the Inquiry of the

1 different schools under scrutiny are now talking more to  
2 each other?

3 A. Yes. I think -- I think there's always -- and I think  
4 Andrew referred to this yesterday -- there's always  
5 a reticence to talk about every aspect of school life,  
6 but I think with something as critical as safeguarding,  
7 schools don't want to get it wrong, to damage the lives  
8 of young people, to damage the school, to damage the  
9 sector. So I think there is a greater openness,  
10 particularly in that area, yes.

11 Q. Well, Merchiston has been through the mill in a way that  
12 other schools haven't because of the inspections from  
13 2014 after the death of Rainy Brown.

14 A. Yes.

15 Q. Has there been a desire from your experience for other  
16 schools to learn from your experience?

17 A. We've been very open in offering that support. And I'm  
18 not sure whether the time has yet come for the schools  
19 to come together and reflect, and perhaps the conclusion  
20 of the Inquiry might provide that opportunity.

21 Q. Well, what you're saying is you've been willing to  
22 share, have others actually been receptive or sought you  
23 out?

24 A. Not directly as -- specifically as yet. Generally, yes.  
25 Specifically, no.

1 Q. I think the head of Fettes, for example, talked about  
2 SCIS being a focus for the thoughts of all the heads.  
3 A. Yes.  
4 Q. Is that correct?  
5 A. That is correct, yes.  
6 Q. Is the situation that rather than coming to you  
7 directly, everyone talks to SCIS?  
8 A. Yes, and SCIS talk to us and, you know, it does -- it's  
9 very much a round-table but SCIS have been very good at  
10 pulling together experiences and learnings.  
11 Q. All right.  
12 You talked about the relationship with Care  
13 Inspectorate and it's improved and you mentioned the  
14 2019 report, which we have a copy of, and there's  
15 another report in the offing.  
16 A. Yes. We received the draft on Tuesday evening.  
17 Q. Again without worrying about the detail of it, are you  
18 happy with it?  
19 A. We are happy. We recognise there are things that we  
20 want to improve, but that's a very good place to be,  
21 I think, and we can share a copy of the report with the  
22 Inquiry when it's finalised. But we were pleased with  
23 many of the themes that have been brought out by the  
24 inspection team, and, as with any inspection, there are  
25 one or two areas that we want to make sure we get right

1       for the next time they come to visit.

2   Q. I think, looking at the 2019 report, there were some  
3       slight anxieties, you'll remember the report, which can  
4       be summed up in two paragraphs:

5       "We discussed staffing level and the need for  
6       ongoing assessment of staff deployment to replace the  
7       previous use of staffing schedules and ensure there was  
8       always sufficient staff to provide individual attention  
9       for pupils if this was needed."

10       You'll remember that line?

11   A. Yes.

12   Q. And the other one was:

13       "The system in place to record outcomes of child  
14       protection incidents was not effectively used by all  
15       staff. Some records of bullying were not clear and did  
16       not express clear outcomes for the pupils concerned or  
17       describe the actions taken by staff."

18   A. Yes.

19   Q. It was recognised that there -- and you talked about  
20       this on the last occasion -- you have your system for  
21       monitoring.

22   A. Yes.

23   Q. But, put simply, was it not perhaps as effective as it  
24       might be? Was that what they were getting at?

25   A. Yes, I think there were probably two aspects to it.



1       There was an understanding of what constituted requiring  
2       report and we just needed to go back to colleagues to  
3       ensure that they were very clear on what it was that we  
4       wanted reporting, so what was going into the system.

5           And then I think at the other end was closing off  
6       any of those concerns that had been raised and making  
7       sure that they'd been taken to a conclusion and that  
8       they were revisited and closed appropriately.

9       Q.   Seeing the draft, have those concerns --

10      A.   Yeah, those two actions were addressed, yes, not long  
11       after we received that report.

12      Q.   Levels of staffing is touched upon, and of course we  
13       heard a great deal about that yesterday from  
14       Andrew Hunter, and you've been talking about the  
15       changes --

16      A.   Yes.

17      Q.   -- in staff, the greater resources being made available  
18       for you as a head. You have more bodies to do the work.  
19       Do you feel that you're still lacking anything that you  
20       would ideally want?

21      A.   No, I think it's about deploying individuals to the  
22       right roles. You know, I think our leadership team for  
23       a long time was bound up with work on policy, and that  
24       was absolutely right. We now have a compliance officer  
25       who helps oversee the maintenance of our policies and

1       they keep regular contact with the authors of those  
2       policies, the people who have ownership of those  
3       policies, and they're also ensuring that staff training  
4       is kept up to date and people are continually appraised  
5       of changes in their -- in their -- in their areas of  
6       responsibility.

7             In terms of staffing resource, we have actually  
8       reduced the number of individuals on the school  
9       leadership team, but we have reconstituted some groups  
10      differently. So, for example, the pupil support  
11      leadership team now includes the school counsellor, also  
12      includes a representative from the med centre as opposed  
13      to just being the academic pastoral leaders, as it were.

14   Q.   We'll come back to the day-to-day experience of the  
15       school in a moment, but since we're touching on the  
16       experience of working with the Care Inspectorate, and  
17       most people seem to think inspection is a good thing.  
18       You agree with that?

19   A.   Absolutely, yes.

20   Q.   It's a learning opportunity?

21   A.   Yes.

22   Q.   It's another example of speaking to someone from outside  
23       who may see things more clearly?

24   A.   See things differently, yes, a fresh pair of eyes.

25   Q.   You talk in paragraph 6 of in England, where you have

1        had most of your experience of teaching:

2            "Inspection of independent schools is undertaken by

3        the Independent Schools Inspectorate with a set of

4        national minimum boarding standards overseen through

5        that inspection framework."

6            I would understand from what you say that for

7        independent boarding schools there is a national minimum

8        boarding standards --

9    A.    Mm.

10    Q.    -- which has to be met by everyone?

11    A.    Yes, absolutely.

12    Q.    And it's above that that one gets into the qualitative

13        assessments that we are familiar with in Care

14        Inspectorate reports?

15    A.    Yes.    So there are two forms of inspection.    There's

16        a compliance-based inspection and then a qualitative

17        inspection, and even with the education quality

18        inspection, there is a need to be compliant as well.    So

19        the absolute base -- basic minimum, bare minimum is that

20        you are compliant with all of the national minimum

21        boarding standards if you are a boarding school.

22    Q.    You have experience of both systems --

23    A.    (Witness nods)

24    Q.    -- and we'll talk about the inspectors and who they are

25        in a moment --

1 A. Mm.

2 Q. -- but do you think that national minimum boarding  
3 standards makes a difference in England that's positive  
4 and could be --

5 A. Yes. I think the criticism that might be levelled at it  
6 is that it's showing you the exam paper before you do  
7 the exam, but actually it allows you to see exactly what  
8 it is that you're being measured against and judged  
9 against, and I think that then encourages a greater  
10 dialogue in terms of wanting to understand how best to  
11 implement those minimum boarding standards when you're  
12 talking to -- when you're talking to inspectors or when  
13 you're going to pre-inspection meetings with inspectors  
14 who -- you know, they sometimes do sessions where they  
15 help you understand what might be required in  
16 an inspection. You have something there to base your  
17 work on. You've got a benchmark to work to.

18 Sorry, does that answer the question?

19 Q. Yes, that's the English experience.

20 A. Yes.

21 Q. How different is that from what you see in Scotland with  
22 the Care Inspectorate?

23 A. They're -- the minimum boarding standards don't exist in  
24 that form, and I think it would be helpful to know, you  
25 know, what it is that the inspectors will want you to

1       have right as a bare minimum.

2           That's not to say you should only be focusing on the  
3       bare minimum. I think it's for you to know that there  
4       are a core set of standards sitting at the middle of  
5       your service provision or your boarding provision that  
6       you have to get right.

7   Q.   These minimum standards will be published?

8   A.   Yes.

9   Q.   Thinking from your practical experience, what sort of  
10       standards matter particularly?

11  A.   Things like the -- and I think perhaps some other  
12       schools have talked about this -- the single central  
13       register of staff and employees, and that is a one-stop  
14       shop for all employment records and the checks that you  
15       must go through. The Safer Recruitment checks that you  
16       must go through and the paperwork and documentation that  
17       you must hold on every single employee, volunteer and  
18       governor. I think SCIS might say more about that as  
19       well when they come to talk, because I know they've been  
20       looking at that model.

21  Q.   Because we heard from Marion, the inspector, that one of  
22       the difficulties she faced was there were only some  
23       records that she could look at if it involved care, but  
24       if it was teaching, that was off limits.

25  A.   Yes, although I think at Merchiston we would open up

1       everybody's personnel file to an inspector who wanted to  
2       see them, because as far as I'm concerned everybody at  
3       the school is in some way involved in the boarding  
4       provision.

5             So if that's been an obstacle, it wouldn't be one  
6       that I would recognise. Notwithstanding that, the  
7       single central register would get round that as well.  
8       It's there, it's for everybody that would work in that  
9       school, whether it's a day school, boarding school, it  
10      doesn't matter.

11   Q.   The inspections are undertaken by a distinct body for  
12       independent schools --

13   A.   Yes.

14   Q.   -- the Independent Schools Inspectorate, as opposed to  
15       the Scottish experience of the Care Inspectorate, who  
16       have a -- albeit we're hearing of more specialist teams  
17       over recent years.

18   A.   (Witness nods)

19   Q.   Advantages/disadvantages in having that ISI?

20   A.   The inspectors and the -- the team inspectors, as they  
21       certainly were known when I was involved with  
22       inspections with ISI, were drawn from serving deputy  
23       heads, heads, senior members of staff in schools, so  
24       there was, I suppose, the benefit of them understanding  
25       how those schools operated. The danger was that it was

1       perhaps a little bit too incestuous in terms of the  
2       sector marking its own homework.

3   Q.   Just to be clear, were those existing deputy heads who  
4       did this as a sideline or was it quite separate?

5   A.   They were existing deputies who were given leave of  
6       absence from their role to go and be a reporting  
7       inspector. They weren't paid for the role, but it  
8       required them to be away from their place of work for  
9       I think three or four days to conduct an inspection,  
10      plus training that happened as well.

11       Heads found it beneficial to have a member of staff  
12      or found it themselves beneficial to be an inspector,  
13      because they were able to understand best practice, get  
14      a sight of what was going on in other schools and really  
15      understand the inspection framework as well.

16       So when I was at -- both at Worksop and Christ's  
17      Hospital we had colleagues who were team inspectors.

18       Reporting inspectors, so the most senior inspector,  
19      was usually retired and not -- and their sole job, sole  
20      role was a reporting inspector. And indeed in my time  
21      at Worksop we had a reporting inspector who was a member  
22      of the board. They had to step down from the board in  
23      order to continue their role as a reporting inspector,  
24      because that was seen as being a conflict of interest.

25       So the reporting inspector, the person who writes

1       the report, is one step removed from the schools  
2       themselves.

3   Q.   So it sounds rather more akin to what I think was  
4       touched on briefly yesterday by her Ladyship, that  
5       Education Scotland have some teachers who work on the  
6       education side as inspectors, but as a separate part of  
7       their professional lives?

8   A.   Yes.

9   Q.   You said the concern was it was all a bit incestuous,  
10       did that actually impact?

11  A.   I never experienced it myself. I never -- I never saw  
12       it in action. I think anecdotally there were stories of  
13       inspectors knowing schools and people in schools because  
14       of previous association with colleagues, et cetera,  
15       et cetera, although I think ISI took steps to solve that  
16       problem by asking inspectors to disclose if they knew  
17       anybody at schools that they were being asked to go and  
18       inspect.

19       The nature of inspection, certainly in my time, in  
20       my 20 or so years in England changed. I remember my  
21       first inspection my first year of teaching in 1997 we  
22       had drinks and canapes with the inspectors before the  
23       inspection took place on the Sunday evening and then  
24       they were here for the entire week and we knew six  
25       months in advance that they were coming. It was night



1       and day compared to the last inspection that we had at  
2       Worksop, which was an unannounced inspection and it was  
3       very businesslike.

4   Q.   No cosiness?

5   A.   No cosiness.

6   Q.   Okay. Do you think that would be an improvement?

7   A.   I think there's always scope to learn more about --  
8       particularly boarding schools. I think the schools  
9       themselves are very different from day schools and each  
10      and every school is very different from other boarding  
11      schools. So I think having empathy, having  
12      an understanding of some of those idiosyncrasies really  
13      helps inspectors get past some of those things that they  
14      perhaps can't quite work out.

15         I think again, thinking back to my time at  
16      Christ's Hospital, they did go through a phase where ISI  
17      came in and focused on the educational quality and they  
18      had inspectors from Ofsted looking at the boarding  
19      provision and they'd been drawn from the care services,  
20      social care background, and they had -- they spent  
21      probably two days just trying to understand how boarding  
22      schools worked, because they hadn't had that  
23      institutional experience.

24         The iteration of social care inspections prior to  
25      that was done by the Local Authority and you did have

1 a social worker who was attached to your school who came  
2 and did an annual inspection, but they got to know the  
3 school and they got to know how the schools operated and  
4 ran.

5 So I think there is value in having knowledge of the  
6 sector when it comes to understanding what is going on,  
7 and indeed in identifying where schools are not doing it  
8 as well as perhaps other schools are doing it.

9 LADY SMITH: Jonathan, would you agree that if an inspection  
10 is going to work -- and by that I mean get the best  
11 outcome for children -- it needs to be approached from  
12 a standpoint of mutual respect?

13 A. (Witness nods)

14 LADY SMITH: The school having respect for the inspectors  
15 and the job they have to do, and the inspectors  
16 approaching the school with an attitude of respect for  
17 their professional roles and the job that they do --

18 A. (Witness nods)

19 LADY SMITH: -- and then to an extent being prepared to  
20 collaborate with each other as appropriate?

21 A. Absolutely. I totally agree, my Lady. I think schools  
22 needed to help inspectors understand how they work and  
23 we like to think that we are very open, and again Andrew  
24 mentioned that yesterday. I think, you know, the school  
25 has always taken the attitude that we will make

1       available anything that they want to see.

2           But I think it's possibly also incumbent on them to

3       make sure that they're asking the right questions and,

4       dare I say, listening to the answers, and if they don't

5       understand it's okay to ask the question again until

6       they get a clearer picture of exactly what is going on.

7   LADY SMITH: I suppose if they don't do that, the risk is

8       the school will become defensive and that's not going to

9       help?

10   A. Not at all, no.

11   LADY SMITH: Mr Brown.

12   MR BROWN: Thank you, my Lady.

13           I think, as you said, the relationship with the Care

14       Inspectorate in your time has warmed?

15   A. I would certainly like to think so, yes.

16           Sorry, if I may, I think that is down to the good

17       work that Andrew and the previous leadership team did.

18       You know, they built that foundation. I think they did

19       a lot to rebuild that trust and handed over a very good

20       relationship to me. I'm very grateful for that.

21   Q. To take on Lady Smith's point, both sides are receptive?

22   A. Yes.

23   Q. Looking back into Merchiston, and remembering you gave

24       evidence about it ten months ago, what has changed?

25       Thinking first of the electronic system that you talked

1       about and this Notice/Check/Share, which seems to be  
2       part and parcel of it. There's a mindset amongst staff  
3       and pupils that they notice, check and share, and that  
4       is then recorded electronically into the information  
5       system.

6   A.   (Witness nods)

7   Q.   What has changed in the last 10 months in that regard?

8   A.   I think those systems have been embedded. You know,  
9       they were there, that culture was there. It's been  
10       reinforced, it's been strengthened. Having the boys  
11       back on site has given us an opportunity to refresh our  
12       approach and re-energise our approach in all of those  
13       areas. You know, having spells of distance learning  
14       where you don't have that day-to-day physical contact  
15       with the boys, the face-to-face contact, everything  
16       happening virtually. The fact they are back in the  
17       school now has given us that opportunity to re-energise  
18       those messages and to encourage them as well to develop  
19       those good habits in terms of looking after one another,  
20       looking out for one another, being respectful towards  
21       one another. And, yeah, it's been great to have them  
22       back in school to allow that to happen.

23   Q.   One of the themes in the new statement is pupil voice.  
24       It seems to take a greater part than it did before; is  
25       that correct?

1 A. Yes, I think again that's something that has developed  
2 over the last six years since the series of inspections  
3 that took place in 2015/2016 and so on, and that's  
4 something I don't think we will ever relent on. I think  
5 it's something that we will always be keen to improve  
6 and develop but we are always seeking opportunities for  
7 the boys to share their views, to have input, and to  
8 play their part in developing a strong community.

9 Q. It's just looking at paragraph 14, the final sentence:  
10 "The intention is to encourage the boys to take  
11 an active part in promoting the best possible  
12 environment Merchiston can offer."

13 That's an intention, it would seem. What is  
14 anticipated?

15 A. Sorry?

16 Q. Well, if you look --

17 LADY SMITH: Have a look at paragraph 14.

18 A. Oh, sorry. Sorry, so the intention of doing that is to  
19 encourage them. So what's anticipated is that those  
20 will continue to grow and to develop those opportunities  
21 for those ... will continue to be promoted to them.

22 I suppose what I'm saying there is by having the  
23 boys involved and having their feedback involved, it's  
24 using that to make sure that we are delivering the very,  
25 very best for them.

1 LADY SMITH: Jonathan, you've worked in both co-educational  
2 schools and now a single-sex school --

3 A. Yes.

4 LADY SMITH: -- boys' school. Is there any difference  
5 between the two environments when it comes to the pupil  
6 voice, speaking up, if I can put it that way?

7 A. I -- again I wouldn't wish to be too stereotypical here,  
8 but my experience at Merchiston has been that for me the  
9 boys are very open and honest. I think I've talked  
10 before about the approach of sort of growth mindsets,  
11 where they will think about what they do well and  
12 reflect on what they can do better, and that's often the  
13 response that you'll have from them. You'll often have  
14 a two-phase answer to a question that you ask them. It  
15 will be about what they're enjoying and what they're  
16 looking to enjoy better, or what they do well and what  
17 they want to do more of.

18 And that's something that I didn't think that  
19 I would experience in a boys' school and I was -- and  
20 I think it was one of the reasons why I took the job.  
21 I was really pleasantly surprised with the way in which  
22 the boys were open and willing to share.

23 LADY SMITH: Why did you not think you'd experience that in  
24 a boys' school?

25 A. I suppose I'd allowed myself to fall into the

1 stereotypical view that boys' schools are perhaps alpha  
2 male and stiff upper lip, that sort of negative  
3 connotation, and I was really pleasantly surprised to  
4 see that wasn't the case when I first arrived at  
5 Merchiston.

6 LADY SMITH: Had you seen any difference in the willingness  
7 of pupils to speak up broadly in terms of gender in your  
8 co-educational experience?

9 A. I think over time, yes. I think young people have  
10 become more willing to share their experiences. They've  
11 become more open. That's not to say that -- there's  
12 still work to be done in encouraging those that don't  
13 speak up to find their voice or to give those that find  
14 it difficult to speak up an opportunity to share. But  
15 I do think that schools now are much more receptive and  
16 encouraging of pupil voice and that's a really positive  
17 thing.

18 LADY SMITH: Thank you.

19 Mr Brown.

20 MR BROWN: Thank you, my Lady.

21 Paragraph 21, continuing the theme of pupil voice,  
22 you say it plays an important -- sorry, it's the  
23 previous page, starts on the bottom of page 5:

24 "Pupil voice also plays an important and significant  
25 part in the decision-making process when it comes to

1 families choosing Merchiston ..."

2 What you go on to talk about is the opportunities  
3 that prospective pupils have, either as a day pupil or  
4 as a boarding school, which will include, as we can see,  
5 spending a night in a house to get a genuine sense.

6 A. Mm.

7 Q. When did that start?

8 A. That started before my time, and again it was something  
9 that we -- that I'd experienced at Worksop, it was  
10 an opportunity for -- for a pupil to see the school  
11 operating normally. It wasn't an open day, it wasn't  
12 an experience weekend. It was very much them coming  
13 along and being part of the normal day-to-day life of  
14 the school and allow them to form a judgement as to  
15 whether they would enjoy that sort of environment.

16 It didn't necessarily always confirm one way or the  
17 other whether they did or not. Sometimes they would  
18 arrive and when the reality of being in a boarding house  
19 for a longer period of time arrived, then sometimes  
20 homesickness did set in. Sometimes that homesickness  
21 would pass, with support from houseparents. Sometimes  
22 that homesickness perhaps didn't pass and despite  
23 interventions from houseparents or from parents, you  
24 know, it was felt that maybe boarding at that point in  
25 time wasn't right for that young person.



1           Certainly my experience at Worksop and again my  
2           experience at Merchiston is that if that happens, you  
3           know, we're very willing and happy to say to parents:  
4           "Look, let's maybe reappraise this, let's think  
5           about going to day pupil status for a while, perhaps  
6           give it a few years, maybe allow a bit more of  
7           an experience of boarding and develop that over a period  
8           of time and just allow that young person's confidence to  
9           grow".  
10          Or, if they are absolutely against wanting to board  
11          and they've decided that it's not for them, well, then  
12          we understand that. We're not going to -- I think  
13          I mentioned it in my statement. We're not going to  
14          expect them to conform. We will try and find a way to  
15          accommodate them, and if it doesn't work, then we accept  
16          that it's incumbent on us to have that conversation with  
17          their parents about the fact that it doesn't work.  
18   LADY SMITH: Jonathan, was it you that introduced these  
19          trial nights at Merchiston or had it already started?  
20   A. No, I can't take credit for that, my Lady. They were  
21          already there.  
22   LADY SMITH: Thank you.  
23   MR BROWN: It's reached the stage where you, Merchiston,  
24          will say to a parent, or parents, "Look, we don't think  
25          this is working for your child, Merchiston may not be

1 the best place for them"?

2 A. Yes. Although I don't think that would ever come as  
3 a surprise to a parent, because any concerns that we  
4 have we'll be raising early with them and it's very  
5 often that the parents, in conjunction with us and their  
6 son, will arrive at that conclusion.

7 Q. But is this an example of Merchiston being proactive as  
8 distinct from periods in time where perhaps numbers  
9 mattered more than the bespoke approach to a child?

10 A. I would say so, yes.

11 Q. The other thing you say, top of page 6, continuing  
12 paragraph 21, is:

13 "Parents of boarders are readily encouraged to visit  
14 site when they can ..."

15 Engagement with parents has developed over your  
16 experience as a teacher?

17 A. Over my experience as a teacher, yes, most certainly.  
18 The last two years have been hugely frustrating for me  
19 as a head, and for colleagues at Merchiston indeed  
20 colleagues across the sector. We've not been able to  
21 have that same level of face-to-face engagement with  
22 parents, but we've tried to keep those lines of  
23 communication open in other ways.

24 But certainly in my time in boarding, that has  
25 changed substantially, yes.

1 Q. Another example of greater open communication?

2 A. Indeed, yes.

3 Q. And involvement in the process of looking at the child

4 as an individual?

5 A. Yes.

6 Q. We talked about outliers -- you were listening -- with

7 Gareth, and he's obviously been speaking to you about

8 the need to capture the outliers.

9 A. (Witness nods)

10 Q. He talked about examples, but you're the one who's

11 dealing with them.

12 A. (Witness nods)

13 Q. Can you think of examples now of outliers being spotted

14 and how the school responds?

15 A. Yes. I think -- you know, the whole concept of somebody

16 who might be struggling. They fall into many

17 categories. That can be a temporal thing, a temporary

18 thing. They may have had a falling out with their

19 friends. At the end other end of the spectrum, there

20 may be somebody who finds socialisation and getting on

21 with people very, very difficult, and that's just the

22 way they are, and for us it's identifying that early and

23 intervening appropriately and keeping parents appraised

24 and informed.

25 There is one boy who stands out, who had quite

1 complex needs in terms of socialisation. He started  
2 with us in Pringle and I have to say that the Pringle  
3 team at the time did a wonderful job in inducting him  
4 into life in a boarding school. He then moved into the  
5 senior school, which was going to be a significant  
6 change for him and change was going to present  
7 challenges, but again the shared experiences of his time  
8 in Pringle, allied with those members of staff watching  
9 for those warning signs and worrying signs and  
10 intervening early, keeping parents informed, keeping  
11 parents informed of the things that we were doing so  
12 they could perhaps reinforce the positive things that  
13 were working for this young man's life.

14 Moving through now, he's coming towards the end of  
15 his time at the school, and he accepts that the school  
16 has been good at looking after him and bringing him in,  
17 and his parents are very, very grateful for that too.

18 I think the icing on the cake, for want of a better  
19 way of putting it, was having a report back that when it  
20 was the boy's first opportunity to go into town on their  
21 own to have a little bit of town time, without any  
22 prompting two of the boys in his dormitory invited him  
23 to join them, knowing that he probably wouldn't ask,  
24 they invited him, they took him along, they made sure  
25 that he got on the right bus and kept an eye on him and

1 brought him back to school.

2 Again I suppose that's just -- for me that was  
3 a very, very powerful moment in terms of demonstrating  
4 how -- you know, it's not just colleagues that are  
5 watching and sharing and adapting their behaviour to  
6 support those boys who perhaps found life at school  
7 difficult from time to time. It's, you know, the boys  
8 do it too, as well as the staff.

9 Q. That's Notice/Check/Share in operation?

10 A. Indeed.

11 LADY SMITH: Thinking of the application of  
12 Notice/Check/Share during those dark days of virtual  
13 learning and remote teaching, did you find a way of  
14 operating the Notice/Check/Share system? And, if so,  
15 what did you do?

16 A. You would notice if boys weren't engaging in lessons.  
17 You would notice if they weren't completing work that  
18 was set out of lesson time or they weren't attending  
19 some of the sessions that we were running, whether that  
20 be PE or music lessons. You would then check in and  
21 check with them, and it might have been something as  
22 straightforward as connection issues, but you would  
23 always share that as well, because they might be telling  
24 that they have no wifi but the parents are perhaps hard  
25 at work downstairs or in other parts of the houses or,

1       you know, the boys are maybe having to self-motivate  
2       themselves and there was a risk that you weren't  
3       necessarily getting the whole story, so you always  
4       shared with the parents as well any concerns.

5           And sometimes there were genuine concerns that they  
6       were struggling to -- you know, with connectivity or  
7       parents were struggling in terms of supervision of maybe  
8       more than one child in the house and it was finding ways  
9       to be able to support that as well. Maybe having more  
10      face-to-face sessions with that individual, or having  
11      tutors intervene to just check up on work's progress.

12   LADY SMITH: Were there any non-negotiables such as having  
13      boys demonstrate that they actually were dressed and  
14      they didn't have half their pyjamas still on?

15   A. Yes.

16   LADY SMITH: That they had the video switched on?

17   A. (Witness nods)

18   LADY SMITH: They didn't mute unless the teacher had said --

19   A. I wouldn't say that we -- I wouldn't say that we arrived  
20      at that on day 1, but it became apparent very quickly  
21      that there were tactics being applied and then there had  
22      to be counter-measures to get round those tactics. You  
23      know, it was important -- we did have meetings in the  
24      morning and we identified quite quickly that the boys  
25      perhaps weren't in the right mindset to work and that

1       might have been down to their attire or where they were  
2       in the house. So it was about insisting that videos  
3       were on, that they were properly dressed, they weren't  
4       in their pyjamas, that they were using appropriate  
5       methods of communication, muting, et cetera, et cetera,  
6       when they were engaged in lessons.

7   LADY SMITH: Thank you.

8       Mr Brown.

9   MR BROWN: Thank you, my Lady.

10       All of these concern the well-being of pupils.

11   A. (Witness nods)

12   Q. But you make the point in paragraph 20 that well-being  
13       plays a significant part in our support of our entire  
14       community.

15   A. (Witness nods)

16   Q. You make the point, last sentence of paragraph 20,  
17       page 5:

18       "Staff have a committee where they too develop  
19       initiatives to support their well-being."

20   A. (Witness nods)

21   Q. Staff well-being might be thought of as as important,  
22       given the impact it may have on children if their  
23       well-being is not good.

24   A. (Witness nods)

25   Q. Is that something that's developed in your time or was

1       it --

2   A. I think it's taken many different forms. I think it's  
3       always existed in some form or another, particularly in  
4       boarding schools. I can remember again in my early  
5       experience it was the -- it was the common room and that  
6       was often the sort of extension of the -- the sitting  
7       room for resident members of staff. And they would meet  
8       there and perhaps share a meal or, you know, watch  
9       a film, have a glass of wine.

10   Q. Complain?

11   A. Complain, yes.

12       And there have been versions of a common room in all  
13       of the schools that I've been at.

14       I think what's been interesting in the most recent  
15       incarnation of the well-being committee that we've had  
16       at Worksop is that there's a greater focus on  
17       health-related activities. So fitness classes, bike  
18       rides, but also, you know, social activities as well.  
19       There was a call to go to the cinema, to go and watch  
20       a movie that's just come out that, came out on email  
21       yesterday. So a balance of social activities but also  
22       things that are perhaps more related to health and  
23       well-being as opposed to just getting together and  
24       having a natter.

25   Q. I just wonder if there was Notice/Check/Share for



1 teachers?

2 A. Yeah, I do think that exists.

3 Q. Formally?

4 A. Formally, if it's not explicit within our policies

5 I think it probably should be.

6 Q. It's simply Andrew Hunter yesterday was talking -- this

7 was in the context of the head he was mentoring, but he

8 thought really every head should have a coach.

9 A. (Witness nods)

10 Q. Did that resonate with you? Did that appeal to you?

11 A. Yes, I mean I -- there have been sort of many layers to

12 my induction into headship. There's an HMC induction

13 course, which lasts over the first two years of your

14 appointment. You have an HMC-appointed mentor, and

15 Andrew fulfils that role for a number of HMC heads in

16 Scotland, I know.

17 And then I also -- again, with Gareth's support --

18 got some leadership coaching as well.

19 Q. It's just something we're obviously aware from the

20 teachers' side of things there's ongoing assessment and

21 it's very formal employment techniques, if one can put

22 it that way, which is part and parcel of a teacher's

23 daily life, they have to meet various standards, and

24 it's discussed, I'm sure, at length what their

25 aspirations, et cetera, et cetera, et cetera. It's

1        simply the Notice/Check/Share. Perhaps teachers are  
2        just as likely to mask their feelings as pupils?

3    A. Yes. No, I agree. I think -- as I said, I think it  
4        happens -- it happens informally, for want of a better  
5        way of putting it, at Merchiston. We're not a big staff  
6        body. The site is not a particularly big site.

7        Covid has perhaps made our staff body a little bit  
8        more disparate, because they've not been able to come  
9        together for coffee at break time or have lunch together  
10       and we're desperately looking forward to the day when we  
11       can re-institute that. Again, I suppose in the same way  
12       that we've done with the boys, having that emphasis and  
13       focus on getting them back into their new school  
14       routine, I think there will be a wonderful opportunity  
15       when we're able to do that with the staff as well.

16    Q. Okay.

17        Finally looking to the last pages of your statement,  
18        you have "Where we are now and going into the future --  
19        our processes", and we can read that, at the foot of  
20        page 8, paragraph 34.

21        The first line is:

22        "Merchiston has learned not to be complacent when it  
23        comes to matters of safeguarding and well-being."

24        Merchiston, perhaps, learnt the hard way because of  
25        the ...

1 A. Yes, but I think that pales into insignificance compared  
2 to the experience of the people who were most severely  
3 affected by shortcomings in the past.

4 I know, and I heard yesterday, you know, it's  
5 a source of regret for Andrew, and I really felt for  
6 him, because I do know that he -- he cared deeply, he  
7 really did. And to take ourselves from a place where  
8 there was the suggestion or the -- or the -- or the  
9 assertion that we were not pupil-focused and that we  
10 were not looking after the best interests of our boys  
11 was very hurtful for the school, and we do not want to  
12 be there again. We will do everything that we can to  
13 make sure that that doesn't happen.

14 Q. Is there anything else that you think we should know?  
15 This is your chance.

16 A. (Pause)

17 I -- I think this experience and the experience that  
18 I've had over the last three weeks of listening to all  
19 of the evidence, I think it's perhaps -- two things.

20 I think it's made me think very, very carefully  
21 about what we currently do and go back and check what we  
22 currently do. Again, there was a lot of talk about our  
23 reputation as a school for sport and it's had me  
24 question: do we -- are we still getting it right? Are  
25 we getting that balance right? And to be prompted to

1 ask those questions has been very, very powerful and  
2 very useful.

3 I think the other thing that I take away from the  
4 last three weeks is that if we don't get it right, it  
5 can have such a profound and damaging effect on  
6 a person's life. It's an experience that they take with  
7 them forever. And I don't think you really understand  
8 that until you -- until you hear it, if you've not been  
9 in that position yourself.

10 I think every decision I make, particularly around  
11 safeguarding and well-being, will always be phrased and  
12 couched in the context of: how will this impact the  
13 individuals involved? If I get this wrong, what might  
14 this look like in 30 years' time?

15 I think that's a very, very powerful salutary lesson  
16 that I've -- that I've learned.

17 MR BROWN: Jonathan, thank you very much indeed. I have no  
18 further questions.

19 A. Thank you.

20 LADY SMITH: Are there any outstanding applications for  
21 questions of Jonathan?

22 Jonathan, thank you so much for coming back here  
23 today, and, before that, providing us with an updated  
24 written statement, which has been of great assistance to  
25 me. Really good to hear from you to add to that and

1       deal with our questions, which I know have been coming  
2       from different angles for the last hour or so, and  
3       you've exercised great tolerance and patience, which I'm  
4       grateful for.

5           I'm now able to let you go, but with my thanks.

6   A.   Thank you very much.

7   LADY SMITH:  And all the best for the rest of your headship  
8       at Merchiston.

9   A.   Thank you very much, my Lady.

10       Thank you.

11                   (The witness withdrew)

12   LADY SMITH:  Mr Brown.

13   MR BROWN:  My Lady.  That concludes the Merchiston chapter  
14       and the final chapter of the seventh school.

15       We will return next Friday, starting at 9.30, for  
16       closing submissions.

17   LADY SMITH:  At 9.30 we're going to hear from John Edward of  
18       SCIS?  No, I'm a week ahead of myself.

19   MR BROWN:  No --

20   LADY SMITH:  Closing submissions from this?

21   MR BROWN:  Yes.

22       As I understood the plan, we were starting at 9.30  
23       with submissions, to be followed by John Edward.  I may  
24       have --

25   LADY SMITH:  Mixed up the order.  Whichever way, so far as

1        anyone who wants to be here is concerned, we start at  
2        9.30.

3    MR BROWN: We start at 9.30 and we will hear at some stage  
4        that day the evidence of John Edward from SCIS, who has  
5        produced an updated report. Then, having heard that, we  
6        will conclude mid-February with final submissions from  
7        those who wish to make them.

8    LADY SMITH: Thank you.

9        Thank you all very much.

10       I look forward to seeing those of you who are going  
11       to come back at the end of next week. For those of you  
12       who are not, thank you for being here and showing such  
13       interest in the work we're doing on boarding schools.

14       I'll now rise. Thank you.

15    (1.07 pm)

16       (The Inquiry adjourned until 9.30 am on  
17       Friday, 4 February 2022)

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I N D E X

Gareth Baird (sworn) .....	1
Questions from Mr Brown .....	2
Jonathan Anderson (sworn) .....	58
Questions from Mr Brown .....	58

