

1

Tuesday, 13 February 2024

2 (10.00 am)

3

(Proceedings delayed)

4 (10.05 am)

5 LADY SMITH: Good morning and welcome to the next chapter,

6 Chapter 3 of Phase 8, of our hearings.

7

This case study, as you know, is looking into the
8 abuse of children in residential accommodation for young
9 offenders and children, and young people in need of care
10 and protection. Those of you who have been following
11 this phase will appreciate that sometimes both types of
12 children were accommodated in the same place, increasing
13 the challenges to all concerned.

14

We're going to move to the first witness in this
15 section. Broadly, we're talking about provision in the
16 Dundee area, as those of you who have been looking at
17 the website will have noticed. I think our first Dundee
18 witness is ready; is that right?

19

MR SHELDON: That's correct, my Lady. Our first witness in

20

this chapter is James Ross, who is a representative of
21 Dundee City Council.

22

LADY SMITH: Thank you, Mr Sheldon.

23

James Ross (sworn)

24

LADY SMITH: The first question I hope is an easy one. How

25

would you like me to address you? I'm happy to use

1 either your first or second name, which would work?

2 A. First name would be great.

3 LADY SMITH: Thank you, James.

4 That red folder has documents in it that relate to
5 your evidence. Can I say at the outset: I'm very
6 grateful to you for coming along to give evidence today.
7 I know that Dundee Council were not responsible for
8 setting up or running the institutions we're
9 particularly interested in discussing with you, but they
10 did fall there to the archive when the schools closed in
11 the early 1980s. You have had the perhaps unenviable
12 task of immersing yourself in that archive, so as to
13 help us understand what's available by way of
14 essentially documentary evidence. But we may ask you
15 one or two other questions to bring alive, and perhaps
16 more up to date, your thinking on what you're reading.

17 If at any time, James, you have any questions,
18 please don't hesitate to speak up. This is not an oral
19 examination. As a public Inquiry, I'm just keen to get
20 to the heart of all the evidence we have that's relevant
21 to our investigations, my learning, and our
22 understanding here and we're asking you to help us with
23 that. That is what you're here for; not to be tested,
24 but to help.

25 I normally sit from now until about 11.30 and take

1 a break then. But, if you want a break any earlier,
2 please just let me know; all right?

3 If you're ready, I'll hand over to Mr Sheldon and
4 he'll take it from there; okay? Mr Sheldon.

5 Questions by MR SHELDON

6 MR SHELDON: Thank you, my Lady.

7 James, I think you are currently a senior service
8 manager working with the children and families division
9 at Dundee City Council's social works services
10 department; is that right?

11 A. It is.

12 Q. I'll backtrack in a moment to ask you about how you came
13 to be there, your professional background and experience
14 and so on. But you have very helpfully provided some
15 details of your educational background and your
16 qualifications.

17 I think we see that you initially had a BSc in
18 Behavioural Science in 2003; where was that from?

19 A. That was Abertay University.

20 Q. You have listed a number of postgraduate certificates
21 and diplomas; can you tell me, are these post-grad
22 qualifications you've undertaken off your own bat, as it
23 were, or are these requirements for ongoing professional
24 development in your line of work?

25 A. There's nothing about them that's an essential

1 requirement. I've always kind of felt it's been
2 important for me, as I progressed throughout my career,
3 to just have -- you know, enhance my knowledge and
4 understanding of the fields that I found myself working
5 in. Particularly as I was able to secure promoted
6 posts, just bringing, I think, that extra knowledge and
7 critique to the work I think is essential.

8 Q. I think we see, in the final bullet point under that
9 heading of "Education" in your CV, that you are still
10 studying for, in this case, a postgraduate in chief
11 social work officer studies. So that would be for
12 a further promoted post; is that right?

13 A. Yes. Again, there is nothing essential in terms of
14 securing that for the post I'm in just now, but the
15 opportunity arose to be involved in the course. I felt
16 again, just in terms of my future career development,
17 that this qualification would be helpful in any future
18 post.

19 Q. All right. Thank you.

20 Just working, as it were, backwards through your CV,
21 James, I think we see, about halfway through the second
22 page, that your first post as a social worker was in
23 Fife; is that right?

24 A. That's right.

25 Q. With Fife Council?

1 A. Yeah.

2 Q. Perhaps you can just tell us about that and your general
3 experience as a social worker?

4 A. I suppose my first post was in a residential social
5 worker post, and I worked as a social worker across
6 children's houses within Fife and really supporting
7 staff to understand the needs of children and young
8 people in -- and using the social work knowledge to
9 assist them in their planning and care responses.

10 But that was with a small group of children and I
11 kind of I felt that I wasn't being challenged and tested
12 enough, so I went in to work more broadly in children
13 and families, and across the many years worked within
14 in-take child protection, doing joint investigative
15 interviews and case conferences, to parent planning for
16 children. So securing permanent fostering and adoption.

17 But, over the time in Fife working in children and
18 families, my career has spanned almost all aspects of
19 children and families practice.

20 Q. All right.

21 I think you say, just in the last couple of lines of
22 that paragraph, that one of your functions at that time
23 was managing risk within families as an alternative to
24 care. I think perhaps -- do we understand or should we
25 understand that in general policy now is to try to

1 ensure that children grow up in a kinship group, rather
2 than go into residential care; is that correct?

3 A. It is. I think the reality of that often isn't the
4 case. And I suppose what -- across social work is that
5 you're asking often newly qualified staff to manage
6 complex risk, and a lack of experience and knowledge
7 often means their perception or assessment of risk is
8 more heightened than the reality of the risk that's
9 there.

10 So, in terms of as a social worker, I always kind of
11 felt my job is to ensure that there is robust planning,
12 responsive planning to escalation of risk and that when
13 we were considering care, we were clear that we had
14 tried everything possible to keep children within their
15 family or with their parents, and that we always weighed
16 up the alternatives to birth family care.

17 Q. It's quite a bit to unpack there. I think one of the
18 first terms that you used was "complex risk"; can you
19 tell us what you mean by that?

20 A. I think in terms of complexity what we work with is,
21 with families that often have substance misuse as
22 a consequence of that poor mental health, the
23 associations and the risks that come with drug use and
24 alcohol use in the community, then the impact of drug
25 and alcohol misuse and mental health on the actual

1 parenting that's delivered to children. And then what
2 we have as a consequence of that is often a range of
3 behaviours that are displayed by children and young
4 people that in themselves bring additional risks to the
5 situation.

6 So, I think when you put all of those areas
7 together, you often have a range of complexities that
8 professionals become anxious about, become, I think at
9 times, frightened in how it can be managed.

10 Q. As I understood you -- and please correct me if I
11 have this wrong -- I think I understood you to say,
12 a little later in your first answer, that there was
13 a tendency sometimes for professionals to overestimate
14 risk; is that really what you were saying?

15 A. I think what you have is professional anxiety, and what
16 people see as alternative care being the way to manage
17 that risk without appreciating the risks that
18 alternative care will bring.

19 Q. By "alternative care", you mean residential care of some
20 sort?

21 A. Yes. Foster care, residential care.

22 Q. But, again, what you seek to do, as I understand it, is
23 to manage that complex risk in a way which doesn't
24 overemphasise the risks which might be present to
25 particular children; is that right?

1 A. That's right. I think also, for risks, that you have to
2 try to at least mitigate against that risk, with a range
3 of support mechanisms that you can put in place, as
4 a social worker or with your partners, and that we
5 tightly manage that risk on an ongoing basis. And that
6 it takes some time for risks to reduce within families
7 and households, and I think we have to be confident we
8 have given adequate time for change.

9 Q. Clearly, if you are providing time for change, there is
10 an element of risk involved in that course as well,
11 I'm assuming; are there any particular guidelines or
12 instruments, tools that you use to try to monitor and
13 mitigate that risk?

14 A. I think it depends on -- so there is a national risk
15 assessment, child protection risk assessment framework,
16 I think that's hugely helpful. There is the my world
17 triangle, there's resilience matrix. There's a range of
18 assessment frameworks --

19 Q. Can I slow you down a bit? You have mentioned a couple
20 of things there. There was, first of all, the national
21 risk assessment framework; is that right?

22 A. That's right.

23 Q. Then it was the -- there was a triangle you mentioned?

24 A. Yes. There's the My World Triangle for assessing
25 children and then, additionally to that, there is the

1 resilience matrix.

2 Q. All right.

3 These are all tools that you or your colleagues or
4 social workers would use to test the risks; is that
5 fair?

6 A. Yes, I think to evidence the risk. I think feelings
7 about risk can become heightened, but what you need to
8 have is the evidence that demonstrates the actual risk
9 or the potential risk of harm. And I think it also has
10 to be specific to some of the knowledge or the theory
11 that's available, in terms of, you know, particular --
12 in relation to what the risk that might be present tells
13 us. So, if you're working with parental substance
14 misuse; what are we saying are the risks around parental
15 substance misuse? What is the evidence for that? And
16 what's the probability of what might be the outcome of
17 that situation?

18 I'm hoping that's been helpful.

19 Q. Well, for me it has. My Lady, do you have --

20 LADY SMITH: Very. Thank you.

21 MR SHELDON: James, you then, I think, carry on at
22 Fife Council as team manager and, later, service
23 manager. Shall we take it these are now promoted posts
24 that you're moving through?

25 A. Yes, that's correct.

1 Q. Ultimately, you went to work for Dundee City Council in
2 May 2023, so you are just short of a year, really, in
3 that post. Perhaps you can just tell us in broad terms
4 what your job now entails and how that relates to the
5 kind of things that we're talking about here, which is
6 children in residential care and the risks, in
7 particular the risks of abuse to children in care?

8 A. I suppose the fundamental of my current post is to have
9 oversight and regular across all of the operational
10 children and families practice. That is to ensure that
11 we have practice standards, that we have robust
12 assessment tools for staff to use, that we have plans
13 for children that are smart, that meet their individual
14 needs, but work with the whole family.

15 So my role is really to support the workforce to
16 embrace risk, to robustly assess and manage that, and to
17 ensure that decisions we make for children keep them
18 both safe at home or, where we felt that it is unsafe,
19 we have weighed up the options available to children and
20 young people and the risks that might come with those
21 decisions.

22 So, ultimately, what I try to have is an oversight
23 of all our young people across residential care in
24 particular, but also who are in external placements out
25 of the authority and who have been in secure care. So

1 just bring in a critical lens and some rigour to the
2 planning, and understanding of what those children are
3 experiencing in care. And in addition to that, I have
4 oversight of all the children's houses within Dundee,
5 and really as an external manager to ensure that we are
6 providing high-quality care to children and young
7 people; that these houses become a home; that they're
8 nurturing; that young people are experiencing a warmth
9 to achieve their potential, and that our staff are
10 confident and competent and managing what I think is, at
11 times, very complex behaviours as a consequence of
12 trauma.

13 But, ultimately, my hope is that the remit that
14 I have means we make timely decisions for children, but
15 we also ensure that their needs are paramount to any
16 decisions we make about their lives and their futures.

17 Q. Can you tell me what that really involves in day-to-day
18 practice with children in residential care? There may
19 be evidence, I think probably later in the Inquiry,
20 about the need for perhaps more frequent visits to
21 residential establishments; is that part of your role or
22 do other senior members of the social work services make
23 visits to residential establishments?

24 A. I visit them fairly frequently, and really because I
25 quite enjoy visiting residential houses and engaging

1 with young people. And I think you have to often visit
2 to know what the experience is. I think you can learn
3 a lot about the function of a house by being present.

4 But I also manage three practice managers, who are
5 part of the leadership team. They visit the houses
6 weekly, both planned and unplanned. And that is to
7 engage with young people, to hear about their
8 experience, but also to be there to support the staff
9 and understand the complexities that they might be
10 working through, and just to bring in additional
11 supportive function to staff and young people. But we
12 have significant scrutiny across the houses, and we have
13 a fairly large -- what we now have, I call a team site.
14 So what I can access and the practice managers can
15 access is oversight over restraint, over staff
16 supervision, over training, over the number of meetings
17 that are held for young people. So we --

18 Q. Can I just stop you for a moment? Does that process, if
19 you like, depend on reporting of incidents like
20 restraint incidents?

21 A. Yeah.

22 Q. I'm just back tracking a little in your evidence. You
23 mentioned that there are members of your staff that
24 visit weekly; how often would you say you visit?

25 A. So not weekly. There are some houses I have been in

1 weekly. It depends what's happening in the houses. So
2 the houses that are the most unsettled, I'll tend to
3 have a greater presence to keep staff calm, validate
4 their experience, but just to ensure that I feel that
5 the experience for the staff and the young people is the
6 best that it can be.

7 But that's -- there's no standards set for me to
8 visit. It would be unusual for a senior manager to
9 visit houses. But I always have felt there is
10 a particular vulnerability in residential care and
11 because of my own background in residential social work
12 I'm inclined to be much more committed to being present
13 and visible.

14 LADY SMITH: How many residential establishments for
15 children and young people is Dundee Council responsible
16 for at the moment?

17 A. It's currently got six and there is a seventh due to
18 open in April.

19 LADY SMITH: Are they all within the city?

20 A. Yeah.

21 LADY SMITH: Thank you.

22 MR SHELDON: Following on from that, my Lady, if I may, in
23 the foster care chapter your colleague, Mr Glyn Lloyd,
24 I think gave evidence that there were just over 300
25 children in residential care in Dundee; is it still

1 about the same, greater or less? Can you put a figure
2 on it?

3 A. In terms of the number of children and young people that
4 Dundee City Council has placed in residential, we have
5 small numbers currently. So, in terms of external
6 placements, or children that are placed in residential
7 outwith the city, I know that's now 28. And in terms of
8 our own houses, I think we set around 35 to 40
9 placements at any one time.

10 Q. That seems quite a significant drop. Is there
11 a particular reason for that that you can identify?

12 A. No. In terms of -- I gather the data regularly and
13 review that on a fortnightly basis. So, in terms of
14 residential care, the number of young people externally
15 has been between 40 and 45 at its peak. Foster care is
16 a separate group of children and young people, and that
17 might be what Mr Lloyd was referring to because that is
18 a bigger population.

19 LADY SMITH: So, in your numbers, which are under 100; you
20 are not accounting for foster placements?

21 A. No.

22 LADY SMITH: Thank you. The term "residential care",
23 of course, technically covers foster as well as any
24 other type of placement. But I can see, from your
25 perspective, you are looking at the Dundee houses that

1 the council is responsible for.

2 A. Yes. Just at any time correct me, because in my own
3 head what I try to do is -- I do separate foster care
4 from residential, and I see them as two separate things,
5 so --

6 MR SHELDON: Don't worry. I'm sure it's my fault.

7 Again, just back tracking a little, you mentioned in
8 terms of your visiting practice that you could tell
9 a lot from visiting an establishment about the house and
10 the way it was run; what do you have in mind when you
11 say that? What sort of things can you find out? Can
12 you identify, doing what you do?

13 A. I think the first thing is damage to the property.
14 I've always found when you see a lot of damage you've
15 got -- I think that just signifies a loss of distress in
16 young people. At times I would question: when there's
17 such a level of damage; how present are the staff in
18 managing the distress of young people?

19 I think often, if you have -- you see there are
20 doors closed and there's very little atmosphere, and
21 there is segregation of young people, that tells me
22 something about just how happy a home it is.

23 If young people are present or not when you visit,
24 if you frequently visit and there's no young people
25 there, then I would be curious around that. Is it

1 a planned activity or are they voting with their feet
2 not to be there? If that is the case; why are they
3 choosing not to be there? Residential staff are very
4 quick to tell you what their experiences are and I think
5 that's a rich source of information. So I think just
6 all of that together.

7 Then, when you visit, you can speak to young people,
8 and you can just -- not formally, but you can just ask,
9 you know: how's your day? How's your week? You're
10 looking quite upset or you're looking quite miserable.
11 What is going on for you? You always get honesty from
12 young people, so I just think a temperature check is
13 well done by planned and unplanned visits.

14 Q. All right. Thank you.

15 Can I just ask you a bit more about that then? In
16 talking to young people, you feel that they're being
17 honest with you and open; is that fair?

18 A. Yeah. And if they're guarded -- I suppose I always
19 pride myself on being a really good social worker and
20 children being the most important thing to me. You are
21 always, I think, skilled at understanding the
22 presentation of young people. I like to think young
23 people are honest with us. But what I've always been
24 mindful is, when you visit you come and you go. The
25 young person has to stay. So there is a risk of honesty

1 about how they're feeling about particular staff.
2 Because they've got to be there beyond your leaving, so
3 there is a -- it's a delicate thing to manage. But my
4 experience is young people tend to be quite vocal about
5 what life is like for them, both in terms of their
6 experience in the children's house, but also about the
7 wider care planning for them.

8 Q. Do you think that openness, as you describe it, has
9 changed over the time that you've been in practice or do
10 you think it's been about the same?

11 A. I think there's a tendency for senior management not to
12 visit houses and that residential sits as a very
13 separate part of children and families social work. It
14 can almost be a silo service, in that people don't fully
15 understand what's happening, or there's an acceptance of
16 particular behaviours and cultures and practises. And
17 having worked in residential social work and having
18 placed children in those settings, and still having
19 relationships with young people beyond their childhood,
20 I have always kind of felt that there needs to be -- the
21 wind needs to blow through residential houses, and there
22 needs to be an external eye and someone who is keen to
23 just fully appreciate what the practice is, what the
24 care is, and that we're not accepting of a lesser
25 quality care because it's a group living environment for

1 teenagers.

2 Q. I suppose what I'm really asking is: are you confident,
3 or as confident as can you be, that young people in
4 these homes in Dundee would feel able to disclose to you
5 or your colleagues that they were being abused in some
6 way?

7 A. I am. I think what gives me more confidence is that
8 recently I had asked for a survey to be done by
9 an independent organisation.

10 Q. Who was that?

11 A. Mind of My Own, they facilitate an app for young people
12 to give their views. But I had asked for an additional
13 task, a survey to young people. And young people could
14 choose to complete it; there wasn't an expectation that
15 they would. And I was keen to understand how safe they
16 felt or if they had a trusted adult to speak to if they
17 felt unsafe. And the survey, I think of all of the
18 people that completed it in our houses, less than
19 50 per cent felt they had an adult they could speak to
20 if they had to confide in something that was upsetting
21 them.

22 So there was an honesty, I thought -- that data
23 concerned me. I thought they would have all felt they
24 had a trusted adult. But what I got from the survey
25 was, I think, an honesty, which was we had more half of

1 our young people that felt at a time of vulnerability
2 there was an adult absent in their life they could
3 confide in. So I think for me that told me two things,
4 which is we need to do more about relationship-based
5 practice. But it also told me there was an honesty by
6 young people.

7 Q. Is this app that you are talking about something that
8 children can download and use themselves for these
9 purposes to disclose, to, I suppose, talk about their
10 experiences in care?

11 A. Yes. So we have it for all young people in foster care
12 and residential care. They can use it at any point of
13 the day and week, to give -- you know, to just comment
14 on their care, how they're feeling. You know, have a
15 place to put all that information. They equally can use
16 it prior to any formal meeting to represent their views.

17 But we also have the Who Cares? children's rights
18 staff who visit our houses frequently, and that external
19 advocate is hugely important because they're removed
20 from being a part of the staff group and they are also
21 independent from the council and, again, I think just
22 bring a strength of independent advocacy.

23 Q. In relation to the app still; are children then issued
24 with smartphones or do they generally have them anyway?
25 And, I suppose, is there a limit to the age at which --

1 a lower limit to the age at which a child would have
2 a smartphone or get a smartphone?

3 A. Yes, I think age is a determining factor and --
4 residential houses, all of our young people have phones.
5 I think that it's a good way of us managing certain
6 risks. It does expose them to other risks, but it's
7 accepted that they all have phones and they can use the
8 app. By age -- definition of age of children in foster
9 care, they're of an older age before they can use the
10 app because often phones are not encouraged, you know,
11 in that early primary age. So at nine, ten, 11. But
12 I think, in terms of our houses, I'm confident that
13 although young people have the app -- they use it if
14 they wish, but they have a range of ways in which they
15 can share their views.

16 Q. All right. Thank you.

17 What you say about damage to property being, as it
18 were, an indicator or an index of, well, perhaps
19 a number of things -- we'll come on to look later at
20 some quite interesting historical evidence about that
21 and perhaps get your comments in relation to Balgowan
22 and, to an extent, Balgay.

23 We are looking at these three establishments, Balgay
24 and Balgowan approved, and then List D schools, and
25 Burnside or Harestane, which started off as a remand

1 home, it's thought in about 1966, and then became what
2 was called an assessment centre post-1971.

3 There may be evidence about the effectiveness of any
4 assessment process, perhaps later in the Inquiry. But
5 I'm just asking you about it now. Is there still a
6 concept of assessment of children and particular
7 settings, or a context in which an assessment process
8 might take place?

9 A. I think, for me, assessment of young people is
10 an ongoing thing. It doesn't happen over a particular
11 period of time. I think an assessment of what is the
12 right care placement for children should happen before
13 they're admitted into care and that we obviously would,
14 through the kind of lateral review process review
15 suitability of where those children are placed and, if
16 their needs have changed, can they be met in a different
17 setting? We don't have assessment houses or assessment
18 settings. And I think they're quite idealistic, but
19 I'm not quite sure you could say a residential house
20 would give you an accurate assessment of a young
21 person's needs and emotional distress because of group
22 living and the influence of dynamic, and the power
23 difference between young people and how that impacts on
24 behaviours.

25 So I think I would be confident that we don't have,

1 and we wouldn't be using in the future, houses to do
2 an assessment of young people because it's too complex
3 and there's too many things that influence that
4 assessment in a group living environment.

5 Q. I suppose that complexity and difficulty might be
6 exacerbated where children in a so-called assessment
7 house came from a very wide range of backgrounds with
8 different issues, whether it be having committed
9 a criminal offence or simply not having parents to care
10 for them at that particular stage; is that the kind of
11 difference and potentially, I suppose, power dynamics
12 that you have in mind?

13 A. Yeah. I think you have a range of competing reasons why
14 young people would be placed in that assessment centre.
15 And I think what young people might be exposed to could
16 be different to what they might have been exposed to in
17 their family home, depending on why they were placed
18 there.

19 There is quite a range of ages, and I think that in
20 itself brings difficulty and influence. And I think --
21 and my experience would tell me that in any group there
22 is a -- people vie for a position and that young people
23 have to behave in a particular way if there's
24 an influence of a group leader. And, therefore, I think
25 all of that then can't give you an accurate assessment

1 of the young person's needs and how you would respond to
2 their needs.

3 Q. That being so, and if there is, clearly, a need to
4 assess a young person's needs now; how is that process
5 done now?

6 A. I think we're much more skilled at complex assessment,
7 particularly of young people who find themselves in
8 residential houses. And that might have been their
9 first placement post-family care and, certainly, the
10 supervision that we offer staff, that -- the group, the
11 team meetings, debriefs and the external lens that
12 I think we bring is that we try to understand what are
13 the behaviours telling us around the impact of past
14 trauma. How much of the behaviours and the needs of the
15 young people are influenced by group dynamic, by the
16 environment.

17 And what we would never try to do is place certain
18 behaviours purely at the foot of young people and them
19 being responsible for it. I think we're much more able
20 to understand that certain behaviours, certain
21 difficulties are a consequence of the setting that they
22 find themselves in. And so I think our assessment is
23 more robust, in terms of trying to have an honesty about
24 where a young person currently is.

25 Q. All right.

1 My Lady, I'm going to move on to perhaps another
2 topic now; is that sufficient on that?

3 LADY SMITH: Yes, that's very helpful. Thank you,
4 Mr Sheldon.

5 MR SHELDON: Moving on to look in more dealing at these
6 establishments, James, perhaps we can quickly and by way
7 of introduction, look at some photographs.

8 If we can look please at DUN-000003069.

9 It perhaps needs to be blown up a little bit.

10 A. That is fine for me.

11 Q. You can see it all right?

12 A. Yes.

13 Q. This, we understand, is Dundee Industrial School for
14 Girls in the early 1900s, so that is what became Balgay.

15 If we can look now, please, at DUN-000003074. And
16 that is the building as it is now. So it doesn't really
17 seem to have changed much, if at all, at least
18 externally. I think it's now used for residential
19 accommodation, but that hasn't changed.

20 LADY SMITH: Whereabouts in the city is it?

21 A. I don't know.

22 MR SHELDON: Blackness Road, my Lady.

23 LADY SMITH: Yes, of course, that's its address.

24 MR SHELDON: So that is Balgay.

25 If we can then look at DUN-000003073.

1 This we understand is an archive photograph of
2 Balgowan or Baldovan Institute, as it was in the 1900s.
3 I think we see some people in the foreground. In terms
4 of photographs of Balgowan, this is really pretty much
5 all we could find.

6 The main building was demolished in 1983, so there
7 are no contemporary photographs of it, so far as we
8 know.

9 LADY SMITH: Is there some sort of game being played on the
10 grassy area?

11 MR SHELDON: It seems so, my Lady. There seem to be cadets
12 of some sort, possibly.

13 LADY SMITH: Yes, and there are some pipers over to the
14 left. It could have been some sort of fair, sports day.

15 MR SHELDON: Sports day possibly, yes.

16 At all events, these images of Balgay and Balgowan,
17 perhaps if I could just ask you: what strikes you about
18 the nature of the buildings and the appearance of the
19 buildings?

20 A. The size. I mean, they're huge buildings, but they also
21 look like institutions. They don't look like homes.

22 And even when you see all those children on the grass
23 playing, you get a real sense of the scale of care
24 that's been provided from these large establishments.

25 Q. I think that's simply the point I wanted to take from

1 you, that these are large, very institutional-looking
2 buildings, which don't really seem to have changed much.
3 Again, in terms of the fabric of the building, we'll
4 have a look at some records later that indicate that
5 towards the end of the operation of these schools the
6 fabric really was in some difficulty.

7 We're jumping ahead a little, but if I can just take
8 you quickly to DUN-000001330.

9 This is what appears to be a brochure on the
10 opening, the official opening or formal opening of what
11 was then call the remand home in Harestane Road, and
12 that was pretty close to where Balgowan was. Can you
13 tell us what part of the city Harestane is?

14 A. I think I might struggle to answer any questions of
15 geography in Dundee. I don't know it well, apologies.

16 Q. I grew up in Dundee, so I can tell the Inquiry that
17 Harestane and Balgowan were in the north of the city,
18 north-east of the city. Now among some of the more
19 difficult areas, or certainly what were then the more
20 difficult areas in Dundee.

21 If we can just scroll down, please, we see an image
22 there. It's not clear, I think, whether that's
23 a photograph or an architectural drawing, but I think we
24 understand that that is what the home looked like on its
25 opening, in 1967.

1 Again, we'll look at some evidence about that. The
2 home may have been in operation before that, my Lady,
3 for a few months.

4 LADY SMITH: Of course, yes.

5 MR SHELDON: On the face of it, that's a much more
6 modern-looking building. In your professional view; is
7 that a more appropriate size; still too big? How does
8 it compare with homes that Dundee operates now?

9 A. It's still too big. You know, the recent guidance from
10 the Care Inspectorate is around four-bedded houses. In
11 the community, you would struggle to have any approved
12 service now for any -- for children and young people
13 over six beds, and they still look distinctly different
14 from the houses around them. And I suppose for me, with
15 our current houses and the new house I've just opened
16 and the house I'm re-provisioning, is they have to be
17 able to fit in with the community and they have to be
18 able to blend in with the environment around them and,
19 if not, I think there is a whole range of difficulties
20 that come with that.

21 Even with this picture, with the knowledge that
22 I've got about the delivery of residential care, I don't
23 know how you could manage to meet the individual needs
24 of children and young people, and how you wouldn't be
25 faced with ongoing significant challenge of group

1 dynamics with what would be, you know, still
2 a reasonable size of placements.

3 Q. All right.

4 In terms of the houses that you run now; is there
5 any attempt to match children, as it were, suitable
6 children, to live together in that kind of context?

7 A. So we have -- I think it's a really challenging area of
8 work. I think matching young people based on
9 information you know about them is one thing, the impact
10 of group dynamic can be quite different.

11 But, in terms of best practice, we do have matching
12 guidelines. We look for a pre-admission meeting where
13 we look at the young people's background, their current
14 needs, the hopes and intentions of the placement, what
15 are the skill sets of the staff group to meet what we
16 think are the needs, but what do we think would be the
17 impact of this young person's admission on the other
18 young people that we've currently got. And together we
19 pool what we think is a matching document, which will
20 suggest either the placement could go ahead and it would
21 be right, in that there's potential, or -- and we've had
22 some recently where the residential management and the
23 operational social work team who are responsible for the
24 young person are saying there is a bed there, but we
25 have looked at it and we don't think it's a viable

1 option and it wouldn't have success. But that becomes
2 hugely challenging at times of real demand. But we have
3 remained very committed to a matching process. We
4 currently have empty beds in our houses, and I'm really,
5 really clear that we don't fill beds for the sake of it,
6 because the impact of it not working is catastrophic for
7 the young people who have been settled, for the young
8 person and their first experience of residential. But
9 the recovery for staff group, if it goes wrong, takes
10 quite a bit of time. So, for me, there is -- real
11 consequences of not having as well informed matching as
12 you possibly can do. But there is guidance, also, by
13 the Care Inspectorate around effective matching.

14 So we use that, but we also use what we know is good
15 practice guidance, in terms of matching children with
16 adopters and how it would match children with foster
17 care. So, you know, a blend of all that information is
18 something that is hugely helpful.

19 And I suppose the role that I've got is that I
20 ultimately agree all the admissions. And I have
21 a responsibility for all the children of Dundee; I don't
22 have just one part of a service. So I'm keen that the
23 matching process is led by the staff who know the
24 children best, and that we respect their decision, but
25 we also can challenge that. But, ultimately, what

1 I want is for it to work for everybody.

2 Q. You said, just a moment ago, that the consequences if
3 a placement doesn't work out and falls apart, for
4 whatever reason, can be -- your word was "catastrophic".
5 It's quite a strong word to use, but perhaps you can
6 explain why you say that?

7 A. I think what happens as a young person, if residential
8 is their first experience, or it's been the second or
9 third and they've had failed placements before, so what
10 you have is -- I think for that young person they need
11 to be able to understand where they're going to live,
12 what that might look like. I think it's -- to live in
13 group living for any of us, we have all done it if we've
14 been students, is hugely challenging.

15 You are a resilient adult, but you have a young
16 person who comes into an establishment where there is a
17 peer group, there's an influence, they're having to live
18 with strangers. And when it goes wrong, what you tend
19 to find is that you then try to sustain that placement
20 for a period of time.

21 So it starts to go wrong, people are keen to respond
22 to the challenge and difficulties. The behaviours of
23 that young person or the group begin to escalate and you
24 see a lot of damage, you see a lot of restraint, you see
25 a lot of use of police. Young people tend to behave in

1 particular ways together. So you've got a group dynamic
2 that's challenging to manage.

3 You've got staff who become very anxious, very
4 heightened, and very distressed in residential. It's
5 common for staff to go off sick the minute they're
6 experiencing turbulent times that are not, in their
7 eyes, seen to dampen down.

8 So, for me, the catastrophic element of all that is
9 you bring destruction to the lives of children who have
10 had stability. You then, potentially, see the risk of
11 moves for young people, either who have been there for
12 some time or the new person that's come in. You have
13 a staff group who have no confidence in the ability,
14 their behaviours and responses become less
15 trauma-informed to young people. And then, when staff
16 go off sick, I think what you see is an inability to
17 follow care plans. Young people have lost relationships
18 that have been significant to them. You bring staff in
19 who are unfamiliar. I think when you do that at times
20 of crisis you add to the crisis because they often
21 aren't your most skilled staff, they're relief staff.
22 So there's more adults throughout the house. So all of
23 that, for me, adds to just a spiral of challenge and
24 difficulty.

25 And almost what I've seen over the years is that you

1 see a number of placements disrupt and you have to
2 almost empty a house to bring stability and rebuild the
3 staff.

4 So, for me, I'm always keen that we are careful in
5 the matching of young people to a house, to avoid all of
6 that. So that what we can offer to young people, who
7 are still very vulnerable and very troubled, is
8 an opportunity to succeed, to be cared for, and to have
9 staff who are confident in their role, and are committed
10 to that role.

11 Q. I think you said, again earlier on, in that type of
12 spiral situation you describe, that staff can end up
13 behaving in ways in which aren't so trauma-informed; can
14 you just unpack that for a little, please?

15 A. I think what you find is that when you're in a house
16 that's very unsettled, you'll have staff that have
17 experienced a lot of verbal aggression, physical
18 aggression, who will have been hurt, and so what they
19 become is emotionally exhausted, physically exhausted.
20 They're less able to see the behaviour as something
21 that's a communication and it's fuelled by, you know,
22 trauma, the environment, the dynamic. They become
23 consequential in their thinking and, at times, adults
24 then think they can take some control.

25 So the care plans that we develop are always around

1 young people's past histories, their presenting needs.
2 We have carefully scripted responses about if X, Y and Z
3 happens, you should do this. In that crisis, chaotic
4 situation, I think your ability to follow plans and to
5 understand is lessened and, therefore, staff often then
6 don't follow the careful planning that we've put in
7 place, which we know then further adds to the
8 complexities of the demands.

9 So my worry around all of it is when a situation
10 becomes very heightened on an ongoing basis that
11 restraint, in terms of physical intervention, becomes
12 the way in which people take control.

13 Q. That was going to be my next question, so thank you.

14 This impulse to take more control can lead to,
15 potentially, more physical interventions?

16 A. Yeah. I think there's maybe a number of reasons for
17 that. I think when you start to contact the police
18 there is a view held by the police that staff aren't in
19 control and there's often comments made. Other people
20 will have a view that that staff group have lost
21 control.

22 So I think what happens is people's perception of
23 the staff group and the comments they make often aren't
24 informed by the complexity of residential care. And so
25 staff, for a whole range of reasons, start to use

1 physical intervention.

2 But physical intervention doesn't work for a group
3 of teenagers. And at times young people with
4 significant trauma will seek physical intervention as
5 a way of their needs being met. So we do see that when
6 we increase the use of physical intervention, we often
7 then create behaviours for young people to then seek
8 that close contact out.

9 LADY SMITH: You are saying that young people will seek the
10 physical intervention, even if it's something that's
11 quite hard to take, such as restraint, particularly if
12 it's implemented by somebody who is ill-informed as to
13 how to do it?

14 A. I think young people seek it out not unintentionally, in
15 terms of people -- adults taking control of them. And
16 what young people have told me in the past and what you
17 see when you see a situation unfold like that is that
18 what -- when we engage in physical intervention, we are
19 almost telling the young person that they're out of
20 their own control, and then they become reliant on
21 adults then to control them all the time.

22 And just as a bit of an anecdote. I was a service
23 manager and a young person had -- always had two to one
24 staffing -- and he said to me, "I'm really worried about
25 going out at the weekend", and I said, "What are you

1 worried about? You're going to the cinema". He said,
2 "I've normally got two staff", and he said, "But there
3 is something about me that's a risk that needs two staff
4 all the time". So we'd made him frightened of himself
5 by the fact we always had the staffing levels. So
6 there's something about how young people interpret what
7 they experience and what they see, and they often
8 interpret themselves as either being too risky or being
9 out of their own control and therefore reliant on adults
10 to control them.

11 MR SHELDON: Thank you for that.

12 Just to complete our very quick look at the physical
13 appearance of, in this case, Burnside or Harestane, if
14 we scroll down in this brochure, here there is
15 a photograph of what appears to be a classroom; is that
16 a fair description?

17 A. Yeah.

18 Q. It looks like quite an old-fashioned classroom, from
19 what I can see?

20 A. Yes.

21 Q. I remember classrooms like that.

22 Presumably, there was to be some provision for
23 education; can you foresee any difficulties with that
24 arrangement?

25 A. You also have big classroom sizes. I suppose it's all

1 dependent on the reason why the young person finds
2 themselves in a residential setting. However, my view
3 is that what we've tended to do is make an assumption
4 that if you're in residential care you also can't manage
5 mainstream school, and I think there is a judgment that
6 we make about behaviour. So you still find a lot of
7 young people in residential settings who are not in
8 mainstream education.

9 I think when you blend care and education together,
10 I think the young people have no chance to be separate
11 from each other. I think the challenges in care spill
12 into education or vice versa. But young people in
13 residential settings typically need a more child-centred
14 educational package, more one-to-one. And I would be
15 confident that most of the young people that are in
16 residential settings, even back in this period, would
17 have struggled with that formal teaching input.

18 So I think then what you often see is a cycle of
19 behaviour, because what young -- when young people can't
20 manage their behaviour, it becomes the way in which they
21 be out the class and not exposed to the challenge that
22 they're anticipating. So all of that behaviour in the
23 one setting just perpetuates itself.

24 Q. I suppose in a setting like this, where there is a range
25 of children with different complex needs, matters get

1 even more difficult?

2 A. Yeah.

3 Q. We can, as it were, forget that for the moment. Thank
4 you. We'll come back to Burnside later.

5 I just want to come back to ask you a little bit
6 about the Section 21 reports that Dundee prepared for
7 the Inquiry. I think you are familiar with the idea of
8 Section 21 reports because of your work with
9 Fife Council; is that right?

10 A. Yes, that is correct.

11 Q. I think we understand that you have only been at Dundee
12 for a relatively short time, so there may be a limit to
13 which you can help us with this. But can you just tell
14 us a little bit about the approach of Dundee to the
15 Section 21s in relation to these establishments?

16 A. My --

17 Q. I'm thinking particularly about records.

18 A. My understanding, from meeting with the staff who have
19 been involved in Section 21 notices, is that there is
20 an absence of records. That there is a reliance on
21 committee reports that in themselves have brief
22 information, but the staff have undertaken, you know,
23 a full search of all the archives. Any place in which
24 we would hold records, there has been a rigorous effort
25 to search all of them.

1 My understanding from the staff, just in a recent
2 meeting on Friday, was that they struggled to source
3 information on individual young people who had lived in
4 these settings. So the responses, at times, have been
5 minimal in the information because the ability to gather
6 information has been absent.

7 Q. If we can just look, please, at the Dundee A to D
8 response, DUN.001.001.0544.

9 Just at the first page, I think we see that this is
10 just the covering note for the Balgowan A to D. There
11 is just a passage there that Balgowan was managed by
12 an independent board of governors, and there is no
13 dispute about that. It wasn't directly administered by
14 Dundee City Council or its predecessors, so the report
15 is based on analysis of information in the records.

16 The records weren't created by the council, but were
17 placed on indefinite loan or deposit by the board of
18 governors and the solicitors who acted on their behalf.

19 So that's how Dundee happens to have these records.

20 The records held by Dundee are not viewed as
21 complete. We believe further records may be held by the
22 National Records of Scotland. Indeed we have seen quite
23 a large volume of records in the NRS dealing with
24 Balgowan and Balgay, and the Inquiry has already heard
25 some evidence about that.

1 We'll look at it a little more in a moment or two.

2 Just by way of an observation really -- and we will
3 look at records of Balgowan and Balgay -- it turns out
4 there was quite a large volume of records both from the
5 NRS and from Dundee, or apparently from Dundee archives.

6 The volume of records from -- dealing with Burnside
7 or Harestane was much less; can you think of any reason
8 why that might have been the case?

9 A. I mean, obviously, I don't know the history of Dundee.
10 I don't have the organisational memory because I'm a
11 recent employee.

12 On speaking with staff, what they were saying to me
13 is whilst Burnside was a facility that was run by Dundee
14 City Council, there was very few children placed there.
15 Therefore, what people were trying to source was the
16 files of those who had been resident, rather than the
17 files of the organisation and its management. And
18 that's, for me, the only explanation that there seems to
19 be.

20 Q. Would local government reorganisation have had any
21 effect?

22 I think we understand that Burnside closed in about
23 1991. Of course, we then have the unitary councils back
24 in 1996; would that have made a difference, do you
25 think?

1 A. I think there's potential for impact about who then
2 becomes the keeper of files and any separation --
3 I think information at times can be lost, or not having
4 an accurate record of who has become the keeper of files
5 is often the case. So it might be in terms of the
6 separation of the Local Authorities that there's files
7 that have been stored elsewhere, but there's not been
8 a record of where they've been stored.

9 Q. Although Dundee didn't run these establishments,
10 Balgowan and Balgay, directly, there would presumably
11 been social work involvement with those schools,
12 particularly after 1971; would that be fair?

13 A. There would have been. But we would hold information
14 purely on the young people that were resident there, not
15 on the organisation.

16 Q. I understand.

17 I think we just look at the A to D, that the 0544
18 document again, at page 24, please. It's paragraph,
19 excuse me, 24(v) on that page.

20 There is a question:

21 "What involvement did Local Authorities have with
22 the organisation and/or the establishment?"

23 We are told that the Social Work Committee and
24 Education Department, presumably of Dundee Corporation
25 and then what would have been Tayside region, both

1 financed Balgowan school. The Social Work Committee
2 also recommended children via the court system of
3 parents requiring their children to live at the
4 residential homes.

5 So there is a clear indication there that at least
6 at some level the Local Authority was involved and,
7 presumably, would have scrutinised the establishments,
8 because of their role in financing, at least partially
9 financing them; is that fair to say?

10 A. Yeah. There would have been an element of scrutiny
11 required. To what extent, I wouldn't be familiar with.
12 I wouldn't be confident in my knowledge about what the
13 inspection regimes would have been back at that point.

14 Q. We have heard some evidence about that. At various
15 points it was quite complex, but I think we don't need
16 to go into that for the moment.

17 Just to look briefly at paragraph (vi), please:

18 "What involvement did Local Authorities have with
19 the organisation and establishment in respect of the
20 children?"

21 It is said there that it's unclear what role the
22 Local Authorities had in monitoring the children's
23 progress while they lived in Balgowan and, presumably by
24 extension, Balgay, in the early years. The children
25 came from across Scotland and England. It's unclear if

1 these children had regular review meetings.

2 I think we can perhaps understand that in the
3 early -- very early years of their operation -- this is
4 starting -- I mean, before even the 1930s, and then from
5 the 1930s as Approved Schools -- that the involvement of
6 the Local Authority might have been minimal. But,
7 certainly after 1971 and children's hearings and so on,
8 presumably there would have to be some monitoring by
9 social work departments in that context; is that right?

10 A. Yes. I think from its opening, if Dundee City Council
11 had children placed there from the offset, then we had
12 full responsibility for the monitoring of children's
13 progress because we placed the child there and, in fact,
14 we are responsible for the parenting of those children
15 in those settings.

16 I think what you would have now is a confidence that
17 if you had -- so, in the Local Authority, if there's
18 children's homes that are not operated by the Local
19 Authority, the duties of the Chief Social Work Officer
20 where there are concerns raised allows the Chief Social
21 Work Officer to extend some investigation in monitoring
22 of that provider. So I think as legislation has changed
23 and there is a greater ownership by the Local Authority
24 on children's homes that they don't necessarily fund and
25 operate.

1 I know that is the case and that function is taken
2 seriously. But for all the children that Dundee had
3 placed at Balgowan, irrespective of the year, we are
4 ultimately responsible for ensuring the children's care
5 and monitoring and the progress.

6 LADY SMITH: Even thinking back to the earlier period that
7 I think the answer to (v) is trying to address in
8 addition to everything else, the references to
9 negotiating the child going to a school to meet the
10 child's needs, that the Social Work Committee
11 recommended children via the court system or parents
12 requiring a child to live at the residential homes does
13 look as though they were certainly involved in the
14 decision-making process to get the child to whichever
15 school it was thought would be the right place.

16 It would be surprising if thereafter they ticked
17 a box, job done, closed the file, wouldn't it?

18 A. Yes, I'm very confident that our duty extends beyond the
19 placement of a child in a setting. And if there's not
20 a legal obligation, there is a moral obligation, because
21 in fact I think we need to be -- we need to take on
22 board the role of the social worker really seriously.

23 When we are intervening in family life and making
24 recommendations that children are no longer safe and
25 well cared for in their birth family, we have to

1 absolutely ensure that they're safe and well cared for
2 in our care, and there is rigour and there's critique to
3 all of that, and that we carefully understand what
4 children need.

5 So I think, you know, irrespective of the year,
6 there is a commitment -- there should be a commitment by
7 Local Authority to have a rigorous understanding of the
8 child's experience and the care when they are being
9 placed in an alternative setting from their family.

10 MR SHELDON: Thank you.

11 Perhaps just to emphasise that point, albeit perhaps
12 in a slightly roundabout sort of way, perhaps we can
13 look at another document. It is SGV-000102968.

14 That, I'm afraid, is quite difficult to read,
15 because it's very faint writing, but I think this
16 appears to be a letter to a Mr Brown at the Scottish
17 Education Department, and this is from the Dundee
18 Children's Panel.

19 Sorry, is this the right document? I beg your
20 pardon. If we scroll to page 10, this is a letter from
21 a firm of chartered accountants. But they seem to have
22 been the agents for Dundee Approved Schools Society, and
23 it's a letter from them to the Social Work Services
24 Group, August 1970.

25 There is some material there about Balgay and about

1 Balgowan.

2 If we can just go over the page, please. We're not
3 directly concerned with that at the moment. But this is
4 a paragraph headed 'General':

5 'With reference to your suggestion regarding interim
6 measures, I can only state that during the
7 reconstruction of the interior of both schools it will
8 be necessary to retain the numbers at the above levels
9 and assure the group that the best use possible is
10 already being made of all the sleeping accommodation
11 available. I do not consider that release could be
12 accelerated by more intensive liaison with social work
13 departments for it is our present experience that the
14 support being given by these departments is generally
15 extremely poor.'

16 So there presumably were arrangements in place for
17 support, but certainly the view of the Approved School
18 Society was that it wasn't very good; is that a fair
19 construction of that paragraph?

20 A. It is.

21 Q. I suppose the other point arising from that paragraph is
22 there is a real keenness to keep the numbers as high as
23 possible. I suppose one can speculate the reason for
24 that might be at least partly financial; would you agree
25 with that?

1 A. Yeah. And I think within particularly privately run
2 residential establishments, there is a conflict between
3 business model and a care model, and what becomes the
4 primary driver I think is a challenging one for those
5 where an income stream is so important.

6 Q. Yes.

7 Perhaps we can just flick back to the previous page,
8 and we can see the numbers. I think they indicate that
9 in relation to Balgay, the accommodation is of 45 girls,
10 and for Balgowan --

11 LADY SMITH: 47, I think is it:

12 "The number in the school at present is 47."

13 But the accommodation is actually 45.

14 MR SHELDON: Yes.

15 With Balgowan, the numbers will have to be held down
16 to approximately 90. So these are pretty big
17 establishments, aren't they?

18 A. Yeah.

19 LADY SMITH: The Dundee Approved Schools Society, on whose
20 behalf this accountant is writing, were, I think, the
21 successors -- it may actually still technically have
22 been the same charity -- to the Dundee Industrial
23 Schools Society, when the industrial schools became
24 Approved Schools, or maybe you don't know.

25 A. I don't know.

1 LADY SMITH: Do I have that right, Mr Sheldon?

2 MR SHELDON: My Lady, that is correct.

3 LADY SMITH: So we're talking about an organisation going
4 back to -- well, long ago. 19th century, perhaps. But
5 more sign of it coming to the fore in the early 20th
6 century.

7 A. I wonder if there are two things that might be a helpful
8 reflection.

9 In terms of young people when they historically were
10 placed in residential, I think until fairly recently
11 there was almost an expectation that when you were
12 placed on residential setting, that became a long-term
13 arrangement for children and young people. So you went
14 at the age of 12 and you were there until your automatic
15 discharge age.

16 I'm confident now that, particularly in Dundee, we
17 have such rigour around: is this still the right
18 placement for a child or young person? Can they be back
19 home? And if they can, with what support? Or if they
20 came into residential because their needs were really
21 extreme and complex, where we have seen real stability
22 for children and young people who can't go home we have
23 then tried to see if a family setting, such as foster
24 care, might be more appropriate. And we know that then
25 for young people there is the ability to access

1 continuing care more freely, you know, from foster care.

2 The second thing is, in our current houses we can't
3 just increase the numbers; we have to seek permission
4 from the Care Inspectorate to go beyond what we are
5 approved for.

6 So I think that external rigour is really helpful in
7 managing the complexity that's there.

8 Whereas this document would suggest that you could
9 just go above your numbers if it was suitable, and
10 people agreed without realising what the impact could be
11 on those who are resident in such a big establishment.

12 Q. Thank you.

13 If we can move on in the same file, please, to
14 page 34.

15 We see this is a rather later -- if we scroll down.
16 I'll stay on that. Yes, December 1982.

17 Again, I'm afraid it's a very faint copy. But, if
18 we can scroll back up, please, this is an internal SED
19 memo about Balgowan School. Paragraph 2:

20 'Social workers involved with both children [so
21 there are clearly particular children involved or
22 concerned here] have been concerned with the
23 deterioration of the children's behaviour and no later
24 than 9 December both children were found in the school
25 loft glue sniffing. According to Mr Howden, glue

1 sniffing is rife within the school.'

2 And I think in the late 1970s and 1980s glue
3 sniffing was a pretty big problem, wasn't it?

4 LADY SMITH: Yes.

5 MR SHELDON: I think to take this fairly short, if we can
6 just scroll right down:

7 "This informal telephone call [there has clearly
8 been a conversation about this] highlights the
9 professional dilemma social workers had experienced with
10 Balgowan since the introduction of the new philosophy
11 since September. This philosophy places the
12 responsibility on the social worker of determining
13 whether the school philosophy meets the children's
14 needs. Whereas the school believes that its philosophy
15 will ultimately develop the child.'

16 We'll come on to look at what we think the new
17 philosophy may have been. But there does seem to be
18 an element of confusion there, almost, about the
19 respective roles of the school and the social workers?

20 A. There is. I think at times, over my own career, there
21 has been a tension about decision-making
22 responsibilities and professional power, where at times
23 residential children's homes, the management have felt
24 they were responsible for that child and that the
25 social worker's job was merely to visit and ascertain

1 they were okay.

2 Whereas -- and where social workers take a keen
3 interest in the care that is being offered to children,
4 at times that is not well received by the provider of
5 the care. And I think over the years that has been
6 something that just lacks clarity. I think now we're
7 really clear and I'm really clear, that the
8 social worker's job is to champion for that child and
9 ensure the placements meet their needs. Where the care
10 is less than satisfactory, that we work together to
11 improve that, or, where it's not, we make decisions
12 about children being able to stay where they are. But
13 it is a joint endeavour to make sure that children's
14 needs are understood and they're responded to through
15 joint planning.

16 I think historically, when children were placed in
17 residential settings, that it just became the
18 responsibility of the house or the setting to plan for
19 children. And I think in those situations then the
20 ability to bring that critical lens to the situation,
21 I think, is lost.

22 MR SHELDON: Thank you.

23 I should have taken you briefly to paragraph 6, just
24 above the passage we just looked at in this
25 conversation:

1 'Mr Howden also remarked that Balgay had no girls
2 from Tayside region as far as he was aware. The
3 implication of this remark is the region unofficially
4 were disenchanted with the List D provision within
5 Dundee.'

6 So I think, again, we see that albeit that there are
7 no Dundee girls at Balgay, that was at least an option
8 for the social worker services to seek a placement at
9 Balgay during that period. So, again, it's the Local
10 Authority social work responsibility to, I suppose,
11 assess the provision and say thanks or, in this case, no
12 thanks.

13 A. There is that. But, I think, also historically you
14 would find that boys were placed in these settings more
15 than girls.

16 Q. Indeed.

17 A. And for lots of reasons or perceptions, so I think this
18 also might be a remark around not using it for girls.
19 But perhaps it wasn't -- at that time, girls would have
20 been placed in a different type of setting. But,
21 ultimately, there is -- it's almost matching in
22 a different way. If it -- calling it matching, at that
23 time, the Local Authority did have an opportunity to
24 assess the suitability of Balgay for the young people
25 they were looking to place there, and they've made zero

1 informed decisions to place certain groups of young
2 people at Balgay.

3 Q. All right.

4 I suppose to put all this in a little more context,
5 if we can look, please, at page 36 in the same file,
6 this is a handwritten note or memo from Mr Park of the
7 Social Work Services Group, in January 1983. Just at
8 the very start of that, we can see he says:

9 'Following visits [not clear] to Balgowan by myself
10 and in the company of Mr Richmond I made it clear to
11 Mr HGZ [and we'll see that SNR
12 both Balgowan and Balgay] that I do not consider
13 Balgowan to be a fit place to accept new admissions.
14 Mr HGZ accepted this advice with the number of boys
15 remained at nine until the Tayside boys were removed by
16 the authorities some weeks ago.'

17 So, again, we are seeing that numbers are
18 drastically reduced and there is a worry it's not fit
19 for new admissions, and Tayside are pulling out. So
20 it's not a very happy picture at that stage. I think we
21 can look at some more records that put some flesh on
22 those particular bones.

23 Just over the page, at page 37, we can see there is
24 a letter from, I think, the Secretary of State to the
25 local MP, February 1983:

1 'I am writing to let you know that having considered
2 all the evidence the Secretary of State has decided to
3 withdraw his certificate of approval from Balgowan.'

4 So Balgowan was to close, and did very shortly
5 afterwards. The same thing happened to Balgay.

6 LADY SMITH: But, in the Balgowan letter, it says this is
7 nothing to do with the quality of the care and service.
8 It's to do with demographics, interestingly.

9 MR SHELDON: Let's look at that, my Lady.

10 LADY SMITH: I thought you might be taking us there. Thank
11 you.

12 MR SHELDON: If we can go to another file, which takes us
13 back a little in time. This is SGV-000102984.

14 It's page 5, please. Perhaps we can come back to
15 that. I'll investigate at the break, my Lady. It's
16 just a section about physical conditions at Balgowan at
17 that time.

18 If we can look then at DUN-000003046, and at page 3,
19 please, this is from a log or minute book from 1969 and
20 it's page 3, the second column on the right. Again,
21 quite small writing and difficult to make out, but the
22 second and third paragraphs record quarterly medical
23 inspection. I can't make that word out, but it's --
24 I think it's "Dr Mills".

25 LADY SMITH: This forenoon. Not many people use the word

1 forenoon anymore, but it's this morning.

2 MR SHELDON: Dr Mills highly critical of the state of the
3 inside toilets and condition of footwear. So there is
4 concern about physical conditions, even in 1969, let
5 alone in 1982. I hope we'll come back to 1981/1982.
6 We'll come back to that, I hope.

7 Certainly, if we can go to the next file, which is
8 SGV-000102970.

9 LADY SMITH: What is the date of this, Mr Sheldon? Oh,
10 1982. November 1982. Thank you.

11 MR SHELDON: November 1982. Although I think the page
12 I want is -- bear with me. No, it is page 1.

13 So, again, a memo, internal SED memo, about
14 Balgowan. Second paragraph:

15 'The purpose of this minute is to inform Mr Mackay
16 that the current situation in the school is giving cause
17 for concern and that it may be necessary to take
18 particular action in advance of final decisions by
19 Ministers about the four schools in question.'

20 So I think the four schools my Lady, were Balgowan,
21 Balgay, Dale and St John Bosco's. So we see at
22 paragraph 3:

23 'On 1 August Balgay and Balgowan Schools Society
24 formally disbanded the two separate boards of managers
25 and the schools are now managed by the reconstituted

1 board of directors. SNR [REDACTED] at Balgowan was
2 [REDACTED] with effect [REDACTED] and SNR [REDACTED]
3 SNR [REDACTED] Balgay [that is Mr HGZ [REDACTED] by this stage]
4 [REDACTED] for both schools from
5 [REDACTED].

6 'In the interval we have received oral reports of
7 vandalism and disturbance in Balgowan and visits have
8 been made to the school by our Social Work Advisers.

9 'The staff of the school are in a low state of
10 morale, perhaps because they are not sure about their
11 future but also because the former authoritative [I
12 suspect that would be authoritarian, my Lady] regime has
13 been replaced by a type of regime which SNR [REDACTED]
14 SNR [REDACTED] employs at Balgay and which the staff at
15 Balgowan seem incapable of handling. As a result the
16 school is operating in a way which we could not on
17 a long-term basis accept as tolerable.'.

18 So there is real concern within SED. My Lady,
19 I'm conscious of the time, but I think we can move on
20 fairly shortly to look at what was happening in the
21 school itself and particularly among the staff.

22 LADY SMITH: This is us still in Balgowan?

23 MR SHELDON: It is Balgowan. We'll come on to look at
24 Balgay, which as it turns out was in a similar state.

25 Would that be a convenient time, my Lady?

1 LADY SMITH: Was there one document you wanted to look at
2 before we break?

3 MR SHELDON: There is another couple of pages I can take
4 before we go on to the particular -- the meat of the
5 matter, as it were. So if we can go to page 2.

6 This is, again, an internal memo to inform
7 Mr Percival of SED about a visit on 24 November 1982
8 and -- visit to Balgowan. It seems to have been
9 an unannounced visit.

10 We see paragraph 1, they just telephoned the
11 headmaster to say they were going to visit.

12 Just scrolling down, please, towards the bottom of
13 the page, in 'Findings':

14 'Staff displayed a range of feelings about the state
15 of school, from frustration, anger at what they saw was
16 mishandling of the boys, disorientation and
17 helplessness, and basic to all these feelings anxiety
18 about the future of the school.

19 'The boys are no longer engaged in ridge walking on
20 the roof but destruction continues. The clothing store,
21 for example, was broken into on 23rd according to the
22 assistant domestic superintendent.

23 'Residential boys are not attending the educational
24 unit and such attempts as teachers make to re-establish
25 an educational programme in the unit meet with little or

1 no response from the boys.'

2 I think, actually, we can leave that document there.

3 We can go on to look after the break, my Lady, at
4 another document which perhaps illustrates even more
5 clearly the attitudes of the staff at that particular
6 time.

7 LADY SMITH: Let's do that. I'll stop now for the morning
8 break and sit again in about quarter of an hour or so.

9 MR SHELDON: Thank you, my Lady.

10 (11.30 am)

11 (A short break)

12 (11.46 am)

13 LADY SMITH: James, I hope that break's helped. Are you
14 ready for us to carry on, James?

15 A. I am.

16 LADY SMITH: Thank you. Mr Sheldon.

17 MR SHELDON: My Lady, we managed to get the document that
18 was missing earlier.

19 LADY SMITH: Do you want to show it now?

20 MR SHELDON: I think so SGV-000010984. Did I say 102984?

21 If we can look at matters in reverse order, as it
22 were, if we look at page 2, please. This appears to be
23 a record of a visit on 18 January 1982, but I think we
24 see that just at the top of that page. But standing the
25 date at the end of the memo, which is a 1983 date,

1 my Lady, I think that must be an error.

2 LADY SMITH: It often happens in January, yes.

3 MR SHELDON: Absolutely.

4 If we just scroll down a little to paragraph 3,
5 'Premises'. We see that by this stage, January 1983,
6 the main building, (i):
7 'This is now closed and the managers have received
8 a tender for £16,000 for its demolition ...'

9 LADY SMITH: Which building is that referring to?

10 MR SHELDON: I assume, my Lady, that must be the great,
11 large institutional building that we saw in the
12 photograph at the start. It's clear that building was
13 demolished at some point because it no longer exists.
14 And this is a separate building or unit, which they
15 refer to as Wallace House.

16 LADY SMITH: Just to get it into the notes: that is which of
17 the institutions?

18 MR SHELDON: That is Balgowan, my Lady.

19 LADY SMITH: That's Balgowan, thank you.

20 MR SHELDON: We see at the top of the page, top -- yes.

21 LADY SMITH: It's there.

22 MR SHELDON: Two Tayside boys were removed --

23 LADY SMITH: To Burnside.

24 MR SHELDON: -- to Burnside House late November/early
25 December and there is only seven boys in residence.

1 So the establishment, by that stage, is rather
2 a shadow of its former self.

3 But, if we can go now to page 5, please, again, this
4 is a memo about Balgowan and Balgay, an internal SED
5 memo of January 1981. We see in the second paragraph
6 what is said about Balgowan:

7 'The physical conditions at Balgowan were appalling.
8 The conditions of the bedrooms, the extremely drab and
9 dreary association rooms and the decaying nature of the
10 wash/shower rooms. Windows were smashed and even the
11 board put up to protect them had been damaged. One door
12 through which absconders had left was nailed up and the
13 atmosphere was a depressive and oppressive one with
14 a them-and-us attitude to the young boys. The school
15 facilities were an exception to the physical conditions,
16 but a general poverty of surroundings and caring
17 pervaded the main school and evidence as to how this was
18 affecting the boys could be seen in the abscondings and
19 the 36 entries in three months in the corporal
20 punishment book.'

21 Of course, this is still 1981, so they are still
22 using corporal punishment. But, just going back to what
23 you were telling us right at start of your evidence,
24 James, about when you see an establishment which is
25 damaged, which -- in which damage is being caused; can

1 you relate that to what seems to be going on here?

2 A. Yeah. And it would be fair to say that you see the
3 start of that at times in residential childcare, and
4 it's therefore being aware of it -- of those conditions
5 beginning and intervening with the staff group and with
6 the social workers, and other professionals, to ensure
7 that we can understand what is around for the young
8 people who are in those placements, understanding where
9 the difficulties lie for the staff and having
10 a collective responsibility to intervene and into
11 addressing that. If not, as I said this morning, these
12 kind of spiralling situations occur, where you see
13 ongoing damage, staff retreat, and there is a lack of
14 control.

15 I don't mean that through punishment. But, you
16 know, there is a lack of order, lack of control, lack of
17 structure and, at times, you know, it can become very
18 chaotic. So the measures that we've now got in Dundee
19 is really to prevent any of this happening, so we do
20 have the best quality of environment, but the best
21 quality of care, and that we manage to respond to
22 traumatic behaviours in the best way we can, using
23 an informed approach.

24 Q. I suppose the follow-up question from that is: if you
25 got a report now that looked like this; what would you

1 do?

2 A. I wouldn't. Because ~~the~~ staff that I work with and my
3 own visibility would mean that we wouldn't have these
4 situations. And if we were faced with that, then there
5 is something about having a strategy meeting to
6 understand the complexities and challenges and having
7 a clear improvement plan to respond to it timely, and
8 that has -- that requires a joint approach, both by the
9 residential staff and by the operational social work
10 teams, who place the children in the houses.

11 And my view is that there isn't a silo approach to
12 resolving a situation like this, if it was to arise.
13 But I suppose, for me, there is a whole range of ways to
14 understand if a situation is starting to become
15 challenging.

16 I receive all the missing persons notifications. So
17 if young people are starting to go missing together,
18 I get a sense of that. I get made aware of all the
19 behaviour of concern reports, and I meet every Monday
20 with the practice managers to review all the young
21 people in their placements. So there's ways in which
22 you begin to gather a whole range of information that
23 gives you a sense of the situation that young people
24 might find themselves living with, and I also meet with
25 all the residential house managers every fourth Monday.

1 And so I think when you care for young people who have
2 got such complex behaviours as a consequence of past
3 adversity, that it's an ongoing commitment to achieve
4 stability.

5 I think stability can be lost quite quickly if you
6 aren't committed to ongoing quality care.

7 Q. Thank you.

8 If we can -- just bearing all that in mind, if we
9 move back, as it happens, to SGV-000102970.

10 We looked at parts of this before, about what was
11 described as an "authoritative regime" and so on. If we
12 go to page 4, please.

13 This is a memo, again an internal SED memo. If we
14 scroll down to see the date, it is 25 November 1982.

15 Scrolling back up to the start, this is a note to
16 say that -- I think it's Mr Percival. No, I beg your
17 pardon, one of Mr Percival's staff. He says:

18 'As you know I had an anonymous telephone call
19 yesterday from a member of staff at Balgowan who said he
20 was speaking on behalf of the members of staff at
21 Balgowan. I was in the process of dictating a note
22 about Dale when the telephone call came through and
23 I was able to simply put the largest part of the call on
24 tape. The transcription is attached ...'

25 The second paragraph:

1 'The substance of the call was a complaint about
2 extensive damage done to the school. A complete
3 breakdown in control and a major conflict between some
4 of the staff and the headmaster. You will note his
5 comment about informing the national newspapers.

6 'You will recall Mr Park's minute of 2 November
7 indicated that the situation was desperate at the school
8 when he saw it during his last visit.'

9 If we go over the page, to page 5, please, we see
10 the transcript. I just want to take you through some
11 parts of that and get your comment on it.

12 So this is, I think we understand, a verbatim
13 transcript of the call. It starts:

14 'We've tried to inform the man in charge, we've
15 tried to inform our chairman of the board. He in fact
16 said that the new chairman has said they have to play it
17 out, meaning the boys have to get whatever is in their
18 systems out of their system. Well, we have tried all we
19 can, all to no avail. But still the place is being
20 pulled down. They've thrown a lot of muck at windows.
21 They've smashed the place up. Next thing is there's
22 going to be a fire. Now I think it's time that this man
23 is stopped. We think it's time the man was stopped and
24 unless someone does something about it, the national
25 newspapers are going to get the full and complete story

1 because we've kept a diary of all the damage that's been
2 done.'

3 There is then some more detail about that. Sorry,
4 bear with me. If we can go over the page, to page 6,
5 please. From the fourth line, the SED official taking
6 the call says:

7 'I see in fact what you're saying is that these are
8 allegations against the management of the school or SNR
9 SNR what?

10 'SNR directly, because we've never had
11 this under Mr Dale, . The boys
12 were controlled. There was no brutality as this man
13 appears to allege, none whatsoever. The boys were
14 disciplined, did as they were asked, did as they were
15 told with the minimum of fuss. These boys are
16 currently -- they're still in bed by the way at this
17 time and there's no schooling. There's absolutely no
18 schooling at all.'

19 And reading over that next sentence:

20 'The boys have just said -- well, I don't want to
21 use abusive language on the telephone, but the words
22 they have said have to be heard. They're abusive to all
23 the members of staff ...'

24 Towards the foot of the page:

25 'I never believed I would see the day when Balgowan

1 would be broken up around our ears. That's what's
2 happened.'

3 Over the page again, to page 7, and it's about
4 two-thirds of the way down, SED says:

5 'Well, I have to note what you say and see what can
6 be done about it. Of course SNR [REDACTED] will have
7 his own view of things as you will appreciate.'

8 And the caller says:

9 'I know his views. I've heard his views. There's
10 no respect. If a boys calls him sir -- now I would call
11 you sir, but if a boy calls him sir, he puts his hands
12 over his ears and says, "You will call me HGZ." My son
13 calls me dad, he never calls me by my first name. But
14 this man encourages scum of the city to call him HGZ.
15 He tells his staff to call him HGZ, so right off he
16 loses some respect. You see, you must have a man [REDACTED]
17 [REDACTED]. The boys are standing
18 speaking about HGZ and we ask which [REDACTED] because there
19 is another [REDACTED] in the school, and they say, "Oh, that
20 big baldy bastard". Now that's the sort of thing.'

21 Over the page, page 8, please, about halfway down:

22 'You mean you would put it on paper to SNR [REDACTED]
23 SNR [REDACTED]?"

24 And the caller says:

25 'We have tried. It's useless. Absolutely useless.'

1 He tells the boys now there's never been any problem
2 with the staff in here abusing the boys. He tells the
3 boys the first bloke or woman who lays a hand on you
4 goes up that drive, so our hands are tied. There is no
5 way we can chastise the boys. We can't even say it
6 verbally because the boys know exactly what SNR
7 SNR attitude is to discipline in any form. He
8 spelt it out to them. It's a really sad day, I never
9 ever thought I would be making an anonymous phone call,
10 but there you are. Good morning.'

11 It's a very polite ending to the call, I suppose.

12 LADY SMITH: Indeed.

13 MR SHELDON: In terms of what we have seen there, James;
14 what comments would you like to make?

15 A. I think we can just -- from that what you get a sense of
16 that is staff who have practised in a particular way,
17 and you've a [REDACTED] into the establishment who is
18 trying to change both the culture and the practice, and
19 that's being met with resistance from staff who have
20 a genuine belief that control of young people is done
21 through chastisement or punishment. And what you could
22 reasonably say is that when you have that really
23 challenging behaviour of the young people it's because
24 actually what you have is people who are inconsistent
25 and perhaps not practising, signed up to the same way.

1 So the division in the staff group often leads to
2 a fracture in the care of young people and, for me,
3 that's probably what's there.

4 But you also have staff who have been employed --

5 Q. I'm sorry to interrupt, but pausing on that for
6 a moment. Does that have an effect on the children who
7 are in the unit or the establishment?

8 A. I think it always does. I think young people who have
9 attachment difficulties, they're highly attuned to staff
10 dysfunction and due to all they've experienced will
11 often use that disconnect between adults to almost
12 achieve getting their own way. But I think sometimes,
13 when you see it in this statement, you've got staff who
14 perhaps, I think unconsciously, go against the new
15 culture, and I think that leads to very challenging
16 circumstances for children and young people who find
17 themselves in that environment.

18 But there's a view of the young people there, that
19 they're not worthy of anything other than physical
20 chastisement to manage their behaviours.

21 LADY SMITH: James, I couldn't help noticing the way in
22 which the young people are referred to, a very offensive
23 term is used about them. And because they're that, then
24 they should respect everybody else and the way the word
25 'respect' is being used is they should just do exactly

1 as they're told and, if they don't, then they're in
2 trouble.

3 Do I have that right?

4 A. Yeah. I think historically people have thought that
5 children and young people should be appreciative of
6 being in care and, you know, that their behaviour
7 demonstrates the opposite of that. And I think at the
8 time that was a lack of understanding about the life of
9 these children and the circumstances that they've got.
10 But, also, I think historically boys were viewed as
11 delinquents, you know, and that type of language was
12 used to describe them and, therefore, the only way to
13 manage that, or to rectify that behaviour, was those
14 staffing approaches.

15 Whereas if you make comparisons to now, we're very
16 appreciative of trauma, adversity. We use a lot of the
17 literature around that to inform our planning for young
18 people, and we are very clear about the culture and the
19 practice that we expect in our houses and we put a lot
20 of investment into training staff to do what is
21 a skilled job.

22 We put a lot in place to emotionally support our
23 staff to understand what behaviours can trigger within
24 them. So I think from the past until now there is
25 a significant difference in practice and there's

1 a significant difference in how we've invested in staff
2 to deliver high quality care to complex children and
3 young people and to manage the secondary trauma that
4 comes with that.

5 MR SHELDON: All right, thank you.

6 My Lady, I think the Inquiry's heard evidence on
7 this particular point before. Just for completeness, at
8 page 26 in the same file, I don't think there is any
9 need to go to it particularly, but there is a passage in
10 which SNR [REDACTED] Mr HGZ [REDACTED], indicates that he thought
11 [REDACTED] staff were unsuitable because they had nothing
12 but contempt and dislike for the boys; is that the
13 impression that you get from the transcript of the
14 anonymous call?

15 A. Yeah. I mean, it's an absolute reflection of that. And
16 what you've got is [REDACTED] who is
17 trying to change practice and culture, [REDACTED]
18 staff who can see the need for that because of their
19 views of the young people that they're caring for.

20 Q. All right.

21 If we go back quickly to page 3, and this, I think,
22 is a reaction, as it were, to the -- or after the
23 anonymous call is made. Mr Park and Mr Richmond, their
24 conclusion -- and this is still November 1982, and their
25 conclusion in relation to the school is:

1 'We do not, as we have considered, immediately
2 withdraw the existing boys from the school.
3 Consideration could be given to this in a planned way,
4 but precipitate removal could be more damaging than
5 their present experience.'

6 Do you have any comment on that reaction to what's
7 going on here?

8 A. I think there's always a practice dilemma around
9 appreciating that a young person's circumstances is
10 challenging and needs to improve and could be better.
11 But, within that, there will be established
12 relationships whether with young people or key members
13 of staff. And I think what we now appreciate is that
14 unplanned removal of young people from care
15 establishments in itself is really traumatic, so there's
16 always that tension about: can we work with the current
17 situation and improve it in the best interests of young
18 people? And does that outweigh the risk of an unplanned
19 removal to some place else that may have a similar
20 culture, expose them to similar behaviours? And I think
21 that's what that statement reflects.

22 Q. All right.

23 It's kind of a risk of out of the frying pan into
24 the fire?

25 A. Risk of what you've got and the risks with the

1 alternative. And I suppose that just reflects the
2 comments I made this morning about that risk management
3 of children at home. What are the risks associated with
4 parental care, and what are the risks of being in
5 a residential establishment and being exposed to
6 challenging and difficult behaviours? There are risks
7 with both, they're just different. It's trying to weigh
8 those up about what is the least worst option for young
9 people.

10 LADY SMITH: And are you also having to try to judge the
11 risk of detrimental impact on the place to which you
12 remove the children who are in the state that the
13 children were at Balgowan?

14 A. Yeah. And that's the bit that we spoke about earlier,
15 around that matching process, around what is the benefit
16 of the young person coming into a new establishment from
17 the young people that are there? But what is the impact
18 of the new person on the current residents? And you
19 hope you don't -- you can't -- I suppose -- and that's
20 the challenge that we've got, is that we need to do the
21 best by all young people and there is a challenge in
22 trying to do that.

23 LADY SMITH: Thank you.

24 MR SHELDON: Just before we leave that file, perhaps to
25 complete the rather unhappy picture in 1982, if we look

1 at page 47 of that file, please.

2 Again, this is a rather faint copy, but we can make
3 out it's an article from Social Work Today, in April
4 1982, entitled 'Affray on the Tay'.

5 We are told:

6 'The much-troubled Tayside Social Work Department
7 could face a major crisis unless it can learn from its
8 mistakes, according to local BASW Chairman Lloyd
9 Girling.'

10 BASW; would that be the British Association for
11 Social Work:

12 'His bleak warning came after two senior members of
13 staff resigned over dissatisfaction with management, and
14 follows a series of other problems in the region which
15 culminated in the recent sacking of Scottish BASW Vice
16 Chairman, Stuart Robertson, from his job as officer in
17 charge of the Burnside Assessment Centre. The regional
18 social work director, Sam Moxley, admitted he was
19 troubled by the situation and revealed he was
20 considering launching a major review of the
21 department.'

22 And second column from 'Support campaign':

23 'Following the successful emergency resolution
24 backing Mr Robertson at the BSAW's recent AGM, there was
25 an emergency meeting to prepare a campaign to support

1 his appeal.

2 'Mr Robertson believes he has been victimised by
3 management because of the very active campaigns he has
4 led to change regional policies. Director Sam Moxley
5 said he was unable to discuss individual cases, but
6 pointed out he was on the same side as Mr Robertson on
7 many issues and stressed the current disciplinary action
8 had been taken by him personally.

9 'Mr Moxley was worried about the many difficulties
10 caused by the relationship between professional autonomy
11 and managerial accountability and the lack of staff
12 involvement and identification with the department.'

13 What do you think he's getting at there, the
14 relationship between professional autonomy and
15 accountability?

16 A. I think there is always that tension around being
17 creative and innovative in the work with families and
18 young people, but also ensuring you follow policy
19 procedure and often assessment guidelines and the two --
20 both can be done.

21 And I think at that particular time you were
22 starting to think about an evidence-based approach to
23 social work and defensible decision-making. So there
24 has clearly been a challenge about someone's view about
25 the practice that should happen, but a belief there is

1 particular policy and procedure that should also be
2 followed. So that makes an assumption that the both
3 don't go together.

4 Q. Is there a piece there -- and thinking now, again, about
5 more modern practice -- about making sure that
6 everyone's on the same page?

7 A. I think, for me, particularly in all social work
8 settings, the experience of children and their families
9 can only be good when you've got a content and confident
10 competent workforce. So, therefore, for me it's about
11 the inclusiveness of staff and any change, and that we
12 involve them into understanding the cultural or practice
13 changes. I think in residential we do that particularly
14 well.

15 But we can't be there 24/7 to understand the young
16 person's experience, so we need to be confident we can
17 invest in staff, that they understand what our values
18 and our vision is, and that they feel informed and
19 included in order to take that forward. And I think we
20 are probably in a stronger position now around that
21 inclusive practice than perhaps at that time.

22 Q. Thank you.

23 If we can scroll a little back up on that page,
24 please, it's about halfway down the page, paragraph
25 starting:

1 'There has been bitter conflict in the region over
2 the state of its childcare services following two
3 reports by a former Childcare Officer. She told Social
4 Work Today earlier this year that childcare in Tayside
5 was bloody awful.'

6 Certainly at this stage there does seem to be
7 a pretty major difference or difference of opinion about
8 how you do it; is that fair to say?

9 A. It is.

10 Q. That's the kind of thing you are saying you try to avoid
11 in your practice now?

12 A. Yeah. I think we appreciate that to provide residential
13 childcare is a complex challenging job. It requires
14 staff to be motivated to work in that arena, but it
15 requires staff to be continually supported, scaffolded
16 and trained. But we also have to be able to take on
17 board what the experience is for them when they're faced
18 with such challenging and difficult -- and I think --
19 but I'm really clear that a residential house is
20 a children's home; it's a workplace second. And I think
21 staff appreciate all of that. And so I think in terms
22 of the current conditions that I find myself in Dundee
23 operating in is that we do have residential house
24 improvement plans. We have a residential service-wide
25 improvement plan that is aligned to The Promise. We

1 have a lived experience group where we hear from young
2 people and they influence the changes. We monitor,
3 vigorously, restraint, any physical intervention --
4 physical intervention for me could be a room search,
5 could be withholding pocket money -- so we understand
6 fully all of that and that we work towards avoiding
7 that, and that we invest in staff training around CALM
8 because for me it's about de-escalation rather than
9 physical intervention, but the voice of the staff is
10 hugely important and we have listening leaders forums
11 and various things we have in place.

12 We have at times a fairly harmonious group of staff,
13 but we know that can bubble occasionally, when they're
14 experiencing difficulties with young people that they
15 feel ill-equipped to manage. So, as a management group,
16 it's a very challenging thing to win support staff and
17 operate a really functioning service, but it can be
18 achieved.

19 One of our houses recently got the most outstanding
20 residential service in Scotland as a consequence of
21 that. But I think what we --

22 Q. Which one was that, James?

23 A. Millview. That is one of the six-bedded houses.

24 But that I think works because we have high
25 expectations, we hold staff to account for that, but we

1 also support them to achieve what their aspirations are.
2 And where there are challenges and difficulties -- and
3 there are many -- a lot of the time that there is
4 a collective response to managing that.

5 And I think historically young people were moved on,
6 or they were punished when they displayed challenging
7 behaviour. You don't move them on because that is
8 really damaging. We try to understand the behaviour and
9 inform our approach to their care by using that
10 understanding, and that we look at creative planning
11 that's individual to the young person, so that we can
12 meet their needs as best that we can.

13 So I think -- I think we spoke about that kind of
14 earlier, when you have this division in staff around
15 culture and practice that you start to see the rippling
16 impact of that on young people in services.

17 LADY SMITH: James, did I hear you say, when you were
18 describing physical interventions that you tried to
19 avoid, that you included withholding pocket money as
20 a physical intervention?

21 A. Yeah.

22 LADY SMITH: Can you explain that to me, please?

23 A. I just feel that's a physical thing that we are
24 withholding from young people, and we're using it as
25 an intervention. We often withhold pocket money as

1 a consequence of behaviours, and I think at times that's
2 reasonable. But, if you've got a young person that has
3 lost everything, so they've had a reduction in their
4 time, they've had less time with their family -- so we
5 try to ensure that our approaches are not just purely
6 consequential and therefore we have -- physical
7 intervention in the traditional sense is a physical hold
8 of a young person. For me it's a holding of a door,
9 it's the searching of a room, it's the withholding of
10 physical things from young people. And I think when you
11 look at all of that in the round you start to get staff
12 to really think about just really how they're responding
13 to trauma.

14 I think it's not enough just to think about physical
15 intervention just being a safehold.

16 LADY SMITH: So you are really talking about interfering in
17 any way in what you might think of as the formal
18 integrity of their own daily lives?

19 A. Yes.

20 LADY SMITH: Do I have that right?

21 A. Yeah. And just to ensure that everything that staff are
22 doing is proportionate to the situation that they find
23 themselves dealing with. If staff get themselves in
24 a heightened state, often they lose a perspective, so we
25 don't want to micromanage and we don't want to overstep

1 the line, in terms of a senior management position. But
2 what we want to feel is that staff are being informative
3 in their approaches and we don't just revert to
4 withholding, removing and holding.

5 LADY SMITH: Thank you.

6 MR SHELDON: Thank you.

7 My Lady, I'm moving on now to a rather different
8 topic, albeit a fairly brief one, I hope.

9 Can you look at DUN-000000695. We see this is just
10 an email from a Martin Allan at Dundee City Council to
11 [REDACTED] at SCAI.

12 Scrolling down, I think we see:

13 'Thank you for your email. The annual reports for
14 1976, 1977 and 1979 list an LOF [REDACTED] as being a member of
15 the Balgowan School Committee. The annual reports ...'

16 We can skip that actually.

17 Skipping to the next paragraph, a Baillie, LOF [REDACTED]
18 LOF [REDACTED] there is a blanked out address, of Dundee is listed
19 as having served as a town councillor for the [REDACTED]
20 Ward between 1968 and 1974, and a justice of the peace
21 between 1973 and 1981:

22 'Whilst his attendance at council meetings will be
23 recorded in the council minutes, I'm afraid I'm unaware
24 of any further records which would give further
25 information about him personally.'

1 At the foot, we see that a LOF [REDACTED] died
2 in Dundee in 1981, aged 47. Taking this short -- and
3 it's really a short point, James -- there are records,
4 other records, which show he was a member of various
5 Dundee committees -- well, Tayside committees, I think,
6 and Tayside committees latterly, such as the Dundee
7 Corporation Children's Committee and the schools
8 committee.

9 We are told here, and the records bear it out, that
10 he's also on the Balgowan School Committee of the Board
11 of Managers. You may not feel able to answer this, but
12 I'm thinking about the situation then; would membership
13 of committees like that give someone access to the
14 schools? Would they be entitled or would it be the norm
15 for them to visit, to be around establishments like
16 that?

17 A. It shouldn't. The committee should be -- the function
18 of the committee should be people report to the
19 committee, as opposed to the committee having --
20 committee members having a function of scrutinising and
21 qualitative assurance of the day-to-day practice.

22 I think about committees currently, it's unusual for
23 members to come around the houses --

24 LADY SMITH: James, what about then?

25 A. I don't know about then. However, I think of all the

1 things I've done for the Inquiry over the years,
2 I've not come across information to suggest that
3 committee members were present in houses.

4 MR SHELDON: Right.

5 We will have a brief look later at some records from
6 certainly Balgay, that members of the school committee
7 visited monthly that school. As I say, we'll look at at
8 least one record of that, such a visit, later on. But
9 I appreciate it's difficult for you to answer the
10 question from a modern perspective.

11 I'll move on. If we can move on or move back to the
12 Balgowan A to D document, the Section 21 report. That
13 is DUN.001.001.0544.

14 It is page 2 to 8, they're really concerned with
15 historical detail, which is not particularly
16 controversial and I'll move on.

17 But I would like to look briefly with you at page 9,
18 the (iii). I think we see there that although there is
19 no written records of an ethos or mission statement, we
20 see that there were 1871 byelaws at Balgowan, written by
21 the board of directors for the general care of boys.

22 The ethos at that time was:

23 'Officials and servants will study to treat the
24 children on all occasions with kindness and forbearance,
25 will endeavour to gain their confidence and affection

1 and generally to promote their comfort, happiness and
2 welfare. The superintendent shall have power to
3 chastise the boys in a suitable and temperate manner.
4 No other official will have power to punish. Every case
5 of punishment shall be entered into a book.'

6 So the founding principle was, clearly, corporal
7 punishment is allowed, but in a suitable and temperate
8 manner. We'll go on in a minute to look at how that
9 perhaps worked out in later practice.

10 If we look, please, at page 11. Yes, it's the
11 heading, 'Numbers', please. We see in that first
12 paragraph about numbers, there are an indication of
13 numbers on the roll. I think we see that there are
14 numbers for both boys and girls, so this is covering
15 both Balgay and Balgowan.

16 I think we see that Balgowan went as high as 110
17 boys, in 1961. Although you will remember that at
18 a slightly later stage the managers were saying that 90
19 is the absolute maximum. So does it appear at that
20 stage there was an issue with numbers?

21 I guess the other thing that strikes one about that
22 is that the numbers on the roll are drastically reduced
23 by 1982. I suppose there might be a number of factors
24 there, but I guess one of them might be a change in
25 policy. Would that be a fair -- in social practice,

1 social work policy; is that fair?

2 A. Yeah. There was a move at that time from large
3 establishments to more smaller, community-based
4 provision. So that might reflect the change.

5 Q. I suppose if we wanted to estimate the total number of
6 children cared for over this period from 32 to -- well,
7 1983, when the school closed, we might just have to make
8 an educated guess from the numbers given for these
9 particular decades.

10 Page 12, please, (iv). Following on from the point
11 about overcrowding. 'What accommodation was provided
12 for the children?' The children slept in dormitories.
13 In 1951 it quotes, the medical practitioner noted:

14 'The boys were laying head to tail, two to one bed,
15 and that more beds were to be found. This was improved
16 shortly after. Washrooms were provided ...'

17 But that certainly sounds like a really serious
18 overcrowding problem if there's nose-to-tail sleeping.

19 LADY SMITH: That's when, according to the numbers at
20 Balgowan, they were up to 108 boys and went on to get --
21 go up to 110 a decade later.

22 MR SHELDON: Yes. Striking.

23 LADY SMITH: Yes.

24 MR SHELDON: Page 19, please. It's under a heading

25 'Visits'. Scroll back up, please. My fault.

1 Q. 'What was the nature of the accountability and oversight
2 regime?'

3 We are told that the board of directors visited the
4 children monthly in each school to regulate the
5 standards. A doctor visited children monthly. And
6 there is just a note:

7 'What visits were made by the governing body? See
8 above, the purpose to inspect the welfare.'

9 Certainly according to this, there were visits in
10 both Balgowan and Balgay by members of the board of
11 directors to these schools.

12 My Lady, we found records of that in relation to
13 Balgay. I certainly haven't come across one in relation
14 to Balgowan, but this is what A to D is certainly
15 indicating. So it presumably must be on the basis of
16 a record. It's just we haven't been able to locate it,
17 my Lady.

18 LADY SMITH: Yes.

19 MR SHELDON: If we look at the next page, page 20.

20 Scrolling down, please, (vii):

21 'Were any changes in culture driven by internal
22 influences, incidents, experiences and so on?'

23 It is noted there was an incident in 1947 where:

24 'There were six boys sleeping on an RAF sea rescue
25 boat in the Dundee docks. The boys had played with fire

1 extinguishers and later fell asleep. Four of the boys
2 died as a result of inhaling poisonous fumes. The
3 incident was deemed to be self-inflicted and the
4 organisation was not held responsible for the deaths.
5 The directors' minutes contain references to the
6 incident, including a discussion regarding when to
7 report the boys missing from the school.'.

8 Can you comment on that from a more modern
9 perspective?

10 A. For all of our houses, what we have is risk assessments
11 for a whole range of activities, both planned and
12 opportunistic, and at a low level, where we have young
13 people who have a complexity or a behaviour that we know
14 can increase risk. Then we try to risk assess a -- we
15 don't try, we do risk assess a whole range of
16 situations.

17 In terms of young people going missing, we have
18 a missing persons protocol for all of our houses. Each
19 young person, there will be different data around when
20 they should be reported missing, and that depends on the
21 current circumstances and what we think could be the
22 risk associated with any young person that is currently
23 missing. When it hits a 12-hour mark, all senior
24 leadership team are notified of all that and we take
25 account into the follow-up.

1 I suppose I would be confident that all of what we
2 do with young people has a regular round assessment and
3 we take responsibility for all of what they are involved
4 in where we possibly can. And where we know for young
5 people -- where there's circumstances that would pose
6 significant risk to them, we use that understanding to
7 inform our day-to-day care planning.

8 So we -- I suppose what we do is we care about young
9 people and we take on a parental role, and we therefore
10 try to be responsible and accountable for them 24/7.

11 Q. All right.

12 [REDACTED], please. Scrolling down, there should be
13 a list there towards the bottom of SNR [REDACTED]
14 SNR [REDACTED], LLG [REDACTED] was
15 SNR [REDACTED] from [REDACTED], and we'll come back to
16 Mr LLG [REDACTED] shortly.

17 Then, in the later years, Mr [REDACTED] to [REDACTED],
18 Mr LIF [REDACTED] to [REDACTED] a Mr LSB [REDACTED] for [REDACTED], who had
19 been LIF [REDACTED]'s SNR [REDACTED]. I think we understand.

20 Over the page, SNR [REDACTED]. Then a Mr [REDACTED]
21 [REDACTED], who we have heard a little about already,
22 and [REDACTED] Mr HGZ [REDACTED], who was SNR [REDACTED] of both
23 Balgowan and Balgay, to complete that list, albeit for
24 [REDACTED].

25 If we scroll down, please, over to the next page.

1 (vii), please. I've lost the reference in the A to D,
2 but there is reference to a janitor being sacked for
3 having caned boys illegally and with excessive force.
4 I'll try to find the reference later, my Lady.

5 LADY SMITH: Thank you.

6 MR SHELDON: If we go, please, to -- the A to D indicates
7 that the janitor had been charged with an offence and
8 acquitted, but that doesn't seem to have been the case,
9 at least in relation to all the charges.

10 If we can look please at DUN-000003056.

11 We see there that is the minutes of the Dundee
12 Approved Schools Society, 1935 to 1936.

13 Page 2, please. If we can have that blown up
14 a little. Thank you.

15 This is a minute of a special meeting,
16 29 April 1936:

17 'It was decided that owing to a serious breach of
18 the school regulations committed by Edwin George
19 Dowdell, the janitor, the board would have no
20 alternative than to dispense with his services.'

21 He was to be suspended until Saturday and then after
22 that, shortly after that, his services would terminate.
23 They're advertising for a new janitor.

24 So that's clearly the action that the school took.
25 The proceedings are of some interest, I think. If we

1 can now look at page 3, if we just hold there. This is
2 headed 'Dundee Approved School Society' and there is
3 a legend in the middle:

4 'Police court proceedings in prosecution.'

5 Archibald Bell, Procurator Fiscal, Dundee, against
6 Edwin George Dowdell, so this seems to relate to that
7 case. If we keep scrolling please, this is 22 May 1936,
8 so after he's sacked.

9 Again, scrolling down, please, there is a note there
10 of the charges. So it's said that Dowdell was janitor
11 and physical training instructor of a particular address
12 in Dundee:

13 'You are charged at the instance of the complainer
14 that 24 April 1936, in the boiler house at Balgowan
15 School, you did assault three named boys and did strike
16 each of the boys several blows on the buttocks with
17 a rod or cane. And on 25 April, the same year, place
18 above libelled, you did assault five others, aged 12 and
19 13, all inmates at Balgowan, and did strike each of the
20 said boys several blows on the buttocks with a rod or
21 cane.'

22 Dowdell pleads not guilty. If we just keep
23 scrolling down; does this now appear to be really
24 a transcript of the proceedings that took place?

25 It appears to be dialogue, in essence. Is that what

1 you see as well, James?

2 A. Yes.

3 LADY SMITH: It appears to have taken place in the police
4 court in Dundee.

5 MR SHELDON: Yes.

6 So, first, we have -- I think this is arranged in
7 terms of the witnesses who are examined and
8 cross-examined, my Lady, the first is
9 Dr W Fyffe Dorward, who is the police surgeon. He's
10 asked was he asked to examine a particular boy of
11 Balgowan School, he says yes:

12 'You were told he had been assaulted by the accused
13 here.'

14 The answer is:

15 'I was told he had been assaulted by someone.'

16 'In what way?'

17 'Struck with a stick across the buttocks several
18 times.'

19 'You were asked to examine him, if there were any
20 marks on his buttocks and you did?'

21 And he says:

22 'Yes, this report is the result of the
23 examination.'

24 And there is a soul and conscience certificate.

25 If we go over the page, please. You see:

1 'The results of the examination were to show five
2 red horizontal linear wields surrounded by deep blue
3 bruising. On the left buttock, there is a similar area
4 consisting of four linear wields and bruising, skin over
5 these is unbroken and little swelling, bruises. No
6 bruises or other injuries are found elsewhere. But
7 tests by me on the back, shoulders and upper arm show
8 that the boy is much more easily marked than normal.
9 I'm of the opinion the marks described were made within
10 24 hours of my examination, a result of severe blows
11 with a rod or similar object and that the bruising which
12 resulted is more marked than would be the case in
13 an average, normal lad.'

14 Taking this short:

15 'Would this be the result of one blow?'

16 'It might be the result of more than one blow, and
17 require a blow for each such weal, unless the
18 instruments used were three or four parallel rods or
19 something similar to that.'

20 He is asked:

21 'Do you think the minimum number of blows is five?

22 'Yes.'.

23 'Do you think these injuries you have spoken of
24 might have been caused by legitimate school punishment
25 for a breach of discipline?

1 'No.'

2 'You think they are too severe?'

3 'Yes, too severe. I know of no instrument used in
4 school whipping which would produce this broad type of
5 weal.'

6 Scrolling down, please, Baillie Inglis Shepherd:
7 'Would you describe it, doctor, as the right
8 punishment a child should get?'

9 'No, it is too severe.'

10 'Why?'

11 'Because in spite of the fact the boy was more
12 easily marked these wields were angry red marks and they
13 were surrounded by areas of almost bluish-black
14 bruising, which showed there had been a good deal of
15 effusion of blood under the skin ...'

16 So doctor's evidence is this is severe punishment,
17 too severe. If we can look, please, at page 6, that is
18 a more extended report by the surgeon of other boys.
19 Again, I think we see reference in the larger box of
20 text, body of text, reference to horizontal stripes on
21 the buttocks and other areas. Again, reference to a boy
22 being slightly more sensitive than normal. It seems to
23 be a common feature of boys at Balgowan, according to
24 this:

25 'I'm of the opinion these marks were made within

1 24 hours of my examination. The result of
2 the application of a rod or some similar cylindrical
3 object applied with very considerable violence.'

4 If we can keep scrolling, please, to the next page,
5 page 7, it's put to him, about halfway down the page,
6 that possibly the boy received more than half a dozen
7 blows, perhaps eight blows, or might have been more.

8 Replies:

9 'He must have received five at any rate.'

10 If we scroll down to the next page again, please,
11 it's page 9, I beg your pardon. Just to scroll up again
12 briefly, just to note that this appears to be the
13 examination of one of the boys, who it seems were
14 beaten. He's asked exactly what happened and, just to
15 take this briefly, Mr Bell, first question:

16 'Do you remember on the evening of 24 April a number
17 of you were going scout tracking? Two boys set the
18 track and some of you were to follow and you were one of
19 the boys that was to follow?'

20 'Yes, sir.'

21 A couple of questions later, he's asked:

22 'Did you find the trail?'

23 'No, sir, we saw a false trail and followed it. We
24 went over by the dickity burn [Which is close to
25 Harestane, my Lady] and came back to school, and then

1 went out again with some other boys to the Den of Mains
2 and then came back to the school.'

3 Towards the bottom of the page:
4 'Did you see Dowdell when you came back?'.
5 'Yes, sir.'.
6 'Was he in the drive when you came back?'.
7 'Yes, sir. He asked us where we were, and we told
8 him.'.
9 'Well, did he actually say anything about the
10 trail?'
11 'He said we were miles off the trail altogether.'.
12 'Then what did he do? He took us into the boiler
13 house.'.
14 'Was he very angry?'.
15 'He just heard our story and said we were far off
16 the trail and took us to the boiler house.'
17 So does it appear that what went wrong here, or what
18 the boys were being punished for, was either getting it
19 wrong, wilfully or otherwise, but getting a tracking
20 exercise wrong? And go on then to page 10, please.
21 Mr Bell asks the boy:
22 'Was there anything else done?'.
23 'He told us to bend. I was asked to bend first.'.
24 'What did he do?'.
25 'He got a rod.'.

1 'Was it a big rod?'.
2 'Something like that one on the table.'
3 'Did it have a brass head like this?'.
4 'That is very like it.'
5 'What did he do?'.
6 'He gave us four on the buttocks and told us to go
7 outside.'
8 'Were the other boys there when you were being
9 punished?'.
10 'Yes, sir.'
11 'Did you cry out a bit?'.
12 'A bit.'
13 'Was it very sore?'.
14 'In a way it was sore.'
15 He says he then went and got his supper.
16 If we look at page 11, please, top of the page:
17 'You say that you disobeyed Mr Dowdell's order?'.
18 'Yes, sir.'
19 'In what way did you disobey?'.
20 'By going out a second time.'
21 'You mean that having lost the track and having gone
22 back, you should have reported to Mr Dowdell if you'd
23 lost the track?'.
24 'Yes, sir.'
25 That is a little more detail on what's going on

1 here.

2 Scrolling down to the foot of the page, please, this
3 is another boy. We're told this witness corroborated
4 the story of the previous witness. Mr Dowdell, who
5 seems now to be cross-examining:

6 'The day before I punished you in the boiler
7 house ...'

8 So he's clearly admitting he punished:

9 '... was your temple bleeding?'

10 'Yes, sir. My hand was bleeding and I marked my
11 face with it.'

12 Scroll down, please:

13 'You did not get punished in the temple by anybody?'

14 'No, sir.'

15 'Who punched you in the eye?'

16 Mr IXC .

17 'Have I ever punched you in the eye?'

18 'No, sir.'

19 'It has always been on the BT or on the hands?'

20 'Yes, sir.'

21 'Did I ever use my fists against you at all?'

22 'No, sir.'

23 It appears that someone's punched this boy. That is
24 certainly what is being said by actually both of the
25 individuals.

1 LADY SMITH: The inference is that it happened at school.

2 MR SHELDON: Yes. We'll see some evidence of that later,
3 my Lady.

4 Page 14, please. I apologise, I'm trying not to
5 hide behind the screen, but I'm struggling to make out
6 the text. This is another boy who is being examined.
7 Scrolling down, please, he seems to have come back
8 shortly after the other lads. He's asked were they
9 successful in following the track:

10 'No, sir.'

11 Scrolling down, he's asked was he, Mr Dowdell, angry
12 about the matter:

13 'Slightly.'

14 'What did he say to them?'

15 'He told them to go to the boiler house.'

16 And scrolling down again:

17 'Did you understand what he meant by that?'

18 'That he was to punish them.'

19 'Did you see them go into the boiler house?'

20 'Yes, sir.'

21 'Were you near the boiler house when they went in on
22 the Laundry Green? Did you hear any of the boys
23 yelling?'

24 'Yes, sir. But I did not know who was yelling. I
25 could not make out who they were.'

1 Then page 17, please. Scrolling down, please, he's
2 asked:
3 'What did he strike the particular boy with?
4 'A stick.'
5 'Was [REDACTED] shouting?'
6 'He was not shouting very much.'
7 'After this boy had got his strokes, what happened
8 to others?'
9 'They were told to bend.'
10 He's asked about a particular boy:
11 'How many did he get?
12 'Ten.'
13 'Was he shouting?'
14 'Yes, sir.'
15 'Were the blows given with force?'
16 'Not very hard.'
17 'Did all the other get punished in the same way?'
18 'Yes, sir, they got ten each.'
19 'When were you punished?'
20 'Second last.'.
21 'How many did you get?'.
22 'Ten or 12.'.
23 He's asked:
24 'Were you shouting?'.
25 'Yes, sir. I started to cry when I got the first

1 blow.'

2 He is asked did he go home:

3 'Yes.'

4 'Did your parents ask you what was the matter?'

5 He told his parents what had happened. And he's

6 then examined by Dr Dorward.

7 If you look at page 18, he's being cross-examined

8 again, or another boy is being cross-examined by

9 Dowdell. Scrolling down, please. It's put to him,

10 towards the bottom:

11 'You deliberately went along the dickety and didn't

12 follow the trail at all.'

13 'No, sir.'

14 Baillie Shepherd:

15 'You went out to follow those scouts?'

16 'Yes, sir.'

17 Dowdell:

18 'You did not go back until 10 o'clock and had to

19 climb over the gates, did you know that was wrong?'

20 'Yes, sir.'

21 'That you should have been back before that?'

22 'Yes, sir.'

23 Scrolling down:

24 'Did you expect punishment for conduct of that

25 kind?'

1 'Yes, sir.'

2 'When you got it, you didn't like it, so you went to
3 your parents and complained?'

4 'Yes, sir.'

5 'Then the matter went to the police and all because
6 you deliberately failed to follow the scouts and went
7 off for a night by yourself?'

8 'Yes, sir.'

9 So there is really a pretty clear attempt to blame
10 the boy for what happened here; is that right?

11 LADY SMITH: Yes.

12 A. Yes.

13 MR SHELDON: Look at page 21, please. This is the
14 examination of LLG [REDACTED]. It should be anyway. If we
15 can scroll up again, please. I beg your pardon,
16 scrolling down. Yes, foot of the page, this is
17 LLG [REDACTED], SNR [REDACTED]. First of all examined, he
18 said:

19 'Can you tell us what method of punishment is in
20 your school?'

21 He said:

22 'Punishment consists mainly of loss of marks, loss
23 of awards, liberty and corporal punishment. Corporal
24 punishments comes mainly under [REDACTED] administration.'

25 He asked:

1 'Have you seen the regulations, Mr Dowdell?"

2 That is the regulations under the Children and Young

3 Persons Act 1932.

4 LADY SMITH: That is the Approved Schools Regulations,

5 I think, isn't it?

6 MR SHELDON: They are not called that at that stage,

7 my Lady. The Approved School Regulations are 1961.

8 LADY SMITH: Oh they hadn't come out. It's --

9 MR SHELDON: These are the 1933 regulations.

10 LADY SMITH: The Act was the Approved Schools primary

11 legislation, of course.

12 MR SHELDON: He's asked:

13 'Have you seen these regulations, Mr Dowdell?

14 'No, sir.'.

15 'Who is entitled to use corporal punishment in your

16 school?'.
17 'Myself, [REDACTED] teachers.'.

18 'I have given specific instructions with regard to

19 corporal punishment that such was not to be administered

20 unless they received [REDACTED] definite instructions.'

21 Over the page, please:

22 'Mr Dowdell, did he ever receive [REDACTED] instructions

23 to inflict corporal punishment?'.
24 'I should imagine he ought to. [REDACTED] staff have

25 repeatedly been told [REDACTED].'

1 'Have you told the accused that?'

2 'Yes.'

3 'With regard to corporal punishment, the regulations
4 say a light tawse and no cane or rod of any
5 description?'

6 'Yes.'

7 With regard to corporal punishment, boys may be
8 punished only on the hands or the posterior, and there
9 is a reference to the number of strokes permitted.

10 He says:

11 '█████ instructed █████ staff on that point.'

12 If we scroll down again, please. He is asked:

13 'Did the marks seem to show that a particular boy
14 received a very severe punishment?'

15 'Yes.'

16 'Excessive punishment for a schoolmaster to
17 inflict?'

18 'Yes.'

19 There is a reference to the various boys that were
20 punished.

21 Over the page again, please, and scrolling down,

22 there is then cross-examination by Mr Dowdell of

23 Mr LLG:

24 'The staff are all liable █████ for breaches of
25 school rules and regulations?'

1 'Yes.'.

2 'Have [REDACTED] issued copies of the rules to any

3 members of the staff?'

4 [REDACTED] teachers have seen them.'

5 '[REDACTED] issued any to me?'

6 'No.'

7 [REDACTED] gave you a definite order you were not to inflict

8 corporal punishment. I think that was all you

9 required.'

10 'I have given as many ten cuts from the strap across

11 the buttocks in your presence and in [REDACTED] office?'

12 'No.'

13 'Am I right in saying you encourage some members of

14 the staff to break the school punishment rules?'

15 'Certainly not.'

16 'Do you deny telling me, as we were walking across

17 the square, that I should take boys round the corner

18 where no one could see my actions and punish them

19 there?'

20 'Certainly.'

21 Next page, please. He's asked -- there is a piece

22 of paper about corporal punishment which is allegedly

23 circulated to staff. Baillie Shepherd asks:

24 'Was Mr Dowdell's initials not appended to the

25 paper?'

1 'I don't remember.'

2 'I understood this paper was given to Dowdell.'

3 Dowdell asks:

4 'Why wasn't that paper presented to me to sign?'

5 'I still think it was presented to you to sign.'

6 He then asks Mr LLG :

7 'What is Jonathan?'

8 The answer is:

9 'One of my teachers has a small pointer which the

10 boys have called Jonathan.'

11 'You have told one of your teachers that you hope he

12 still has Jonathan?'

13 'No.'

14 'You have stated in the presence of a witness that

15 the Procurator Fiscal had tried to suppress this case?'

16 'No.'

17 'I put it to you that it was in your interest that

18 this case should be quashed.'

19 'I don't think so, beyond the interest of publicity

20 that might be given to the school in the papers.'

21 'Did you try to suppress the case?'

22 'No.'

23 'Quite recently there has been boy who entered [REDACTED]

24 office and received cuts across the leg with a strap?'

25 'No, not that I'm aware of.'

1 'You have never, in my presence, lashed any boy
2 across the face or the legs and the boy has fallen after
3 receiving a stroke from you?'

4 'The strap may have accidentally touched his leg.'

5 Page 27, please. Scrolling down we see a witness
6 called Bertha Burnt(?) is examined. She is asked:

7 'You are a member of the staff at Balgowan.'

8 'Yes.'

9 'Can you tell me what Jonathan is?'

10 'My pointer.'

11 'Have you ever used Jonathan?'

12 'Yes, but I use it more as an instrument of
13 chastisement, just in a kindly way.'

14 It's put to her -- this is Dowdell:

15 'Do you think I have ever been brutal or unkind to
16 any boy in the school?'

17 'I'm not coming into contact with you. But, as far
18 as I know, I don't think so.'

19 Then to page 28, please. Down the page, this is
20 another of the boys being examined. Again, Mr Bell
21 says:

22 'You are an inmate of Balgowan Approved School?'

23 'Yes.'

24 So he's been described as an inmate, not a pupil or
25 a child. Dowdell asks him:

1 'Have you ever felt Jonathan?'

2 'Yes, sir.'

3 'Have I ever punished you in the office?'

4 'Yes, sir, with a strap.'

5 'Can you remember the number of strokes you ever

6 received?'

7 'Yes, for dodging out when I was a young boy. I got

8 bare scran, about 30.'

9 'Have I ever given you any more five strokes of the

10 strap?'

11 'Once, six.'

12 Scrolling down again:

13 'Has Dowdell ever inflicted punishment with a cane?'

14 'Yes, three on the hand.'

15 Sorry, this is Bell asking:

16 'Across the head?'

17 'No, sir.'

18 'Ever asked to bend down and get them across your

19 hips?'

20 'No, sir.'

21 'Have you ever heard of any of the boys getting

22 punished in that way?'

23 'Yes.'.

24 Scrolling down again:

25 'How many did they say they got?'

1 'Ten.'

2 'You never saw them getting it?'

3 Mr Dowdell:

4 'Have you ever been struck on the BT?'

5 'I got 30 on the BT three years ago, with a strap.'

6 And page 30, please. This is the evidence of

7 ██████████. Under cross-examination by Dowdell,

8 he's asked:

9 'Have you ever been punished on the legs or has

10 a strap ever been flicked in your face?'

11 'Yes.'

12 'Have you been marked?'

13 'Yes, Mr LLG has strapped me while lying on the

14 floor.'

15 LADY SMITH: Mr Sheldon, it is 1.05. Should we pause --

16 MR SHELDON: There is a little more to go.

17 LADY SMITH: This is very interesting evidence --

18 MR SHELDON: It is interesting and worth looking at in

19 detail.

20 LADY SMITH: I don't think we should rush through it just

21 because of the time. I'll rise now then and sit again

22 at 2 o'clock. James, that will give you a break. Thank

23 you.

24 (1.05 pm)

25 (The luncheon adjournment)

1 (2.00 pm)

2 LADY SMITH: James, I hope the breather helped you. Are you
3 ready for us to carry on?

4 A. Yes.

5 LADY SMITH: Thank you very much. Mr Sheldon, whenever
6 you're ready.

7 MR SHELDON: Thank you, my Lady.

8 So, James, before the break we were looking at
9 a rather interesting transcript of a trial in 1936. We
10 had actually come pretty close to the end of that.
11 I just wanted to complete that by looking at the
12 Baillie's -- the judge's -- verdict, his decision, and
13 that starts at page 36 and going on to page 37.

14 We see the Baillie introduces that. Can I just ask
15 the stenographer: is that microphone position all right?
16 Is that position all right for the microphone?

17 (Pause)

18 Baillie Shepherd introduces his judgment by saying
19 this case is one that has been made a great deal of.
20 He's always considered the school, Balgowan, to be one
21 of the best managed in Scotland. He says that a good
22 deal of what we've heard is quite irrelevant to the
23 charge here, and:

24 'It does not in any way reduce the opinion I have of
25 the very able way in which the school is managed.'

1 Then, if we can scroll down, I think almost to the
2 bottom --

3 LADY SMITH: Just as we're finding our way there, I wonder
4 what experience the Baillie had of other
5 Approved Schools in Scotland on which he was able to
6 draw?

7 MR SHELTON: Good question, my Lady. He does offer
8 something from his own experience, which we'll come to
9 just in a moment.

10 LADY SMITH: Yes. Thank you.

11 MR SHELTON: Three paragraphs from the foot, he's referring
12 to 'the book', and this is under reference to the SED
13 circular, the guidance on corporal punishment, I think:

14 'The book does not definitely say that any
15 headmaster or any other authorised person who gives any
16 more punishment than laid down here, that it is to be
17 considered a question of assault. The difficulty in the
18 whole case is to know where reasonable punishment ends
19 and where assault begins.

20 'You will observe that most of those boys here today
21 frankly admitted that they expected punishment. They
22 had let down their friends and frankly expected to get
23 punishment and deserved it.

24 'On looking into the question of the instrument, in
25 my recollection, when I was a boy the physical

1 instructor, not of Balgowan, but of the high school,
2 used to use a very similar instrument. Many a time we
3 got it and did not go whining to the police or to the
4 medical officer grumbling about assault or anything of
5 that kind. If we deserved it, we took it without saying
6 anything' ...'

7 Skipping that paragraph:

8 '... It would also appear that the man who is
9 charged here, while he received verbal instructions
10 evidently not to carry out corporal punishment, was very
11 often asked to assist in this deed, along with SNR
12 SNR.

13 'Taking all these circumstances into account, you
14 can see that it is a very difficult thing for me to say
15 what is just punishment and what is assault. None of
16 the witnesses have stated definitely where the line is
17 to be drawn. What we do know is that corporal
18 punishment is authorised, but the definite point
19 corporal punishment becomes assault is not, and that is
20 really my great difficulty in deciding this matter.

21 'On the first charge here against these three boys,
22 there cannot possibly be any question of assault.

23 'The difficulty comes to be in regard to the other
24 boys whose names are mentioned here. They certainly
25 received from one who evidently thought he was

1 authorised to give punishment, and who evidently was not
2 authorised, more than what is laid down here in the
3 rules and regulations, and at the same time it occurred
4 that when you might say he was off duty. The boys were
5 rather under the discipline of the Boy Scouts, rather
6 than under the discipline of the school because they
7 were definitely allowed out of the school for the
8 purpose of pursuing the interests of the Boy Scouts and,
9 again, that makes another difficulty here.

10 'But I am inclined to think that the question of
11 assault is proved and no more than proved in regard to
12 the second charge. That is in relation to ... [some
13 five boys that he names] and although I've come to that
14 conclusion, the boys themselves, with one or two
15 exceptions, did not seem to think they had got any more
16 than they deserved and, therefore, while I am finding
17 the second part of the charge proved I can only deal
18 with it by a simple and plain admonition.'

19 So I suppose going back to the A to D, my Lady, the
20 A to D says that the janitor is acquitted.

21 LADY SMITH: He was convicted, but admonished. Initially
22 found guilty, but admonished.

23 MR SHELDON: For what occurred here.

24 LADY SMITH: Yes. These were in circumstances where, though
25 the boys were able to give evidence, they were

1 questioned by the accused.

2 MR SHELDON: Yes.

3 If I may say so, my Lady, some of their answers
4 I think, both in relation to Mr Dowdell and Mr **LLG**,
5 seem on one view to be tempered in certain respects,
6 with some of the answers, anyway.

7 LADY SMITH: Oh, yes.

8 There is one boy who made a point of repeating that
9 on one occasion he was beaten with 30 strokes.

10 MR SHELDON: Yes.

11 LADY SMITH: Not just a few, but 30.

12 MR SHELDON: And a boy beaten lying down and a boy punched
13 in the head. It's not a happy picture.

14 LADY SMITH: No. It doesn't fit with what was the direction
15 of travel in the legislation at that time either.

16 MR SHELDON: Indeed.

17 I think in fairness, and to finish off this
18 particular chapter, if we go to page 39 in this file,
19 please, these are back to minutes of the directors of
20 the school. If we scroll down to the paragraph about
21 punishment books, it says that these were -- just up
22 a bit again, please. That's it:

23 'Punishment books were gone over and initialled by
24 the chairman. The chairman remarked on the number of
25 the Balgowan punishments and enquired why so many had

1 been administered by Mr [XC] .'. .

2 Who we heard mention of in the transcript, my Lady:

3 'Mr [LLG] explained that most of the punishments were
4 for trivial schoolroom offences.'

5 That perhaps says something in itself, doesn't it?
6 That offences being -- that were corporally punished
7 were trivial offences.

8 If we go to page 41, please. Again, it's the minute
9 of a special meeting, 12 June 1936. Scrolling down.
10 The chairman refers to the prosecution of the
11 ex-janitor, Mr Dowdell:

12 'A report of the police court proceedings was gone
13 over in detail and a copy is attached to this minute.'

14 Presumably, that's the transcript we have just seen,
15 my Lady:

16 'Colonel Forbes was asked whether the delegation of
17 punishment by [SNR], as disclosed in the
18 prosecution, was against the rules of the Scottish
19 Education Department, and Colonel Forbes replied that
20 quite definitely was the case. After a long discussion,
21 the meeting came unanimously to the conclusion that [SNR]
22 [SNR] was largely responsible for the unfortunate
23 state of affairs, and it was decided to administer
24 severe censure to him. Mr [LLG] was then brought into
25 the room and the chairman told him that the board were

1 extremely dissatisfied with the general running of the
2 school and that they felt he must pay greater attention
3 to his work.'

4 It was also resolved that the censure passed on to
5 SNR [REDACTED] should be communicated to him in writing.
6 So the board are taking a fairly dim view, but they're
7 not prepared to go further than censure.

8 If we go back briefly to the A to D, the Balgowan A
9 to D, DUN.001.001.0544. It's page 72, please. If we
10 scroll down, please.

11 LADY SMITH: This is in relation to a 1948 complaint; is
12 that what you want?

13 MR SHELDON: That's right, my Lady. Although the names have
14 been redacted, it's a complaint against Mr LLG [REDACTED]. We see
15 that he's cautioned and charged by the police. He had
16 attempted to punish him with a larch on the hand and on
17 the posterior -- so a cane of some sort still being
18 used -- but the boy kept running away from him.

19 I think we're not told what happened. But we know
20 elsewhere that Mr LLG [REDACTED] didn't leave the school until
21 [REDACTED]; would you agree with me that Mr LLG [REDACTED] seems to have
22 been fortunate in this particular instance?

23 A. Yes. I suppose, if we think about kind of current time,
24 the practice would be significantly different in how we
25 manage allegation --

1 Q. I appreciate that.

2 A. -- and concern.

3 LADY SMITH: Just going back to the janitor; were you
4 surprised he wasn't dismissed?

5 A. I was. And I suppose, just if I think about my own kind
6 of recent knowledge and experiences, we are very, very
7 clear that people who hold posts in residential
8 establishments, like caretakers, cleaners, they're not
9 involved -- whilst they have interactions with children
10 and young people, they are not involved in their care or
11 deciding on consequences and repercussions. So we make
12 a very clear distinction.

13 Whereas, obviously, when you look back at the role
14 of the janitor, a lot of power given to a particular
15 person, who probably in all of it has the least
16 responsible role in that setting.

17 LADY SMITH: It's interesting, in relation to the
18 Approved Schools run by the De La Salle Order that I was
19 hearing about last month, they did involve janitors,
20 gardeners in doing duties in the evenings, in the
21 dormitories, and it was high risk, let me put it no
22 further than that.

23 So you are telling me that the nature of that risk
24 has now been woken up to and you just don't take it?

25 A. No. There is a place for interaction and what you would

1 try to be as a family home, but we've got a clear line
2 in separation of tasks, duties and responsibilities.
3 And that's because the residential care staff, they're
4 training and their experiences, should lend themselves
5 to have a greater appreciation of behaviour. Whereas
6 the more domestic staff don't have that same background,
7 but we don't want to blend -- we wouldn't replace care
8 staff with domestic staff.

9 LADY SMITH: Thank you.

10 Before we move on, there is something I want to say
11 at this stage. You have rightly pointed out the
12 existence of redactions, Mr Sheldon. Now, before the
13 lunch break, the document we were using had no
14 redactions on it. There are children's names on it,
15 children who were in care and some members of staff.

16 Now, please, just assume they're all protected by my
17 General Restriction Order. I think they all are, but
18 it's safer at this stage in any event to assume that
19 they are. The same goes for any other members of staff
20 or children whose names creep into the rest of this
21 evidence.

22 Mr Sheldon.

23 MR SHELDON: Thank you, my Lady.

24 In a sense, just on that note, one matter that
25 I have not been able to get to the bottom of is whether

1 Mr LIG who was SNR Balgowan, was in some way
2 connected to Ms , who was SNR at Balgay, and
3 asked to resign in , I think.

4 LADY SMITH: Yes.

5 MR SHELDON: The two would have then left post in the
6 same year. It's the same spelling, my Lady, but
7 I haven't been able to take it any further than that.

8 LADY SMITH: Thank you.

9 MR SHELDON: Putting that aside for the moment, and perhaps
10 just to take another snapshot of punishment at Balgowan,
11 this time in the 1960s, if we can turn, please, to
12 SGV-000092466.

13 This is a file on -- we see it's replies in response
14 to an Approved School circular letter. I think we know
15 that SED at that time was trying to put further limits
16 on corporal punishment and various establishments were
17 asked to respond to a consultation on that, on that
18 issue.

19 I just want to take you to --

20 LADY SMITH: Do we have an actual date for this, other than
21 just knowing it's the 1960s? It must be 1967, letter
22 number 21.

23 MR SHELDON: It was circular 21 of 1967.

24 We'll see from the dates of the document, or some of
25 the documents I think, the precise timescale.

1 If we go, please, to page 47. You see this is
2 a draft response in relation to the circular letter of
3 7 November 1967. It's entitled:

4 'SNR [REDACTED] review of Balgowan policy for
5 submission to managers'.

6 Circular letter invites manager and headmaster to
7 review policy followed to report on experience, to
8 report on any changes or experiments contemplated, to
9 indicate whether any of the rules have created problems
10 of interpretation or observance.

11 For completeness, my Lady, the rules themselves are
12 set out at pages 2 to 4, or at least the relevant parts
13 of the rules are set out there. I don't think we need
14 to go to them.

15 If we scroll about three quarters of the way down
16 the page, SNR [REDACTED] tells us -- this is LIF [REDACTED] at this
17 point:

18 'I am no believer in the belt as a cure all. By and
19 large I think it is much less likely to be effective
20 than other methods ...'

21 LADY SMITH: Would you just like to read in the paragraph
22 before that, as well, Mr Sheldon? I would quite like to
23 have that in the transcript.

24 MR SHELDON: Certainly, my Lady. This is under the heading,
25 'Policy followed at Balgowan':

1 'I have been in Approved School work for 30 years.
2 In the past discipline was overstrict. Corporal
3 punishment was given too often, sometimes too severely,
4 frequently to the wrong boy and, more frequently still,
5 for the wrong reasons.

6 'I am no believer in the belt as a cure all. By and
7 large I think it is much more likely to be effective
8 than other methods of treatment. When I belt now I feel
9 that I or [REDACTED] staff have in some way failed. [REDACTED]
10 SNR [REDACTED] Balgowan I have tried
11 constantly, with the co-operation of a loyal and patient
12 staff, to find alternative ways of dealing with
13 disobedient, difficult boys. This we have done with
14 some success as any examination of Balgowan punishment
15 register from 1959 to date will show.

16 'We have been trying since 1959 to phase out the
17 belt. It is inevitable that modern thinking, modern
18 methods of treatment, the accent constantly on
19 understanding the individual child, that the future will
20 see Approved Schools managed well without corporal
21 punishment. I look forward to that day. But not in
22 1968.'

23 He goes on to say:

24 'In the junior school in 1968 and much more so I
25 imagine in the senior boys' school, there is a place for

1 corporal punishment administered under rules and without
2 brutality.'

3 So SNR [REDACTED] setting out his stall there, as it were.

4 But, if we then go to page 49, please, second paragraph:

5 'My biggest quarrel with the rules ...'

6 I should read in a little bit of the paragraph
7 before:

8 'I do not approve all the present rules. I have,
9 however, been at pains to accept them personally and to
10 [REDACTED] strictly upon staff acceptance.'

11 Moving on to the next paragraph:

12 'My biggest quarrel with the rules is with something
13 that is not explicitly stated, but which figures in all
14 the notes which have been issued to help with
15 interpretation vis that the strap should be used as
16 a last resort. I don't agree with this. We are
17 presented in the rules with a list of sanctions,
18 presumably in rank order. If these sanctions are
19 weighted [reading short] ... then I dissent and so do
20 the real experts who are the Balgowan boys.

21 'I think there is a place in any list of sanctions
22 in the present state of Balgowan, with its overcrowded
23 population and inadequate premises, for the sanction one
24 palmie administered by a class teacher.'

25 I think we understand a palmie would be a stroke of

1 the belt on the palm of the hand.

2 If I can divert from this document for just one
3 moment. We'll come back to it. But if we go to
4 DUN-000003059. We see this is again a minute of
5 a meeting. If we can just see the date, please, at the
6 top. It's 22 February 1968, so a little after this
7 consultation that we were just looking at.

8 Various people in attendance, and then there is
9 a heading:

10 'Discipline and punishment.'

11 If we can scroll down to see that, please:

12 'As regards discipline and punishment the managers
13 were of the unanimous opinion that corporal punishment
14 should be retained.

15 'Mr LIF reported measure of success with the
16 school's no belt experiment. Only one incident occurred
17 where SNR required to administer one stroke
18 of the belt to a boy who had been smoking and who was
19 impertinent.'

20 Various views and opinions were expressed on the
21 controversial subject of corporal punishment, where,
22 after, the conclusions reached by the meeting were as
23 follows: there was general agreement with Mr LIF's
24 draft review, dated 24 January 1968:

25 'Secondly, order of sanctions be changed to put

1 corporal punishment as a first measure with
2 qualification that there be no punishment administered
3 on posterior, restrict corporal punishment to palmies.
4 In delegating to teachers the use of corporal
5 punishment, they be restricted to administering one
6 palmie only and categorise the nature of offences
7 warranting more than one stroke.'.

8 So rather than having corporal punishment as a last
9 resort, it appears that this was to be the first resort;
10 is that right?

11 A. It is. But I think it's also interesting, just in
12 reference to the previous document, that no physical
13 chastisement is being used as a consequence of the
14 conditions young people find themselves living in.
15 Overcrowding, a lack of space, meant that that led to
16 more challenging behaviour, which young people have no
17 control over. However, rather than address that,
18 they -- the use of punishment is used to achieve
19 conduct.

20 Q. If we go back to the document we were looking at before,
21 that is SGV-000092466.

22 It's page 50 and --

23 LADY SMITH: Can we increase the size, just a little?

24 MR SHELDON: Thank you.

25 So this is a sort of imagined dialogue in

1 a situation where the sanction is loss of privilege.
2 This is presumably drafted by SNR :
3 'You will not play games tonight.'
4 'Who cares?'
5 'I've reported you to the head and the managers will
6 see the report.'
7 'Spite.'.
8 'You will be detained on Saturday.'
9 'So what?'.
10 'Moreover you will help to scrub the dining hall on
11 Saturday afternoon.'
12 'Make me. Lay a hand on me and I'll report you.'
13 'In the end the boy reaches the head and the
14 accumulated misdemeanors now warrant a thrashing. The
15 spoiling of a relationship built up over months between
16 teacher and boy.'
17 If we take that at its word, this sounds like
18 something more than just one palmie, doesn't it?
19 A. And the word 'thrashing', you know --
20 Q. It's quite --
21 A. Severe.
22 Q. Emphatic word, if I can put it that way.
23 A. Yeah.
24 Q. Can we scroll down to the second paragraph:
25 'Why does the boy get into so much bother?

1 'Often he thinks he's right. Get busy and find out
2 what the boys feels about it. According to his own
3 lights the boy is not being disobedient or delinquent
4 out of wickedness. He thinks his conduct can be
5 justified and justifies it to himself. His delinquency
6 makes sense to him. He considers appeals, threats,
7 et cetera, are meant to change behaviour, which is
8 offensive to the head or to his teacher, but which he
9 considers all right.'

10 The foot of the page:

11 'The bully has often enough had a basin full of
12 thumping from his old man to little effect, but if he
13 continues to bully in a junior Approved School he must
14 be punished for the protection of the weaker boys. The
15 weak have a right to be protected if [REDACTED] in loco
16 parentis.'

17 Again, revealing of attitudes about the
18 circumstances in which boys may act out and come to be
19 punished in this way.

20 Again, please, page 55. This is a section, my Lady,
21 which deals with what seems to have been an experiment
22 to have no corporal punishment, and which SNR [REDACTED]
23 clearly thought wasn't working. He says, three
24 paragraphs in:

25 'It's a sham experiment, in that the boys have not

1 yet been told. I personally am uncertain if they know,
2 but the odd boy has on occasion made sly oblique
3 references to the subject.'

4 If we scroll down, almost to the foot, please, he
5 says:

6 'If Approved School work is about anything at all
7 it's about relationships made between individual members
8 of staff and individual boys.'

9 So far is there anything controversial about that,
10 James?

11 A. No, and I think that, you know, relationship-based
12 practice is what we would, you know, at the current time
13 say is the best way to manage the stress and help your
14 people achieve their potential, without consequences and
15 repercussions.

16 Q. SNR [REDACTED] then goes on:

17 'I see [REDACTED] staff attempt daily to make and keep those
18 relationships in a healthy state. If I'm good, will you
19 recommend me for a weekend?'

20 Another one of these imagined dialogues:

21 'Not so my lad, you'll be good without any bribe
22 from me, but simply because I ask you to be good and
23 behave sensibly. Then I'll be bad. I'll get you into
24 trouble. I'm going to see the headmaster, the
25 directors, the inspector about you. On you go lad and

1 I'll go with you.

2 'And he goes with an accusation of indecency. The
3 investigation fortunately soon makes apparent the worth
4 of the man and the fault of the boy. The boys shrugs it
5 off. It was a try, but it didn't come off. The teacher
6 is exonerated, but what of the effect on him?'

7 Have you any comment on that?

8 I'm not sure how to describe it, that dynamic.

9 A. I suppose it's one of power and control, and the anxiety
10 of people about what they might be faced with if they
11 don't have the ability to control. So that's what's
12 there.

13 But there is also a kind of undertone of those
14 statements that young people will always misbehave, and
15 the only way to manage difficult behaviour is through
16 the ability to control that by some form of punishment.
17 So, for me, it just lacks -- it's probably reflective of
18 the times -- any insight into the lives of young people
19 and actually their behaviour, and their potential can be
20 much more positive with a different approach.

21 So there is this kind of anxiety that comes across
22 here around: if we give up physical punishment, then
23 we're less in charge and we're probably in a weakened
24 position.

25 Q. Do you think it says anything about attitudes to

1 allegations of indecency and allegations of sexual
2 misconduct?

3 A. I suppose for me everything is about keeping someone
4 quiet as well. And I suppose that kind of scenario
5 that's, you know, been written throughout this is
6 there's an anxiety about staff that there's going to be
7 an allegation that surfaces. And I suppose you would
8 have to question why you would be anxious about that
9 type of thing being said by young people, because my
10 experience of young people is that's not what they do
11 say if they're unhappy.

12 So there's a fear by staff about what types of
13 things could be disclosed if they don't have the ability
14 to control them, and you have -- I suppose you have to
15 wonder why staff are anxious about that, if that makes
16 sense?

17 Q. Yes. I think there may be a perception in some
18 quarters, even now, that many allegations of indecency,
19 as it's puts here, may be false or concocted, but that's
20 not your experience?

21 A. No. And I think it's hugely important that any
22 disclosure is met with acceptance and the young person
23 is right first and foremost and we explore all of that.
24 And allegations are very rarely made about care staff,
25 if I'm being honest. And when they're made they're

1 never as severe as something of a sexual allegation. So
2 the fact that the staff in this scenario feel that's the
3 type of accusation that would be made is not reflective
4 of what you would find in a functioning environment.

5 Q. All right. Thank you. That's helpful.

6 Just a couple more passages from here. Sorry,
7 I'm just trying to locate it. My notes say it's about
8 halfway down the page, but I can't immediately locate
9 it.

10 Scroll down, please. Yes, that's the paragraph.
11 It's the second from the bottom:

12 'I have had [REDACTED] promising beginners in
13 Approved School work whose task was made harder because
14 they could not administer on their own one palmie and
15 whose judgment on why and when and who to strap was
16 better than [REDACTED].

17 'One palmie for a minor offence. Nonsense. If the
18 belt is to be used at all, then use it properly for
19 a real licking. There are occasions when a real licking
20 is merited, but they are infrequent.'

21 He goes on to give the examples of an absconder
22 who's forcibly holding a wee boy to ransom and
23 essentially extorting a shilling or something like that.

24 Again, this is perhaps getting closer to [REDACTED] SNR
25 [REDACTED] SNR own views about what corporal punishment

1 should be used for and how it should be used.

2 Finally, page 57, please. This is on the actual
3 text of the rules themselves. In relation to rule 29,
4 he repeats this idea: are these sanctions in rank order?
5 And clearly has a problem with the idea that corporal
6 punishment would be a last resort.

7 Rule 31, this is about the instrument or instruments
8 which can be used legitimately for corporal punishment.

9 He says:

10 'What is a light tawse and when is my Lochgelly,
11 tawse, due for inspection?'.
12

13 And 31(j):

14 'Will someone please define mental illness?'

15 That is in the context of a rule that says no
16 corporal punishment should be administered to someone
17 who has mental illness, and he's saying --

18 LADY SMITH: Explain it.

19 MR SHELDON: Yes.

20 He says:

21 'We have many boys in Balgowan of low IQ or special
22 school, et cetera. To date, I have looked on every
23 admission declared fit by a doctor as fit enough to
24 accept punishment under the rules.'

25 So there's more, largely in that vein, my Lady. But
I think that's perhaps enough from that particular

1 document to give us an idea.

2 If we turn back to the A to D, DUN.001.001.0544.

3 Page 28, please. This is in a section headed,
4 'Recruitment and training of residential staff':

5 'Recruitment appears to have been based on
6 succession planning.'

7 Do you know what that means? I'm not sure that
8 I know what is intended by that.

9 A. No, it doesn't make any sense to me, if I'm being
10 honest, in terms of you don't recruit for succession
11 planning. You might retain for succession planning, but
12 recruitment wouldn't be something you would do in
13 residential care.

14 LADY SMITH: You can see that you would need to recruit if
15 you knew you had vacancies coming up because people were
16 leaving. But it doesn't point to anything more than
17 that, does it?

18 A. Succession planning is people have been retained in
19 a promoted post and therefore -- but to recruit
20 residential care staff, you wouldn't do that through
21 succession planning.

22 MR SHELDON: It goes on:

23 'A request was made to the committee for extra staff
24 in November 1960, for example, for an assistant matron
25 and extra teacher due to the high demands of the

1 children attending with learning difficulties and
2 licensed young people who had very different needs.'

3 So that's people presumably under licence from
4 a juvenile court at that stage:

5 'It was a note that said staff were working 44 hours
6 per week and they felt they needed to reduce the
7 workload to 42 per week. Extra staff would support the
8 current staff and reduce the workload and create smaller
9 classes. There were four classes of 25 to 30 boys.
10 However, when machinery was being used, it reduced to 12
11 to 15. The "mentally retarded" classes were of 17 and
12 it was noted that this was too large to manage given the
13 behavioural difficulties that were present.'

14 Would you agree with that as a generality, James?

15 A. I would agree the sizes are too big. I suppose what I
16 was having trouble understanding --

17 Q. It was only that last sentence I was asking you about.

18 A. Sorry.

19 Q. I should have made that clear.

20 If we can scroll down, please, (iv):

21 'Regarding the policy of staffing levels and
22 distribution in October 1960 a social work circular
23 recommended that no staff member should work over 15
24 extra hours per week above their 44 hours. They should
25 only work two evenings per week and one in every third

1 weekend. This policy was clearly laid out. There had
2 nevertheless been 100 extra hours worked by staff. They
3 are working seven evenings and every second weekend.
4 There are further hours worked to cover for staff
5 holidays or sick when necessary.'

6 So it does seem as though there was a significant
7 either overwork or understaffing issue; are there any
8 particular issues that poses for an establishment such
9 as this?

10 A. Yeah. I think there are many things. Separation from
11 young people and staff is very helpful and healthy.
12 I think compassion fatigue and burnout in those
13 environments is something that is high risk for
14 a standard working week, irrespective of an -- even
15 greater when you work significant hours.

16 And I think that level of hours, you're not able to
17 be on your game in terms of providing, you know,
18 high-quality care and attention to young people, because
19 you are physically exhausted by the job. Never mind the
20 additional number of hours.

21 So I think your tolerance becomes less, particularly
22 in challenging circumstances.

23 Q. All right.

24 If someone's tolerance is reduced; does that
25 increase the risks of behaving in what you described as

1 a non-trauma-informed way?

2 A. Yes, I think your tolerance reduces. I think your
3 ability to stand back and reflect and consider your
4 approach in work, I think, is hampered by all of the --
5 and I think just energy levels are really important in
6 residential settings. And I think when you have less
7 energy, then young people get -- are likely to misbehave
8 more, because what you don't have is someone who has
9 engaged them in lots of alternative ways to spend their
10 time.

11 Q. Thank you.

12 Moving on to page 42, please, scrolling -- go back
13 to the previous page. Just at the foot of that,
14 page 41, please. Foot of page 41. This is under
15 a heading about policies and procedures. What
16 substantive changes were made to policies and procedures
17 over time, and the answer to this particular question
18 is:

19 'When there was discussion regarding physical
20 punishments, an investigation took place in 1978, when
21 RSPCC visited to check the welfare of a boy after his
22 punishment. There was [and over the page, please]
23 a change in practice, in that SNR [REDACTED] began
24 administering the birch or overseeing punishments given
25 out by teachers.'

1 Perhaps two things, three possibly there. First,
2 have you any comment on that idea; that the birch would
3 be being used in 1978?

4 A. I think by that time we should -- we would -- there is
5 a different way to deliver care and there is
6 a different -- there is a different understanding of the
7 needs of young people in these settings. And it's
8 a well-researched area in terms of alternative care to
9 families, so you would expect to see there was no
10 reliance on that and that there were other ways to
11 promote more positive behaviours in these settings.

12 Q. You may not be able to answer this because of your
13 relative youth -- well, your youth, if I can put it that
14 way. But when did that sort of thinking, to your
15 knowledge, come into social work practice?

16 A. I think there is -- I couldn't give you a timeline. But
17 I think there is a distinction to be made between social
18 care practice and social work practice. I think there
19 is something about they're seen as separate things, but
20 they should be seen as one.

21 In social work practice, we would -- they would have
22 been in family homes, except there would have been less
23 of an acceptance of this. Whereas in social care
24 I think there is still a tolerance of practice,
25 particularly in relation to young men.

1 Q. Secondly, would you agree that there seems to be
2 an implication in that sentence that the birch was being
3 administered prior to this by teachers other than
4 headmaster?

5 A. Yes, and there's been a significant incident that has
6 required an external explanation of circumstances that's
7 meant there is a greater oversight being required by the
8 headteacher.

9 Q. We can no doubt go back, my Lady, and compare that with
10 the regulations.

11 LADY SMITH: Yes, of course.

12 MR SHELDON: If we go to page 56, please. This is the start
13 of the section about abuse and the response to it.
14 I think we can take this fairly briefly. The framework
15 document went through this in some detail, my Lady, and
16 there is no dispute about these issues, these entries in
17 the Section 21 response.

18 But if I can just take you to a couple of particular
19 passages. It's page 58, please. It's (vii):

20 'To what extent did abuse and/or alleged abuse of
21 children cared for at the establishment take place
22 during offsite activities? There is a reference to one
23 incident of alleged indecency ... [and it's redacted] on
24 8 May 1963, which allegedly took place at Glen
25 Prosen ..."

1 I think it's actually Glenhead, my Lady, which was
2 the chalet or lodge that Balgowan had for their
3 exclusive use.

4 It's described as the 'holiday home on Balgowan'.
5 If I can just take you, please, to an entry in the
6 records, which appears to refer to this. It's in
7 DUN-000003081.

8 If we look at the right-hand column, please. Or the
9 right-hand page, but it's all on the same database page.

10 We see there is clearly a group at Glenhead. Top of
11 the page, stores delivered to Glenhead. Three lines
12 after that there is a passage, beginning:

13 'Mr LID reported [presumably a particular boy]
14 for stone throwing and an accusation of indecency
15 against this member of staff followed. Mr LSB
16 interviewed both parties together and reported incident
17 to headmaster immediately on arrival from Glenhead.
18 Headmaster interviewed separately, in private, all three
19 parties, the three parties together. Phoned
20 Colonel Hampton and logged this record.'

21 Then we see that Mr Larg, one of the directors,
22 visited the school this afternoon. Saw, I think, the
23 boy in that context in private and the member of staff
24 in private, and the member of staff was cleared of the
25 allegation.

1 So there is another reference to what is referred to
2 in the school as indecency.

3 Do you have any concerns about the way that was
4 investigated?

5 And indeed about the way it's put in the log.

6 A. There is a lack of detail around the events and
7 information, and how the decision has come about. The
8 interview style, for me, is not one that we would be
9 involved in, which is to interview people together.
10 Because you have got the alleged abuser and the victim
11 there, and that's a position of power that I think
12 prevents any young person giving a full and accurate
13 disclosure, and to feel safe in doing that.

14 And then to bring everybody together, I think, to
15 summarise the facts means that a decision's made and
16 there's no place for that young person to go in the
17 future with that information.

18 So it lacks detail and careful planning, and there
19 is a quickness to investigate it, which -- these things
20 are complex.

21 I suppose the other part for me is there was more
22 than this one young person on the trip, and it's whether
23 or not there were other young people who could have been
24 spoken to, to understand what happened on the trip and
25 were they aware of anything else. It just gives

1 a greater voice to the young person.

2 Q. I think there is also, perhaps, the issue that one of
3 the people that interviewed the boy concerned was one of
4 the directors, so someone very senior in the
5 organisation, presumably; any concerns about that?

6 A. There is no impartiality, and I think that's hugely
7 important in any of these investigations; that someone
8 has got a role to get to the truth of the matter, rather
9 than thinking about, you know, the impact of certain
10 allegations on the reputation.

11 Q. And possibly a degree of intimidation by this person's
12 position?

13 A. Yeah. There is a skill in the person that does
14 an interview, and I think seniority is an unhelpful
15 position to have when exploring the facts for a young
16 person.

17 Q. All right.

18 We can leave that. Thank you.

19 LADY SMITH: Of course, if you are right about the
20 inhibiting factor, or effect of the accused being
21 present at the same interview, that throws into doubt
22 the extent to which we can rely on records as giving us
23 an accurate picture of the nature and extent of abuse,
24 doesn't it?

25 A. Yeah. I think the way -- I think we know the best way

1 to interview young people in any allegation that's made
2 currently, we would immediately separate the accused
3 from the young person to enable the young person to be
4 safe in their home and to have time to give an account
5 without any potential intimidation or fear of reprisal.

6 LADY SMITH: It also may explain something that I've heard
7 about so often, that children very quickly learnt not to
8 speak up. It got them nowhere and it might get them
9 into trouble.

10 A. I think when you have an environment where there's lots
11 of physical punishment that's used for what would appear
12 at times, from my perspective, very trivial matters,
13 young people are left in that environment. So you've
14 got to be -- you have to make it feel as safe as
15 possible for them to disclose, because you, as
16 interviewer, you are going to leave, but they've got to
17 stay. And they have to feel that's a safe place to
18 remain on making that allegation. So I think there is
19 something about that that is hugely important.

20 But that detail isn't there and, therefore, we can
21 very quickly make assumptions that all the allegations
22 were not true, but the extent to which they've been
23 properly investigated isn't clear.

24 MR SHELDON: If we go back again to the Section 21 report,
25 that is the DUN.001.001.0544. I apologise, I'm jumping

1 around a little, but I guess that's the nature of these
2 different allegations and records of apparent abuse.

3 Just to take page 64 in A to D, and scrolling down,
4 please, this is an incident in 1973.

5 The person that made the complaint is redacted.
6 It's a complaint against an adult male in the community.
7 Next paragraph:

8 'The boys stated that they had been involved in
9 sexual acts with the adult male and were under the
10 influence of alcohol when found by police.'

11 This is apparently a single incident.

12 The establishment's approach was to allow the police
13 to manage the situation, which it is said the police
14 investigated. There's no further detail in the logbook.
15 The male apparently was charged with breach of the
16 peace.

17 I just want to compare that report with another
18 record, a Balgowan record. This is DUN-000002979.

19 It's just a single page, there's two but it's the
20 first page.

21 This is an RWO meeting of 13 January 1978, and you
22 can take it from me that these are at least some of
23 those present are members of staff. Can you assist us
24 with RWO, residential workers ... something of that
25 sort?

1 A. I think it's residential workers, as is often the title
2 that's used for care staff. And it's common for there
3 to be a weekly meeting to discuss young people, and it's
4 quite a long-standing arrangement where the staff come
5 together to just unpick.

6 Q. That would make sense.

7 There is a reference to various submissions and
8 hearings. If we scroll down the page, it's paragraph 8,
9 Mr Reid mentioned reports he had had from boys about:

10 '... A man who had apparently been approaching our
11 boys, encouraging them to abscond and offering to
12 harbour them in a flat in Perth. This is being followed
13 up.'

14 I don't think we have seen what the follow-up was.
15 Just taking those two entries or records in combination;
16 what kind of concerns would be uppermost in your mind in
17 the contemporary context?

18 A. I think, for me, there has historically been a lack of
19 recognition that residential establishments in
20 themselves make young people vulnerable and that they
21 themselves can become a target by others.

22 For me, in the current context, you would -- there
23 would be a need to investigate the rest of child sexual
24 exploitation, and in the fact that we have a number of
25 boys that are vulnerable in residential care then

1 there's a greater risk of that. And these young boys
2 clearly have went missing, to be harboured in a flat.

3 Again, in the current context, we would try to
4 explore missing persons episodes and try to ascertain
5 where young people have been. And so, for me, all of
6 this is around child sexual exploitation.

7 Q. If we can just look at the second page, this is
8 a slightly different issue. But, again, I just want to
9 get a comment from you. This is another WRO meeting,
10 10 March 1978. I hope this is the right page. If we
11 can scroll down, please.

12 No, I have the wrong thing. This is back in the A
13 to D. So it's DUN.001.001.0544 again.

14 LADY SMITH: 0544 or 55?

15 MR SHELDON: 0544, sorry, my Lady. It's page 67, please.

16 This is a complaint made in 1971, 1 March, there is
17 a complaint against apparently two members of staff.
18 My Lady, perhaps just to put a pin in this, as it were,
19 because one of the members of staff concerned went on
20 then to work at a different establishment where there
21 are allegations, so it's perhaps just to note this and
22 to say:

23 'A member of staff hit a boy in the dormitory and
24 burst his nose, although the member of staff stated he
25 did not remember doing this. He stated that the boy

1 likes to play fight with staff and this is possibly what
2 happened. Mr GNC stated he could see this
3 happening.'

4 It's arguably a slightly evasive response from the
5 member of staff. But, setting that aside, play fighting
6 is something that I think we have heard evidence about
7 and will hear about certainly; is that something that
8 has arisen in your practice or do you -- are you aware
9 of it as a potential issue, where members of staff and
10 children are concerned?

11 A. We don't encourage it and we're really clear about that.
12 And there's lots of ways to be tactile and affectionate
13 without being involved in play fighting.

14 And I have been a residential social worker, I
15 struggle to understand why -- what circumstances would
16 be -- create that situation where staff would get
17 themselves involved in that. So we are really clear
18 that's not an area, and I think it does bring risk for
19 both staff and for young people, and I think this
20 situation is fairly evasive and there's just
21 an acceptance of what the staff member's position is.

22 LADY SMITH: What is an acceptable way of being tactile and
23 affectionate, as you put it?

24 A. I suppose what I tend to find, even when I visit, staff
25 might be watching a movie when a young person is up

1 close beside them, they've got their arm around them.
2 Often that's led by the young person, you know, they
3 might seek, you know, intimate -- a hug, and all of that
4 is age and stage appropriate and we would encourage
5 staff do that.

6 But getting into play fighting, I think becomes
7 heightened situations for young people that they then
8 can't manage themselves. It can quickly get out of
9 hand, even between two young people, and play fighting
10 is not the behaviour we want staff to model to young
11 people who have often seen a lot of violence in their
12 background. So I think there is a fine line for staff
13 at times around being affectionate, warm --

14 Q. Is there any guidance given about that or guidelines or
15 advice, however one puts it?

16 A. No. I think we tend to have -- I don't even know in the
17 current guidance if it's --

18 Q. I'm sorry, I didn't catch that.

19 A. I don't think even if there's any current guidance.
20 Being clear about it, it's just something that we
21 have -- I suppose my own professional journey, I have
22 investigated so many situations that have started with
23 play fighting and have ended in a disclosure of a young
24 person being hurt, where it's -- so I just feel it's
25 an inappropriate thing. But there isn't national

1 guidance and there isn't Local Authority guidance on it.

2 Q. I was thinking about Lady Smith's question about
3 affection and being able to show physical affection in
4 certain circumstances, and you mentioned the idea of age
5 appropriate circumstances. I think we can understand
6 that. Is there any other advice or guidance given about
7 that kind of situation?

8 A. No. And I think that's a real challenge for staff. And
9 I think at times we don't set clear parameters. And
10 I think in the present time we are very clearly told
11 about displaying love, affection, care and warmth in
12 care settings, and that there's staff who feel really
13 uncomfortable with that as well.

14 So, in the current set of circumstances that we find
15 ourselves in, there is no guidance around what is
16 appropriate and when it is appropriate, but I also think
17 there is something about that that's okay, because
18 different young people have had different histories, and
19 we have to take that into account when we think about
20 staff interaction and tactile affection.

21 LADY SMITH: Mr Sheldon, it's 3.05. I would normally have
22 a brief break at this stage. Would that work for you?

23 MR SHELDON: It's perfect my Lady. I will move on to Balgay
24 now.

25 LADY SMITH: James, I normally take a very short break in

1 the afternoon. It gives everyone a breather, including
2 the stenographers. So I will do that for about five
3 minutes or so. No more than ten minutes, if that would
4 work for you; is that okay?

5 A. That's great.

6 LADY SMITH: Thanks.

7 (3.08 pm)

8 (A short break)

9 (3.15 pm)

10 LADY SMITH: Mr Sheldon.

11 MR SHELDON: Thank you, my Lady.

12 James, home straight now I hope. If we can move on
13 to look at Balgay.

14 Balgay was one of two establishments that were
15 selected for a study after Balgowan, so at both Balgay
16 and Burnside, Dundee prepared short form reports, so not
17 the lengthy document that we have just looked at in
18 relation to Balgowan.

19 Q. If we can look at DUN-000000898.

20 I'm going to take this fairly quickly, my Lady.
21 Again, much of the report is uncontroversial, but there
22 may be some aspects of it to look at in particular.

23 If we can just have that expanded a little bit,
24 please. Thank you.

25 Scroll down. I should just note that the email was

1 in response to an appendix 1 asking for a report in
2 relation to Balgay School/Parkview School and Parkview
3 was, I think, a special needs school that took over the
4 building of Balgay, but which is not under investigation
5 by the Inquiry.

6 Again, we're told that a lack of records, in
7 essence, means it's not been easy to answer a number of
8 your questions, but there were some records. If we can
9 scroll down, please. It's noted:

10 'The Local Authority was involved [as I think we
11 have established really in the first part of your
12 evidence] on occasion when children were referred to the
13 Balgay School by the Children's Panel or the courts. It
14 would mainly be a case of the records of the pupil
15 passing to the school.'

16 Did it ever work in reverse? To your knowledge;
17 were school records about the pupil then passed to the
18 Local Authority or was it the Local Authority's job or
19 duty to maintain reports on the child?

20 A. To my knowledge, there has always been that kind of
21 mutual exchange of information in care and education as
22 one, and there is a passage of information from social
23 work to school. It's essential for them to understand
24 the needs of the young person and, likewise, there is
25 the reporting from education to social work.

1 Q. Moving on then to page 2, at the foot, this is a list of
2 sanctions, we understand, that were punishments recorded
3 for each period of the school's operation. In the early
4 period, there seems to have been use of the strap on the
5 hand, posterior or thighs. Up to 1951, the idea of
6 suspension of privileges and loss of pocket money, and
7 you have already talked about the loss of pocket money
8 a little bit in the context really of a physical
9 sanction in a sense.

10 I just want to ask you about the last entry on that
11 page, 1952 to 1960, children stripped and put to bed.
12 That seems an odd sanction to apply. Have you any idea
13 what might lie behind the idea of stripping someone and
14 sending them to bed?

15 A. I don't. And I suppose I can't understand why --
16 I don't see it as being a punishment, other than it's
17 a very degrading thing to do to someone, and --

18 Q. That is really what I was getting at. Thank you.

19 LADY SMITH: Just before we move on, in case anybody is
20 puzzled, the first item there on that list, from 1952 to
21 1960, is kept from the baths. I know what that's
22 referring to because I'm old enough to remember when
23 people talked about swimming facilities in any town as
24 being the baths, because the public baths would include
25 not just bathing as in washing facilities, but

1 a swimming pool, and I take it that's what they must
2 have been referring to there. Not that they were not
3 allowed to bath, to get clean.

4 MR SHELDON: Thank you, my Lady. That was certainly my
5 understanding, but I was perhaps assuming that everyone
6 else would know that, too.

7 LADY SMITH: The younger among us may be puzzled.

8 MR SHELDON: Indeed.

9 LADY SMITH: Thank you.

10 MR SHELDON: Over the page, to page 3, please, and 1961 to
11 1967, we see the first item in that list is the quiet
12 room overnights and for specified periods. The
13 paragraph below that tells us there was an increase in
14 use over time of the quiet room, particularly during
15 1961 to 1967, and a deterioration in the use of the
16 strap.

17 Use of the quiet room was the subject of discussion
18 at the school committee meeting, as noted in the
19 following minutes. This was a visit of
20 19 November 1969, in which it's recorded that the
21 visitors:

22 'Went to see the quiet room ourselves and were
23 initially very appalled. Apart from its austerity the
24 terrible feelings of isolation it was liable to engender
25 distressed us. We then asked to see the logbook in

1 order to ascertain how often use was made of the quiet
2 room.'

3 So there is this room where children are sent,
4 apparently as a punishment; any views or comments on
5 that?

6 A. I suppose for me, historically, when I look back, it's
7 education settings you would see the use of seclusion,
8 within a school setting. I think within a children's
9 home, use of a quiet room is almost to strip everything
10 from a young person. So it sounds quite genteel, but in
11 fact it's probably the most extreme in terms of the
12 removal of everything, socialisation, and just your
13 normal furniture around you. And I just also think for
14 young people who have heightened behaviour as
15 a consequence of trauma, the use of the quiet room
16 creates further trauma in young people.

17 Q. I want to take you to another record, a Dundee record in
18 a moment. But, my Lady, just for completeness -- I
19 won't go there at the moment. There is no need to go to
20 the record -- but there is SGV reference, SGV-000102971,
21 page 51, where the quiet room is referred to by SED
22 officials as a 'detention cell' and that phrase is
23 underlined by whoever --

24 LADY SMITH: It's very interesting. There can be much in
25 a name. If you tell somebody you have a quiet room for

1 the children to go to, it sounds quite attractive. It
2 sounds pleasantly seductive, to get peace away from the
3 hubbub. But it obviously didn't feel like that when you
4 actually went to see it.

5 MR SHELDON: If we can go to DUN-000003080, we see these are
6 minutes from Balgowan School Committee, but -- and this
7 is 1971. But, if we go to page 2, we see this is
8 a report on a visit to Balgay School. If we scroll down
9 to see -- well, it's redacted. You can take it from me
10 that both the individual who completed the report and
11 the other person that went on the visit, both were
12 members of the board. If we scroll back to the top,
13 please:

14 'Mrs Pilcher and I visited the school on Wednesday,
15 24 February.'

16 This is almost certainly Rosamunde Pilcher, my Lady,
17 the well-known author, who lived locally:

18 'Most of the time was taken up with the regular
19 monthly meeting of the review committee, where we saw
20 two new girls and also a number of girls whose release
21 was being considered. After the end of the meeting
22 Mrs Pilcher had to go away, but I stayed and had lunch
23 with the girls.

24 'After lunch, I saw round the school. First of all,
25 had a special conducted tour of the quiet room, which

1 was shown to me by one of the girls who has been
2 a frequent visitor it during recent weeks. She
3 explained to me in great detail how she had been able to
4 inflict a considerable amount of damage to the room.
5 Indeed the room was currently out of commission while
6 all the damage was being repaired.'

7 What would you take from that particular observation
8 or entry?

9 A. I suppose I think it signifies the level of distress
10 that the quiet room creates within a young person, and
11 I also think to -- if the room is barren, it takes a lot
12 to damage the room. So I would question the
13 availability of trusted adults around the young person.
14 How often did the young person go without observation
15 and staff interaction? To still make sure that they
16 were okay. The quiet room doesn't take away from your
17 responsibility as a care member of staff.

18 Q. It certainly seems that this girl had been repeatedly
19 placed in the quiet room. Again, any observations on
20 that, given the behaviour that's been described here?

21 A. I suppose it just shows a lack of insight, because
22 actually what it hasn't done is made an impact, if
23 that's what had been hoped by the quiet room. So this
24 young person's continually being put into the quiet room
25 for whatever the reason has been, but there's been no

1 assessment by the staff about -- hasn't had any desired
2 impact. It's actually only added to her distress, so
3 there is something about lack of professional assessment
4 and curiosity.

5 Q. We can go to page 3, please. This is DUN-000000898.

6 It's about the middle of the page. The staff minutes
7 book read:

8 'It was clear that this related to a meeting chaired
9 by SNR [REDACTED], Mr GIS [REDACTED], where the main item of
10 discussion of each meeting was behaviour of the girls.
11 The records note that the girls were reminded of the
12 importance of being attractive, popular and respectable.
13 These attributes seemed worthy of being repeated.'

14 Views on that?

15 A. I think it's -- a very sexist element to that. And
16 I think there is something that does worry me about
17 vulnerable young girls, that they have to be seen to
18 present themselves well to men. So there is something
19 about that, that I think is unhelpful for vulnerable
20 girls.

21 LADY SMITH: This was 1969.

22 A. That's right.

23 LADY SMITH: It was not unusual in that era to try to make
24 young women think that way.

25 MR SHELDON: On page 4, please. It's 1(g) and we see, just

1 right at the end of that entry:

2 'Withdrawal of home leave during Christmas holidays
3 was a punishment levied during all of the punishment
4 book periods read.'

5 Thinking back to your evidence about docking pocket
6 money or allowances; what would you say about that?

7 A. That would have been fairly standard practice up until
8 fairly recently as well, around family contact and
9 either removing or reducing it as a form of consequence
10 to young people. Certainly currently we wouldn't do
11 that. Any young person who is distressed or having real
12 challenge, time of key people or all key relationships
13 is probably the best thing you can do. But I just think
14 it's an absolute infringement of anyone's human rights
15 to prevent family time and contact in key relationships
16 to punish them.

17 Q. I'm going to leave the short form report for moment and
18 move on to another document. It's SGV-000102967.

19 This is another Scottish Government file, SED file.
20 I'm not going to go to it, my Lady, but at page 7 there
21 is a pen portrait, as it were, of SNR [REDACTED],
22 Mr GIS [REDACTED], by I think HMI MacPherson, which is of
23 interest.

24 If we can look at page 12, and if we scroll to the
25 foot of that, just to see -- and over the page, to get

1 the name and date.

2 And over the page again. I think we're not going to
3 get that. That is a different document.

4 Back to page 12, please. This is a visit to Balgay
5 in 1961, and it's just to note the entry:

6 'The inspector is not happy about the present state
7 of the school. The girls are noisy and mannerless.
8 There appears to be a good deal of bullying and several
9 girls have absconded recently. The staff in general
10 still appear to be suffering from strain.

11 'Mr GIS is accepting the present position as
12 temporarily inevitable.'

13 A few lines on, it notes:

14 'The girls and staff have been upset by the changes
15 of regime and tension among the girls has begot tension
16 among the staff, thus creating a vicious circle.'

17 And I think we know from other evidence, James, that
18 this was a period of some upheaval at Balgay, that there
19 had been SNR who had [REDACTED] and [REDACTED]
20 of SNR [REDACTED] for [REDACTED] and this SNR
21 [REDACTED], Mr GIS.

22 LADY SMITH: This is very early [REDACTED].

23 MR SHELDON: Very early. He's only just [REDACTED] at
24 that stage.

25 LADY SMITH: As you say, following SNR [REDACTED] being

1 invited [REDACTED] and doing so, but [REDACTED] there was
2 one who was [REDACTED]?

3 MR SHELDON: That's right, my Lady. One was [REDACTED] and
4 [REDACTED] was asked [REDACTED] because [REDACTED] apparently
5 [REDACTED], or so that is what was said.

6 Just thinking about that, James, again I think
7 I know what your answer to this may be, given what you
8 said before. But is it surprising that this kind of
9 churn of staff, particularly senior staff, would produce
10 tension and difficulty with young people?

11 A. I think it does. I think leadership is hugely important
12 in residential childcare. I think the message and the
13 expectations from a manager or leader is hugely
14 important. I think you'll find in any staff group that
15 they have various views and opinions about consequences,
16 rewards, incentivised care and I think all of that can
17 become a conflicted space for young people to live
18 within it. It becomes unpredictable. So I think [REDACTED]
19 leadership teams being stable in residential settings is
20 hugely important.

21 Q. Just to take the last few lines on that page, to get
22 your reaction to it and possibly a view as to what might
23 be meant. It's about nine lines from the bottom:

24 'The situation is thus very confused and at this
25 time the best temporary solution, if it could be

1 achieved, might be the establishment of law and order
2 whether or not by methods which Mr GIS would normally
3 ██████████. Gradually he could relax while a more
4 permissive system incorporating ██████████ was
5 established. I am afraid however that Mr GIS is
6 a whole hogger who will only learn by experience that
7 everything cannot be done at once.'

8 You may not have any idea in fairness, what do you
9 think is intended by 'whole hogger'?

10 A. I get a sense from that that SNR ██████████ has seen there
11 needs to be significant changes in many areas of the
12 establishment and has sought to do all of that and, as
13 a consequence of that, it has brought unsettlement and
14 instability for the staff, and therefore for the girls
15 there. I think that's -- would be my assumption from
16 it.

17 Q. Moving on to another document SGV-000102973.

18 This is an SED document, headed:

19 'The need for secure provision within Scottish
20 girls' Approved Schools.'

21 My Lady, there is quite a bit of discussion about
22 this in the files, and this is what eventually becomes
23 known at Duncan House at Balgay, which was thought to be
24 roughly equivalent to the MacDonald wing at Rossie,
25 which my Lady will hear evidence about later.

1 LADY SMITH: Of course.

2 MR SHELDON: It's just to take a couple of passages from
3 this file. Page 24, please.

4 This is in the context of some discussion about the
5 various difficulties, I think, which girls who might be
6 suitable or who were thought perhaps to be suitable for
7 a special unit are being categorised. After scrolling
8 down, please, almost in the middle of that particular
9 screen, as it were:

10 'What's in mind in Scotland was the provision of
11 a unit similar to the English intensive care unit.
12 Mr Murphy accepted that a degree of psychiatric service
13 for such a unit was desirable, but he doubted whether
14 this service need be extensive or indeed impose
15 significantly greater requirements than under the
16 present arrangements.'

17 So psychiatric care necessary, but possibly not
18 going to be given.

19 In the next paragraph:

20 'Mr GIS emphasised that a disposal problem was
21 created by moving a disturbed girl from one school to
22 another. Unfair demands were made on the crippled
23 social capacity of such a girl. It was evident that she
24 needed special care of a kind which could not be
25 provided in a normal training school. He appreciated

1 the excellent child psychiatric service rendered by
2 Dr Mathewson but felt that more systematic and formal
3 advice was required than the present arrangement whereby
4 Mr Mathewson helped in a personal capacity.'

5 Again, can you comment on this idea of unfair
6 demands being made on girls being moved, particularly
7 what is described as a disturbed girl being moved from
8 one school to another?

9 A. I suppose my experience of that is the more you move a
10 young person the more unsettled and challenging they
11 become in each setting that they move on to because of
12 the range of loss and change that they have to
13 experience. I suppose, for me, it's difficult to -- for
14 me to differentiate mental health from trauma. I think
15 they are two in the one thing, and that that can be
16 managed, I think, in most residential settings, where
17 you understand the young person's past adversity and
18 current triggers, and you have a committed staff team
19 who want to help overcome that adversity.

20 But there is a myth that when a young person can't
21 be managed in one setting they can be managed by moving
22 them, they become more unmanageable and they tend to
23 experience greater rate of change as a consequence of
24 the movements that they find themselves experiencing.

25 Q. If we could go to page 31, please, this is another

1 meeting about the proposed special unit. We are told
2 the four principal psychologists in the Approved School
3 service have been considering the various aspects of the
4 problems of the girls' schools, which are set out below.

5 If we scroll down, please, just a little actually --

6 LADY SMITH: Did I pick up this is a 1969-minute?

7 MR SHELDON: That is right.

8 LADY SMITH: There is a /69 at the top.

9 MR SHELDON: It seems to have taken some time before it was
10 actually set up. There was some controversy, but this
11 is just to take a comment which I think we have to
12 assume was of the psychologists concerned, who say:

13 'Some girls simply should not be in Approved School
14 and many others requiring removal from home should be
15 placed in suitably staffed homes or hostels.

16 'There is another group of girls who should be in
17 special care or treatment units, recognising that the
18 psychiatric unit per se is not necessarily the model for
19 the provision of treatment in behavioural disorders.
20 Since it is likely that such treatment will be family
21 based, these units should be linked to the immediate
22 community and should be professionally served from local
23 resources.'

24 Does that seem to prefigure some of the more modern
25 thinking on the appropriate provision for young people

1 of -- whether male or female, of this sort?

2 A. Small in size, locally based, integrated with community,
3 seeing the community and community resources as a way to
4 support young people to have greater resilience, and not
5 to have young people isolated. And I think there is
6 a recognition that large-scale group dynamics impact on
7 the presenting behaviour of young people and, therefore,
8 small, locally based resources help overcome that.

9 Q. Thank you.

10 I'm going to leave that document but, my Lady, if
11 I can just ask my Lady to note pages 41 and 42 of that
12 document as well. It's on assessment at that time or
13 during that period.

14 LADY SMITH: Thank you.

15 MR SHELDON: If we move on to DUN-000003061.

16 If we go to page 2, please. This is quite difficult
17 to make out, and I have my own notes, but I'll do my
18 best to read this. The entry is for -- it's the foot of
19 the first column, an entry for 29 November 1973, which
20 we're told is:

21 'A day of near riot for most of the day with damage
22 to furniture and window.'

23 Up to the next of the column, please:

24 'Various, we assume, young people involved and [REDACTED]
25 not sure, frightened by the acting out.'

1 It's not clear whether [REDACTED] is a member of staff or
2 a young person. But a young person who witnessed that
3 kind of behaviour might well be frightened by it; is
4 that fair to say?

5 A. Yes.

6 Q. Then there is another entry for 17 December 1972, about
7 halfway down, I think. At the foot again, two young
8 people we're told had a:

9 'High day.'

10 I'm not sure of that word, my Lady, marking, missing
11 class?

12 LADY SMITH: 'Marking doors'?

13 MR SHELDON: 'Marking doors', possibly:

14 'Letting off fire alarm and extinguisher.'

15 Q. The entry is:

16 'Physical restraint was necessary for a greater part
17 of the evening.'

18 What would your thoughts be on that, 'physical
19 restraint for the greater part of the evening'?

20 A. I suppose what that gives a sense -- is that the
21 situation over the course of the day has become more and
22 more heightened and, at the end of the day, the only way
23 that staff have felt they can take control of the
24 situation is by physical intervention. Whereas in
25 the -- what we would do in the current circumstances is

1 the minute we see a situation arise that was giving
2 staff concern, behaviour was becoming challenging, we
3 would positively divert and break the group up. Do
4 an activity. We would divert the young people and
5 engage them in relationships and explanation of what was
6 going on for them, to prevent physical intervention.

7 But physical intervention can often be used in
8 various different situations in a way to try to take
9 immediate control, but in itself can continue to
10 heighten that behaviour because young people become very
11 heightened in restraint.

12 But there is a skill of staff to know when to
13 intervene and to deescalate, and you wouldn't see -- you
14 wouldn't get a sense of that from those entries.

15 Q. Do we understand, or should we understand, that staff
16 now get training in that process or procedure?

17 A. There is extensive training delivered by CALM to all
18 residential staff.

19 Q. Sorry, did you say all residential staff get that?

20 A. Yeah. So it's a core training function, and there is
21 also annual refresher, because it's not about physical
22 intervention; it's about the deescalation to prevent
23 physical intervention to young people.

24 So there is something about our knowledge base and
25 the expertise of staff that is greater now than there

1 was in the past. But I think it's naive to think that
2 groups of young people will just be okay. And if there
3 isn't creative planning, structured days, positive
4 diversion, care planning that's centred around their
5 needs, then young people will find a way to occupy
6 themselves and often the most negative of behaviours
7 and, therefore, the group dynamic becomes challenging to
8 break. So I think care planning is also really
9 essential to ensure that young people's needs are met
10 and that we don't allow them to be involved in
11 situations like this.

12 Q. Moving on, again, to the document, SGV-000102969.

13 If we scroll down, we should see this is a record or
14 note about a visit to Balgay on 28 May 1976. So this is
15 SWSG and HMI, Mr Davidson. The morning was spent in
16 discussion, and there is a note of what was done and
17 meetings attended.

18 If we go to page 2, please, second-last paragraph:

19 'It's the headmaster and staff themselves that
20 suggest in their eagerness to allow the girls freedom
21 they might have been overtolerant of some aspects of
22 behaviour.

23 'We agreed with the staff that they had a very
24 difficult task in trying to strike a reasonable balance.
25 In having the matter discussed the report has I think

1 achieved its objective.'

2 If we go to page 5, at the foot, we'll get some more
3 detail on that:

4 'The girls in Balgay had a very considerable element
5 of choice given to them. Fixed points in the daily
6 routine were mealtimes and school meetings, which took
7 place after breakfast.

8 'At most other times girls had freedom to choose
9 what to do and with whom to do it. The visitor of the
10 school was conscious of a continual movement of pupils
11 in corridors, in the yard, in the classrooms and
12 workshops, and even in the office and rooms of senior
13 staff. Noise was a feature of the environment. There
14 were no barriers to contact between pupils and all
15 levels of staff.'

16 Commenting on that; do you see any difficulty with
17 that in an establishment perhaps of this size?

18 A. I think it's what you would want in terms of young
19 people having choice, input to the plans for them, that
20 there is relationships. I think that's really
21 important, and there is relationships between staff of
22 all levels and young people and I think equally that's
23 important, and that containment and restriction isn't
24 the best way to manage young people who have challenges
25 and distress.

1 I think even in large-scale environments that can
2 all be managed if there is an ethos and a culture and a
3 willingness to make it work. But I think, for me, that
4 is probably progressive in what they were trying to
5 achieve at the time.

6 Q. Going then to the conclusions, page 9:

7 'In assessing the education provided in Balgay one
8 has to keep in mind the particular philosophy on which
9 the school operates. This is very different from, for
10 example, that of a normal day school which imposes many
11 more restrictions. While the Balgay approach affords
12 the individual much greater opportunities of determining
13 how her days and those of her companions will be spent,
14 it also makes greater demands on her. Few schools allow
15 such a degree of freedom to pupils when selecting their
16 curriculum and even fewer allow such frequent revisions
17 of that choice. It seems likely that some modification
18 of this practice will be needed if teaching is to be
19 carried on purposefully. However, a large element of
20 choice is desirable, and if this is to be profitable the
21 pupils must have worthwhile options open to them. This
22 calls for detailed preparation of teaching material and
23 will require adequate leadership and consultation.'

24 Over the page, please:

25 'The contribution which education can make in Balgay

1 has not yet been fully appreciated and perhaps for that
2 reason education has not so far been given a high
3 priority.'

4 Does it appear that the inspector, Mr McAlpine, is
5 in a sense, agreeing with you and your assessment that
6 this is progressive, but that it perhaps just needs
7 a bit more structure and organisation to make it work;
8 is that a fair way of putting it?

9 A. I think there's also that element there of comparing
10 this establishment with a mainstream school and you
11 shouldn't and they're different. I think that's
12 important and, yes, I think that's about all I would
13 say.

14 Q. Moving on to the final Balgay document and it's
15 SGV-000102971.

16 I'm going to take this a little short, my Lady,
17 given the time, but if we can just look quickly please
18 at page 23. This is moving on a bit to 1981 at Balgay
19 and in the context of -- if you just scroll down
20 a little, please, you see paragraph 3:

21 'In general we believe that SNR [REDACTED] in this
22 school is attempting to operate a [REDACTED] which
23 is outwith his [REDACTED] with the result that
24 the school is operating in a way which we could not on
25 a long-term basis accept as tolerable. Matters are

1 however moving in other directions. The managers are
2 continuing to plan for the future on the basis of
3 merging the two schools in Dundee and on their own
4 initiative they have approached Dundee University to
5 obtain professional advice.'

6 Paragraph 4, taking it short, the current intention
7 is that they should continue to look towards
8 an integration of Balgay and Balgowan.

9 So there is a worry that Mr HGZ at Balgay is
10 trying to take on too much, I think, and if we look just
11 perhaps for example at page 30. This is an account of
12 a further inspection in February 1982 to give that some
13 context, my Lady, there had been an inspection in
14 November 1981, which went apparently rather horribly
15 wrong and the inspectors had to pull out because the
16 girls' behaviour was so bad or that was the perception
17 of it anyway.

18 This is a further visit. If we go to page 34,
19 please, this is the first complete paragraph:

20 'It would be wrong to say that there are no
21 sanctions in Balgay, but unlike schools run on
22 behaviourist lines reward and punishment do not follow
23 quickly to reinforce positive and discourage negative
24 behaviour.'

25 And if we can scroll down please we should get to

1 the last paragraph, and taking that short:

2 'While in the long term as shown in paragraph 7
3 above, considerable maturation is achieved by some
4 girls, it is possible that the accepted level of acting
5 out by 13 and 14-year-olds produces a convention of
6 grossly unacceptable language and behaviour and a set of
7 group norms which does not provide boundaries and
8 support for other girls.'

9 Just thinking back to what you were saying right at
10 the start, James, about the size of establishments and
11 the different dynamics in the schools -- in
12 an establishment, particularly a larger establishment,
13 what would you say about this? Is that a dynamic that
14 would surprise or not surprise you?

15 A. It wouldn't surprise me and I think the biggest
16 challenge of delivering residential childcare is a group
17 dynamic that can happen that you haven't planned for and
18 what you have is young people who have a commonality
19 together and who can expose each other to different
20 behaviours and who become more aligned to each other and
21 therefore staffing can very quickly become overwhelmed
22 and find it really hard to manage and to overcome.

23 Q. Thank you.

24 My Lady, just in an effort to save time, it is
25 perhaps worth noting those particular page numbers,

1 pages 30 to 34 and page 27 and 28 and 29.

2 LADY SMITH: Thank you.

3 MR SHELDON: I was going to move on to look at Burnside and
4 it will be a brief look. There is far less in the way
5 of records.

6 LADY SMITH: 15 minutes, something like that?

7 MR SHELDON: I would hope that or less, my Lady.

8 LADY SMITH: Yes.

9 Is that okay, James, if we just carry on for another
10 short while?

11 MR SHELDON: We looked this morning at the physical
12 environment of Burnside and I should have given you the
13 reference for the Dundee short form report on Burnside
14 which is DUN-000000900.

15 According to that, page 1, it's worth noting the
16 establishment was called a remand home between when it
17 opened in 1966 and then renamed Burnside
18 Assessment Centre in 1971, closed in 1991.

19 My Lady, the precise date isn't given there, but it
20 does seem from the records as though Burnside was
21 probably occupied from late August 1966. Albeit that
22 the official opening was 1967.

23 LADY SMITH: It's not unusual for official openings to
24 postdate the real opening once things have settled down.

25 MR SHELDON: The precise date is 16 January 1967.

1 LADY SMITH: Burnside had about a 25-year life of existence,
2 is that right?

3 MR SHELDON: We looked at the classroom facilities, arguably
4 rather old fashioned classroom facilities, at Burnside.

5 Perhaps we can just look again briefly at
6 ANC-000001206. This is a report of a conference on
7 development of services for Tayside children in 1988 and
8 taking this short and going straight to page 2, second
9 column, I think it's towards the foot, there is some
10 consideration of Burnside there:

11 'Admission to Burnside for assessment represents for
12 the majority of these children the point at which their
13 family, school and community cease to have
14 responsibility for them. Some may return home but
15 admission to care can be very hard to undo and it often
16 represents the first rung on the ladder which leads to
17 longer term care, increased degrees of containment and
18 as we have seen decreasing chances of rehabilitation.'

19 Pausing there, is that your experience, James?

20 A. Yeah. My experience is that when children come into
21 care there becomes a greater challenge to rehabilitate
22 them back to family, particularly if children come into
23 residential care as their first experience from birth
24 family, because they're exposed at times to different
25 ages, behaviours and may themselves become involved in

1 those behaviours and therefore that risk-taking
2 behaviour becomes the reason why they can never return
3 back to their family.

4 What you would sometimes think is a reason why you
5 should return them back because the opposite hasn't
6 provided what you had hoped it would achieve for young
7 people.

8 Q. Moving on and reading on:

9 'Assessment in residential care also has to overcome
10 the problems that the child is in a very unusual living
11 situation, with other disturbed or delinquent children,
12 estranged from his own family, school and community. In
13 short, a very abnormal set of circumstances.'

14 Again, pausing, that is really why you are saying
15 assessment in that kind of circumstance, that kind of
16 setting isn't really -- certainly not desirable, perhaps
17 not even possible, was that your --

18 A. It's not possible and it's not accurate and reliable and
19 there is just too many variables that influence the
20 young person to get an accurate assessment of their
21 needs and what they need to go -- what they need going
22 forward.

23 Q. In fairness to the writer of this piece, he goes on:

24 'No matter how skilled and caring the staff,
25 obtaining an objective view of the child as he or she

1 really is almost impossible. Parents can give up on the
2 child during this period. After all, the authorities
3 have taken him over and by their action implied that
4 they were not good enough parents anyway. A child going
5 to Burnside House currently comes off the school role
6 and becomes a stateless person in educational terms.'

7 So there is a feeling from -- and I think this is
8 a fairly senior social worker in Tayside region as it
9 then was -- that really this is not a good option in
10 terms of education or assessment or indeed living
11 environment, is that fair to say?

12 A. Yeah.

13 Q. Moving on to a rather different topic. If we go to
14 DUN-000003055. If we scroll down we see that this is
15 letter from the Sheriff Clerk's Office. We see it's to
16 the town clerk's department, 10 January 1968:

17 'I have been instructed by Sheriff Christie to say
18 that on two occasions recently he has been asked to
19 remand boys of 15 years of age in custody in prison on
20 the grounds that they were too unruly a character to be
21 detained in the remand home. On enquiry, His Lordship
22 found that their unruliness consisted solely of their
23 having escaped from the remand home before being brought
24 to court.

25 Sheriff Christie is reluctant to commit boys to this

1 age to prison and feels that had the security in the
2 remand home been more stringent this question would not
3 have arisen. He has accordingly directed me to enquire
4 whether those responsible are satisfied that all
5 reasonable steps are being taken to prevent future
6 escapes.'

7 And the file then goes on with some correspondence
8 responding to that, but in a sense I don't think we need
9 to concern ourselves too much with that. It's something
10 that clearly happened and if we move on, please, to --
11 we have to go back to the short form report,
12 DUN-000000900. And page 6.

13 This is a letter from 28 October 1966 from
14 a particular person who describes witnessing her son
15 being put in a cold room and tied up with rope to stop
16 him getting out. The door was also tied with rope. The
17 superintendent advised he would get out when visitors
18 went away and the letter notes the door was again tied
19 around 11.30 and he was moved to the Royal Dundee Liff
20 Hospital which was a psychiatric hospital.

21 If we go to the record of that briefly.
22 DUN-000003079. I think we see this is a handwritten
23 letter stamped town clerk's department, October 1966:

24 'I'm writing this letter to you on behalf of my son
25 who is appearing before you today.'

1 I think this is really in fact addressed to the
2 Sheriff rather than the town clerk. It's just gone
3 through the town clerk's hands:

4 'I don't know what the charge is. I only know
5 I have to appear as whatever has happened it must have
6 happened at the remand home. I don't think my son has
7 had a fair deal.'

8 Moving to page 2, please. He had appeared with
9 another boy who appeared at the court with him on
10 Tuesday morning. First time he appeared they said they
11 were going to put him in a remand home, then send him to
12 an Approved School as soon as they had vacancies:

13 'Instead of sending him way that day it was brought
14 home to me that he got into further trouble with
15 others.'

16 I think that is her son got into trouble with
17 others:

18 'And was went to Perth Prison for two weeks.'

19 It appears that her son may also have been affected
20 by an unruly certificate and I may say I've checked the
21 records and this was a 16-year-old boy albeit only just
22 at the time he was sent to Perth for two weeks.

23 LADY SMITH: This fits with evidence I have heard from about
24 this era in relation to other Approved Schools, where
25 children were declared unruly in the absence of real

1 evidence of them being unruly at all, but as a means of
2 being able to detain them.

3 MR SHELDON: It seems that this boy in question had either
4 psychiatric difficulties or was thought to have
5 psychiatric difficulties.

6 At all events, if we can move on to page 4, please.

7 She says she was in the room with Mr GNQ , SNR
8 SNR at Burnside:

9 'My son was in the next room. I heard my son
10 calling let me out of here. SNR told me
11 it was my son and they had to put him in this room to
12 punish him. When I was taken to the room next door
13 where my son was it was tied up with a rope to keep him
14 in.'

15 Scrolling down, please:

16 'SNR told me there were was no lock
17 on the door. That was why the door was tied to keep my
18 son in. My son was sitting on the floor. It was quite
19 a big room with a few beds and a toilet. I don't know
20 if the heating was on.'

21 Scrolling down, please:

22 'Or not but to me it felt cold. Maybe it was only
23 the way I felt. I felt like taking him away myself.'

24 Her son is then -- GNQ says he would take the
25 son out of the room after the visitors went away.

1 It certainly appears that the door was tied with
2 rope, my Lady, but I think there is no reference to the
3 boy being tied with rope, so again that part of the
4 report I think is an error.

5 LADY SMITH: It's the door of the room that is tied up, not
6 the boy.

7 MR SHELDON: Yes.

8 Page 6, please. I just want to check something.
9 He, Mr GNQ [REDACTED], tied the door once more, so that
10 certainly seems to be right.

11 Then at page 9, please. This is a letter to the
12 town clerk from the Sheriff clerk, enclosed letter from
13 Mrs [name redacted] with reference to the detention of
14 her son in the remand home:

15 'Sheriff Christie, to whom the letter was addressed,
16 wishes it to be put before the visitors appointed by
17 your correspondence under its rule 27 of the Remand Home
18 (Scotland Rules) 1964 to supervise and inspect the
19 Dundee remand home and would be obliged if you could see
20 this is done.'

21 If we go then to page 11, this is from the
22 Children's Officer:

23 "The Sheriff Clerk has now forwarded to me this
24 letter and asked that the letter be submitted to the
25 visitors. As you know the committee do not appear to

1 have appointed visitors in terms of this rule and indeed
2 this is one of the outstanding matters arising from the
3 rules which is still to be referred to the committee.'

4 This is October 1966, my Lady, so some two or three
5 months after the home was opened.

6 You will be glad to know the final document
7 I'm going to take you to, James, is SGV-000102968.
8 A letter from Ernie Ross, but I think that is the letter
9 we looked at before.

10 Page 2, please. Scroll just to the top of that.
11 This is a note, 25 October 1982 and I thought there was
12 a heading to this, but I can't see it, but we might come
13 back to that or see in a moment. But at all events the
14 memo says:

15 'If consideration of finance are to be the main
16 criteria in social work recommendations and so far
17 I have not heard any other credible explanation, then
18 this subject requires proper public debate.

19 'Concerns have been expressed by my colleagues that
20 children formerly being cared for in List D homes are
21 now inappropriately placed in children's homes and the
22 local assessment centre. Children with marked
23 delinquent traits are being mixed with other youngsters
24 who present a quite different set of problems which
25 require different management techniques.

1 'The local assessment centre has been subject to
2 many changes and currently fulfils a number of roles.
3 Apart from its assessment function it provides care and
4 treatment for children, a holding place pending transfer
5 and also education for children, subject to
6 a residential order. In addition to these functions,
7 the Director of Social Work advised me last year that
8 funding may be made available to create a secure suite
9 within the establishment.'

10 As an aside, my Lady, I don't think that was ever
11 done although in other establishments it may have been:

12 'Whilst accepting that some contraction of the
13 present List D school provision is unavoidable, we are
14 concerned to note in Tayside the physical decline in the
15 main building in Balgowan, which undoubtedly has been
16 a main factor in deciding its continued existence. In
17 the recent past, Balgowan has been provided a valuable
18 resource, especially in terms of children whose
19 educational needs and socialising experiences have not
20 been appropriately nurtured whilst they were living at
21 home. It will be greatly regretted if this facility is
22 lost.'

23 Scrolling down again, please:

24 'Serious disturbed children are sometimes brought
25 before the hearings system and panel members are left

1 without the proper resources at their disposal. The
2 greatest difficulty has been experienced with children
3 who require psychiatric treatment ...'

4 Scrolling down again to the last paragraph:

5 'I am aware that many other parties will be writing
6 to you to express concern over the changes being brought
7 about in the List D system, especially as all of these
8 parties feel that decisions are being made without
9 proper consultation. I could have written at much
10 greater length touching on subjects such as the impact
11 on children in care when the axe of closure is suspended
12 over the school the effect on staff morale and the
13 consequent difficulties for social work staff who have
14 to deal with disturbed children. Other areas include
15 the rise of school discipline problems with the proposed
16 abolition of corporal punishment.'

17 Scrolling down, please:

18 'Allied to the lack of proper resources within day
19 schools to deal with disruptive pupils. I would wish to
20 return to the central point which is that resources for
21 children in need of compulsory measures of care whether
22 they be seen on primarily social grounds or educational
23 grounds or both, should be comprehensively revised in
24 order that a coherent picture of resources and treatment
25 might be devised.'

1 We see that is a letter from Jan Novak, the chair of
2 the Tayside Children's Panel, at that stage, in October
3 1982.

4 Something of a cri de coeur about resourcing and
5 options for placements for children at that time. Does
6 that seem a fair summary of that note?

7 A. Yeah.

8 Q. Of course we have moved beyond List D schools and
9 assessment centres now. Are you satisfied in Dundee
10 that there is an appropriate and sufficient range of
11 possible placements for the children that are in need of
12 care and protection?

13 A. I am and I'm confident that what we have as a range of
14 provision, to meet a range of ages and a range of needs,
15 that can give children the best opportunity to
16 experience stability, good care and reach potential
17 without that being compromised without exposure to other
18 risks.

19 However, I am also a strong believer that behaviour
20 just can't lead to removal from your family and that we
21 need to understand behaviour, what is communicating, and
22 ensure we have community resources to try to scaffold
23 teenagers within their family home, because there is
24 different and sometimes greater risks with residential
25 care.

1 Therefore, there is a carefully balanced decision to
2 be made about keeping children at home or removing them.
3 But as it currently stands we have a vast array of
4 resource to meet need and demand and future need and
5 demand and I think what I see is young people being as
6 happy as they can be away from their family, achieving
7 good outcomes, but recognising it is a challenging thing
8 to deliver.

9 MR SHELDON: Thank you.

10 My Lady, those are all the questions I have.

11 Is there anything further you would like to ask?

12 LADY SMITH: No.

13 I take it there are no outstanding requests for
14 questions?

15 MR SHELDON: No, there are not.

16 LADY SMITH: Thank you so much, James.

17 I did warn you that we might try and mine your
18 knowledge, understanding and your thoughts on a subject
19 matter which is obviously dear to your heart as well as
20 ours.

21 I am really grateful for you for coming along today
22 and having immersed yourself in the archive records.
23 It's really helpful to us. I'm delighted to say you can
24 now go and rest. Thank you.

25 A. Thank you.

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(The witness withdrew)

LADY SMITH: Mr Sheldon, can we give some indication of the plan for tomorrow?

MR SHELDON: Of course. We have a live witness, my Lady, but timings mean that he wouldn't be able to attend until 11. So I would propose that we have read-ins from 10 to 11 and given that we had been planning to show the Balgay documentaries today, but because James was able to give us such good and comprehensive evidence, it has taken longer than I anticipated it would.

So we'll try to show the Balgay documentaries tomorrow.

LADY SMITH: Tomorrow afternoon. We should be able to fit them in easily in the afternoon. I think each of them is a little bit more than --

MR SHELDON: They're about 28 minutes, something like that.

LADY SMITH: Yes. Thank you very much.

I'll rise now until 10 o'clock tomorrow morning.

(4.24 pm)

(The Inquiry adjourned until 10.00 am
on Wednesday, 14 February 2024)

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