

1 Thursday, 25 November 2021

2 (10.00 am)

3 (Proceedings delayed)

4 (10.12 am)

5 LADY SMITH: Good morning. I'm just going to have a word  
6 with Mr Brown, and then I'll move over to you, if that's  
7 all right.

8 Mr Brown.

9 MR BROWN: My Lady, good morning. Obviously our first  
10 witness is ready to go and is 'Max'.

11 'Max' (affirmed)

12 LADY SMITH: Now, 'Max', I see you have the red folder open.  
13 You'll have noticed, I'm sure, that it has your  
14 statement in it. Your statement will also come up on  
15 the screen. You may find it helpful to use the  
16 screen --

17 A. That would be easier, my Lady, yes.

18 LADY SMITH: -- or the hard copy or neither if you just want  
19 to concentrate on what Mr Brown is asking you or I'm  
20 asking you.

21 The key is if it works for you, it works for me, and  
22 that applies to whether you want to ask any questions of  
23 me, if you're worried about anything, to whether you  
24 would like a break. If you need a break at any time,  
25 I can go off the bench and give you a break. That's not

1 a problem. We would in any event, if we haven't  
2 finished your evidence by then, normally take a break  
3 around 11.30. It might help you to be aware of that,  
4 but I really want you to be as comfortable as you can in  
5 giving your evidence today.

6 A. Thank you.

7 LADY SMITH: All right? So if you're ready, I'll hand over  
8 to Mr Brown and we'll take it from there.

9 Mr Brown.

10 Questions from Mr Brown

11 MR BROWN: My Lady, thank you.

12 'Max', good morning.

13 A. Good morning, sir.

14 Q. The statement obviously is where we'll start. It's on  
15 the screen in front of you, which, I think, as you  
16 recognise, may be easier to deal with. It has  
17 a reference number which I have to read in, which is  
18 WIT-1-000000664 and it's a statement which runs to  
19 50 pages and you had a lot to say.

20 A. Indeed.

21 Q. On the last page we see, and as you understand there's  
22 been a redaction of your details, as there will be  
23 redaction of others' details, but we see that you signed  
24 it on 19 April this year.

25 A. Yes.

1 Q. And presumably you'd read through it and were satisfied  
2 with it?

3 A. Yes.

4 Q. We see the last paragraph reads:

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

9 And that's correct?

10 A. That is correct, sir.

11 Q. Thank you. One thing, and we spoke about this, I'm  
12 softly spoken, I use the microphone. You're quite  
13 softly spoken. It's awfully important that we hear you,  
14 so I don't know whether the microphone might be moved  
15 a little bit closer.

16 LADY SMITH: We can have a go at that. Don't you worry,  
17 'Max', we'll try and get the microphone to you. We'll  
18 have a go with that.

19 MR BROWN: Thank you.

20 Right, as you will understand, the statement  
21 contains a lot of detail, much of which -- well, we've  
22 read the entire statement, but we don't need to go back  
23 over. What we will primarily be talking about is your  
24 experiences in the junior school at Fettes.

25 A. (Witness nods).

1 Q. As you will understand.

2 A. Yes.

3 Q. But I would like to begin with some general background  
4 about you and then about Fettes and then we'll come on  
5 to the junior school, okay?

6 A. Yes, sir.

7 Q. You're now 59.

8 A. I beg your pardon?

9 Q. You're now 59?

10 A. I am indeed for the next couple of months.

11 Q. And you were born in Scotland but deliberately so ...  
12 your family travelled from Africa, where your father  
13 worked, so that you could be born in Scotland, and then  
14 you went back to Africa for much of your early  
15 childhood?

16 A. I did, sir.

17 Q. And there came a time, however, where educationally it  
18 was felt you should come back to Scotland to boarding  
19 school for the senior part, broadly, of your education,  
20 from age -- what would it be --

21 A. I was at boarding school out there.

22 Q. Yes, but the boarding school in Scotland was thought  
23 appropriate for your secondary schooling, broadly,  
24 although it involved a year at the Fettes junior school?

25 A. Two years at Fettes junior school.

1 Q. Yes, okay. And I think your years at Fettes, we would  
2 understand, were between 1973 and 1980?

3 A. That's correct, sir.

4 Q. Okay. In terms of the process of coming to school, if  
5 we go to page 4 of your statement and paragraph 15, you  
6 come to Scotland and you sit an exam for Dollar and  
7 failed that because I think, put simply, the education  
8 you'd gotten in Africa wasn't that great?

9 A. I believe I was about three or four years behind, sir.

10 Q. Yes. But you then go on to Fettes and you were pretty  
11 sure that you'd failed that exam too?

12 A. I was indeed, sir.

13 Q. But they took you anyway?

14 A. Yes.

15 Q. You don't know why they took you, though you suspect it  
16 was for monetary reasons?

17 A. Financial. The school was just opening in 1973, the  
18 junior school.

19 Q. The junior school, yes. I think you met SNR  
20 SNR junior school, who's a man we'll call FTG ?

21 A. That's correct, sir.

22 Q. And he told you that your exam was quite dismal?

23 A. He did, yes.

24 Q. But you still got in?

25 A. Yes.

1 Q. Do you remember how you felt when you were about to  
2 start Fettes? Were you excited?

3 A. I was so used to boarding school that -- it didn't faze  
4 me too much, but it was different, it was in a different  
5 country, I wasn't sure what to expect, and you looked at  
6 the main building and it's really quite imposing. It  
7 was with trepidation that I started off. And I knew  
8 that when I was in Kenya I could see our house from the  
9 school, whereas my home was now on a different  
10 continent.

11 Q. Yes. In terms of moving into Fettes, you were living in  
12 Malcolm House, which was the house for the junior  
13 school?

14 A. That's correct, sir.

15 Q. And there were quite a small number of boarders?

16 A. I think it was only four boarders.

17 Q. So it was really one dormitory for the junior school?

18 A. It was one bedroom converted into a dormitory with bunk  
19 beds.

20 Q. Okay. Were you the only four boarders in the junior  
21 school or were there others?

22 A. No, there were only four.

23 Q. To begin with?

24 A. To begin with.

25 Q. Did the number increase?

1 A. I think some went out to different houses belonging to  
2 staff members, who obviously got paid for it.

3 Q. So as more joined the junior school, they would be put  
4 out to live with staff?

5 A. That's correct, sir.

6 Q. In their own houses?

7 A. Yes, sir.

8 Q. But the staff would be paid for that?

9 A. Oh definitely.

10 Q. Okay. And I think, as we read from your statement,  
11 within Malcolm House there are various rooms, and we  
12 don't need to go into the detail because you've set it  
13 out very fully in your statement, but FTG [REDACTED], SNR  
14 [REDACTED], lived on the upper floor with his family?

15 A. That's correct, sir.

16 Q. And we'll talk about that in a little while. You spent  
17 time in the junior school and in due course you moved on  
18 to the senior school, and we read that you went into one  
19 of the houses of the senior school, Glencorse?

20 A. That's correct, sir.

21 Q. I think that was at the recommendation of FTG [REDACTED]?

22 A. It was indeed, sir.

23 Q. If we can just talk briefly about the senior school, the  
24 house, we would understand, mattered, which house you  
25 were in?

1 A. Oh definitely. All the different houses were very  
2 competitive, inter-house, and you had sports, rugby,  
3 hockey, cricket, and it was very, very competitive.  
4 Q. And did different houses have different reputations in  
5 terms of how they were run?  
6 A. Yes. It would depend very much on the housemaster.  
7 Q. Some amongst the boys would be considered better, others  
8 worse?  
9 A. Indeed, sir, yes.  
10 Q. Do you remember which ones you didn't want to be in?  
11 A. I would say Kimmerghame.  
12 Q. Why?  
13 A. The housemaster had quite a reputation. He was a former  
14 Old Fettesian himself, I believe, and he kept strict  
15 traditions from before.  
16 Q. And what were those strict traditions, if you can  
17 remember?  
18 A. It was worse than any of the others in relation to  
19 punishments handed down by prefects and backbenchers and  
20 everything, like cleaning bins and things like that.  
21 When I say cleaning bins, I don't mean with a jet hose.  
22 You climbed into the bin itself and used a toothbrush or  
23 whatever it was to clean it perfectly.  
24 Q. That was the understanding of life in that house?  
25 A. That was life there, and whoever was silly enough to



1           leave a toothbrush lying about, that toothbrush got  
2           used.

3       Q.   I see.

4       A.   It was obviously thrown in the bin so that they didn't  
5           use it.

6       Q.   You talked about prefects and backbenchers.  
7           Backbenchers, we would understand, are they sixth  
8           formers who aren't prefects?

9       A.   (Witness nods). They are. Although there are still  
10          sixth formers who aren't backbenchers but they're just  
11          normal boys, they have no powers at all.

12      Q.   So backbenchers had some power?

13      A.   Backbenchers had some powers to punish you but not as  
14          much as the prefects did.

15      Q.   I see. And we understand there would be house prefects  
16          and school prefects?

17      A.   And there were school prefects, indeed, sir.

18      Q.   So is that the pecking order, school prefects who have  
19          control over everyone in the school, house prefects who  
20          can control within the house and backbenchers who  
21          control again within the house but to a lesser degree?

22      A.   Indeed, sir. The school prefects sat at the top table  
23          in the dining room. There was a head -- the head  
24          prefect of each house sat at the top. It was in the  
25          area called Queen's Lawn, which you walk out of the

1 east -- the east door of the main building, there's  
2 an area of lawn about 150 metres by 50 metres and they  
3 were allowed to walk across it, school prefects, whereas  
4 the lower people weren't allowed to, whether they were  
5 prefects or not.

6 Q. So there was a clear hierarchy?

7 A. Oh, there was, definitely.

8 Q. Again in terms of the house, how much did the house  
9 prefects, day to day, we would understand that includes  
10 two school prefects, head of house and one other, how  
11 much day-to-day impact would they have on your life when  
12 you started?

13 A. They had full control. Disciplinary-wise. There was  
14 very little regard to showing you how the system worked  
15 or anything. You learned the hard way. Or one of your  
16 peers explained that whatever you did, if you weren't  
17 seen or caught, like going upstairs to a dormitory, for  
18 example, without permission, that was a punishment,  
19 unless you had permission.

20 Q. I see. In terms of house rules, were they formally  
21 explained to you? Was there a set of house rules you  
22 were given, for example?

23 A. There were basic house rules, but some of them just got  
24 made up or were passed down by various people from fifth  
25 form downwards to the junior school. The pecking order

1           for what it was, et cetera.

2           Q. And was that official or unofficial, do you think?

3           A. I think some was official and others -- it was official

4           and sort of fell by the wayside and utilised when it

5           suited them, and others were unofficial that they'd

6           decide to bring in over the years and they were utilised

7           as well.

8           Q. And in terms of the staff side, you've talked about the

9           prefects and the backbenchers having a significant role,

10          there would be a housemaster, we read, and a house

11          tutor?

12          A. Yes, sir.

13          Q. You've talked about the character of the housemaster

14          being important, for example the ex-Fettesian or Old

15          Fettesian who ran things traditionally in another house.

16          Your house, which we see described in paragraph 36, was

17          initially one gentleman who was in due course in your

18          last year replaced by FTG. This is paragraph 36,

19          page 8.

20          A. That's correct, sir.

21          Q. And I think you describe FTG as an insipid man?

22          A. He was indeed.

23          Q. In what way?

24          A. He came across as being very genuine and interested in

25          you and he wasn't, his family came first.

1 Q. Sorry?

2 A. His family came first.

3 Q. Well, you mention, I think, in the statement he lived  
4 with his wife and three children?

5 A. Yes, sir.

6 Q. And one of his sons was in fact in your class in junior  
7 school?

8 A. No, sir, that was later on he joined.

9 Q. That was later on?

10 A. There was a son of one of the teachers was in my class.

11 Q. I see, thank you. So he came across, from what you say,  
12 as interested but the reality was --

13 A. You knew he wasn't. He would come up with ideas for  
14 things and they never materialised or anything.

15 Q. All right.

16 A. He'd take us down to Stockbridge, Comely Bank, there was  
17 a sweet shop there, an ice cream shop, and buy us  
18 a 50 pence bag of sweets or something, which we thought  
19 was great, but --

20 LADY SMITH: 'Max', I'm having difficulty hearing you.

21 A. Sorry, my Lady.

22 LADY SMITH: If there is any way you could get a little bit  
23 nearer the microphone, that would help. Everything you  
24 have to say matters.

25 A. Sorry, I tend to speak quite quietly.

1 LADY SMITH: If you speak as though you think you're  
2 shouting, I don't think it's going to sound as if you're  
3 shouting, and I'll be able to hear you.

4 MR BROWN: I think if it's at all possible -- that looks  
5 better, because I think as you've been giving evidence  
6 you've moved slightly to your right and away from the  
7 microphone. That's been the problem.

8 LADY SMITH: Let's try that and see how it goes.

9 MR BROWN: You were talking about FTG [REDACTED], and I think  
10 this is in the junior school, he would take you down to  
11 Comely Bank and buy 50p bags of sweets, which children  
12 thought was great.

13 A. Yes, sir.

14 Q. But beyond that?

15 A. Beyond that, he didn't do anything for us at all.

16 Q. Is that both junior and then in your last year?

17 A. In the last year he was too busy organising plays, which  
18 he continued to do at other schools he went to after  
19 Fettes.

20 Q. All right. But you mention, I think, a house tutor as  
21 well, and if we go on to paragraph 37 on page 9, he was  
22 called 'Bimbo'?

23 A. Yes, sir.

24 Q. And you describe him fairly bluntly as having no  
25 character and not doing much at all?

1 A. That's correct, sir.

2 Q. And he was the one who was responsible for welfare, so  
3 if you had a problem, then you could go to him. Was  
4 that ever done, to your knowledge, by pupils? Did  
5 people go to speak to him about problems?

6 A. No, not that I'm aware of, sir. He would come down to  
7 the prep room sometimes, I mean not very often, and  
8 speak to people, see if everyone was all right.  
9 Of course no one was going to say no. And he'd go into  
10 the other prep rooms. As you went further up the  
11 school -- as you went further up the years, the prep  
12 rooms diminished from 20-odd to like eight to four to  
13 a study, a personal study.

14 Q. So he was at least coming around to speak to the pupils?

15 A. He did come round, but it was a duty rather than a --  
16 an interest in the welfare of the ...

17 Q. I'm interested, though, you said no one was going to say  
18 they did have a problem. Why was that?

19 A. Well, he'd come in and he wouldn't speak to anyone  
20 personally. If you are in one of the prep rooms of  
21 several people in it or more, no one's going to --  
22 especially, I mean, you're talking 13, 14, no one's  
23 going to put their hand up and admit to having  
24 a problem.

25 Q. Tell me then about the culture in Fettes. Was there

1 a culture of openness, talking about things?

2 A. Between us, yes.

3 Q. Between the pupils?

4 A. Yes.

5 Q. But as between the pupils and staff?

6 A. Very little. There was very little dialogue in relation  
7 to the housemaster, the only time that I had reason to  
8 speak to him was to get chastised for something or to  
9 get the cane.

10 Q. So if you did have a problem, who could you speak to?

11 A. No one. You could speak to your friend, one of your  
12 peers. But even then, it could be difficult, especially  
13 in respect of what happened to me.

14 Q. Yes. I think in the junior school, FTG and his  
15 wife were the constant factor because they lived on site  
16 with you?

17 A. They were indeed, sir.

18 Q. In the junior school, was there more approachability to  
19 FTG and his wife?

20 A. No. I mean, I asked -- there was -- we had a -- one of  
21 the boarders was from the Middle East and his father was  
22 a gems dealer, he was a very wealthy man, and when he  
23 came over he brought presents for all the boys and for  
24 FTG and his family. When he wanted to phone home,  
25 because he was homesick, he was allowed. However, when

1 I asked to phone, I was told to tell him what it was  
2 for, and I didn't want to tell him. I wanted to speak  
3 to my father because something like that had never been  
4 explained to me before. I'd been warned when I was  
5 younger not to take sweeties off men or, "Come and see  
6 my puppies", but I'd never been given any warning about  
7 physical contact.

8 Q. All right. This is obviously the junior school you're  
9 talking about?

10 A. It is indeed, sir.

11 Q. And it would be FTG you were speaking to because  
12 you wanted to phone your father to talk about it?

13 A. Yeah.

14 Q. Were you allowed to phone your father?

15 A. No.

16 Q. Why not?

17 A. (a) because of the cost, and (b) because you didn't want  
18 to upset him and you could talk to him about it.

19 Q. So we should understand from that FTG said no  
20 because it would cost too much?

21 A. Yes.

22 Q. And because you could talk to him about it?

23 A. Yeah.

24 Q. But did you feel you could talk to him about it?

25 A. No, I definitely couldn't talk to him about it.



1 Q. All right. If we may, we'll come back to the junior  
2 school very shortly.

3 A. Okay.

4 Q. Just thinking still about the senior school for  
5 a moment, though, two things. You've talked about  
6 discipline in the sense that the prefects and the  
7 backbenchers have disciplinary control. In terms of  
8 staff discipline, I think you make plain that there were  
9 a number of teachers you had dealings with that you  
10 found, put short, excessive, and that's thinking if we  
11 go to page 27 and paragraph 116 onward. One of the  
12 things that causes you concern is that [REDACTED]  
13 [REDACTED] --

14 A. That was my father's words.

15 Q. Was it?

16 A. (Witness nods). To him.

17 Q. To him?

18 A. When he wouldn't come out of the house.

19 Q. Right. Go to paragraph 118. You say:  
20 "For a [REDACTED] [the gentleman involved] quite  
21 liked the use of corporal punishment."  
22 A. He did, yes.

23 Q. Was he a teacher who was known for that?

24 A. He was.

25 Q. By the boys?

1 A. By the boys.

2 Q. He had a reputation?

3 A. (Witness nods).

4 Q. And I think what you're alluding to in paragraph 119,  
5 your father fell out with him because I think you had  
6 spoken to your father about the degree of corporal  
7 punishment; is that correct?

8 A. On one of the incidents, he had phoned my father,  
9 whereby I was referred on to the headmaster and was  
10 punished. And he seemed to take great delight in  
11 phoning my father to say what I'd done, which my father  
12 wasn't really interested in because I'd been assaulted  
13 first and he told me he wasn't interested who got hit  
14 first. It was obviously 'Max', and what did he do? He  
15 retaliated.

16 Q. Okay. I think, just so we put this in context, you had  
17 been to the headmaster one day and beaten?

18 A. I was.

19 Q. And then you went to the [REDACTED] we're talking about  
20 the next day?

21 A. The next day we played, it was very cold, we went up to  
22 the top pitches, which is now a residential area, up  
23 Ferry Road. It was lightly snowing. I was in the  
24 three-quarters, I was stand-off, I wasn't really wanting  
25 to get involved in getting touched at all because my

1           backside was extremely sore. It had been photographed  
2           the night before with the blood and the bruising and  
3           everything. So I avoided contact with a ball as much as  
4           possible. However, I was given a pass by the scrum half  
5           and immediately just flicked it across to the centre,  
6           but it wasn't fast enough. My opponent was right on me.  
7           I landed on my backside and I came out with some  
8           expletives through the pain. And I was told by the  
9           housemaster that I was thoroughly unacceptable and to go  
10          straight down to the house and wait outside his office.  
11          He mentioned nothing about getting changed first or  
12          getting showered or anything like that, so I did as  
13          instructed, to the letter, and I went down and I waited  
14          in chairs which were outside that office.

15                 He duly came down, informed me that I didn't learn  
16                 and I was going to get punished for my use of expletives  
17                 because he had already warned me before, and in fact  
18                 given me the cane for it before, because I got  
19                 a lecture, I came out of his room and someone tripped me  
20                 up, who duly got rebuked with an expletive. I was  
21                 called back in, I got three of the cane.

22                 He came in, he went through me like a dose of salts  
23                 because I hadn't changed, I was still in my rugby kit  
24                 and shorts and a jockstrap, so there was nothing  
25                 covering my backside, so to speak, and rugby shorts, and

1 he told me that he had already warned me about this and  
2 he'd heard that I'd been up to the headmaster the night  
3 before, so he was aware of the punishment that had been  
4 dealt out to me, and he told me to bend down. He had  
5 a desk and then he had another desk that looked out the  
6 window onto the parking area to the north of Glencorse  
7 and on either side of the chair -- of the table, were  
8 drawers, and you were to bend down and stick your head  
9 between the gap, which I duly did, and I got three of  
10 the cane again on top of the eight I'd got the previous  
11 day.

12 Q. And I think, to use the words you chose in  
13 paragraph 119, it was barbaric, even by the standards of  
14 the time?

15 A. I thought that was barbaric, absolutely. I thought that  
16 eight was barbaric, going by the type of cane used. But  
17 he used the old-style teacher's cane where it was  
18 very -- it wasn't used for walking, you couldn't walk  
19 with it. It was like the old style that you'd see in  
20 books and everything from the 1960s. It was flexible.  
21 It was maybe less than 1 cm in diameter and narrowed,  
22 and you could flick it. So somebody who was good with  
23 it could flick it really quite well, and obviously that  
24 increased the velocity, but he wasn't particularly good  
25 at it, so not only did it hit your backside, it went

1           down your legs as well.

2       Q. And this was on top of the beating you'd received and  
3           the injuries you'd received the day before?

4       A. Yeah.

5       Q. And I think your father, as we read, was most  
6           unimpressed?

7       A. I phoned my father reverse charge call.

8       Q. Did anything come of your father speaking to --

9       A. My father happened to be on annual leave, or overseas  
10           leave, as they called it. I'm not particularly sure of  
11           what my father did. He was an engineer, but he always  
12           seemed to be in trouble spots like Tanzania, Zambia,  
13           Rhodesia, wherever there were problems.

14      Q. I understand that, and I think we read that in your  
15           statement. But in terms of dealing with the  
16           housemaster, what was the outcome?

17      A. He came to pick me up and he said he wanted to speak to  
18           this man. And he was coming out and meeting and  
19           greeting parents and everything. My father wasn't a man  
20           who was frivolous with money. He had bought an old  
21           Vauxhall Viva which was more suited to the scrapyard  
22           than picking your son up at Fettes College, and he  
23           parked right outside his -- his house. He came out, saw  
24           him, and immediately closed the door and tried to sort  
25           of hide behind jackets. And my father got out and

1           shouted at him to come out, he wanted to speak to him.  
2           And he eventually did. And my father came out with  
3           a load of expletives, explaining that he was an absolute  
4           disgrace, especially as [REDACTED] delivering  
5           corporal punishment, and he didn't care what it said [REDACTED]  
6           [REDACTED] or not, he was either [REDACTED] or he was  
7           a teacher and to make up his mind and not benefit from  
8           both. And he was very close to becoming physical. My  
9           father came from a working class background, so punching  
10          him wouldn't have been a -- a problem.

11         Q. Was there any reaction, so far as you were concerned,  
12          when you went back to school after that?

13         A. Not really. He avoided me for a while.

14         Q. All right. Can we go back, though, to the day before  
15          and your experience of the headmaster? This was  
16          Chenevix-Trench?

17         A. Yes, sir.

18         Q. I think this was the only occasion you were given the  
19          cane by Chenevix-Trench?

20         A. It was indeed, sir.

21         Q. And it's one you remember?

22         A. Oh, I'll never forget it.

23         Q. Can I understand, though, you were a boy at Fettes  
24          during his tenure as headmaster.

25         A. I was indeed, sir.

1 Q. And I think he died in your second-last year; is that  
2 correct?

3 A. He did indeed. The summer.

4 Q. What was the picture of Chenevix-Trench from the  
5 schoolboys' perspective?

6 A. He had this aura that was built up about him being  
7 a prisoner of war in Burma during World War II, and he  
8 was an excellent scholar when it came to Greek and  
9 Latin. He spoke fluent Greek. But he turned up to  
10 class, especially the senior classes, the sixth year,  
11 when they were doing Classics, half drunk. He turned up  
12 one day in his dressing gown. Blutered would be the  
13 word that they used.

14 Q. The boys would use the word blutered?

15 A. The boys used it. They would say he was absolutely  
16 blutered. He had his dressing gown on. But he did have  
17 a drink problem. And I carried out research not so long  
18 ago and he was dismissed from Eton for improper  
19 behaviour to boys.

20 Q. Yes.

21 A. And alcohol.

22 Q. But from your perspective, did discipline feature in the  
23 public perception of him? Was he someone who was known  
24 to beat?

25 A. Yeah. He liked to -- he did like to give the cane.

1 Q. That was the perception of the boys?

2 A. Yeah.

3 Q. So when you were sent -- and I think we read about this  
4 in paragraph 112, page 26 -- you would be about 14 or  
5 15, and the background we can read about which led you  
6 to being before Chenevix-Trench -- what was your emotion  
7 as you went to see him?

8 A. I knew I was getting the cane. I knew I was getting the  
9 maximum.

10 Q. All right.

11 A. Which was six, that people normally got. But I got  
12 an extra two for ripping his -- he told me to stuff my  
13 face into the cushion, it was a Chesterfield, and I had  
14 to lean over it, drop my trousers and my pants, and lean  
15 right over it, and he says, "Hold the cushion and grip  
16 it tightly", and I gripped it tightly and I got six and  
17 he says, "I'm giving you another two for ripping my  
18 cushion".

19 Q. Were you given any choice about your trousers and pants  
20 coming down?

21 A. No. That time I was told, "Take them off and then drop  
22 your pants as well. Now lean over the arm", like the  
23 winged arm. And then he actually -- it was like getting  
24 a target, got his right hand and rubbed it over my -- my  
25 buttocks as though he was looking for a perfect target



1 area.

2 Q. And then hit?

3 A. And then hit.

4 Q. And I think you say at paragraph 14:

5 "It was shocking. I remember standing outside the  
6 front of the school, looking all the way down to  
7 Comely Bank and thinking 'I'm going to report this to  
8 the police' ..."

9 A. Yeah, the cane he used, it wasn't a normal cane. I have  
10 a cane, people have a cane, which is very smooth. This  
11 had been a bit of oak or birch and it still had the  
12 knots on it. For all it was old, it still had the knots  
13 where there had been branches growing out of it, but  
14 over the years it had hardened and encrusted onto the  
15 cane itself, so they left marks, indentations as well.

16 Q. I think you then go on to say you went back to the  
17 dormitory, dropped your trousers and showed all the  
18 boys. It was a badge of honour that you had put up with  
19 this without any tears?

20 A. It was. But I had different opinions as to go to the  
21 police. Someone took a photograph of it. I can't  
22 remember who it was. And it was bleeding. He just  
23 says, "Do you know how bad it is?" There was a mirror  
24 at the bottom of the dormitory. We went down there and  
25 he says, "Have a look at that", and it was just a mass

1 of black, blue and blood, and you could see the knots of  
2 the cane where it had struck me.

3 Q. Okay. Thank you.

4 We'll now move on to the junior school.

5 A. Right, sir.

6 Q. You've told us that it's a small number of boarders and  
7 just thinking about the boarding side to begin with,  
8 a small number of boarders, FTG and his wife are  
9 the ones in charge?

10 A. That's correct, sir.

11 Q. They are busy with you and their family as well, and  
12 I think on occasion they would get babysitters who would  
13 be senior boys to come and babysit the children so allow  
14 them to go out?

15 A. That's correct.

16 Q. And the senior boy would go upstairs to, effectively,  
17 their flat?

18 A. There was a main lounge upstairs with all quite ornate  
19 writing documents and suites and a desk drawer, music.

20 Q. Okay.

21 A. Obviously the music wasn't ornate, it wasn't  
22 a gramophone or anything, it was an up-to-date sound  
23 system, a telly, and the only time we'd been in it was  
24 to watch -- I think it was a royal wedding, was it  
25 Princess Anne or something, if I'm correct.

1 LADY SMITH: Yes, it would have been in the mid 1970s.

2 A. Thank you, my Lady.

3 MR BROWN: But ordinarily, that would be out of bounds, it  
4 was his own upstairs accommodation?

5 A. Upstairs was out of bounds.

6 Q. I think you got into trouble on one occasion because you  
7 did go upstairs when there was a babysitter?

8 A. I did. They had a babysitter and obviously there was  
9 a drinks cabinet and the babysitter was allowed between  
10 four and six cans of beer. Bear in mind, he was  
11 probably under 18. He was in the final year about to  
12 take his exams, he was meant to be revising, but he  
13 still got his six cans of whatever it was. The youngest  
14 was just a toddler, he couldn't have been more than  
15 18 months, two years. And downstairs would be one room  
16 plus a lawn(?).

17 And he was crying and crying and crying, this must  
18 have been around midnight, and it went on and on and on  
19 until eventually I says, "I'm going up to see what's  
20 going on, what he's crying for", and I got up to the top  
21 landing and I got just about to the door, just literally  
22 put my hand on it when he came out and he says, "What  
23 are you doing up here?" and I says, [REDACTED] which is the  
24 first initial of his name, "has been crying for ages and  
25 he's not stopped", and not being fully aware at that age

1 of what being half drunk was, it looked as though he'd  
2 been sleeping and wasn't 100 per cent with what was  
3 happening.

4 And the next day I got called in to FTG  
5 study and I got a telling off for (a) going upstairs and  
6 (b) going into the child's room. I hadn't gone into the  
7 child's room, but that individual had said that I had  
8 gone in.

9 Q. So it was the babysitter you met?

10 A. It was the babysitter.

11 Q. And did you explain why you'd gone up, to FTG?

12 A. I did.

13 Q. And did it cut any ice?

14 A. No. I wasn't given the opportunity to expand any more.  
15 Just warned not to go up there again.

16 Q. You mention the drinks cabinet. Just out of interest,  
17 day to day in the junior school, you would eat in the  
18 junior school? You would have your meals in the junior  
19 school too?

20 A. We went across to the main school for breakfast, lunch  
21 and dinner.

22 Q. I see, okay. You talked about the masters eating at  
23 a different table.

24 A. They did, yes, sir.

25 Q. Was it like a high table in a college?

1       A. Yes, we had a high table which looked down the length of  
2       the dining room. They were above us minions with the  
3       head of school in the centre.

4       Q. Just out of interest, was alcohol ever taken at meals,  
5       by the staff, to your memory?

6       A. Sometimes they came in and you could tell by their  
7       attitude and the ways, because the staffroom contained  
8       alcohol and it was right beside the dining room itself.  
9       It was opposite the main entrance to the dining room as  
10      you come off from the Queen's Lawn area, so that would  
11      be from the north side, if you head south -- head east,  
12      sorry, through the main doors, if you turned left you  
13      were into the teachers' restroom, as they called it, but  
14      there was plenty of alcohol in there, and you turn right  
15      into the dining room. And if you carried on a short  
16      distance, you went downstairs to the toilets and more  
17      changing rooms.

18      Q. How do you know there was alcohol in the teachers' room?

19      A. Oh, you could see them as you walked out of the doors,  
20      there was huge windows on your right-hand side and you  
21      could see them with cans of beer and pints and there was  
22      various bottles of whisky and everything displayed.

23      Q. But I think you suggested that you could tell -- was  
24      this in the classroom in the afternoon, if they'd been  
25      drinking?

1 A. Not in the junior school, no.

2 Q. Not in the junior school?

3 A. And not in the senior school either.

4 Q. Right, okay.

5 A. The teachers I had were quite good.

6 Q. Yes. I think you overall thought the education was

7 good?

8 A. I think it was, but there was always, like in every

9 profession, one or two that destroy it, between alcohol

10 and everything else.

11 Q. Let's talk then about one teacher in particular, who

12 we'll call 'Edgar'.

13 A. (Witness nods).

14 Q. We see mention of him at page 29 in paragraph 124, and

15 we see that he taught English and Latin:

16 "He was solely a teacher but if he wanted to see you

17 about something then he could go into the house. He

18 taught me in first and second year and abused me over

19 the course of my first year, around September 1973

20 to June 1974."

21 And this is the junior school?

22 A. That's correct, sir. Virtually straight away it

23 started.

24 Q. And his classroom, if you go down to 126:

25 " ... was right at the end of the corridor in the

1 junior school and he always taught in this room."

2 So this was his allocated room?

3 A. That's correct, sir.

4 Q. "You went to the end of the corridor and, as you walked  
5 in, there were benches to the left. The benches were  
6 the old metal ones and there were three benches that  
7 each sat two people going across to the window which  
8 looked out to the cricket pitch. The benches took up  
9 most of the room. The door opened and there were boxes  
10 and books there. Some teachers would move their desks  
11 to the centre of the room so that they could see what  
12 was happening in the classroom. However, 'Edgar' moved  
13 his desk into the corner of the room, next to the  
14 window, facing the benches. He would turn it at  
15 an angle. Those sitting on the front row, even at the  
16 far end of the front row, would not be able to see  
17 behind his desk because of the angle that he had turned  
18 it to."

19 A. It wasn't benches as such, it was like metal tables,  
20 sir, like this but not as big, and they were pushed  
21 together forming rows. Apart from 'Edgar's', who had  
22 a set of drawers on the right-hand side. You could  
23 change them, have them on one side or the other, but it  
24 just happened that his was there. Most would have it in  
25 the centre or drag it into the centre of the class,

1           whereas 'Edgar' would always angle it to one side  
2           whereby anyone on that side could not see what was  
3           happening because of the drawers.

4       Q.   So from the point of view of the pupils sitting looking  
5           at his desk?

6       A.   The pupils looked up from the front.  It was blocked off  
7           at the front and they wouldn't be able to see anything  
8           because he would drag you into that part where the  
9           drawers were.

10      Q.   And there would be occasions when he would call you to  
11           the front, individually, presumably to look at work  
12           you'd done or to go over something, is that fair?

13      A.   That's correct, sir.

14      Q.   And, from what you've been saying and motioning with  
15           your hand, he would pull you into his side?

16      A.   That's correct, sir.

17      Q.   And the view for the rest of the class would be blocked  
18           by the drawers?

19      A.   That's correct, sir, even the person at the far end  
20           couldn't see anything, far end of the front.

21      Q.   Did any other teacher do that?

22      A.   No.

23      Q.   I think, as we see in paragraph 128, you didn't find  
24           Latin easy and he would pull you up to discuss your  
25           deficiencies in Latin and things would then happen.



1 A. That's correct, sir. I had a big problem with the first  
2 thing you learn in Latin was amo, amas, amat, amamus,  
3 amatis, amant, I still can't get it right.

4 Q. I imagine the room is full of people of a certain  
5 generation mentally going along with you.

6 LADY SMITH: That sounds right, 'Max'.

7 A. Thank you.

8 MR BROWN: In any event, it didn't come easily to you and  
9 that allowed him to call you forward --

10 A. I was up every lesson for prep or for saying something  
11 wrong in the class. He would choose a person to ask  
12 a question. He obviously thought I was a mastermind who  
13 could answer it, or couldn't answer it was more like it.

14 Q. And that would justify him calling you to the front?

15 A. And he would call me out to the front, sir.

16 Q. Again, before we talk about your experience, did that  
17 happen to other boys?

18 A. It did indeed, sir.

19 Q. They would be called to the front?

20 A. They would be called to the front.

21 Q. I think, as you make plain, in the junior school, you  
22 would wear corduroy shorts?

23 A. That's correct, sir.

24 Q. And what would happen when you were called to the front  
25 by 'Edgar'?

1       A. 'Edgar' would pull you in and then it must have been  
2       with his left hand, that's the only way -- I can't  
3       recall which, but that's the only way he could have done  
4       it, he started initially -- they weren't -- the -- they  
5       were quite wide in the legs, so he could get his hand  
6       very easily up onto the inside of your leg. He started  
7       off by playing with the hair on your legs and rubbing it  
8       in his finger between I think his thumb and forefinger.  
9       If you tried to back off or move, he'd twist it and  
10      pulled, which was quite painful.

11                Gradually over time his hand went further up to the  
12      point where he could touch your underwear, and then the  
13      hand changed to his right hand because you could feel  
14      his elbow, and then he -- and he would insert one of his  
15      fingers between the elastic on your underpants and, in  
16      my case, hunt for a pubic hair. I didn't have many at  
17      that age, but he would manage to find them and he would  
18      do the same and at the same time caressing my testicle.

19      Q. You said over time. This is your first year in junior  
20      school?

21      A. It was by the end of the first term.

22      Q. By the end of the first term. When did this first  
23      happen, can you remember, how early into the term?

24      A. Within a matter of weeks it started.

25      Q. And how often was it happening?

1 A. Virtually every day we had a Latin lesson. I got --  
2 I cheated with prep, that's why I'd got to -- I'd have  
3 to cheat to make sure it was right.

4 Q. And progressively as the term went on, his hand would go  
5 further up your leg?

6 A. Over a matter of weeks it got further up. I wore a pair  
7 of speedo swimming trunks and tied them as tight as  
8 possible, not realising that they didn't actually  
9 tighten inside the legs, just the waist. And he said to  
10 me, "What are you doing wearing your swimming costume?"  
11 and I thought the rest of the class had heard it, but  
12 clearly nothing, there was absolutely no response from  
13 anyone.

14 Q. But I think, as we see in paragraph 131, you say:  
15 "It happened every time I went up to go over my prep  
16 or something that I wasn't picking up in class. It went  
17 on for a good few months, certainly into the second  
18 term. I remember the first year. I started to back off  
19 a bit. He would pull me and I would pull against him."

20 A. Yes, sir.

21 Q. So did it stop because you just wouldn't allow yourself  
22 to --

23 A. I think it was that and a combination of he liked  
24 cricket and on the third term, the summer term, we  
25 played cricket and I was quite good at cricket

1 throughout my time at Fettes, and for some reason he  
2 backed off a bit. And I was good at squash as well, and  
3 he'd come and watch, obviously, inter-school matches and  
4 give me advice on how I was handling the racquet and  
5 everything. I don't know whether he stood over me  
6 genuinely to show me how to hold the racquet correctly,  
7 whether there was some kind of sexual gratification in  
8 that or not, but it seemed to be correct that I wasn't  
9 holding the racquet correctly at times.

10 Q. I think you say in paragraph 133 he took more of  
11 an interest in you playing squash and cricket than  
12 sexually abusing you. We would understand he was keen  
13 on sports?

14 A. He was, sir.

15 Q. But then you go on to say:

16 "In the second year ..."

17 Because it didn't happen in the second year?

18 A. Because he found new meat.

19 Q. That's your take on matters?

20 A. Yes, sir. There would be a new intake, so he'd get  
21 someone else as naive as myself probably.

22 Q. You say that you weren't talking to the other boys about  
23 this, not even the boys you were --

24 A. No.

25 Q. -- boarding with in Malcolm House.

1 A. No. I couldn't. I didn't even know how to broach the  
2 subject. How do you, at 11, say, "Is this right?  
3 Should he be doing this?" I just couldn't do it. And  
4 yet I stayed at half terms with a friend and we went up  
5 to Ullapool and both of his parents were doctors, so  
6 I couldn't even speak to them about it, which in  
7 hindsight would have been a good opportunity.

8 Q. With hindsight.

9 A. Yes.

10 Q. But at the same time, you couldn't?

11 A. At the time I didn't know where to start.

12 Q. But I think, as you say in the statement, when it gets  
13 to the stage that he's playing with your testicles,  
14 that's when you wanted to speak to your father?

15 A. Yes, sir.

16 Q. But didn't meet with success with FTG ?

17 A. No. FTG was adamant that I really didn't need to  
18 speak to my father and that any problem that I had, he  
19 could deal with. I didn't think that he would deal with  
20 it correctly and I didn't see any point in dealing with  
21 it. The mere fact that he wasn't letting me speak to my  
22 father, you know, "Why upset him when he's so far  
23 away?", when another member of the dormitory was allowed  
24 to speak to his parents at any time, even in the middle  
25 of the night.

1 Q. You found that unjust?

2 A. I did, sir.

3 Q. At paragraph 136 you make the point that in your view

4 **FTG** must have realised that something was going  
5 on. Why do you think that?

6 A. I was very naive when I went to Fettes at 11. The  
7 majority of the time I spent my school holidays in the  
8 bush, where I was left to my own devices. There was  
9 a small -- we lived well out of town in a house which  
10 was very isolated, there was only one other house, and  
11 there was a small village nearby. I'd been brought up  
12 when I was younger by what we called an ayah, who's  
13 a nursemaid, and she had a house and lived on site, but  
14 it was her responsibility to look after me when my  
15 parents were out working, so I spoke pretty good  
16 Swahili, in fact probably better than I spoke English.  
17 But we moved further north but there was nothing,  
18 nothing around there other than the railway line and  
19 bushes and forestry area, and there was still concern  
20 that there were still Mau Mau, independent freedom  
21 fighters, who were still in the bush, so I wasn't  
22 allowed to go anywhere near that area. We didn't have  
23 mobile phones or anything in those days. We moved up to  
24 Kitale, which is up in the north, and there was  
25 absolutely nothing there. I had a bicycle with no tyres

1           which I used to ride just with the frames and I'd play  
2           with the black children, one in particular. He taught  
3           me how to track, how to skin, how to salt. Snake skins,  
4           et cetera. When we saw the prints of a cat, footprints,  
5           we were off, we went to the village, and they all went  
6           out after it with their spears. I ate with them and  
7           everything.

8           Q. Yes. My question, though, was why do you think

9           FTG           would have known something was going on?

10          A. I think FTG           must have had a good idea. He  
11          can't -- he was the housemaster. People talk. I might  
12          not have spoken, but other people must have spoken to  
13          their -- their groups. It's like everything else, you  
14          know, people talk, regardless of whether you're told not  
15          to, right up to the highest level.

16          Q. And would we understand, thinking of the junior school  
17          as a whole, it's quite a small --

18          A. It's young -- it's small and it's young children.

19          Q. How many children were there in total, do you remember?

20          A. I think there were about 70 altogether, if that.

21          Q. A mix of perhaps mostly day, but some boarders?

22          A. It was only just four to five boarders, which went up  
23          and the rest were day boys who were dropped off and  
24          picked up.

25          Q. So a relatively small number of boys. How many

1 classrooms overall?

2 A. Oh, you're getting me now. There was -- I think there  
3 must have been four downstairs, the same upstairs, and  
4 then for science we went across to the science block in  
5 part of the main building.

6 Q. Okay. But the school building, the junior school  
7 building, is physically quite small?

8 A. It was indeed, sir.

9 Q. To reflect the small --

10 A. Yeah, and --

11 Q. -- number of pupils?

12 A. -- when teachers would be ill, you'd be given some work  
13 to do by another teacher and, as always happens, not  
14 much was done. You'd just talk and muck about and not  
15 really do much.

16 Q. You were talking, obviously, about things that happened  
17 to you in 'Edgar's' classroom, hidden behind a chest of  
18 drawers, but thinking of 'Edgar', from what you say  
19 later in the statement, for example paragraph 140 on  
20 page 34, it would appear that one of the things he did  
21 would be to be around the shower changing areas?

22 A. He would be, sir, after sports, whenever we played rugby  
23 and hockey and cricket. We didn't usually have showers  
24 after cricket because that was the end of the day, but  
25 the shower room, as you went out at the far end, that



1           would be the west of the school building, there was  
2           a door and that to get onto the playing fields if you  
3           went up the track, and the golf course. It was split  
4           into a changing area whereby you had the old-style  
5           planks of wood with panelled -- wood panelling and then  
6           on the walls would be your coat hooks and everything.  
7           And then there was a wall again with a changing area and  
8           an area for boots et cetera wired off and then other  
9           wall but with a gap between it into the shower area,  
10          which was totally open. It went the length of the room.

11         Q. Now, we would understand from your statement that  
12           masters would come in to encourage people to move to  
13           the --

14         A. Masters would come in and tell them to hurry up but they  
15           didn't linger on. They made their point and walked out.

16         Q. In that way, was 'Edgar' different from the rest?

17         A. He was, yes.

18         Q. And that was different because he would linger?

19         A. He would linger at the entrance to the shower area so  
20           that he didn't get wet.

21         Q. What else would he do, other than lingering?

22         A. He would lose the plot sometimes.

23         Q. Thinking of the showers, though?

24         A. Oh, showers, he'd just stand.

25         Q. What was he looking at?

1 A. Just naked boys. We all varied, in different stages of  
2 puberty, obviously. Some would have a full amount of  
3 pubic hair and others would have nothing.

4 Q. But I think you were going on to say that he had  
5 a temper?

6 A. I've never seen a man with such a temper and I've seen  
7 a lot of tempers.

8 Q. I was going to say, as we'll come onto in due course,  
9 your career was in the police?

10 A. That's correct, sir.

11 Q. I take it you have dealt with some fairly ill-tempered  
12 people in your time?

13 A. I have indeed, sir.

14 Q. But 'Edgar', from what you've just said, had the worst  
15 temper you've ever seen?

16 A. That's correct, sir.

17 Q. Tell us about it.

18 A. He went purple, and I mean purple, and he would grab  
19 boys by the hair, literally by the hair and throw them  
20 against the -- in the changing room in particular,  
21 whereby their heads would hit the wood panelling.  
22 I imagine today you could find some evidence  
23 forensically between his head contacting against the  
24 wood. But because it was old and it was sprung, there  
25 was no evidence of any sort of trauma to the forehead,

1           although there must have been hair in his fingers and  
2           his fingernails and everything. He did it in the  
3           classroom, our classroom, and at the last moment must  
4           have realised that it wasn't plasterboard, it was  
5           concrete, and in a flash he pulled back and threw him  
6           right across the room. I forget who that individual  
7           was.

8           Q. I think in paragraph 139 you describe two boys who he  
9           grabbed by the hair, the details we can read.

10          A. I was going to say, sir, there was --

11          Q. But how common was the loss of temper, thinking on  
12          a daily --

13          A. His loss of temper where he didn't always succumb to  
14          violence, physical contact violence, was quite regular.

15          Q. What do you mean by regular?

16          A. If you -- if the class -- if you didn't get an answer,  
17          he would put it out to the class and if they couldn't  
18          answer it in the way he wanted it answered, he would  
19          shout and just -- as the word was in those days, go raj.  
20          I don't know whether that's changed now.

21          Q. I think it's still current.

22          A. Obviously mental health issues, I would say. And he  
23          would shout and scream and everything.

24          Q. In the classroom?

25          A. In the classroom.

1 Q. Out of the classroom?

2 A. No, it's the classroom -- it's the classroom and in the  
3 shower room he was totally different. At sports he was  
4 completely different. One time when I was late, we had  
5 a break and I was late because it had been snowing and  
6 I'd never seen snow in my life, so my feet -- we had  
7 about six inches of snow just on the cricket pitch where  
8 you could look out the window and see and I didn't even  
9 realise that the rest of the people who were going had  
10 been snowball fighting an hour and they left and I was  
11 quite happy playing with this snow, it mesmerised me.  
12 I didn't feel my toes go cold, soaking wet, my hands  
13 were absolutely frozen, and he'd obviously seen me out  
14 the window and he came down and he came striding down  
15 and he was purple with rage and I thought I'm going to  
16 get it, there's no witnesses, there's no one coming, I'm  
17 in real trouble here. And he said to me, "I thought --  
18 what are you doing? You'd think you'd never seen snow  
19 before!" And I says, "I haven't, sir, I've never seen  
20 snow", and he went, "Oh, of course, you're from Africa.  
21 Oh, come on, you're late for class", and he just walked  
22 up beside me. And there was no abuse, there's nothing.  
23 It surprised me totally.

24 Q. But returning to the point that the school was  
25 physically quite a small contained unit, he shouts in

1 class.

2 A. Yes, sir.

3 Q. Often.

4 A. Yes, sir.

5 Q. Would other teachers have missed that?

6 A. People must have heard it, sir. I mean, you could hear  
7 through walls, you could hear upstairs. You know, there  
8 must have been, "What is he shouting at today?" You  
9 could hear people walking along the corridor, you could  
10 hear people walking along the corridor upstairs. In the  
11 summer, when the windows were all open, sound carries.  
12 So some one of the teachers must have heard and asked  
13 him what it was about or taken it further up that he was  
14 beginning to get out of order with his rants. He'd  
15 think nothing of throwing a book across the room either.

16 Q. At a pupil?

17 A. Just at the wall.

18 Q. Oh, at the wall?

19 A. Yeah, just out of pure temper. The book he was using,  
20 he'd just pick up and throw it against the wall, "I may  
21 as well put this in the bin, it's not worth what it's  
22 written on, or certainly not to you lot". He didn't  
23 have a very high opinion of us.

24 Q. You moved on to the senior school?

25 A. Yes, sir.

1 Q. Were you conscious of 'Edgar' once you got away from the  
2 junior school? Did you register him or --

3 A. No, sir. I stayed away.

4 Q. You stayed away?

5 A. (Witness nods).

6 Q. Do you remember him being discussed at all by other  
7 boys?

8 A. No.

9 Q. I mean when you'd gone to the senior school.

10 A. I think when I got to the senior school, especially in  
11 the higher years, if I'd heard him being discussed I'd  
12 have been prepared to take it further because there was  
13 corroboration.

14 Q. We read that after leaving Fettes you went to university  
15 and then joined the police.

16 A. That's correct, sir.

17 Q. And you served for --

18 A. 25 years, sir.

19 Q. -- 25 years. Is that what you'd signed up for?

20 A. I signed up for 30, but unfortunately my back suffered  
21 from public order training with tractor tyres and we  
22 didn't have health and safety rules in those days.

23 Q. No. And I think, as we know, and we don't need to dwell  
24 on it, your health has deteriorated significantly over  
25 the last --

1 A. It has, it's deteriorated rapidly.

2 Q. Over the last --

3 A. From -- it was quite bad when -- I was retired early  
4 because, like, even a desk job, because sitting in  
5 a chair was difficult, and it just seemed to be one  
6 thing after another. Each time I went to hospital,  
7 they'd find one more thing. I had a hydrocele, I had  
8 that removed surgically. There's a high risk of  
9 testicular cancer with that, and nerve neuropathy,  
10 I suffered from that, I was the 1 in 1,000 that suffered  
11 from the severe nerve neuropathy.

12 Q. Thank you. I think we read the full litany of  
13 difficulties in your statement. But if we can turn now  
14 to the impact that your time at Fettes has had on you,  
15 and we see this at page 39 in paragraph 165. You start  
16 off by saying bluntly:

17 "My time at Fettes made me, certainly when I was at  
18 school, quite an aggressive person. I had no empathy  
19 for people and that included my parents. I didn't care  
20 whether I saw them or not. There wasn't much feedback  
21 from them either."

22 And that aggression, did that continue after school?

23 A. The aggression did continue, albeit I channelled it into  
24 sports, squash, I took up triathlons and marathons. I'd  
25 take out any aggression I had in the gym. And at work

1 I knew there was a limitation as to the level of force  
2 that could be used, although we were never actually  
3 instructed as to what level of force you could use, but  
4 it must be within reasonable limits, as in self-defence  
5 or to quell the assailant or whoever was misbehaving.  
6 It later became very streamlined where the level of  
7 force was dictated by the suspect, and I became  
8 an instructor in that, in the use of force continuum.

9 Q. But were these, like sport, all a way of channelling the  
10 aggression?

11 A. They were indeed, sir.

12 Q. And in terms of aggression, where are you now?

13 A. I'm very high. I have zero tolerance. I can't bend  
14 down and put a plug in, I just lack independence, it's  
15 total dependence on others. I can barely eat with  
16 a knife and fork. Sometimes I shake. I come up with  
17 tennis ball size lumps on my back, like I did on  
18 an aircraft, through injury.

19 Q. And thinking of aggression, does that obviously enhance  
20 your aggression because there's frustration about that?

21 A. That does, sir, because I know it's not me. And I know  
22 that when I get to the -- like yesterday I got an item  
23 sent from my friend in South Africa, books, and I'm not  
24 sure whether it's a scam or not, but duty for £160 and  
25 I threw this letter down with pure rage.



1 Q. Yes.

2 A. I could have changed it, realising, but I do have zero  
3 tolerance. I have zero tolerance for people.

4 Q. Where do you think that aggression comes from?

5 A. I think that aggression was always there from my time at  
6 Fettes.

7 Q. And what particularly about Fettes?

8 A. 'Edgar'. (Pause). Sorry.

9 Q. It's all right. And you have carried that since the  
10 junior school?

11 A. I've carried it throughout my life, sir. I felt  
12 humiliated, I didn't know what to do. I'd been sexually  
13 abused. I joined the police. I had every opportunity  
14 to report it. And I was too embarrassed to or too  
15 selfish, I don't know which, probably both,  
16 a combination. I had a wife who was in the Family Unit,  
17 who could have assisted me.

18 Most importantly, I failed in my oath in that I'd  
19 protect the public, because I could have reported him  
20 and others wouldn't have been subjected to what  
21 obviously carried on. I can only apologise for that to  
22 the people that ...

23 Q. The other thing you talk about in terms of impact is  
24 lack of empathy.

25 A. That's correct, sir.

1 Q. I think you detail, we needn't go into it, that for  
2 example in the police you found dealing with fatalities  
3 more straightforward than many?

4 A. It was Traffic dealt with all fatalities within the old  
5 Central Region as it was and when we knew it was coming  
6 in as a serious RTA, as they called it in those days,  
7 it's road traffic collision now, it wasn't -- there was  
8 no, "Oh, now I'm going to have to deal with this", it  
9 was just, "Yes, you know, music and lights".

10 Q. And I think as we see at paragraph 174 onwards, you say:  
11 "At school, I felt alone and isolated. I withdrew  
12 into myself."

13 A. I did.

14 Q. " ... I couldn't interact with women. I was ashamed and  
15 humiliated. I didn't want them to find out what had  
16 happened to me in school. I could tell my wife that  
17 I loved her but it didn't mean anything. I didn't know  
18 how to deal with my children."

19 A. I didn't, sir.

20 Q. And that stems from?

21 A. That stems from 'Edgar'. I couldn't even bath my  
22 daughter after a certain age. I thought it was wrong.  
23 If she had friends come over one day, just from across  
24 the street, and she said she needed to go to the toilet  
25 and I said, "You're not going to this toilet". She was

1           only two, two and a half, and I picked her up and ran  
2           across the street and gave her to her mother, and said,  
3           "She needs to go to the toilet", and she said, "Oh, you  
4           should just have let her and just helped her pull up her  
5           pants and her nappy", and I said, "No, I'm not prepared  
6           to do that". I wasn't. I wasn't. I think that stems  
7           from 'Edgar'. The mere thought of it was ... I couldn't  
8           do it.

9           Q. And I think, as we read, your first marriage ended?

10          A. It did, yes.

11          Q. And your statement is very full about the day-to-day  
12          difficulties that you face.

13          A. Don't get me wrong. I changed nappies and everything  
14          else like that, but, I mean, that was a necessity.

15          Q. Yes. But I think, as we know and see, your wife is with  
16          you today?

17          A. Pardon?

18          Q. Your wife is with you today?

19          A. She is.

20          Q. Your second wife?

21          A. (Witness nods).

22          Q. And are things any better on the empathy front?

23          A. On the empathy things, we're fantastic. As my body  
24          deteriorates and I spend more and more time in bed and  
25          become less mobile, less independent, I struggle to hold

1 things, I struggle to change over the TV channel or  
2 I drop it, she's right behind me all the time. And when  
3 I raise my voice or anything I always try and explain to  
4 her that it's not abuse at her, it's more frustration at  
5 myself.

6 Q. Yes.

7 A. I do appreciate it is hard for her.

8 Q. Another aspect of impact, though, and this is moving on  
9 to the fact that you've talked about your guilt at not  
10 reporting 'Edgar', and would it be fair to say you very  
11 much want 'Edgar' to face justice?

12 A. I do indeed, sir.

13 Q. I think we read on page 45 that you discovered from  
14 a press report, which included a photograph in which you  
15 were there --

16 A. I was, [REDACTED] sir.

17 Q. That there was interest in 'Edgar'; is that correct?

18 A. That's correct, sir.

19 Q. And what did you feel when you discovered that?

20 A. I was shocked when I saw it. I didn't really know what  
21 to do. I'd never discussed it with my wife, she was  
22 totally unaware of it. I'm not often short for words or  
23 lost for words, but on this occasion I didn't know where  
24 this was going to go. So I got up and hobbled out of  
25 the room. She says, "Where are you going?" and I said,

1 "To the toilet". She says -- when I came back in, she  
2 says, "What's that about?" because she'd read it.  
3 I says, "Oh, it's nothing, I'm just a witness". I'd  
4 only discussed about being a witness and I thought about  
5 it and I looked up the reporter's name and I phoned the  
6 [REDACTED] I got his mobile number, and I phoned him  
7 but he was busy and he gave me his mobile phone number,  
8 which I wrote down on another [REDACTED], but I missed  
9 a digit out with my hearing or because of the medication  
10 I'm on -- I'm on 13 tablets, all of which are opiates or  
11 painkillers, so sometimes I'm really not in the right  
12 place.

13 Q. Okay. But I think --

14 A. And --

15 Q. -- you discovered what was going on. Were you pleased  
16 to discover that there was enquiry into 'Edgar'?

17 A. That's why I wanted to phone up and say, "Yeah, I'm  
18 another witness". I didn't realise there were loads.

19 Q. You didn't realise you were?

20 A. I didn't realise there was quite a few people had then  
21 decided to come out of the woodwork. I wanted --  
22 I thought: great. I wanted this guy to know there was  
23 somebody else. Whether that person who'd reported it  
24 had corroboration or not, I was corroboration.

25 Q. That was the point, you're thinking like a policeman.

1           There's more than just me?

2           A. Yes, sir.

3           Q. And that, presumably, pleased you?

4           A. I figured I was a pretty credible witness.

5           Q. Yes. You contacted the police, I think?

6           A. I did.

7           Q. When was that?

8           A. It was very, very shortly afterwards, after I'd tried to

9           contact the reporter. And I had contacted the Scottish

10          Child Abuse Unit as well.

11          Q. Was it Police Scotland or was it before --

12          A. No, it was Police Scotland, sir.

13          Q. So this is after the unification of all the different

14          forces, including your own?

15          A. Yes, sir.

16          Q. Did you find the experience of trying to report it

17          straightforward?

18          A. No, because it's -- I was in the Federation and it was

19          argued at the time that a police force that size was far

20          too big with areas where you have a lot of population

21          and areas up in the Highlands where you have very

22          little, and communication, you'd lose local knowledge,

23          local departments, but the Chief Constable at the time

24          still went ahead with it, along with the government, and

25          when you tried to contact it, it was very, very

1           difficult. Before you could phone up Central Scotland  
2           and ask to get put through to the Female and Child Abuse  
3           Unit and you would get put through. There was no why,  
4           what, where, when, you know. Especially if you had  
5           a number, they'd get an electronic email sent to them  
6           saying that, "Please contact so-and-so, who wants to  
7           speak to you."

8                     And I contacted the Child Abuse Unit as well, but  
9           I got the feeling when they came out that they weren't  
10          really sure as to what was going on.

11       LADY SMITH: Sorry to interrupt, 'Max'. I know we started  
12          a little after 10 o'clock this morning. 'Max', you're  
13          obviously hearing me speaking, it's Lady Smith speaking  
14          here.

15       A. Sorry, my Lady.

16       LADY SMITH: Sometimes the way the sound system works,  
17          I know it seems that my voice is coming from the other  
18          end of the room. We started, I know, a bit after  
19          10 o'clock this morning but we have now been going for  
20          about an hour and a half. I'm wondering whether we  
21          should have a break just now.

22       MR BROWN: I'm conscious of that, my Lady, I don't have that  
23          much longer but I think it may be appropriate.

24       LADY SMITH: I think we probably should.

25                     Before we do that, and this is not a criticism of





1           'Max' hello again. We were at the stage where you  
2           had been talking about the difficulty of making a report  
3           to Police Scotland as distinct from your experience,  
4           perhaps, of individual forces and you would have  
5           a rather easier route to contact the appropriate --

6           A. Definitely.

7           Q. -- part of a force to report something. Obviously you  
8           did manage to make headway with your report to Police  
9           Scotland and I think you were then spoken to by a number  
10          of officers? Is that correct?

11          A. Yes, sir.

12          Q. But again, and we don't need to labour the detail, but  
13          we see on page 46 that as an ex police officer, I don't  
14          think you were particularly impressed with the quality  
15          of the statement that was taken?

16          A. No, sir.

17          Q. Initially.

18          A. As a sergeant, I was responsible for checking all  
19          reports that were submitted, and statements, prior to  
20          them going to the report checker, who then checked them  
21          and forwarded them to the Procurator Fiscal. With the  
22          more experienced sergeants, he would have a lot of faith  
23          in them when he check them and he would just press  
24          a button and send it. And I had a fair bit of service  
25          as a sergeant actually on the street, so most of the

1           time, especially when it was night shift, you didn't get  
2           to go away until that was sent to the Fiscal's Office  
3           before 9 am.

4           Q. I think, reading matters short, you felt bits had been  
5           missed out and insufficient attention had been paid to  
6           what you'd been saying?

7           A. There was indeed, sir. When I read over the report that  
8           did have things changed, it wasn't -- I wouldn't say it  
9           was an accurate report. And I certainly wasn't  
10          impressed with the level. I offered them the shorts as  
11          a production. I offered them the two newspapers, the  
12          one where the photograph was in it, and that was the  
13          first one. And the next one where I had written down  
14          the number for the reporter to contact him, and he  
15          wasn't interested.

16          Q. All right. But you would understand that once  
17          a statement had been taken, that the process would be  
18          underway?

19          A. Yes, sir.

20          Q. And what were your hopes for that process?

21          A. To get justice, sir.

22          Q. And to have 'Edgar' brought before the court?

23          A. Yes, sir.

24          Q. But I think, as we see in paragraph 198:

25                 "Some months after I had given my statement, the

1           police phoned and said that two of them needed to come  
2           and see me."

3                   And you were worried that you were going to be  
4           charged because there were two of them?

5       A. I did indeed, sir. I thought they were bringing  
6           corroboration in relation to why I got the cane.

7       Q. You, obviously, as an ex-officer, the trigger would be  
8           two of them are coming and you require two for  
9           corroboration?

10      A. Yes, sir.

11      Q. For example, for a caution and charge?

12      A. I did indeed, sir.

13      Q. Was that what you were thinking at the time?

14      A. I did, sir.

15      Q. So you were worried?

16      A. I was worried, sir.

17      Q. But in fact those worries turned out to be groundless  
18           because what they were in fact doing was delivering  
19           a letter to you to read?

20      A. That's correct, sir.

21      Q. And again, reading it short, was this a letter from the  
22           Crown indicating that they were essentially dropping  
23           proceedings?

24      A. That's true, sir.

25      Q. Because of a number of factors that they thought

1 militated against pursuing the prosecution?

2 A. That's correct, sir.

3 Q. And I think the officers said that they had other such

4 letters to deliver?

5 A. I beg your pardon?

6 Q. The officers said they had other letters to deliver of

7 a similar nature?

8 A. They did indeed.

9 Q. Presumably to other people who had made complaints?

10 A. Yes, sir.

11 Q. You say at paragraph 199:

12 "I was angry to be told that."

13 A. I was indeed, sir, really angry, because I thought

14 surely where there's insufficient corroboration for

15 a caution and charge for one, even under the Moorov

16 doctrine, if there were other letters to be delivered,

17 there must have been more similar complaints.

18 Q. Well, you just said "really angry". Does "angry" cover

19 your feelings at the time?

20 A. Oh yes.

21 Q. Well, was it more than just anger?

22 A. Furious.

23 Q. Yeah. And I think we're aware, or you'll be aware, as

24 we are, that there was, to be colloquial, some kickback

25 against that decision?

1       A. I believe there was kickback by other people who formed  
2       a group and entered into it. I contacted friends in  
3       South Africa, who -- obviously one was an attorney, and  
4       they said that if they went for extradition, there was  
5       no time bar on such a thing, and that South Africa had  
6       a huge problem with domestic violence, which they're  
7       trying to get to grips with, and the higher ones in the  
8       government would love to get it out there into the local  
9       press and the international press that they were  
10      prepared to extradite a person for crimes that had been  
11      committed 40 years ago and that they were clamping down  
12      on it.

13     Q. All right. But you would understand that part of the  
14      decision-making was that there were time bar issues?

15     A. There would be time bar issues on some, sir, but  
16      obviously he wasn't fully aware of everything, so.

17     Q. But I think, from your understanding, there might be  
18      time bar issues as perceived by Scottish prosecutors  
19      that in fact weren't properly borne out?

20     A. Oh, I'm aware of that, that certain things would have  
21      time bars.

22     Q. Yes, all right. But we know, or you'll be aware that  
23      there was a change of heart?

24     A. No, I was told that further evidence had come to light  
25      and that was what was in the letter, so I thought it

1           must have been pretty serious and corroborate it or of  
2           such a severe nature and supported by DNA, et cetera.  
3   LADY SMITH: So, 'Max', are we now talking about a different  
4           letter?  
5   A. No, about the same letter, my Lady.  
6   LADY SMITH: That letter that was delivered by the two  
7           police officers who you thought were coming to charge  
8           you?  
9   A. Yes, my Lady.  
10   LADY SMITH: Okay.  
11           Mr Brown?  
12   MR BROWN: But have you received any other letters?  
13   A. No, I've received nothing at all. They said they'd be  
14           in contact with me again, but --  
15   Q. I appreciate it's difficult, the morning has been long.  
16           Are you aware that proceedings have been restarted?  
17   A. I am indeed.  
18   Q. Right, so you have received information which is  
19           different from that first visit from the police when  
20           they said proceedings are stopped?  
21   A. It was just a verbal communication.  
22   Q. All right. Well, regardless of how it was communicated,  
23           you know that there are proceedings live?  
24   A. I am indeed, sir.  
25   Q. And I take it that delights you?

1 A. Oh, it does indeed.

2 Q. And you still, as an aspiration, hope that justice will  
3 be done?

4 A. That's all I want, sir: justice. Justice for myself and  
5 justice for the other people that suffered at the hands  
6 of that person.

7 Q. All right.

8 A. I spent my life trying to get justice, to serve the  
9 public, so in this case it's personal on one side and  
10 for the other people as well.

11 Q. Yes. You had a lifetime as a policeman.

12 A. Yes, sir.

13 Q. Working life, trying to do justice. Now you want  
14 justice just like before, for everyone?

15 A. That's correct.

16 Q. But now it's for you too?

17 A. Yes, sir.

18 Q. Thinking about you in a different way, we see at page 48  
19 onwards onto 50 some of your views about lessons to be  
20 learned and things that you would like to see change.  
21 For example, given, you say, the youth of the boys in  
22 the junior school, there should have been some kind of  
23 occupational therapy or nurse, occupational nurse for  
24 the junior school boys.

25 A. I do indeed, sir. I think there should have been

1           someone who was independent of the school or appeared to  
2           be independent of the school like a nurse or a specific  
3           occupational therapist that you could go and discuss  
4           with. I know that one of the boys spoke with -- she was  
5           like a secretary and she had worked in Lebanon and she  
6           spoke Arabic and she kind of took him under her wing.  
7           Whether he told her anything, I don't know. But he  
8           would speak to her because he was so homesick. I don't  
9           think he was ever -- you know, he'd have mentioned it to  
10          us.

11         Q. But that was an informal by chance provision?

12         A. That was informal. But there needs to be transparency  
13          in the school and not a teacher or a member of the staff  
14          at all, you know, a secretary or something. It needs to  
15          be a specific nurse or occupational therapist or someone  
16          that you feel quite happy to go to and discuss  
17          independently.

18         LADY SMITH: So, 'Max', are you talking about somebody who  
19          is firstly wholly independent of the school, and  
20          secondly skilled in listening to what children want to  
21          tell them and discussing the way forward with them?

22         A. That's correct, my Lady.

23         LADY SMITH: Is that it? Right, thank you, that's very  
24          helpful.

25         MR BROWN: Thank you. Because I think, looking to



1 paragraph 206, FTG [REDACTED] wife, on one view, that was  
2 her role, you could talk to her, except you wouldn't?  
3 A. No. Under no circumstances would you.  
4 Q. Why under no circumstances?  
5 A. Because she would discuss it with her husband.  
6 Q. She wasn't independent?  
7 A. No.  
8 Q. And, I think, as you go on to say, she was being paid by  
9 the school?  
10 A. She was being paid by the school.  
11 Q. Which you found offbeat?  
12 A. And she didn't really do much at all. You might get  
13 a treat of tea and toast on a Saturday morning.  
14 Q. And I think your other concern is about the mental  
15 health of children in such settings.  
16 A. It does upset you and cause a problem, mental health.  
17 I mean, I've lived with this all my life. I felt  
18 humiliated and later on when I found out that these  
19 people escalate in their behaviour, I worried about how  
20 far this would escalate. I had the guilt of not coming  
21 forward. That guilt and shame never left me.  
22 I cut myself off from communication with a whole lot  
23 of people. I pushed myself to the limits to try and get  
24 things out of my mind, like taking on triathlons,  
25 marathons, weights, martial arts. I vowed that no one

1 would ever desecrate me again, or intimidate me, that  
2 I would have the physical skills to defend myself. And  
3 in all my time as a police officer, I used my baton  
4 once. That was when someone pulled a kukri out on me.  
5 He didn't leave me much opportunity. That was after  
6 chasing him for about 3 or 4 miles. And he sat down,  
7 I aimed for his shoulder with the -- with the baton, but  
8 the dynamics of the situation and the adrenalin,  
9 I missed and I struck his head, and it burst like  
10 a tomato, which I'll never forget either. And another  
11 time was when we had the side-handle batons and I had  
12 a hold of someone on the ground, fighting with them,  
13 because they had seriously assaulted somebody and  
14 someone came up to kick me in the head and I drew my  
15 baton and as he kicked me, I blocked it. That's the  
16 only time I used anything. I never drew CS or anything  
17 else.

18 Q. Thank you.

19 A. My own turned ^ techniques were, as far as I was  
20 concerned, quite exceptional.

21 Q. Yes. Is there anything else you would like to tell us?

22 A. Just the effect it had on me. It can never bring back  
23 what I suffered, and I'd like something put in place  
24 that other people will never have to suffer what I went  
25 through all my life. It's not something that you just

1 forget.

2 Q. It's still with you today?

3 A. It is still with me today.

4 MR BROWN: Thank you very much indeed.

5 LADY SMITH: Are there any outstanding applications for  
6 questions of 'Max'?

7 'Max', that does complete all the questions we have  
8 for you here today. Can I first thank you for the  
9 detailed attention and care that you've obviously given  
10 to your written statement, which I do have, have read,  
11 will read again. It's very much part of your evidence,  
12 but that's been greatly enhanced by hearing from you  
13 yourself today. I'm sure it can't have been easy,  
14 facing up to coming here and going through the effort of  
15 getting here, coming to give evidence in the hearing  
16 room, but it really matters to me to have had that.  
17 Thank you so much and I'm very grateful to you for  
18 having made the effort.

19 A. Thank you, my Lady.

20 LADY SMITH: So I will go off the bench just now. Before  
21 I do that, I just want to explain to everybody else here  
22 not to expect to see me sitting again until, I think,  
23 1.30, Mr Brown; is that right?

24 MR BROWN: I think, my Lady, stopping half an hour before  
25 the usual time, if we could start again in roughly

1 an hour's time.

2 LADY SMITH: At 1.30, but I don't want you to feel under  
3 pressure to rush, so I will leave now. Thank you very  
4 much. Safe journey back home.

5 A. Thank you very much.

6 (The witness withdrew)

7 (12.27 pm)

8 (The luncheon adjournment)

9 (1.30 am)

10 LADY SMITH: Welcome back. We now move to the other  
11 in-person witness today and I think he's here and ready;  
12 is that right, Mr Brown?

13 MR BROWN: He is, my Lady, and the next witness is 'Ben'.

14 LADY SMITH: Thank you.

15 'Ben' (affirmed)

16 LADY SMITH: 'Ben', you'll find your statement in the red  
17 folder in front of you, and Mr Brown will be taking you  
18 to that in a moment. Your statement will also come up  
19 on screen, taking you to particular parts of it as we  
20 make reference to individual paragraphs. Please feel  
21 free to use either or neither.

22 A. Okay.

23 LADY SMITH: It's up to you, whatever would be most helpful.  
24 Also, don't hesitate to let me know if you have any  
25 queries or questions as we go through your evidence.

1 A. Sure.

2 LADY SMITH: If you need a break, that's absolutely fine.

3 A. Okay.

4 LADY SMITH: Really, whatever works for you will work for me  
5 because I want you to be as comfortable as you can when  
6 giving your evidence.

7 A. Okay.

8 LADY SMITH: If you're ready, I'll hand over to Mr Brown and  
9 we'll take it from there the. Is that all right?

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

11 LADY SMITH: Thank you.

12 Mr Brown.

13 Questions from Mr Brown

14 MR BROWN: My Lady, thank you.

15 'Ben', good afternoon. We will start with your  
16 statement. It has a reference number WIT-000000078 and  
17 we see, and you can see this on the screen, that it runs  
18 to 17 pages and on the final page we see after  
19 paragraph 67 that you signed it, it's been blacked out,  
20 obviously, to keep you anonymous, but you signed it on  
21 9 June 2020.

22 A. Yes.

23 Q. So a year and a half ago, roughly. And the last  
24 paragraph reads:

25 "I have no objection to my witness statement being

1 published as part of the evidence to the Inquiry.  
2 I believe the facts stated in this witness statement are  
3 true."  
4 And you obviously were happy to sign that, having  
5 read through it?  
6 A. (Witness nods).  
7 Q. I think, having discussed matters with you yesterday,  
8 and please understand it is understood that we are  
9 talking about matters which are difficult --  
10 A. (Witness nods).  
11 Q. -- there are a number of details which we can correct,  
12 and we'll come to that in due course.  
13 A. Okay.  
14 Q. But the essence of the statement is correct --  
15 A. (Witness nods).  
16 Q. -- apart from one or two particular details?  
17 A. Yes.  
18 Q. And that being so, please understand we don't have to  
19 labour every last detail.  
20 A. Okay.  
21 Q. But if we can start with a little bit of background  
22 about you, you're now 58.  
23 A. Yes.  
24 Q. Born in 1963?  
25 A. Yes.

1 Q. Brought up in Fife?

2 A. Yes.

3 Q. Went to a local school?

4 A. Yes.

5 Q. Were bright?

6 A. I like to think so.

7 Q. And perhaps were overtaking the school's ability to

8 teach you?

9 A. Yes.

10 Q. So a decision was taken by your parents that you should

11 be moved to a private school?

12 A. (Witness nods).

13 Q. And you sat a variety of entrance exams and ultimately

14 for two years you went to Fettes junior school?

15 A. (Witness nods).

16 Q. And that would be between 1974 and 1976?

17 A. Correct.

18 Q. In paragraph 2 on page 1 you talk about there being

19 a family friend who worked at the junior school.

20 A. (Witness nods).

21 Q. In an administrative role.

22 A. Yes.

23 Q. And you think that may have been a factor because it was

24 a connection?

25 A. Yeah, I think it certainly gave my mother some comfort

1           that there was somebody that could look out for me.

2           Q. Because we would understand suddenly, aged nine, you're

3           travelling to Edinburgh every day for school?

4           A. 11, I think.

5           Q. Sorry, it was 11, I do beg your pardon. As you can see,

6           that's why I became a lawyer. Maths is still beyond me.

7           And was she content that there was a contact there?

8           A. Yes.

9           Q. Because she wanted you to be looked after?

10          A. Yes.

11          Q. You say in paragraph 3 you went for a visit to Fettes

12          junior school with your parents.

13          A. Yes.

14          Q. That was the day you did your test?

15          A. Yes.

16          Q. And you met SNR [REDACTED] the junior school, who is

17          a gentleman you will understand we will call FTG [REDACTED]?

18          A. Yes.

19          Q. And you liked it?

20          A. Yes. It seemed like a very homely school. It was

21          small, friendly, appeared to be a caring environment.

22          Q. And just in terms of the scale of the school, we would

23          understand the number of pupils cover, it would cover

24          only two years with two classes per year?

25          A. Yes.



1 Q. And I think at one stage in your statement you talk  
2 about there being perhaps 16 boys in a class?  
3 A. 16 to 20 boys, thereabouts, yeah.  
4 Q. So we're looking at 60 to 80 total?  
5 A. Yes.  
6 Q. So physically small in numbers, and in terms of the  
7 building, you describe it over the page on page 2, there  
8 are essentially two buildings, a teaching building, with  
9 classrooms on a number of levels, and offices.  
10 A. Yes.  
11 Q. And then there's a separate building where FTG and  
12 his wife and his family lived?  
13 A. Yes.  
14 Q. They lived principally upstairs and we would understand  
15 that upstairs was really out of bounds to the pupils  
16 because it was their own accommodation?  
17 A. Yes.  
18 Q. You were a day boy.  
19 A. Mm-hmm.  
20 Q. We know that there were boarders, there, but the bulk of  
21 the pupils were day; is that correct?  
22 A. Yes, I would say so, yeah.  
23 Q. We've heard that there was a small dorm for a few boys.  
24 A. Yes.  
25 Q. And the other boarders were, I'm not being pejorative,

1           farmed out to members of staff?

2           A. Yes.

3           Q. And that included a gentleman we'll call 'Edgar', who

4           will feature a lot in your testimony?

5           A. Yes, that's right.

6           Q. And that boy, so far as you are aware, and we see this

7           in paragraph 5, there was one boy who was the only

8           boarder who lived with 'Edgar'?

9           A. Mm-hmm.

10          Q. And that's a boy who again you mention in your statement

11          for a variety of reasons and again we'll call him

12          'Raymond'.

13          A. Yes.

14          Q. But 'Edgar' lived fairly close by in Comely Bank, you

15          understood, and 'Raymond', would he make his own way, do

16          you remember, to school or did he come in with 'Edgar'?

17          A. I couldn't comment on that. I'm not sure how he made it

18          into school.

19          Q. Now, you met FTG [REDACTED], SNR [REDACTED] the junior

20          school, and from the statement you speak well of him?

21          A. Yes.

22          Q. Tell us about him.

23          A. He was a very charming character, a very nice character.

24          Definitely took an interest in his pupils. Seemed like

25          an upstanding gentleman, really. And put me at ease,

1           certainly.

2           Q. We also understand his wife had some role in the school.

3           A. (Witness nods).

4           Q. From your perspective as a pupil coming into a junior

5           year, what did you understand her function was?

6           A. I think she kind of acted in a kind of matron-type role

7           for the boarders that stayed with FTG She was

8           also responsible, I think, for designing the school

9           uniform.

10          Q. Right.

11          A. Probably the least said about that, the better.

12          Q. Did the boys not find favour with it?

13          A. Not particularly, no.

14          Q. Why not?

15          A. Well, we had grey corduroy shorts, we had brown and

16          magenta woollen socks, black brogues, a grey shirt with

17          a Fettes tie and a turtleneck Jersey. It wasn't as

18          appealing as some of the other school uniforms that were

19          out there at the time.

20          Q. A 1970s special?

21          A. Yes. Quite.

22          Q. But they operated as a team, by the sounds of it?

23          A. Yes.

24          Q. And as I've touched on, they had their own family and

25          I think one of FTG three children was in your

1 class?

2 A. That's right, yes.

3 Q. He obviously lived in the accommodation. Were you ever

4 in FTG flat?

5 A. No, I don't think I ever visited FTG house at

6 all.

7 Q. Okay. Your first day, we read on page 3, was a bit

8 traumatic.

9 A. Mm.

10 Q. Because you got lost with the person who was going with

11 you to Fettes for day 1.

12 A. Yeah.

13 Q. But passersby, kindly people, got you there?

14 A. Yes. The boy that was meant to be taking me in to

15 school just ran off, basically, when we got into

16 Haymarket Station. I was kind of left on my own. So

17 I knew roughly the right direction to go in so I walked

18 down to what was Fettes College, couldn't find my way

19 into the junior school, so knocked on some doors and

20 a very nice chap took me round to the school. I think

21 I got in, yeah, round about 10 o'clock on my first day.

22 So it was a bit stressful, and SNR,

23 FTG was particularly helpful. And understanding.

24 Q. Calmed you down?

25 A. Yeah.

1 Q. And then put you into your first class?

2 A. Yes.

3 Q. Which was with 'Edgar'?

4 A. That's right.

5 Q. Now, in terms of the layout, and again given the passage  
6 of time, if you can't remember the detail, was there  
7 anything distinctive about 'Edgar's' class as compared  
8 with other teachers'?

9 A. Not in terms of the layout, but SNR [REDACTED]'s office  
10 was immediately next door to the classroom that we were  
11 in. So it wasn't 'Edgar's' class as such. It was our  
12 class and different masters would come in at different  
13 times to teach us.

14 Q. I see. So by 1974, it would seem, that was the way,  
15 teachers moved rather than classes?

16 A. Yes.

17 Q. I see. But whatever, it was next door to FTG [REDACTED]  
18 office?

19 A. Correct, yeah.

20 Q. Would FTG [REDACTED] teach as well as be office-based?

21 A. Yeah, he would teach us [REDACTED] from time to time, yeah.

22 Q. But at other times presumably he would be in his office  
23 [REDACTED]

24 A. Yes.

25 Q. Again, only if you can remember, a relatively small

1 building, from what you've said. Did sound travel?  
2 Could you hear noise from other classes?  
3 A. You could definitely hear noise from other classrooms,  
4 yes.  
5 Q. Could you hear noise from above?  
6 A. Not -- well, we were on the upper floor. I don't  
7 remember being able to hear noise downstairs when I was  
8 downstairs.  
9 Q. All right. Sorry, should we understand that your  
10 classroom was on the first floor?  
11 A. The first floor, yeah.  
12 Q. With FTG office next door?  
13 A. Correct.  
14 Q. But certainly on that level you could hear noise from  
15 one room to another?  
16 A. Yeah.  
17 Q. Okay. And broadly, as we read at paragraph 17, the  
18 level of education at Fettes was indeed better from your  
19 experience of primary school in Fife?  
20 A. Yes.  
21 Q. And in due course, as we will hear, you went on after  
22 two years at Fettes as a day boy at Edinburgh Academy.  
23 A. That's right.  
24 Q. And likewise, the education was good there too?  
25 A. Yes.

1 Q. In terms of discipline at Fettes, I think we see in  
2 paragraph 20 on page 6, you don't remember anyone  
3 sitting down with you and telling you the rules of the  
4 school.

5 A. Yes.

6 Q. Generally, you knew that if you did anything bad, you  
7 got beaten?

8 A. Yes.

9 Q. And you did get beaten once by FTG and generally  
10 boys were sent to him if they did something wrong?

11 A. Yes.

12 Q. You give detail. The most common reason for  
13 11-year-olds was they were fighting with one another?

14 A. In my particular case, I was attempting to throw a pair  
15 of compasses into a notice board. They slipped out of  
16 my hands and spun through a fluorescent light tube which  
17 came crashing to the floor, so I got six of the best for  
18 that.

19 Q. But I think you make the point that others would be sent  
20 for fighting?

21 A. Yes.

22 Q. Did you feel hard done by, getting belted --

23 A. I did, actually, yeah.

24 Q. -- for what appears to be horseplay combined with  
25 accident?

1 A. Yes. In fairness to FTG, he did apologise before  
2 beating me.

3 Q. Did that make it any better?

4 A. No. Not at all. It was pretty hard to sit down for  
5 a few days.

6 Q. For a few days?

7 A. Mm.

8 Q. So there was no, I take it, softness in his --

9 A. No. It was a gym shoe applied with some force.

10 Q. Did anything happen once the beating was over?

11 A. Not that I recall.

12 Q. You didn't have to thank him?

13 A. No.

14 Q. Was that the only time you were beaten?

15 A. Yes.

16 Q. Okay. But discipline was largely effected by him, if it  
17 was physical?

18 A. Mm-hmm. Yeah.

19 Q. Did other teachers beat?

20 A. Not to the best of my knowledge. Not in the punishment  
21 sense, no.

22 Q. No. But I think, as we read, and this is moving on to  
23 the general heading of "Abuse at Fettes" on page 6,  
24 paragraph 22, where you go on to discuss 'Edgar's'  
25 behaviour in a number of respects.



1 A. Yes.

2 Q. If we can start with simply physicality, you thought  
3 initially, looking at page 22, that he was a nice,  
4 quiet, supportive individual?

5 A. Yes.

6 Q. But that didn't last?

7 A. (Witness nods).

8 Q. What's the fairly short period of time in your first  
9 year which passed before the incident that he flew into  
10 a rage?

11 A. Yeah, I would say maybe after one or two months,  
12 thereabouts. I remember being quite taken aback. I've  
13 used the word "rage" in my statement and that's exactly  
14 what it was. It wasn't anger, it was rage. His face  
15 would turn a deep red, a puce colour, eyes on stalks,  
16 shouting and screaming at the top of his voice, and his  
17 general modus operandi would be to grab a pupil by the  
18 hair and shake them. And I mean really shake them  
19 violently. Often finishing off with bashing their heads  
20 off the desk. This rage seemed to come out of  
21 absolutely nowhere, completely unprompted.

22 Q. Had you ever experienced anything like this?

23 A. I'd never seen anything like this at that age. Up until  
24 that age, never seen anything like that.

25 Q. And the first time that happened, do you remember how

1           you felt?

2           A. Petrified.

3           Q. Yes. And was that the subject of discussion amongst the

4           boys? This came out of the blue, from what you're

5           saying.

6           A. It wasn't really. The crazy thing is it wasn't really

7           spoken of. We just knew that with 'Edgar', you had to

8           keep your head down, not say anything that could

9           possibly upset him in any way because you might be on

10          the receiving end of that.

11          Q. You go on to say, after that first episode, in

12          paragraph 23 on page 7:

13                 "In the classroom 'Edgar' regularly had outbursts of

14          anger and rage like this."

15          A. Yes.

16          Q. "He grabbed boys by the hair and shook their heads. He

17          would hit heads off the desk."

18          A. Yes.

19          Q. And it regularly happened to 'Raymond', the boy who

20          lived with him?

21          A. Yes.

22          Q. When you say "regular", what do you mean? If you can

23          remember.

24          A. Well, I think the manifestation of that regularity was

25          a bald patch on the back of his head where hair had been

1           literally ripped out of his head.

2           Q. This is 'Raymond', the boy who lived with him?

3           A. This is 'Raymond', yes.

4           Q. We'll come on to him if we may.

5           A. Sorry.

6           Q. No, it's quite all right. But you talked about 'Edgar'

7           regularly had outbursts of anger and rage like this.

8           Putting 'Raymond' to one side for a moment --

9           A. Ah sorry.

10          Q. -- as a generality, how often did these rages happen?

11          A. I wouldn't say so much on a weekly basis, but perhaps

12          every two or three weeks.

13          Q. Obviously the first one was after a couple of months,

14          and did the intensity of these rages, in terms of

15          regularity, pick up or did it just become --

16          A. It was just a constant rage when he lost it.

17          Q. Yes, but in terms of when it happened, it suddenly

18          starts after a couple of months.

19          A. Mm.

20          Q. Did it go through phases where he would appear to be

21          better or was it then every couple of weeks it would

22          happen?

23          A. I don't think he ever got better.

24          Q. Right.

25          LADY SMITH: Do you remember how often you had classes with

1           him?

2           A. Well, he taught me maths, clearly I can't remember any  
3           timetable, but maybe two or three times a week.

4           LADY SMITH: Thank you.

5           MR BROWN: And again you describe shouting and screaming.

6           A. Mm.

7           Q. That would be part and parcel of the rage?

8           A. Yes.

9           Q. Again going back to what we were discussing about layout  
10          of the building, presumably if you could hear noise from  
11          other classrooms, that could only have been heard  
12          throughout that floor?

13          A. That's right.

14          Q. Are we talking about a man shouting at the top of his  
15          voice?

16          A. Yes. Which is the astonishing thing when it's next door  
17          to SNR [REDACTED] office. From time to time, but not  
18          that regularly, SNR [REDACTED] would pop his head round  
19          the door, but there never seemed to be any reaction to  
20          this rage that was coming out of 'Edgar'.

21          Q. SNR [REDACTED] would --

22          A. From SNR [REDACTED]

23          Q. Would SNR [REDACTED] pop his head in the door because of  
24          the rage and the noise?

25          A. I can't honestly say. I can't remember. But I just do

1           remember him popping his head round the door.

2           Q. But whenever he was popping his head round the door, it

3           didn't stop the rages happening?

4           A. No, it didn't stop them.

5           Q. No. I think you were talking about 'Raymond's' lack of

6           hair because it was happening so often, hair was being

7           pulled out.

8           A. Yeah.

9           Q. And you describe one occasion in particular at

10          paragraphs 24 and 25 of page 7 when all the boys at the

11          junior school were at assembly before lessons.

12          A. Yes.

13          Q. This assembly would take place within the junior school?

14          A. That's right.

15          Q. Would there be a hall on the ground floor?

16          A. Just a small room.

17          Q. Just a small room?

18          A. Yes.

19          Q. So all 60 to 80 boys are there?

20          A. Yes.

21          Q. Can you describe the room? Was it a brick wall?

22          A. Yeah, a brick wall room, window, door. We would all

23          stand for assembly.

24          Q. And in terms of teaching staff, who was there?

25          A. On this particular occasion, FTG [REDACTED] SNR [REDACTED]

1           wasn't there. I do remember that. 'Edgar' was the  
2           first master to walk into the room, and fairly quickly  
3           he found fault with 'Raymond's' appearance, which from  
4           memory was shoes that hadn't been polished properly, and  
5           he launched into I think the most vicious attack that  
6           I've ever seen on 'Raymond'. So 'Edgar' launched this  
7           attack on 'Raymond'. Did the usual grabbing him by the  
8           hair, screaming in his face, shaking him about.  
9           I remember him being thrown on the ground. I remember  
10          him being kicked. And finally I remember him being  
11          lifted up by his hair and just hanging in mid air,  
12          crying, kicking and screaming.

13                 There was a female teacher that we had who taught us  
14          history. She was present and I remember at the time  
15          being astonished that she did not, to the best of my  
16          knowledge, intervene in any shape or form. Luckily two  
17          other masters who were turning up for assembly arrived.  
18          One of them in particular just made a beeline for  
19          'Edgar', I think screaming, "Leave that boy alone", or  
20          words to that effect, and dragged 'Edgar' out of the  
21          assembly room with the other master.

22                 We all thought that we'd heard a bit of a thump out  
23          in the corridor and we all hoped that that was the end  
24          of 'Edgar', after having displayed such extreme violence  
25          towards a pupil. But that didn't happen, and he stayed

1           at the school.

2           Q. This is in your first year?

3           A. This is in my second year.

4           Q. Again we're talking about events 40 plus years ago.

5           A. Yes.

6           Q. When in the second year? If you can.

7           A. I'm afraid I can't. I can't be specific --

8           Q. Right.

9           A. -- about the time. I would hazard a guess and say maybe

10          the first term of the second year, perhaps.

11          Q. If we could look at one document, which is FET318, and

12          it will appear in front of you. Now you'll understand

13          that this has been anonymised, but take it from me, this

14          is from 'Raymond's' father.

15          A. Right.

16          Q. Do you remember that 'Raymond' had elder brothers at the

17          school?

18          A. Yes, I do.

19          Q. And we see that this is a letter from the 'Raymond's'

20          father, you can't see that, but we can, writing to

21          Mr Chenevix-Trench, who was the headmaster of Fettes

22          overall?

23          A. Yes.

24          Q. In September 1975.

25          A. Right.

1 Q. As we see, it's talking about placing his sons at  
2 a different school. And the relevant part, from our  
3 perspective, is the penultimate paragraph which begins  
4 with the words:

5 "To sum up, we are surprised that there should be my  
6 misunderstanding; our youngest son was assaulted by  
7 a master, and in spite of your assurance, hair pulling  
8 has started again ..."

9 This is in September 1975, that would be the early  
10 part of your second year.

11 A. Yes.

12 Q. Do you remember if 'Raymond' left the school?

13 A. Yes, I remember 'Raymond' being taken away by his  
14 father. And we didn't see him again. And I've been --  
15 I'll be quite frank, I've been very worried about  
16 'Raymond' over the years. You know, the impact that  
17 that -- that abuse may have had on him.

18 Q. Okay. I think if we go over the page to page 2, and if  
19 we go down to the third paragraph, this being a reply  
20 from Chenevix-Trench to 'Raymond's' father:

21 "Secondly, about the alleged recurrence of hair  
22 pulling with your youngest son, I presume you have  
23 written to SNR [REDACTED] FTG [REDACTED] giving chapter and  
24 verse as far as possible? If not, you should do so, and  
25 send me a copy. Naturally I shall then investigate;



1           until then, I must on justice to all, keep an open  
2           mind."  
3           You're shaking your head.  
4       A. Mm.  
5       Q. Why?  
6       A. It's not exactly the response that you would hope for,  
7           is it?  
8       Q. What would you hope for?  
9       A. I think you would hope for a full investigation has been  
10           carried out and the appropriate action taken.  
11       Q. It's batting the ball back?  
12       A. Mm. "It's your problem to solve."  
13       Q. Thank you, we can take that down.  
14       A. I realise that's referred to as "hair pulling". Hair  
15           pulling" does not do it justice.  
16       Q. No. And of course, from what you were saying, it wasn't  
17           just 'Raymond' whose hair was pulled?  
18       A. No.  
19       Q. You saw it happening to many other boys?  
20       A. Many other boys. And me, yeah.  
21       Q. And you?  
22       A. And me.  
23       Q. When it happened to you, can you remember detail?  
24       A. I think the reason that he did that to me was because  
25           I had got an answer wrong to a question and he launched

1           into an attack on me, did the usual shaking my head  
2           violently and I got a batter off the desk. On a few  
3           other occasions I was literally thrown out of my seat  
4           onto the floor. That was -- that was not uncommon. And  
5           I remember being particularly upset and crying at my  
6           desk, but just looking down to avoid his -- his gaze,  
7           should there be any repeat.

8           Q. I think if we go back to paragraph 23 on page 7, midway  
9           through, you say when this was happening, not to you but  
10          to someone else:

11                 " ... I, like a lot of the boys, used to sit and  
12                 look straight ahead in fear ..."

13          A. Yes.

14          Q. " ... that you were his next victim. It made you afraid  
15                 to speak to him because you were frightened you would  
16                 say the wrong them and upset him."

17          A. Yeah.

18          Q. You describe what happened to you and then go on:

19                 "I saw this happening to quite a few boys in the  
20                 classroom. I am surprised none of the boys injured  
21                 their necks because of the force 'Edgar' used."

22          A. Yeah.

23          Q. I mean, with a class of 16, for the sake of argument,  
24                 how many boys would this happen to?

25          A. I would be very surprised if it hadn't happened to at

1           least 50 per cent of the boys.

2           Q. And again we should understand that in your class is the

3           son of FTG ?

4           A. Yes.

5           Q. SNR son is present when this is happening.

6           A. Yeah.

7           Q. Do you remember if it happened to him?

8           A. I -- I don't think that 'Edgar' ever attacked

9           FTG son. I could be wrong, but I don't think

10          so.

11          Q. But whether that did or did happen, 'Edgar' never

12          stopped?

13          A. No.

14          Q. Or was never stopped?

15          A. (Witness nods).

16          Q. As you go on to say, it went beyond just physical

17          violence.

18          A. Yes.

19          Q. Looking at page 8, paragraph 26, you go on to say that

20          'Edgar' was clearly a sexual predator?

21          A. Yes.

22          Q. And you describe him calling boys up to the desk, either

23          to go over homework or for some other form of feedback.

24          A. Yeah.

25          Q. And again you experienced this and we'll come onto that.

1           This would be in the first term?

2       A. Yes.

3       Q. But you say:

4            "It started off fairly innocently for me, probably

5           two months after I had [begun] ..."

6       A. Yes.

7       Q. I think we can read it for ourselves. He starts

8           stroking the back of your thigh.

9            "Slowly but surely he would work his hand up inside

10          my shorts and then end up touching and playing with my

11          genitals."

12       A. Yes.

13       Q. Did that happen on the first occasion?

14       A. I don't think it did on the first occasion. I think his

15          whole approach was he started off being, you know, when

16          we first met him, being nice. Then we saw the rages.

17          Then we saw what -- you know, what could happen if you

18          did something wrong. He managed to instill fear in the

19          boys. I -- I think that the first time I was called up

20          to the desk, his hands literally went as far as the top

21          of my shorts -- or the bottom of my shorts, I should

22          say, but then it became much more advanced after that.

23       Q. And we can read that.

24       LADY SMITH: How long were your shorts?

25       A. They were maybe mid thigh.

1 MR BROWN: And cord?

2 A. And cord, yeah.

3 Q. But with enough room to put a hand up?

4 A. Oh yeah, yeah.

5 Q. In terms of the way this happened, there was a desk,

6 he's obviously sitting at it.

7 A. (Witness nods).

8 Q. You go on to say that you could see this happening to

9 other boys.

10 A. Yes.

11 Q. From where you were sitting in the classroom, when it

12 happened to someone else, could you physically see his

13 hand on legs and going up shorts?

14 A. Yes. So I think, as I've said in my statement, he

15 would -- he would call you out, secure one leg with one

16 hand leaving the other hand free. You were always told

17 to turn the pages of your jotter or your test, whatever

18 it was that you were reviewing. So I think the simple

19 fact that if you were sat over here and the desk was

20 here, you can see there was no sign of his hands. You

21 could tell by boys' reactions what was happening, and on

22 occasion, yes, you would see a hand going up the shorts.

23 Q. From what you're describing, just looking at your own

24 actions, it would be to 'Edgar's' right-hand side?

25 A. To his right-hand side, yeah.

1 Q. And his left hand, you motioned, would hold your leg?

2 A. Would hold your leg, yeah.

3 Q. And it would be his right hand --

4 A. Yes.

5 Q. -- that would be used to touch the leg?

6 A. Yes.

7 Q. And then progress further up?

8 A. Yeah.

9 Q. And I think you said on one occasion you saw a boy leap

10 back?

11 A. Yes. There was one boy who was probably the most mature

12 in the class. This must have been perhaps the first

13 time that 'Edgar' did this to him and he -- he leapt

14 back in kind of horror at what was being done to him,

15 and 'Edgar's' reaction to that was to kind of exclaim,

16 "What, don't you like it?", the implication being that

17 you should like it and that there was maybe something

18 wrong with this boy because he didn't like it.

19 Q. So what 'Edgar' was doing was normal, but the boy was

20 abnormal?

21 A. Absolutely.

22 Q. You said that that particular child was perhaps one of

23 the more mature.

24 A. Mm.

25 Q. We should understand from what you say in your statement

1           that this happened to you before puberty --

2       A. Yes.

3       Q. -- had fully taken effect?

4       A. Yes.

5       Q. You knew it was wrong, you tell us.

6       A. Mm-hmm.

7       Q. Can you expand on how you felt emotionally as this was

8           happening?

9       A. I felt extremely confused the first time. Clearly,

10           nobody had ever done that kind of thing to me before.

11           But I made the assumption that because it was a

12           grown-up, an adult doing it, a teacher, it must be all

13           right. I never thought to say anything to anybody,

14           I suppose, because of -- well, what language would

15           I use? Who would I bring it up with? And the fear of

16           repercussions if I was to say anything. Repercussions

17           from 'Edgar'. Would people believe me?

18       Q. Was Fettes junior school a place where you were

19           encouraged to speak out about things?

20       A. Not particularly, no.

21       Q. Did you feel there was anyone you could talk to?

22       A. No, not really.

23       Q. And, going home to your parents, what was the mindset

24           about that? Were you tempted to tell them or was that

25           just too much?

1 A. I think that was too much. I didn't -- didn't really  
2 have the language. I didn't want to do -- I didn't want  
3 to do anything to upset my parents. My father as a boy  
4 had cycled past Fettes, you know, the dream that one day  
5 my son might go to that school. And he'd worked very  
6 hard to be able to do that. It was a big sacrifice for  
7 them to send me to that school. My mother wasn't  
8 particularly happy about me going away to school in  
9 Edinburgh, even though she was from Edinburgh.  
10 I suppose I just didn't want to do anything to upset  
11 that.

12 Q. There was loyalty to your mum and dad?

13 A. Mm.

14 Q. You didn't want to upset them?

15 A. Yes.

16 Q. Yes.

17 A. Having read a lot about childhood abuse over the past  
18 years, I understand now that it's quite normal for  
19 children not to talk about the abuse that they've  
20 suffered.

21 Q. Prior to reading that but as an adult, did your  
22 inability to talk trouble you?

23 A. Yes.

24 Q. Did you feel guilty about not talking?

25 A. I did have guilt, yes, particularly -- you know, having



1 not spoken up for what did this -- what did this sexual  
2 predator, this paedophile, go on to do?  
3 Q. And that weighed heavily with you?  
4 A. Mm. Very much so.  
5 Q. Does it still weigh heavily with you?  
6 A. It does.  
7 Q. I think from the statement we see again, like the hair  
8 pulling, this happened, from what you saw, to perhaps  
9 half the class?  
10 A. Oh yes.  
11 Q. Again, the same questions as with the physical violence.  
12 How often, to you?  
13 A. If I was called up to his desk to review homework, it  
14 would happen every single time. It was just normal.  
15 Q. And from what you said to Her Ladyship, you would be  
16 taught by this man two or three times a week?  
17 A. Yes.  
18 Q. So we should understand this would be happening, once it  
19 began, two or three times a week?  
20 A. Yeah.  
21 Q. And would it always follow the same routine?  
22 A. The routine being?  
23 Q. A hand going up --  
24 A. Yeah.  
25 Q. -- your shorts and then into your pants?

1 A. Yes, and occasionally -- well, we talked about this  
2 before, but his thumb or finger pushing against your  
3 anus or going into your anus.

4 Q. And I think in the statement you talk about that once.

5 A. Yeah, but it was more than once.

6 Q. It was more than once?

7 A. (Witness nods).

8 Q. Again, forgive me, but how many times, do you think?

9 A. Maybe four or five times. That was -- that was  
10 mortifying. Absolutely mortifying. And I even remember  
11 on occasion, I think it's in my statement, he kind of  
12 leaned over and whispered to me that I had a -- a dirty  
13 bottom.

14 Q. Yes. FTG [REDACTED] son was in the class.

15 A. Mm.

16 Q. Do you think he'd been aware of what was happening?

17 A. I think he must have seen what was happening, yes.

18 Q. Do you remember it happening to him?

19 A. I don't remember it happening to him.

20 Q. No. Was it discussed by the boys, amongst the boys?

21 A. Not really, no. We didn't really say anything about it.

22 Q. What about sports? We may have heard that he was a keen  
23 sportsman.

24 A. Mm.

25 Q. Enjoyed cricket.

1 A. Yeah.

2 Q. And other sports, and he would be present when the  
3 junior school pupils were doing sport.

4 A. Yeah.

5 Q. Would he be present there?

6 A. Yes.

7 Q. Again, just speaking generally, did he stand out in any  
8 way as compared with his fellow teachers?

9 A. In what way?

10 Q. Well, in any way, in terms of sporting and what followed  
11 from sporting?

12 A. I think he had some rugby history, I think he was maybe  
13 a good rugby player in South Africa at one point, so he  
14 coached us for rugby. He clearly knew what he was  
15 doing. I don't think the other masters had that  
16 experience.

17 Q. All right. So was sport devolved to him perhaps more  
18 than others?

19 A. Well, I do remember, yeah, he would take us for rugby  
20 and cricket and hockey and athletics.

21 Q. And presumably after such activities there would be  
22 showering?

23 A. Yeah.

24 Q. Was he present for the showering?

25 A. Yes. He would hang about the shower area, changing room

1           area.

2           Q. Was that different from any other teacher?

3           A. Yeah, I don't recall other teachers, other masters doing

4           that.

5           Q. Was that something that you were obviously aware of, the

6           boys generally were aware of?

7           A. Yes.

8           Q. Was that discussed?

9           A. Only in the sense that, "Better get ready because don't

10          want to be the last one here if 'Edgar's' about".

11          Q. That was said between the boys?

12          A. Yes.

13          Q. What was the perceived risk if you were the last one

14          there?

15          A. Well, just that you could be in danger. That he could

16          do what he did in the classroom to you, it might be --

17          I don't know, it might be worse. You just -- you didn't

18          want to be alone with him.

19          Q. And that was understood?

20          A. Yeah.

21          Q. By your classmates?

22          A. Yeah.

23          Q. 'Ben', I don't obviously wish to upset or probe

24          unnecessarily, but you talk in paragraph 30 about there

25          being one specific incident which you haven't been able

1 to come to terms with, and that's you were the last  
2 boy --

3 A. Yes.

4 Q. -- in the shower rooms after games, and you say:  
5 "I know I was sexually abused by 'Edgar', but  
6 something is blocking me from accessing what actually  
7 happened."

8 A. Yes.

9 Q. Is that still the position?

10 A. That's still the position. I've had counselling around  
11 this particular issue and I've been unable to access the  
12 full memory. I do remember being last, because there  
13 was a boy that I travelled on the train with, he got  
14 ready, he rushed off. We had to get a bus to the train  
15 station to go back home. And I have a memory of 'Edgar'  
16 approaching me with a towel, sexually abusing me, and  
17 the next thing in my memory is running over the ...  
18 sorry. Running over the games field to the bus stop.  
19 So I have a gap in my memory.

20 Q. Thank you. Do you remember 'Edgar' ever being away from  
21 the classroom for periods? In other words, disappearing  
22 for some months?

23 A. No. Not -- not that I recall, no.

24 Q. All right. But in relation to the two years you spent  
25 at Fettes junior school, first year things began within

1           the first couple of months?

2           A. Yeah.

3           Q. And continued throughout that first year?

4           A. Yes.

5           Q. Did they ever lessen in regularity or stop altogether?

6           A. No.

7           Q. Second year?

8           A. The same.

9           Q. Again, we're talking about events 40 years ago, but from  
10           your perspective, the two years you spent at Fettes were  
11           impacted both by physical and sexual violence from  
12           'Edgar' --

13          A. (Witness nods).

14          Q. -- on a regular basis?

15          A. Yes.

16          Q. Did his fury ever abate? I know I've asked you this  
17           before, but was there a period where you thought,  
18           "Actually, he's doing it less"?

19          A. No, I can't say that I do remember that happening.

20          Q. By the end of two years at Fettes, you move.

21          A. Yes.

22          Q. Why? Why was the change?

23          A. Well, the purpose of the junior school was to get you  
24           ready for the Common Entrance exam, which was the  
25           standard way of accessing senior schools. The prospect

1 of attending Fettes College didn't -- didn't appeal to  
2 me. I was attracted to the Edinburgh Academy. I knew  
3 some -- well, a boy that I was at primary school with  
4 who'd gone to the Academy, who liked it, so I applied to  
5 the Academy and got in.

6 Q. And albeit you've spoken about your confusion and the  
7 fact you had respect for adults, this was, from your  
8 perspective, one takes it, very, very odd behaviour  
9 indeed?

10 A. Yes.

11 Q. Do you remember what your emotion was in getting away  
12 from Fettes?

13 A. Yeah, I was -- I was pleased to get away from Fettes.

14 Q. One final thing about Fettes. You talk about mealtimes.

15 A. Mm.

16 Q. And we would understand that in the junior school the  
17 junior school pupils would go to the main dining hall?

18 A. Yeah.

19 Q. And eat there?

20 A. Yes.

21 Q. And you talk at one stage, paragraph 33 on page 9, about  
22 masters drinking openly at lunchtime.

23 A. Mm.

24 Q. Tell us about that.

25 A. So they would have their lunch and I think they would be

1           served coffee and they would be asked what they wanted  
2           with that coffee, a port or a liqueur or a brandy. So,  
3           yeah, masters openly drank alcohol after lunch.

4       Q. All right. Where did the masters sit?

5       A. At the dining table. So they would drink that in front  
6           of us.

7       Q. But were they at the boys' tables?

8       A. Yeah, the boys' tables, yeah.

9       Q. Was there a high table for senior staff?

10      A. (Witness shakes head).

11      Q. No?

12      A. No, the master would sit at the end of our table.

13      Q. So in your case, being junior school, do you remember  
14           who sat at the end of yours?

15      A. Oh, every master at some point.

16      Q. Was it done on rotation?

17      A. Yeah.

18      Q. Okay. But with coffee at the end of the meal, there  
19           would appear to be an alcoholic option?

20      A. Yeah.

21      Q. Okay. You go on to say at paragraph 40 that you went to  
22           Edinburgh Academy senior school, again as a day pupil,  
23           and you suffered no abuse there?

24      A. (Witness nods).

25      Q. One observation about the beating you received,



1 paragraph 32, page 9. You don't consider, you say,  
2 [FTG] to be an abuser?  
3 "His punishment may not have reflected the crime,  
4 and was excessive chastisement but all things considered  
5 I did not really consider it to be abuse."  
6 A. Mm.  
7 Q. "His main failing was his negligence ..."  
8 A. Yes.  
9 Q. " ... in respect that he must have known about 'Edgar's'  
10 temper and his outbursts but he never did anything about  
11 it."  
12 A. Yes. Certainly I never saw anything done about the  
13 physical violence. Whether [FTG] knew about  
14 'Edgar's' sexual abuse of pupils, I really don't know.  
15 Q. Thinking from now rather than the thought process of  
16 an 11- or 12-year-old, if he had known, what would you  
17 have expected him to do?  
18 A. I would have expected him to have taken immediate action  
19 and removed him from any interaction with pupils and  
20 conducted a full investigation and reported it to the  
21 police.  
22 Q. I'm just interested, you describe the chastisement he  
23 issued as "excessive", but you don't think it was abuse?  
24 That's your view?  
25 A. I don't think of [SNR] beating me as abuse.

1 Q. No.

2 A. No, because it was accepted that if you did something  
3 wrong, you got beaten.

4 Q. That was the culture then?

5 A. Yeah.

6 Q. Again, if it happened now to one of your children --

7 A. Yeah.

8 Q. -- how would you consider it?

9 A. I would consider it abuse now.

10 Q. All right, so it's simply because in the 1970s --

11 A. Sorry, yeah.

12 Q. -- that was perceived as okay?

13 A. Yes. That was normal.

14 Q. Thank you.

15 LADY SMITH: Although you seem to suggest that beating you  
16 at all for what happened is something that ought not to  
17 have been done, in your view.

18 A. For the crime of throwing the compasses through  
19 the fluorescent tube?

20 LADY SMITH: The compass and it ending up smashing the  
21 fluorescent tube.

22 A. Yeah.

23 LADY SMITH: You say your view was that was excessive  
24 chastisement.

25 A. Yeah, sorry, I do feel that was excessive chastisement,

1           yeah.

2           LADY SMITH: Thank you.

3           MR BROWN: But I think, just to conclude with your  
4           education, because Edinburgh Academy, overall, you were  
5           happy there?

6           A. Yeah, I was -- I was much happier there, yeah.

7           Q. The education was good?

8           A. Yeah.

9           Q. And you progressed and have done well since?

10          A. Yeah. That said, I think it's important to add that the  
11          effect that 'Edgar' had on me was that prior to going to  
12          Fettes junior school, I was a very curious child. I did  
13          well. I was always in the top set at primary school.  
14          I didn't mind asking questions.

15                 I stopped asking questions after having 'Edgar' as  
16          my teacher. I was reluctant to ask questions. It's  
17          very difficult to learn when you don't ask questions.

18                 So whilst there was a better environment at the  
19          Academy, I certainly didn't do as well as I could have  
20          done, I genuinely believe, because of my experiences at  
21          Fettes junior school.

22          Q. As I think you say in your statement, and this is why  
23          I made the point that you were sent to Fettes because  
24          you were bright and you were getting ahead of your own  
25          primary school --

1 A. Yeah.

2 Q. -- but once you were at Fettes, you make the point that  
3 your marks then began to decline.

4 A. Correct.

5 Q. And there was concern and you were told in your reports  
6 to work harder?

7 A. Yes. "Must try harder", yeah. Never any investigation  
8 as to why. Never any discussion on that.

9 Q. It had to be your problem?

10 A. My problem to solve, yeah.

11 Q. You just had to work harder and things would get better?

12 A. Yes.

13 Q. What would you have hoped the school might have done,  
14 thinking if this had been your children you were getting  
15 a sudden drop in marks from.

16 A. To find out why. Have a conversation. Explore.

17 Q. But none of that happened?

18 A. No.

19 Q. I think, as you say at paragraph 44, and we're turning  
20 to the impact and we'll come back to it:

21 "By the time I got to Edinburgh Academy I always  
22 felt that I was catching up. I know that I could have  
23 done a lot better had I not had this setback in junior  
24 school."

25 A. Yeah.

1 Q. Before we talk about impact in a broad sense because  
2 there are impacts at a number of levels, would you  
3 agree?  
4 A. (Witness nods).  
5 Q. One of the interesting things of many interesting things  
6 is paragraph 60 and you say:  
7 "When I arrived at Edinburgh Academy senior school  
8 I was chatting to some of the other boys and we were  
9 talking about what prep school we had gone to."  
10 A. Mm.  
11 Q. This is page 15.  
12 "That's when I learned that 'Edgar' had been at  
13 Edinburgh Academy prep school before he went to  
14 Fettes ..."?  
15 A. Yeah.  
16 Q. " ... and that he had apparently done very similar  
17 things to boys there too."  
18 A. Correct.  
19 Q. Tell me about that, if you can.  
20 A. So arriving at the Edinburgh Academy, clearly a new  
21 school, you make new friends. They want to know where  
22 you've come from. I said that I'd been at Fettes junior  
23 school. What was it like there? Told them in very  
24 broad terms. They asked what the masters were like.  
25 I mentioned 'Edgar' by name and they immediately

1            recognised the name and confirmed to me straight away  
2            that they had been at the receiving end of his abuse,  
3            both physical and sexual, at the Edinburgh Academy prep  
4            school. I found that fairly astonishing at the time.

5            Q. At the time you found it astonishing?

6            A. I found it astonishing that he'd clearly been employed  
7            at the prep school, Edinburgh Academy prep school, and  
8            then had gone on to do exactly the same thing in Fettes  
9            junior school.

10          Q. Do you remember your fellow pupils, when this was all  
11          being discussed, expressing the same astonishment?

12          A. I don't think they were as astonished as I was.

13          Q. Did you hear anything about the circumstances of his  
14          departure from Edinburgh Academy?

15          A. No, I didn't. I had no idea why he had left, whether he  
16          was removed or ...

17          Q. Or simply moved?

18          A. Or simply moved on.

19          Q. Yes. But I think in terms of impact, if we can return  
20          to that, you've talked about the impact it had on your  
21          school career, you were catching up at Edinburgh  
22          Academy.

23          A. Yeah.

24          Q. You go on to say in paragraph 45, page 12:  
25                "I think I completely compartmentalised the abuse

1 I had suffered at Fettes and forgot all about it for  
2 a while."

3 A. Yeah.

4 Q. Put it into a box at the back of your mind and the box  
5 was shut?

6 A. Yes, completely shut.

7 Q. When did the box get re-opened?

8 A. I think it was in my early 20s. I can't remember if it  
9 was something that I'd read or whether it was  
10 a documentary that I'd seen on TV, but certainly child  
11 abuse, sexual abuse was the topic. And I had a kind of  
12 moment of realisation -- it sounds crazy now, but I had  
13 a moment of realisation that what I'd heard about either  
14 on this documentary or that I'd read about was exactly  
15 the sort of thing that had been happening to me at  
16 Fettes junior school. When it hit me, it hit me like  
17 an express train, actually, and I was shocked to my very  
18 core, followed by anger, I'd go as far as to say rage,  
19 that I'd been violated in this way.

20 Q. I think you describe in your statement, and again we  
21 don't need to go into the detail of it, but parts of  
22 your life have been filled with rage and anger.

23 A. Yeah, yeah. Inexplicable rage and anger. It's only in  
24 recent years, having come forward to the Inquiry and  
25 talking to psychiatrists in a civil claim where you

1 start to see how your behaviour can be traced back to  
2 things that happened in your childhood. Particularly  
3 the sexual abuse.

4 Q. And, I think, you turned to alcohol?

5 A. Yes. I drank excessively, yeah. I was also hit with  
6 depression in my early to mid 30s, although I think  
7 I probably had depression in my 20s. I didn't go for  
8 any form of medication in my 30s, but certainly in my  
9 40s I did. I think it was exacerbated because  
10 eventually, when my experiences came out and I shared  
11 that -- I'd shared it with my wife in my early 20s, but  
12 only once I'd had a drink and felt able to talk about  
13 it. But when I did share my experiences with my parents  
14 in my early 30s, I didn't really get the support that  
15 I thought I would get. My mother was clearly distressed  
16 about it, but it seemed to be my fault for not telling  
17 them. I can understand that -- that generation's view.  
18 I think today we're much more enlightened that children  
19 have difficulty in talking about the abuse that they've  
20 suffered, or don't know what to say.

21 So my mother was very much of the view that I should  
22 have said something, so that wasn't particularly  
23 helpful, and my father had explained that he'd  
24 experienced something similar when he was at child and  
25 I should just snap out of it and -- and move on.



1 Q. Was your relationship with your parents affected for the  
2 remainder of your life because of that?

3 A. Yes, it was. It was something that really would get in  
4 the way for me. Particularly with suffering from  
5 depression. My wife had to have several conversations  
6 with my father about it being, you know, an illness.  
7 That it wasn't a case of "pull yourself together and get  
8 on with it" or "snap out of it".

9 Q. Yes. I think you say at paragraph 51:  
10 "Being honest I cannot say 100 per cent that the  
11 abuse I suffered at Fettes junior school was the sole  
12 cause of my depression or anger. I have no doubt  
13 however that it was a contributory factor."

14 A. Yes.

15 Q. A significant contributory factor?

16 A. I would say a significant contributory factor, yes.

17 Q. Okay. In terms of reporting, you came forwards to the  
18 Inquiry I think initially in 2017?

19 A. Yes.

20 Q. But did you find the process easy to do, to come forward  
21 to talk?

22 A. Well, I was encouraged by my eldest son to do so. There  
23 was one Christmas where I had a lot to drink and I'd  
24 gone a bit further in explaining what had happened to me  
25 in terms of the sexual abuse, and clearly my wife and my

1 son were very distressed to hear that, so my eldest son  
2 encouraged me to do it. I did, I picked up the phone,  
3 I was on a train at the time, and reported what had  
4 happened to me, named my abuser. The lady who took the  
5 call assured me that because I'd named my abuser, that  
6 his details would now be passed on to the police.

7 The sense of relief was enormous. I felt I'd done  
8 what I needed to do, which was great.

9 I think I then received a communication from the  
10 Inquiry telling me that the private schools weren't  
11 within the scope at that time for the Inquiry, but  
12 they'd very much like a statement from me in the future  
13 and I agreed to do that, and then several years later  
14 was contacted again by the Inquiry asking me if I'd like  
15 to make my statement, which was good.

16 But I then found out at that point that just because  
17 I'd mentioned the name of my abuser and I'd been told  
18 that his details would be passed on to the police didn't  
19 necessarily mean that any action had been taken. Maybe  
20 that was just my naivety of assuming that if somebody  
21 says it will be passed on to the police and they'll take  
22 action, that action would be taken. So I felt somewhat  
23 deflated when I found that out, but nevertheless agreed  
24 to work with the team from the Inquiry.

25 LADY SMITH: 'Ben', can I just check. Do you understand now

1           that the way our processes work and the only way they  
2           can work is that whilst the name of a named abuser will  
3           be passed to a particular division of the police,  
4           there's nothing we can do to --

5           A. Oh, I understand that completely, yeah.

6           LADY SMITH: -- control what the police do with it after  
7           that or direct what the police do with it. In the  
8           public interest we make sure that they know but that's  
9           all we're able to do.

10          A. In no way intended as a criticism. It's just my  
11          personal experience of thinking myself: that's great,  
12          action will be taken, something will happen, it's off my  
13          plate now, somebody else is going to deal with it.

14          LADY SMITH: I'm very grateful to you for telling me that.  
15          It's helpful to know that that can be how somebody is  
16          feeling.

17          A. Yes.

18          LADY SMITH: Thank you.

19                        Mr Brown.

20          MR BROWN: Thank you, my Lady.

21                        We'll just explore that a little bit further. You  
22          were delighted that the police were to become aware of  
23          it.

24          A. Yes.

25          Q. Did the police ever come and speak to you?

1 A. Eventually the police came and spoke to me, yes.

2 Q. How long was the gap between the conversation and --

3 A. Well, we had Covid kicking off at the time, which was  
4 a great excuse for everything not happening.

5 Eventually, I would say maybe after 12 months,  
6 a policeman came to take my statement. And if I may,  
7 actually, I'd just like to share that experience.

8 Q. Yes.

9 A. So I was living in Central Scotland at the time that I'd  
10 made my report to the police and notified the police.  
11 Then I had moved up to the Highlands. When the police  
12 eventually said that they could see me, they couldn't  
13 see me in the Highlands, so I had to drive down to meet  
14 them. That took two hours. And when I met the police  
15 officer -- who was a lovely guy and very supportive and  
16 I have no criticism of him whatsoever -- I'd already  
17 prepared a statement so that this wouldn't take too  
18 long, and I said, you know, "I've got it here on  
19 a memory stick, it's on a Word document, and we can go  
20 through it together on the screen", and he said, "That's  
21 very kind of you, but I'm afraid because it's  
22 a historical case, I'll have to write it down."

23 So I had to sit for four hours dictating my  
24 statement, which was on a memory stick, on a Word  
25 document, because apparently the procedure said that it

1           had to be handwritten. Then another two hours to drive  
2           back up to the Highlands.

3       Q. Professionally you work in business?

4       A. Yes.

5       Q. You look at how business might be done more efficiently?

6       A. Yes.

7       Q. Can you think of a business that is less able to respond  
8           to the needs of someone who is talking about child abuse  
9           than that?

10      A. Mm, I think we'd call that waste, wouldn't we. And that  
11         waste is just consuming capacity that could be used for  
12         proper work. But nevertheless.

13                 So that was my kind of introduction into the  
14                 criminal justice system.

15      Q. It wasn't a great introduction?

16      A. Not particularly.

17      Q. Have things got any better?

18      A. Recently there are signs of improvement, yes.

19      Q. But having spent this long session, which the officer  
20         felt he had to follow, no matter the pointlessness of  
21         it --

22      A. Mm.

23      Q. -- and his positive qualities, which you're obviously  
24         recognising --

25      A. Yes.

1 Q. -- what happened after you've given this marathon  
2 statement?

3 A. So after the marathon statement, the Crown Office  
4 Prosecution Service became involved and in -- excuse me.  
5 (Pause).

6 So the police had obviously submitted their reports  
7 to the Crown Office and on 24 November 2020, I received  
8 a letter to say that pursuing this matter wouldn't be in  
9 the public interest. It was a complex case. Because of  
10 where 'Edgar' is living now, there was a time bar on  
11 historical cases. This is according to the South  
12 African authorities. And he was getting elderly,  
13 of course, and Covid was complicating things, and we  
14 won't be taking it any further. We understand you might  
15 be a bit disappointed by that, was the tone of the  
16 letter.

17 Q. Just to be clear, you speak to the police officer who  
18 takes your statement and that's the next contact you  
19 get?

20 A. Yes.

21 Q. This was a letter?

22 A. This was a letter, yeah --

23 Q. Just received through the post?

24 A. -- just received through the post. That said, I did get  
25 a Zoom call with two police representatives to tell me

1           that it was being knocked back, that it wasn't in the  
2           public interest and I would receive a letter.

3       Q.   Right, so there was a face-to-face meeting, albeit,  
4           because of Covid no doubt, by Zoom?

5       A.   Yes.

6       Q.   I think we know that you were less than happy with --

7       A.   Yes, I think that's putting it mildly, yeah.  So I --  
8           sorry.

9       Q.   Please carry on.

10      A.   So I exercised my right to review.  I'd taken each of  
11         the reasons in turn.  I couldn't -- I couldn't  
12         understand what was complex about this case.  We had  
13         been abused -- I say "we", myself and other victims had  
14         been abused.  It was historical.  The time bar had been  
15         removed.  South African legislation had been amended.  
16         I just didn't understand what the problem was and why  
17         Covid was being quoted as a reason not to pursue this  
18         matter was beyond me.  I couldn't see people from the  
19         Crown Office travelling over to South Africa to meet  
20         their counterparts under normal circumstances.  I would  
21         imagine that they would email them or phone them and  
22         I was at a loss to understand how Covid had any impact  
23         on phoning or emailing.

24                 So I exercised my right to review.  On 21 January  
25         I received another letter back from the Crown Office

1           telling me that there was a time bar, still, in South  
2           Africa, and that it was a matter for the South African  
3           authorities. So I wrote back again to say it's  
4           actually, it's been amended.

5           Q. You've said that twice now. How did you know that?

6           A. A simple internet search. There was about a three- or  
7           four-year lead-up to this becoming law. Lots of  
8           articles available about the amendments coming forward.

9                     So my conclusion at the time was either the Crown  
10           Office isn't doing its job -- I have different views on  
11           that now -- or the South African authorities are unaware  
12           of their own legislation, which seems beyond belief.

13          Q. When you were told your right to review had been  
14           refused --

15          A. Yeah.

16          Q. -- what did you do?

17          A. I wrote to the First Minister and said, "I'm writing to  
18           you in desperation. I'm a victim of historical abuse,  
19           as are others. We know where our abuser is, he's in  
20           South Africa, and we can't seem to get justice".

21                     That letter was passed on, surprise, surprise, to  
22           the Crown to investigate. So that was a bit  
23           disappointing, but I understand the structure of these  
24           things. And I also wrote to an ex Fettesian as well who  
25           is fairly well known and thought that he might be able



1 to help but didn't receive so much as a reply from his  
2 organisation. And then I continued to send the  
3 Procurator Fiscal links to articles. I made a request  
4 for a phone call to discuss these articles, just to be  
5 able to speak to somebody, but I never got a phone call  
6 back. I got a letter to say that there was maybe some  
7 developments and that they were unable to give any  
8 substantive reply, I think was the phrase that was used.

9 Then I was notified this summer in a generic letter  
10 to all of the victims alerting me to the fact --  
11 alerting me to the fact that the law in South Africa had  
12 changed and they were reversing their decision. That  
13 really added insult to injury because in the meantime  
14 I'd been speaking to the press, doing interviews, I'd  
15 been on Radio Scotland, anonymously, on a couple of  
16 occasions, and Radio Scotland were fantastic after that,  
17 as were all of the journalists that I spoke to.

18 So I ended up making a formal complaint in August.  
19 I had made a complaint saying that I would like  
20 an independent investigation into what I described as  
21 a debacle, and I got a letter back -- you couldn't make  
22 this one up -- I got a letter back saying that they  
23 would investigate and that they would hope to reply in  
24 20 working days. It's always 20 working days, isn't it,  
25 not 21 or 19. 20 working days. And if they were unable

1 to provide a substantive reply, then they'd take another  
2 20 working days, ad infinitum.

3 So I managed to get hold of the contact details for  
4 the Lord Advocate. It's easier, incidentally, to get  
5 hold of the details on South African legislation than it  
6 is to find the contact details for the Lord Advocate  
7 online, but nevertheless I managed to get in touch with  
8 her, and my email to her was to let her know that I'd  
9 made a formal complaint and that if as somebody who is  
10 a new leader in the leadership role she wanted to know  
11 how well her organisation is achieving its purpose, it  
12 might be a good idea to start with my case, because that  
13 should tell her all that she needs to know.

14 And I take my hat off to her, actually, because when  
15 I did receive my response to my complaint, which was  
16 not, clearly, found in my favour for a variety of  
17 excuses, I was offered the opportunity to meet with her  
18 and in October I did, online, with the Procurator Fiscal  
19 and also with the Head of Extraditions.

20 Q. And what was your emotion after that meeting?

21 A. Well, the conclusion of that meeting was that I was  
22 much, much happier because all that I wanted and all  
23 I have ever wanted is for 'Edgar' to know that he didn't  
24 get away with what he did to us. That's all I wanted.  
25 I realise that the prospect of having him extradited and

1 facing trial in this country is probably unlikely.  
2 We've heard from South African lawyers who've said if  
3 he's got money behind him or decent lawyers behind him,  
4 he can drag this on forever and ever and ever. I just  
5 wanted him to know that he hadn't got away with it.

6 But what I did hear in that meeting with the Lord  
7 Advocate was that he'd already been arrested two years  
8 prior to my report to the police and an extradition  
9 request had already been made.

10 Q. That was something you knew nothing about?

11 A. Correct.

12 LADY SMITH: So when would that have been?

13 A. I would imagine that would be 2017, thereabouts.

14 LADY SMITH: Thank you.

15 MR BROWN: And what was your emotion on discovering that?

16 A. Well, relief that it happened, but enormous frustration  
17 that I've spent all this time banging on to the press,  
18 banging on on radio interviews, doing as much as I can  
19 to get people to understand the injustice of all of  
20 this, complaining -- it's not an easy thing to do to  
21 complain in detail and respond and rights to reviews and  
22 so on and so forth, when all the time there had been  
23 an arrest warrant issued and he had been arrested. And  
24 all they had to say was, "The matter's in hand".

25 As I understand it now, the "complexity" behind this

1 particular case is weaving in the more recent  
2 accusations into that original case.

3 Q. Okay. What we are particularly interested in,  
4 obviously, is the impact of the abuse on you.

5 A. Mm.

6 Q. We've got impact in the 1970s.

7 A. Yes.

8 Q. Your work deteriorates and you spend school catching up  
9 from that. We've heard in your 20s and your 30s there's  
10 anger, there's drink, there's depression.

11 A. Yeah.

12 Q. And now in the last three or four years, what is the  
13 impact on you from the way the criminal justice system  
14 has worked?

15 A. Well, I've had two jobs. I've had my normal day job and  
16 then I've had my evening job of seeking justice and  
17 trying to understand why the Crown had made the  
18 decisions that it's made. I'll be honest, I'm still at  
19 a bit of a loss -- because this didn't occur to me until  
20 after the meeting of, well, if you'd already issued  
21 an arrest warrant and he had been arrested, and if you  
22 had the extradition order in place, why did you knock  
23 ours back? Why did you say it wasn't in the public  
24 interest?

25 So, to answer your question, I genuinely thought

1           that -- because everybody's been enormously supportive  
2           in this entire process, you know, they say things like  
3           it must be awful for you, we're so proud of you doing  
4           this and you must be very brave to do it, and so on and  
5           so forth, I thought that was the hard part, getting to  
6           that point of making statements, of revisiting horrible  
7           experiences.

8           I didn't expect to come up against a system that  
9           seemed to have a de facto purpose of make excuses and  
10          prevent justice. I thought it would achieve its real  
11          purpose of: get justice for the victim.

12          So it's not been a pleasant experience, and in all  
13          this time the clock is ticking. He is getting older by  
14          the day. The prospects of him facing trial diminish.  
15          Speed is of the essence. We've wasted 18 months.

16          Q. But at the nub of it, how do you feel because of all  
17          that?

18          A. I study organisations' systems for a living and I help  
19          leaders to see the impact of their well-intentioned  
20          policies, procedures, structures, roles, measures, and  
21          I can say with hand on heart that every time I do that,  
22          using the method that I use, they are horrified at what  
23          they see. Why did I think the criminal justice system  
24          would be any different?

25          I suppose, looking at it now -- but as a victim

1 I genuinely thought it would be a pretty straightforward  
2 process. I didn't expect to be written to in  
3 a condescending, patronising manner, I didn't expect to  
4 feel like an inconvenience in that process, "Oh, it's  
5 you again, we've told you before it's a matter for the  
6 South African authorities". I didn't expect to have to  
7 wait a month to get a reply to an email every single  
8 time.

9 Q. So your experience, perhaps if I may, to put it very  
10 shortly, was made worse?

11 A. Yeah. Most definitely. I reached -- there were several  
12 points, two points in particular, where I turned to my  
13 wife and said, "I've had enough, I'm not doing this any  
14 more, I can't do this any more". But I'm glad  
15 I continued.

16 Q. Could we look very briefly, please, at one document,  
17 which is FET000000004. These are minutes of the  
18 governors of the Fettes Trust in March 1979.

19 A. Mm.

20 Q. If we go over the page to page 2, and we'll see  
21 reference to **FTG** reporting that:

22 " ... it had been necessary for 'Edgar' to be asked  
23 to leave because of a complaint from a parent concerning  
24 an indiscretion with her son. The headmaster also spoke  
25 to this matter. There had, unfortunately, been

1 a history of such behaviour. Since 'Edgar' had come to  
2 Fettes, it had been discovered that there had been  
3 an incident [elsewhere] ..."

4 Reading short.

5 "There had been one previous very minor incident at  
6 Fettes following which 'Edgar' had undergone psychiatric  
7 treatment [with a psychiatrist] in whose opinion  
8 [thought] he had been cured. There had then followed  
9 three years exemplary years during which 'Edgar' had  
10 proved himself to be an excellent teacher and a very  
11 good man in every other way."

12 Does that surprise you?

13 A. Yes, it does surprise me. It really does surprise me.

14 Q. And it goes on:

15 "The latest incident complained of was of a very  
16 minor nature and had not been sufficient to cause any  
17 disturbance to the boy concerned. 'Edgar' is at present  
18 under medical supervision and in the view of both the  
19 headmaster and FTG there is no real risk of any  
20 further incident occurring. The fact that 'Edgar' was  
21 under medical care, and the opinions expressed by the  
22 headmaster and FTG as to the improbability of  
23 future repetitions, satisfied [a doctor] there was no  
24 present necessity to ask 'Edgar' to leave."

25 A. (Witness shakes head).

1 Q. "The main question was when [he] should leave."

2 And again, reading short, the view is taken that he  
3 can be held on until the end of the winter term. In  
4 other words, at the end of 1979.

5 A. So he was cured!

6 Q. You talked about what you would have expected to be done  
7 on the discovery of, to use the word of the minutes,  
8 "indiscretions". Again, thinking with your professional  
9 hat on, do you find the response of this business  
10 a satisfactory one?

11 A. Absolutely not.

12 Q. Do you have any other comment on it?

13 A. I'm -- I'm -- I'm astonished, actually.

14 Because I was just going to say I think I know --  
15 I was approached by two former pupils after having done  
16 the radio interview, and they made contact with me, and  
17 if this is referring to the incident which I think it's  
18 referring to, it was by no means an "indiscretion". By  
19 no means an "indiscretion". It was a serious offence.  
20 A very serious offence.

21 Q. Just to be clear, do you understand, because obviously  
22 the Inquiry's been contacted by a number of people, is  
23 this an incident involving someone from your year?

24 A. No.

25 Q. No?



1 A. No. Two years after me.

2 Q. Okay. Have you been in touch with someone from your  
3 year?

4 A. One person, yes.

5 Q. All right. Then I have no further questions for you.  
6 Thank you very much for your evidence. Is there  
7 anything else you would wish to say?

8 A. Yes. I would like to say thank you very much to my  
9 witness support team, who have been fantastic. Thank  
10 you for listening. It's been a very long time coming  
11 for me. It's as cathartic as I hoped it would be. And  
12 I would just like to add that I actually have every  
13 faith in the new Lord Advocate. I think she's a new  
14 broom that will do an excellent job, and I'm pleased  
15 this is over.

16 MR BROWN: Thank you.

17 A. Thank you.

18 LADY SMITH: I do need to formally check whether there are  
19 any outstanding applications for questions, but  
20 everyone's shaking their heads.

21 One other thing I need to mention. In the minutes  
22 we've just looked at, there's a name referred to by  
23 Mr Brown as **FTG** and that is the name by which  
24 that person is being referred to by the Inquiry, and for  
25 those of you that noticed it, the name that was in the

1 minutes cannot be repeated outside this room, and if  
2 there's to be any reference to that SNR it's

3 FTG

4 And then it remains for me to thank you, 'Ben',  
5 really, our thanks go to you for your engagement with  
6 the Inquiry, your very helpful written statement, but  
7 your preparedness to come here today and make those  
8 words come alive and expand on them for me. It really  
9 helps with my understanding of what was happening at the  
10 Fettes junior school when you were a pupil there.  
11 Please make no mistake about that. Your evidence is  
12 extremely valuable.

13 A. Good.

14 LADY SMITH: And I'm grateful to you. I'm now able to let  
15 you go and wish you a safe journey back to your home.

16 A. Thank you very much.

17 LADY SMITH: Thank you.

18 A. Thank you.

19 (The witness withdrew)

20 LADY SMITH: Mr Brown.

21 MR BROWN: My Lady, thank you. That concludes the evidence  
22 today, having started a little early, it seems only just  
23 that we finish a little early.

24 LADY SMITH: I think that's absolutely fine. And we managed  
25 to sweep up the week's read-ins yesterday, didn't we?

1 MR BROWN: Tomorrow we have two further witnesses continuing  
2 the same theme, and again two only, it may be we will  
3 have the same dynamics as today, but we'll just have to  
4 see.

5 LADY SMITH: Very well. I'm going to rise now until  
6 tomorrow morning at 10 o'clock when we return to some  
7 more evidence about Fettes. Thank you.

8 (3.02 pm)

9 (The Inquiry adjourned until 10.00 am  
10 on Friday, 26 November 2021)

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I N D E X

'Max' (affirmed) .....1  
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