

Friday, 2 February 2024

1

2 (10.00 am)

3 LADY SMITH: Good morning and welcome to a day in which  
4 we're to hear closing submissions in relation to this  
5 chapter of Phase 8. As you'll remember, we were hearing  
6 throughout the month of January evidence, particularly  
7 about St Joseph's and St Ninian's schools and the  
8 involvement there of the De La Salle Order, but some  
9 other evidence as well of that type.

10 I'll turn to Mr MacAulay and I think he's going to  
11 introduce what is going to happen today.

12 MR MACAULAY: Yes, my Lady.

13 After 13 days and the provision of evidence by 71  
14 witnesses, 30 in person, we are now at the stage of  
15 closing statements by interested parties.

16 Four written closing statements have been submitted  
17 to the Inquiry: East Lothian Council, who are  
18 represented by Mr Watson; the Archdiocese of Glasgow,  
19 who are represented by Mr Henry; the Archdiocese of  
20 Edinburgh, who are represented by Mr Macpherson; and the  
21 De La Salle Order, who are represented by Mr Thomson.

22 Can I say that will be the order, as I've just read  
23 it out, that these closing submissions will be made.

24 As your Ladyship is aware, these closing statements  
25 will bring this chapter of the case study to an end, but

1 at the end of the case study there will be  
2 an opportunity to identify what themes can be deduced  
3 from all chapters.

4 LADY SMITH: Indeed. I think as observers and listeners  
5 will have noticed, some themes that we encountered in  
6 the Scottish prison section of this phase were also  
7 reflected in some of the evidence we heard in the  
8 chapter that we're just finishing.

9 MR MACAULAY: Indeed. That will be the way we progress as  
10 we go through the chapters.

11 My Lady, with those few words I can pass the baton  
12 on to the first person who is to deliver the closing  
13 statement.

14 LADY SMITH: Thank you very much.

15 Mr Watson, as Mr MacAulay has already said, you are  
16 here for East Lothian Council and whenever you're ready  
17 to address me I'm ready to hear you.

18 MR WATSON: Thank you, my Lady.

19 Closing submissions by Mr Watson

20 MR WATSON: Your Ladyship will recall from previous phases,  
21 and indeed from the opening statement on behalf of the  
22 council, that they were formed on the disaggregation of  
23 Lothian Regional Council in 1996.

24 Their involvement in this phase relates to  
25 St Joseph's. That school was founded in 1889, taken

1 over by the De La Salle Brothers in 1920, became  
2 an Approved School in 1933 and had its management  
3 transferred to Lothian Regional Council in 1989.

4 It closed in 1998 and accordingly the council's  
5 practical involvement was very limited, in essence being  
6 to deal with the closure of the school over its last  
7 two years.

8 That said, the council has taken a close and active  
9 interest in the evidence throughout this chapter of the  
10 Inquiry. Either Lindsey Byrne, Head of Children's  
11 Services and Chief Social Work Officer or Emma Clater,  
12 Service Manager for Children's Services and sometimes  
13 both have been present via Webex for all of the evidence  
14 relating to St Joseph's and Ms Byrne is present today.

15 There is one specific point arising from the  
16 evidence that I would clarify and I would then turn to  
17 the impact that the evidence in total has had on the  
18 council and the outworking of that impact.

19 The one specific point then. One witness, using the  
20 pseudonym 'Jack', told your Ladyship that he had wanted  
21 access to the records of his time at the school, which  
22 had long pre-dated East Lothian Council, but nonetheless  
23 he had been advised to contact East Lothian Council as  
24 being the party who would hold the records. He had done  
25 so and he had received no response.

1           Those instructing me have looked into that further.  
2           They have been able to locate his subject access request  
3           and their response and I can provide a copy of that to  
4           the Inquiry if that would assist.

5           They advised 'Jack' that they did not hold his  
6           records, save for one logbook entry that referred to  
7           him.

8           It is a matter of regret to the council that they  
9           were not able to assist 'Jack' further and indeed that  
10          his experience of this was that he had not been assisted  
11          at all. They would certainly want any former resident  
12          to be confident in contacting them that any request for  
13          records or indeed for any other information will be  
14          treated seriously and that they will be assisted in  
15          their search.

16   LADY SMITH: Given the history, Mr Watson, am I to take it  
17          that East Lothian Council are dependent on what records  
18          were, first of all, retained by Lothian and, secondly,  
19          what of those records were transferred to East Lothian  
20          when they came into existence?

21   MR WATSON: That's entirely correct, my Lady. There are  
22          some records. They do have an archive which contains --

23   LADY SMITH: Are they kept in hard copy or have they been  
24          transferred into digital format?

25   MR WATSON: The records I'm aware of are kept in hard copy,

1 my Lady.

2 LADY SMITH: A request for records depends on physical  
3 searching then?

4 MR WATSON: It will. There is also a digital record with  
5 dates of residents, where available.

6 LADY SMITH: Okay. Thank you.

7 MR WATSON: It is certainly not comprehensive by any means,  
8 my Lady, either as to the records of individual pupils,  
9 for whom many are not available, or indeed for the wider  
10 logbooks and records of the school in total.

11 LADY SMITH: This is something that will have to be  
12 carefully and respectfully explained to anybody looking  
13 for records that the council don't have.

14 MR WATSON: That's right, my Lady. That's really  
15 a reflection arising from this. That 'Jack's'  
16 experience, what he took from that, was that he had not  
17 been assisted at all. He clearly didn't recall there  
18 had been any response and what response there was did  
19 not give him any comfort or satisfaction and that's  
20 a matter of regret.

21 The council, as I've said in the closing statement,  
22 wants to be as supportive as possible, which of course  
23 includes sharing fully what information is available and  
24 why information might not be available.

25 It's been apparent here and in other phases that

1 applicants have found the process even of asking for  
2 records, let alone recovering them, to be a difficult  
3 one. And the council is reviewing their subject access  
4 request processes and making sure that all those who are  
5 involved with it are trained in trauma-informed  
6 practice.

7 LADY SMITH: I'm grateful to you for that. I see from the  
8 notes that you have provided helpfully in advance that  
9 the council now does appreciate that these are the  
10 person's records, the council is holding in trust  
11 a section of that person's life.

12 MR WATSON: That's right, my Lady. As we come on from the  
13 specific to the general, that is one particular theme,  
14 because of course the council is continuing to have  
15 records from the present day care of children and one of  
16 the learnings from this is not only the retention of  
17 records from past, but the proper formation of records  
18 now.

19 LADY SMITH: Thank you.

20 Thank you for that, Mr Watson.

21 MR WATSON: Turning then from the specific to the general,  
22 the council was struck again from the witness evidence  
23 about what is recorded on file and how it is recorded.  
24 They do intend to review and refresh their practice  
25 around how they record information about children and

1 their lives.

2 They were particularly struck by one witness who  
3 after reading his file felt like he had never done  
4 anything good. They will ensure that all workers  
5 remember that what they write is much more than a case  
6 recording. It is someone's opportunity to make sense of  
7 their journey.

8 This must reflect a child's life more holistically,  
9 the record belongs to the child and not to social work  
10 services.

11 Secondly, they were reminded forcefully about the  
12 importance of believing children when they tell someone  
13 about their experience and remaining vigilant to the  
14 risk that someone in a position of trust can also be  
15 someone who abuses children.

16 This already underpins their work in child  
17 protection, but the evidence reinforced the importance  
18 of this and the devastating impact to a child when they  
19 are not believed.

20 Thirdly, a common strand of evidence was from people  
21 who did not know why they had been placed in the  
22 residential schools. This has prompted an internal  
23 evaluation of review meeting minutes to ensure that they  
24 are capturing how children are spoken to about their  
25 care circumstances and are always using age-appropriate

1 language or words and pictures to help them to  
2 understand. No child should be unclear about why they  
3 live where they live, what the plan is and when they  
4 will see the people who are important to them.

5 Finally, it was reassuring to hear that much of  
6 modern practice and policy continues to be appropriate  
7 and is designed to keep the rights and protection of  
8 young people at the heart of all the services. They are  
9 grateful for the opportunity to hear the evidence from  
10 applicants and this will directly influence how the care  
11 system improves for children now and in the future.

12 The process has given them a renewed focus on  
13 ensuring the voice of the child is central to all  
14 assessment and planning and they wish to thank the  
15 applicants for the difference they have made by  
16 participating in the Inquiry.

17 I hope your Ladyship will hear from what I have said  
18 that that is an immediate and direct impact from what  
19 has been said in this phase.

20 My Lady, those are the closing submissions for East  
21 Lothian Council, unless I can assist any further.

22 LADY SMITH: No, thank you very much, Mr Watson.

23 It is very interesting to see what from our work  
24 a current provider like East Lothian can learn, even  
25 although the evidence we heard about children being



1       abused didn't relate to when they were involved in the  
2       provision of the facilities at Tranent, that there is  
3       learning that all can take from that. I hope I'm right  
4       in thinking they will seek to disseminate that learning  
5       to other councils who are current providers as well.

6   MR WATSON: Ms Byrne is here this morning and will have  
7       heard that, my Lady, so I am sure she will.

8   LADY SMITH: I'm sure opportunities will arise for that to  
9       be done. Thank you very much.

10            I would now like to turn, if I may, to the  
11       Archdiocese of Glasgow. Mr Henry, I know you are here  
12       to represent them.

13   MR HENRY: Yes, good morning, my Lady. I do appear on  
14       behalf of the Roman Catholic Archdiocese of Glasgow.

15            Closing submissions by Mr Henry

16   MR HENRY: My Lady, the Roman Catholic Archdiocese of  
17       Glasgow remains grateful for the opportunity to  
18       participate in the Inquiry's ongoing work and is  
19       committed to assisting the Inquiry in any way that it  
20       can.

21            The archdiocese accepts that harm was caused to  
22       children who are now adults as a result of their time in  
23       residential accommodation. The archdiocese acknowledges  
24       the suffering survivors have experienced and their  
25       bravery in coming forward. It continues to seek ways to

1 support survivors.

2 The archdiocese in no way seeks to challenge or  
3 minimise the evidence of those survivors, my Lady. In  
4 these submissions the archdiocese intends to set out the  
5 Inquiry, should it assist the chair, the archdiocese's  
6 position of its role in relation to establishments  
7 staffed by some members of the De La Salle Brothers.  
8 These schools, my Lady, are: Kenmure, St Mary's Boys'  
9 School, Bishopbriggs; Springboig, St John's School;  
10 St Ninian's, Gartmore; and St Mungo's, Mauchline.

11 LADY SMITH: Just pausing there, Mr Henry, you used the word  
12 'staffed', so you want to assist me in relation to the  
13 archdiocese's role regarding establishments staffed by  
14 some members of the De La Salle Brothers. What are you  
15 asking me to take from your use of the word 'staffed'?

16 MR HENRY: My Lady, as is hopefully set out in the  
17 submissions that particularly in relation to Kenmure,  
18 St Mary's, that while the archdiocese appointed some  
19 members -- owned the building and appointed some members  
20 of the board of management, the school was handed over  
21 to the De La Salle Brothers in 1916. It was the Brother  
22 Superintendent, the headmaster of the school, who was  
23 appointed by the Superior General of the Brothers, as  
24 were other Brothers -- as were the other Brothers,  
25 sorry, my Lady, and the lay staff were appointed by the

1 superintendent --

2 LADY SMITH: What about the archdiocese's role in relation  
3 to the managers?

4 MR HENRY: My Lady, certainly the archdiocese did appoint  
5 members of the board of management, my Lady, and that is  
6 accepted. Particularly the reference to staff  
7 particularly was intended to refer to teaching and  
8 residential staff, my Lady.

9 LADY SMITH: I see. The archdiocese was represented on the  
10 board of managers; is that not right?

11 MR HENRY: It is, my Lady. It appointed members of the  
12 board of managers and --

13 LADY SMITH: Chaired the board at times?

14 MR HENRY: My Lady --

15 LADY SMITH: Is that right?

16 MR HENRY: My Lady, I certainly don't have that information  
17 to hand and I wouldn't like to inadvertently mislead the  
18 Inquiry. That information can be provided to the  
19 Inquiry in early course.

20 LADY SMITH: I just wanted to get clear from you regarding  
21 their position in relation to the running -- yes, their  
22 position in relation to the schools and the way they  
23 were run, the ways in which they had not just the  
24 ability but the right to influence the way they were run  
25 and the obligations they had to be aware of the way they

1           were run.

2           Tell me this: are the archdiocese trying to distance  
3           themselves from that or do they accept?

4   MR HENRY: My Lady, the archdiocese are not attempting to  
5           distance themselves in any way, my Lady. I hope that  
6           can be made clear to the Inquiry.

7   LADY SMITH: You will appreciate, Mr Henry, the reason I am  
8           being tedious about this is that the original position,  
9           as articulated in responses to our Section 21 orders,  
10          was rather to the effect that: it was nothing to do with  
11          us.

12   MR HENRY: My Lady, certainly the archdiocese accepts that  
13          they did have a role in the management and the board,  
14          I think, of the Brothers. My Lady, I certainly --  
15          I wouldn't like to inadvertently mislead the Inquiry,  
16          my Lady. If your Ladyship thinks it may assist the  
17          Inquiry, I can certainly have the archdiocese fuller  
18          position set out in writing if --

19   LADY SMITH: If you tell me that's the position on your  
20          professional responsibility, Mr Henry, I accept that and  
21          I'm very grateful to you for it. Whether the managers,  
22          including those who were of the archdiocese, fulfilled  
23          the duties of managers, is perhaps another matter.

24   MR HENRY: Indeed, my Lady.

25   LADY SMITH: Thank you.

1 I'm sorry, I interrupted you. Please carry on.

2 MR HENRY: My Lady, as I referred to, one of the schools is  
3 Kenmure, St Mary's Boys' School, Bishopbriggs. My Lady  
4 it's the archdiocese's understanding that the  
5 De La Salle Brothers had an involvement at Kenmure,  
6 St Mary's from 1915 to 1965.

7 The Brothers were invited by the then Archbishop of  
8 Glasgow to staff the school. It was handed over to the  
9 De La Salle Brothers in 1916. The property remained in  
10 the ownership of the archdiocese and the archdiocese  
11 appointed some members of the board of management.

12 As I hopefully outlined earlier, my Lady, the  
13 Brother Superintendent, the headmaster of the school,  
14 was appointed by the Superior General of the Brothers,  
15 as were the other Brothers. Lay staff were appointed by  
16 the superintendent, but the chaplain was appointed by  
17 the archbishop of the diocese. Latterly the board of  
18 management included representatives from other Local  
19 Authorities and at some point the board took on the  
20 employment of the staff and the Brothers, the archbishop  
21 appointed the chaplain of the school.

22 My Lady, turning to Springboig, St John's, the  
23 archdiocese appointed the board of management of  
24 Springboig, St John's School. The board of management  
25 employed the staff at the school, including

1 De La Salle Brothers. At least some of the time some  
2 Local Authorities also nominated members of the board of  
3 managers.

4 My Lady, though St Ninian's, Gartmore was not  
5 geographically within the Archdiocese of Glasgow, the  
6 archdiocese owned the school buildings and appointed the  
7 board of management. The board of management was  
8 autonomous and employed the staff, including the  
9 De La Salle Brothers. The Brothers operated the school  
10 on a day-to-day basis and one of them served as  
11 headmaster. The archdiocese provided resident chaplains  
12 to the institution from 1946 to 1968. The archdiocese,  
13 my Lady, has no records of chaplains after this date,  
14 although it is likely that some chaplaincy service was  
15 provided.

16 My Lady, the archdiocese also has records of two  
17 priests from the archdiocese serving as chaplains to  
18 St Mungo's, Mauchline between 1942 and 1956. It is the  
19 archdiocese's position that there are no records to  
20 indicate that it had any involvement in the management  
21 or operation of this institution, my Lady.

22 My Lady, as I've indicated, the Archdiocese of  
23 Glasgow does not seek in any way to challenge or  
24 minimise the experience and evidence of the survivors.  
25 If any failings on the part of the archdiocese to which

1 my Lady has already referred contributed in any way to  
2 the pain and suffering of the survivors, then the  
3 archdiocese apologises for those failings.

4 My Lady, the Roman Catholic Archdiocese of Glasgow  
5 is grateful for this opportunity to participate in the  
6 Inquiry's proceedings and, as indicated, shall continue  
7 to assist the Inquiry in any way that it can.

8 Thank you, my Lady.

9 LADY SMITH: Mr Henry, if one looks forward in time from  
10 some of the period that you were thinking about, such as  
11 when St Joseph's first began in the very early 20th  
12 century, but looked forward to by the time the Approved  
13 School Rules were put into place in 1961, largely as  
14 reflecting what had come to be the position in practice,  
15 you find that if you take the board of managers for  
16 instance, they had a responsibility under the  
17 regulations to manage the school in the interests of the  
18 welfare, development and rehabilitation of the children.  
19 And the head was responsible to the managers to see that  
20 that was how the school was run.

21 I'm having great difficulty in seeing anywhere in  
22 the evidence I was told that there was a system in place  
23 whereby the boards of managers and the predecessors of  
24 those regulatory boards of managers were actually  
25 running a system to check properly whether the schools

1       were being run in the interests of the welfare,  
2       development and rehabilitation of the pupils.

3               Is that a fair impression that I have or not?

4   MR HENRY: My Lady, I certainly don't have direct  
5       instructions in relation to this matter this morning.

6   LADY SMITH: It's not really a question of instructions,  
7       Mr Henry, and I appreciate you may have been put in  
8       a difficult position, but the evidence is what the  
9       evidence has been and as you accept the archdiocese took  
10      to do, to use an old Scottish expression, with the  
11      management and membership and the board of managers.  
12      They also had the power to say to De La Salle at any  
13      time: we don't like the way you're running the school,  
14      it's our building, get out.

15   MR HENRY: Yes, my Lady. As I indicated, the archdiocese  
16      are in no way challenging the evidence that has been led  
17      before your Ladyship and of course any conclusions or  
18      inferences are indeed for your Ladyship.

19   LADY SMITH: It's very easy to get the impression -- no  
20      doubt what I'm saying is being listened to carefully by  
21      Mr Macpherson in relation to the other archdiocese  
22      involved here -- that once the De La Salles agreed that  
23      they would do this, they were just left to it largely,  
24      without real interest and engagement being shown in the  
25      way it should have been, both as captured in 1961 but



1 clearly existed before then and after 1961 in terms of  
2 the rules.

3 MR HENRY: Indeed, my Lady. Without wishing to repeat  
4 myself, the archdiocese is not seeking to challenge any  
5 of that evidence.

6 LADY SMITH: Thank you. Thank you very much.

7 Let me now turn to the Archdiocese of St Andrews and  
8 Edinburgh. Mr Macpherson, you know where my thinking is  
9 going. Perhaps you will tell me if you think I'm wrong.

10 MR MACPHERSON: I do, my Lady, thank you.

11 Closing submissions by Mr Macpherson

12 MR MACPHERSON: The Archdiocese of St Andrews and Edinburgh  
13 is grateful for the opportunity to appear at this case  
14 study and commends the bravery of those applicants who  
15 have come forward to the Inquiry to tell their stories,  
16 either in person or through their witness statements.

17 The archdiocese acknowledges that there may be  
18 others who have suffered but have not come forward so  
19 far. The archdiocese is deeply sorry to hear the  
20 reports of the grave and appalling abuse suffered by  
21 pupils at St Joseph's at the hands of those who were  
22 meant to be caring for them.

23 I can advise your Ladyship that the archdiocese's  
24 Safeguarding Adviser, Mr Scott Mackenzie, is present in  
25 the hearing today.

1           The archdiocese has sought to assist the Inquiry in  
2           its investigations throughout this phase and will  
3           continue to co-operate in any way that it can. It has  
4           set out its interest in its opening submissions in  
5           September 2023.

6           In summary, the archdiocese sought leave to appear  
7           in this phase of the Inquiry on account of its  
8           connection with St Joseph's School, Tranent, which was  
9           originally established as an orphanage in 1812.

10          My Lady will recall the history of the orphanage  
11          that I set out in the opening submissions earlier.

12   LADY SMITH: Yes.

13   MR MACPHERSON: My Lady, and bearing in mind what my Lady  
14          has already said to Mr Henry, it remains the position  
15          that the arrangements for and the responsibilities in  
16          relation to the school by governed by the 1914 agreement  
17          with the De La Salle Order, alongside societal and  
18          legislative developments until the school was taken over  
19          by Lothian Regional Council in 1989. As such, in my  
20          submission it can be said that the Brothers of the Order  
21          were the main providers of care at St Joseph's School.

22   LADY SMITH: Can you perhaps just speak a little more  
23          closely to the microphone. I'm not picking up  
24          everything you're saying, Mr Macpherson.

25   MR MACPHERSON: The arrangements for and the

1 responsibilities in relation to the school were governed  
2 by the 1914 agreement with the De La Salle Order,  
3 alongside societal and legislative developments, until  
4 the school was taken over by Lothian Regional Council in  
5 1989.

6 And, as such, the Brothers of the Order were the  
7 main providers of care at St Joseph's School.

8 As submitted in the opening statement, in canon law  
9 once a religious order such as the De La Salle Brothers  
10 becomes established it is removed from the supervision  
11 of the local diocese and it's placed under the direct  
12 authority and supervision of the Holy See in Rome. The  
13 De La Salle Brothers were therefore not under the  
14 supervision of the archdiocese.

15 The archdiocese did of course have a formal role in  
16 relation to the school. The archbishop --

17 LADY SMITH: Hang on, Mr Macpherson. What are you wanting  
18 me to take from your use of that word 'formal'?

19 MR MACPHERSON: I hear of course what my Lady has already  
20 said.

21 Well, the role is as set out in the following lines,  
22 the archbishop gave approval to the headteachers, who  
23 were nominated by the Order and some members of the  
24 board were priests of the archdiocese.

25 I'm not sure I've anything to add beyond that,

1 my Lady.

2 LADY SMITH: Can I also say this, I do appreciate that both  
3 archdioceses have positions that they may be anxious  
4 about in other forms of procedure that aren't a public  
5 inquiry, where powers I have do not extend to the powers  
6 I would have if I was sitting elsewhere.

7 However, I think what you mean is the archdiocese  
8 had a role in relation to the school and where I get  
9 anxious is where I'm sensing that the archdioceses are  
10 trying to unduly distance themselves from, at the end of  
11 the day, the interests of children.

12 MR MACPHERSON: My Lady, I accept that and I'm happy to  
13 depart from the word 'formal'.

14 The question of the role that the archdiocese had is  
15 a matter for the evidence and therefore a matter  
16 entirely for my Lady, I accept that.

17 LADY SMITH: Thank you. Please carry on.

18 MR MACPHERSON: Moving on to paragraph 8 then, my Lady. The  
19 archdiocese is deeply troubled by the evidence presented  
20 to the Inquiry about the experience of pupils at  
21 St Joseph's School.

22 It wishes to make clear to the Inquiry that it takes  
23 these allegations of abuse extremely seriously. As has  
24 been submitted, the archdiocese invited the  
25 De La Salle Brothers to take over the day-to-day care of

1 pupils in 1914 and believed that they had fulfilled  
2 these duties faithfully. Again, I reflect on what  
3 my Lady has already said about the extent to which the  
4 archdioceses may have relied on that belief.

5 As my Lady will recall, the archdiocese first became  
6 aware of allegations of abuse at the school in about  
7 1993, when a letter was sent by the De La Salle  
8 Provincial to the then archbishop about an allegation of  
9 assault of an unnamed individual. Subsequently in 2010,  
10 the archdiocese was sent a letter alleging abuse by  
11 a housemaster at the school.

12 The archdiocese has been and remains deeply  
13 disturbed by the evidence of those who, although they  
14 were already vulnerable, then suffered abuse at the  
15 hands of those at St Joseph's who were meant to be  
16 caring for, guiding and looking after them.

17 The representatives of the archdiocese have listened  
18 carefully to the evidence presented over the past three  
19 weeks. In respect of the applicant evidence that was  
20 heard, the archdiocese acknowledges that the evidence  
21 has provided an insight into the dreadful extent, nature  
22 and impact of the physical, sexual and emotional abuse  
23 suffered by pupils at St Joseph's for which the  
24 De La Salle Brothers had day-to-day responsibility.

25 The archdiocese has noted the evidence of several

1 witnesses who spoke to the control exercised by the  
2 Order, for example when moving Brothers between schools.  
3 Again, although it is of course entirely a matter for  
4 the Inquiry, it appears to the archdiocese that the  
5 evidence the Inquiry has heard during this phase  
6 supports the proposition that responsibility for the  
7 day-to-day care of the pupils and of managing the  
8 Brothers lay with the Order.

9 LADY SMITH: That's fair comment and there was plenty of  
10 evidence about the Brothers being directly involved in  
11 all sorts of activities that were outwith the classroom  
12 and were to do with first thing in the morning, the  
13 evening activities, bedtime, supervision of the  
14 children, lay staff were as well, but the Brothers were  
15 as involved at many points of time as the lay staff  
16 were.

17 MR MACPHERSON: I don't seek to make any more comments on  
18 the evidence beyond that, my Lady.

19 Notwithstanding this, the archdiocese wishes to  
20 assure your Ladyship of its ongoing commitment to  
21 learning lessons through this Inquiry, especially with  
22 regard to safeguarding and protecting those who are in  
23 need of care.

24 It also wishes to confirm to your Ladyship that it  
25 takes safeguarding and the commitment to continuous

1 learning and improvement very seriously. The  
2 archdiocese adheres to the safeguarding procedures  
3 covering the whole Catholic Church in Scotland and is  
4 monitored by the Scottish Catholic Safeguarding  
5 Standards Agency, which is an independent body.

6 In conclusion, my Lady, the Archdiocese of  
7 St Andrews and Edinburgh extends its thanks to the  
8 Inquiry for allowing it to be involved in this phase of  
9 the Inquiry and it will continue to assist the Inquiry  
10 in any way that the Inquiry considers appropriate.

11 Thank you, my Lady.

12 LADY SMITH: Thank you.

13 Mr Macpherson, obviously -- as I've already said --  
14 I'm particularly interested in systemic failure or the  
15 absence of systems and I should give you the opportunity  
16 to correct me if I'm wrong in not having been able to  
17 identify any clear system for how the need to attend to  
18 the welfare and development of the children properly was  
19 being formulated or put in place or operated. I don't  
20 think there was one, was there?

21 MR MACPHERSON: My Lady, there was no evidence to that  
22 effect, no, my Lady.

23 LADY SMITH: Thank you very much.

24 Can I finally turn, please, to the representation  
25 for the De La Salle Order. Mr Thomson, I know you're

1           here to address me on that. When you're ready,  
2           I'm ready to hear you.

3 MR THOMSON: I'm obliged, my Lady.

4                       Closing submissions by Mr Thomson

5 MR THOMSON: The De La Salle Brothers leave the Inquiry  
6           humbled by the evidence of the applicants. They  
7           attended every day to listen, learn and assist the  
8           Inquiry in any way they could.

9           Nothing could match seeing and hearing the raw  
10          expression of the applicants' pain. Many applicants  
11          expressed disbelief that as children they had been  
12          abandoned, ignored and abused. To display the courage  
13          to talk about such matters in a public forum was  
14          remarkable.

15          The De La Salle Brothers repeat their unreserved  
16          apology for their part in what happened to the  
17          applicants.

18          Almost all the children came from backgrounds of  
19          severe family dysfunction and breakdown. At home, many  
20          were deprived of food, shelter and love. Poverty, crime  
21          and alcoholism were regular features of family life.

22          On 10 January, 'John' said the root of the problem  
23          was deprivation and poverty. This was depicted by  
24          artist ██████████ in her paintings of Glasgow street  
25          children. On 10 January, 'James' told the Inquiry he



1 was [REDACTED].

2 Some parents made it clear to their children that  
3 they were not wanted at home. The door was closed in  
4 their face. A repeated refrain from some children was  
5 they could not understand why they were unwanted by  
6 their own mother or father.

7 It has been said you cannot go home again. For some  
8 children this was not a metaphor. Having this as  
9 a starting point, the children were sent to places where  
10 they were controlled, silenced and sometimes abused.  
11 Officialdom and authority passed them by. Children went  
12 unheard.

13 On 12 January, 'Joseph' said he could not understand  
14 why it was thought necessary to lock children up.

15 On 24 January, 'Dominic' told the Inquiry that some  
16 of the staff saw the children as socialised delinquents.

17 Control and order seemed to have been the  
18 predominant theme.

19 LADY SMITH: You could add to your descriptions the way that  
20 some of the Brothers saw the children. What we heard to  
21 the effect that they were seen as prisoners with no  
22 rights.

23 MR THOMSON: Indeed. Indeed.

24 My Lady, throughout this submission I've included,  
25 I think, commensurate with the length of the submission,

1 reasonable reference to the things that were said by the  
2 applicants and these were the subject of much discussion  
3 each and every day, with the team who are here with the  
4 De La Salle Brothers and the De La Salle Brothers  
5 themselves.

6 LADY SMITH: That expression, 'prisoners with no rights',  
7 came from somebody, 'MacDavid', who had himself been  
8 a Brother.

9 MR THOMSON: Indeed, indeed. We could have added that to  
10 'socialised delinquents', alongside, that would sit very  
11 readily.

12 LADY SMITH: Yes, very powerful.

13 MR THOMSON: It was and there was -- I think there was  
14 mention, one of the children talked about, it was like  
15 being in a concentration camp for children, from memory.  
16 I think that was another phrase that was used and  
17 control and order seemed to have been the predominant  
18 theme.

19 Both control and order are necessary, but they  
20 should have been approached from the perspective of  
21 providing an environment where disorder was banished and  
22 care, education and preparation for adult life  
23 flourished.

24 Silencing accompanied control. Many of the  
25 applicants told the Inquiry that they raised concerns

1 about what was being done to them. Complaints were  
2 regularly met with disbelief and punishment. 'James' on  
3 10 January confirmed this.

4 On the same day, 'Jim' told the Inquiry he never  
5 told his mother about the abuse. He told us she would  
6 not have believed him.

7 'Anderson', on 16 January, said his brother had been  
8 seriously assaulted. When the matter was reported to  
9 Gartmore Police Station a teacher from the school took  
10 the report. 'Anderson' thought the teacher was  
11 multitasking.

12 This whole approach led to the children being  
13 effectively silenced. Control and silencing operated  
14 such that they allowed physical, mental and sexual abuse  
15 to take place.

16 The Brothers accept that they failed the children in  
17 important and material respects. The child's interest  
18 should have been the focus. This combined with the  
19 provision of a caring and listening home within a secure  
20 environment would have lessened the instances of abuse.

21 Some of the applicants had positive memories of  
22 their time at the schools. Some made it clear that not  
23 all the Brothers caused them concern.

24 On 12 January, 'John' said that education he  
25 received was far superior to that which he had been

1 accustomed to.

2 'Andrew' on the 17th and 'John' on the 18th said the  
3 same.

4 On 16 January, 'Barry' said the Brothers were good  
5 at teaching music.

6 On 10 January the Inquiry heard from 'James', who  
7 said he had been allowed to keep a rabbit.

8 Several of the applicants spoke of happiness at  
9 being able to get involved in organised games of  
10 football. 'Barry' said there was plenty of physical  
11 exercise. Notwithstanding these examples, the Brothers  
12 accept that they failed the children.

13 The Brothers were of course not the only party  
14 involved in the care of the children. The managers were  
15 akin to a board of governors, as is seen in private  
16 education. Unlike a board of governors, the managers  
17 acted under a detailed statutory framework.

18 In terms of the Approved School (Scotland)  
19 Regulations 1961 the managers had many responsibilities.  
20 Now is not the time to rehearse all those  
21 responsibilities.

22 The managers were responsible for the employment of  
23 teachers and staff, the keeping of records and the  
24 regular visiting of schools to keep themselves informed  
25 that the welfare of the children was being maintained.

1           Enquiries made on behalf of the Brothers established  
2           the existence of substantial St Joseph's and pupils'  
3           records in the hands of East Lothian Council. Those  
4           records have allowed the Inquiry to have precise dates  
5           of attendance for some applicants.

6           The Brothers made similar enquiries for the records  
7           of St Ninian's, but to no avail. The Brothers have been  
8           heartened to hear at the Inquiry that some St Ninian's  
9           pupils' records have been found.

10          Despite the terms of the 1961 Regulations and the  
11          earlier versions, the involvement of the managers seems,  
12          from the children's perspective, to have been  
13          peripheral.

14          The children saw people in suits come and go, but  
15          without any interaction with them. This lack of actual  
16          contact is to be contrasted with the detail of the  
17          manager's regular involvement as seen in the St Joseph's  
18          minutes stretching over decades.

19          At this remove and time it is difficult to  
20          understand this disconnect.

21          On 10 January, 'James' said he could not remember  
22          any inspection.

23          On 24 January, 'William', a former teacher, told the  
24          Inquiry he did not know what the managers did and they  
25          were never seen.

1           Also on 24th, 'Dominic' said he did not know what  
2           the managers' visits consisted of, but he was aware of  
3           meetings of managers.

4           On 12 January, 'John' remember a Dr Stark visiting  
5           every three months.

6   LADY SMITH: Of course we heard, Mr Thomson, that there was  
7           a difference between -- there was opportunity for there  
8           being a difference between individual board members,  
9           individual managers, going to a school, calling in at  
10          the school, and there formally being a managers' visit  
11          to the school and then again a managers' meeting, which  
12          may have not involved a visit to the school and may have  
13          had to focus on other matters, such as finance for  
14          instance.

15   MR THOMSON: Indeed, I've had great difficulty at this  
16          remove in time from all this evidence, or lack of  
17          evidence in some instances, of piecing together what was  
18          actually taking place on the ground. So in this  
19          submission I've relied on the impression that the  
20          applicants who suffered and some of those who worked  
21          gained.

22   LADY SMITH: That's all one can do. Of course, as soon as  
23          you have allowance being made for the possibility that  
24          visiting wasn't formal and an individual manager or two  
25          may have called in just to say hello, speak to the head,

1 see how things were and leave, make no report of it, not  
2 speak to individual children, and yet that might have  
3 gone down in a minute somewhere as managers having  
4 visited the school, but that could be what happens  
5 sometimes.

6 MR THOMSON: Informality can sometimes be a good thing and  
7 sometimes a bad thing.

8 LADY SMITH: Yes.

9 Thank you.

10 MR THOMSON: External bodies, such as HM Inspector of  
11 Schools and the archdiocese, had strategic roles to play  
12 but failed in this and in the adequate provision of  
13 managers at time.

14 This can be seen in the pressure HMI had to apply to  
15 the archdiocese in the early to mid-1960s relative to  
16 St John's, St Mary's and St Ninian's.

17 Other external bodies, such as social work  
18 departments and the police, also had parts to play in  
19 daily events but also failed.

20 The children felt no practical benefit from any of  
21 their involvement. When any sort of external  
22 officialdom made face-to-face contact with the children,  
23 there was a strong presumption against the children's  
24 reports of abuse being believed.

25 The cumulative effect internally and externally

1 therefore was the children were failed. The structure  
2 failed. The system failed. All internal and external  
3 officialdom was inadequate.

4 This submission should comment on Michael Murphy.  
5 He remains unapologetic, unrepentant and unchanged. For  
6 children he must have been terrifying. On 18 January,  
7 'John' described him as a Jekyll and Hyde character. As  
8 an old man, he retains a terrible focused vigour.

9 In the only questions they asked, the Brothers made  
10 clear what they thought of his actions. The Brothers  
11 accepted the verdicts of the three criminal courts.

12 Terrible, unforgivable abuse happened on the watch  
13 of the Brothers. They failed systematically to prevent  
14 or stop abuse. There was a failure to look, investigate  
15 and act. The system then in place was incomplete and  
16 lacking in oversight.

17 Broader systemic failure was made up of the failures  
18 of all the bodies who had a role in the lives of the  
19 applicants. Many of the applicants gave evidence about  
20 the need for competent oversight. Someone to watch over  
21 their care. Someone to watch out for them.

22 Even after all these years, they were bemused at  
23 best and understandably angry at the lack of oversight  
24 and action. Had they been listened to and their  
25 complaints acted upon, some abuse would have been



1 prevented.

2 The Brothers have already apologised when  
3 an individual has desired an apology as part of their  
4 attempts to heal. The Brothers repeat to this Inquiry  
5 their unreserved apology to all who were harmed.

6 LADY SMITH: Thank you.

7 MR THOMSON: I'm obliged, my Lady.

8 LADY SMITH: Thank you, Mr Thomson.

9 I note in particular the reinforcement of what is  
10 now the Order's position, different from their initial  
11 position, to the effect that there was systemic failure.  
12 I'm grateful to you for saying in terms that it's  
13 accepted the system failed, the structure failed and  
14 there was a lack of appropriate strategy and strategic  
15 direction being followed. It's very helpful.

16 MR THOMSON: I'm obliged, my Lady.

17 LADY SMITH: That completes today's business.

18 There is nothing else we need to think about just  
19 now, Mr MacAulay, is there?

20 MR MACAULAY: No, my Lady.

21 The Inquiry resumes I think in about a week's time  
22 or thereabouts.

23 LADY SMITH: It's about a week's time, when we move to the  
24 next chapter. I'm sorry, I don't have the date to hand.  
25 But that will be a week on Tuesday. The next chapter,

1           which moves into provision in the Dundee area with  
2           different people --

3   MR MACAULAY:   Tuesday, 13 February, my Lady.

4   LADY SMITH:   The 13th, I thought it was.

5           A week on Tuesday, we start then at 10 o'clock.

6           Thank you all very much for your attendance today.

7   (11.45 am)

8           (The Inquiry adjourned until 10.00 am on  
9           Tuesday, 13 February 2024)

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