Wednesday, 22 January 2025

(10.00 am)

LADY SMITH: Good morning.

We return to evidence in Chapter 12 of this phase, Phase 8, of our case study hearings and move to further oral evidence from witnesses in person this morning.

We have the first of the two live witnesses today ready, I understand, Mr Peoples?

MR PEOPLES: Good morning, my Lady.

Yes, the first witness this morning is Kirsten Adamson.

LADY SMITH: Thank you.

Kirsten Adamson (affirmed)

LADY SMITH: I'm assuming you're comfortable with me calling you Kirsten, is that all right, rather than Ms Adamson?

A. That's fine, thank you.

LADY SMITH: Thank you.

Thank you for coming along this morning to help us with your evidence and also thank you for the help that I've had by being able to look at your report in advance. As you'll appreciate, what we'd like to do today is focus on some particular aspects of it in relation to St Katharine's, the residential institution that provided secure care in Edinburgh.

I appreciate that you're coming here in effect as

an expert who was asked to look at certain things in relation to St Katharine's, but that doesn't mean I assume that this is an easy thing for you to do. I do know that giving evidence in a public inquiry for any reason is difficult and stressful.

If you want a break at any time, just say. We'll probably have finished your evidence by 11.30 am, but I do normally take a morning break then in any event, but if you need a break before then, just say, it's not a problem. Or if you need us to explain anything better than we're explaining it, that's our fault not yours, so just speak up.

If you're ready, I'll invite Mr Peoples to start the questions that he has to ask you. I may butt in from time to time, but I'll try to let him question you with a reasonable flow without too many interruptions. Thank you.

Mr Peoples.

MR PEOPLES: My Lady.

Questions from Mr Peoples

MR PEOPLES: Good morning, Kirsten.

Can I begin by simply saying I think there is a red folder that you have in front of you, which I hope contains the report that her Ladyship mentioned, which you prepared in 2013 in relation to St Katharine's, one

of the establishments we're looking at in this particular chapter.

Before I start, I'll just give the reference for our purposes -- you don't need to worry about it -- and I think that the reference is EDI-000004592. That will come up on the screen. There is a hard copy in front of you. You're welcome to use either the hard copy or the screen, if it's easier. I don't propose to take you through all of your report. I'll pick out some things, but you can obviously refer to it if you require at this stage.

Now, before I turn to that, I'll just get some background in terms of your particular employment history in recent times. I think that you worked for Edinburgh City Council from around October 2010 until some time in 2019; is that correct?

A. That's correct.

Q. You worked within the children and families team certainly in 2013, when you did the review on St Katharine's?

A. Correct.

Q. I think you were, at that stage, what's called a commissioner and that's a role that would involve managing contracts and projects connected with children and families, is that right?

A. That's correct.
Q. You are someone who has a degree in communication studies, a master's degree in business, a postgraduate diploma and two postgraduate qualifications in business type courses, is that right?
A. That's correct.
Q. You are not a social worker, is that correct?
A. I'm not a social worker, no.
Q. As far as your subsequent employment history is concerned, you left Edinburgh Council in 2019 and took up a position with Orkney Islands Council in 2019 and you remained there until around 2023?
A. That's correct.
Q. Then you moved from Orkney Islands Council to take up the post of chief executive of a charitable organisation known as Circle Scotland; is that right?
A. It's known as Circle.
Q. Circle. Circle is a charity, is it not, that supports families in Scotland, mainly in deprived communities, is that right?
A. Correct.
Q. Just to learn a little bit about what you're doing, the main purpose of Circle is to try to keep families together, to try to avoid presumably care away from home through support for families, including the children in

the family?
A. That's correct.
Q. Also it's to attempt to improve their lives in general?
A. Correct.
Q. Are these the broad objects of the charity?
A. Yes.
Q. I think you started with Circle around 1 May 2023?
A. That's correct.
Q. I think again your background, albeit not as a social worker, has been in child and adult social care?
A. That's correct, yes.
Q. Indeed, we know that you've worked in two local authorities, one large and one small.

So far as Circle is concerned, I take it that in relation to the families that Circle engages with, some of the young people will be looked-after children?
A. Yes.
Q. Although you will also be involved with other young people and their families too; is that right?
A. Yeah. We would be involved with children on the edge of care.
Q. I think that Circle offers a range of services and activities for this particular group that you support; is that right?
A. Yes. So we would offer direct support and then we have

community-based supports, as groups or individuals.

Q. For example, one service that you offer, to certain groups at least, is a therapeutic counselling service, is that right?

A. That's correct.

Q. Now, with that introduction, perhaps I can go more directly to the matter of which we are perhaps particularly interested in today, which is your review of St Katharine's.

What I propose to do is you have the report in front of you, which is called 'An internal review of St Katharine's', dated September 2013, children and families was the relevant service that St Katharine's sat within, is that right?

A. That's right.

Q. I don't propose to take you through the whole of the report in detail. You have quite a lengthy section dealing with what I call the facts, or the events, which gave rise to the review, and I'll try to summarise briefly, if I may, and you can tell me if I'm getting anything fundamentally wrong.

You were asked really to look at an event or a matter that occurred on 5 September 2012 and what you sought to do, as part of your review, was to establish, through interviews with staff at St Katharine's and also

relevant records, the events of that day, is that right?

A. That's correct.

Q. Essentially the situation which you were asked to consider was one of a young person, a boy, in Guthrie unit, which I think was a secure unit at that time?

A. Yes.

Q. This boy had been put in his bedroom and locked in during the early shift by a member of staff called IMB, who was a person who was a member of staff in another unit called Chalmers unit, which I think was an open or close support unit at the time?

A. Yes.

Q. Mr IMB was providing temporary cover in Guthrie on that day?

A. Yes.

Q. And not for the whole of the shift, but only for part of the shift, the early shift. Without trying to descend into precisely what happened, it appears that Mr IMB took exception to certain behaviour that was displayed by the boy and it appears that this behaviour involved tutting and giving Mr IMB a disrespectful look and/or perhaps pushing past Mr IMB without so much as an 'excuse me', would that broadly summarise?

A. That's correct.

Q. Initially it appears that the boy in question -- now, I'm not sure -- what age was the boy, can you help me?
A. I'm sorry, I can't remember.
Q. It doesn't really matter. It appears that initially the boy was put in his room for what is referred to in the report as 'a time away', or sometimes known as 'a timeout'?
A. Yeah.
Q. Which meant that, as you understood from the review, was meant to be time in his room for up to 30 minutes?
A. Correct.
Q. If the boy was not allowed out after 30 minutes, for example because he didn't apologise and show contrition, the time away would convert into something known as single separation?
A. Correct.
Q. Which could mean the separation for an indefinite period until such time as staff decided he could be let out of his room, is that essentially what it's about?
A. Yes.
Q. It appears that during the time away period, and perhaps straying into single separation period, the boy refused to speak to Mr IMB and offer him an apology?
A. That's correct.
Q. Mr IMB left Guthrie unit during the shift to go

back to his own unit, without completing any paperwork, is that right?

A. That's correct.

Q. His explanation to you was, I think, that he didn't think it was his responsibility to do so. It was, I think he told you, the responsibility of unit staff to see that any necessary paperwork was completed about the matter, is that right?

A. That's correct.

Q. However, I think the unit staff, in discussions with you, said it was really the responsibility of the staff member who put the young person in his room --

A. That's correct.

Q. -- to do the paperwork?

A. Yes.

Q. So you were getting conflicting positions?

A. That's right.

Q. Then, following the story through, the duty senior for the early shift was made aware of the time away/single separation?

A. That's correct.

Q. It also appears, I think, from your report, that there was on the day a disagreement between Mr IMB and the staff in Guthrie regarding the use of time away by Mr IMB ?

A. That's correct.
Q. There were varying accounts of the meeting. I think some said Mr [redacted] was perhaps -- his tone wasn't -- was quite aggressive or --
A. I don't think it was a constructive meeting.
Q. No. So there was a clear difference of view about whether he should have taken the action he did?
A. Yes.
Q. So we have a position where the unit staff did not agree with the use of time out/single separation, but in the event, the boy remained locked in his room for the remainder of the shift?
A. That's correct.
Q. At handover to the back shift, in the afternoon, the duty senior's handover sheet did not make any mention of the boy being locked in his room, is that the position?
A. That's correct.
Q. The back shift duty manager, not being aware of the use of time away/single separation, did not go to see the young person or check that the necessary paperwork had been completed?
A. That's correct.
Q. Is that what you were told?
A. Yes.
Q. When the young person was to be allowed out, there

should have been a debrief session with him?

A. That's correct.

Q. The debrief form relevant to this session was not completed whenever that did happen. It wasn't completed until 29 September 2012?

A. That's correct.

Q. Many days after.

Following upon the events of 5 September 2012, we come to what I'll term the complaint and how it was handled. I think this is really why you became involved.

The boy's mother made a formal complaint. The complaint was initially investigated by Frank Phelan, who, I think, at that stage was no longer based within St Katharine's or Howdenhall but was what you might describe as an external manager?

A. Yeah, I can't remember where he sat in the organisation, but he certainly was within Waverley Court when I met him. He wasn't at St Kat's.

Q. I think that coincides with other evidence we've heard about the progression. I think for a time he was the acting principal of St Katharine's/Howdenhall, but he moved on and perhaps upwards, I suppose would be the correct way of looking at it.

So he was the initial investigating officer for this

complaint, then it appears -- I think from your report, we can infer that the complaint was not upheld by him?

A. Correct.

Q. It then went to a committee known as the Social Work Complaints Review Committee on 27 June 2013, where you tell us in your report elements of the complaint were upheld?

A. Correct.

LADY SMITH: Just to interject at that point, we should probably insert into the narrative that in essence, the nature of the complaint was about the single separation and the length of time that the boy had been left with nobody noticing?

A. As far as I'm aware, yes.

LADY SMITH: Thank you.

Mr Peoples.

MR PEOPLES: Now, you, who were then a commissioner within the children and families team in 2013, you were asked to conduct a review and to report and you were asked to do so, I understand, by your then line manager. Now, who was he?

A. That was Ricky Dover.

Q. And also another senior manager within children and families, is that Scott Dunbar?

A. Correct.

Q. Was he then the senior manager for looked-after and accommodated children?
A. He was.
Q. Where did Ricky Dover sit relative to Scott Dunbar?
A. So he was the manager of the commissioning team, so he wouldn't be sitting in the social work structure, so it would be off to the side, almost like infrastructure-type post, so although he was a social worker, he wasn't acting as a social worker.
Q. Can you tell me this. I think we understand certainly that there would have been some form of quality assurance team or department certainly within Edinburgh. Was there such a department in your time?
A. No, it was probably starting to form rather than being established, 'cause it would sit over in adult services.
Q. So you were in a commissioning team. There's the children's services social work team as it were, and then there's adult services and you think maybe there was the start of something that would be considered to be some form of quality assurance system or arrangements?
A. Yes.
Q. But it was through your line manager and Mr Dunbar that you were invited to conduct the review?
A. It was.

Q. I think that it appears that those who requested a report were not content with the outcome of the initial investigation by Mr Phelan; is that right?
A. That's correct.
Q. In essence you were given the task of conducting a review of the complaint itself and how it was handled, but also you would look at perhaps wider issues, including, to some extent, the general culture within St Katharine's and maybe more generally?
A. That's correct.
Q. One of the matters that you were asked to consider was identification of any areas where there was a need for service improvements or perhaps staff training; is that right?
A. That's correct.
Q. I think that early on, when you started your task, you discovered that Frank Phelan had failed to compile an investigation report setting out his findings, and that there was in fact no paper trail at all, is that right?
A. Yes, I never saw any paperwork related to his investigation.
Q. From interviews with staff, it seems, I think, from your report that none had been interviewed regarding what had happened on 5 September 2012?

A. That's correct.
Q. Because I think you asked them when you saw them?
A. I did, yes.
Q. I think then, and we'll come to this as part of your review, you addressed some general issues and made a number of recommendations?
A. I did, yes.
Q. Now, what, if anything, did you know about St Katharine's before you began your review?
A. Not a huge amount. I'd been out and had a visit, because I used to do some commissioning work with the youth justice team and in order to understand how the youth justice team fitted into the bigger picture, I requested to go out and have a tour of Howdenhall and St Kat's. That's all I would know, 'cause generally I wouldn't be involved with that area of children and families.
Q. I'll just deal with this matter at this stage, because it was something I was asked to ask you about.
Can I put up another document briefly. It's EDI-000005688. It should come up on screen in front of you. It's headed:
'Young people's focus group on experience of Edinburgh Secure Services.'
First of all, we understand this was an exercise

that began in spring 2010, when certain young people who had been previously resident within Edinburgh Secure Services were invited to share views and suggestions and concerns on a range of matters and it was done, it says, as part of a 'Count Me In!' participation strategy, as we see from the introduction.

Just from the introduction again, just to give the context, we see about two-thirds of the way down it says:

'Seven young people participated; four young women and three young men. All had experience of being accommodated in the secure units and five additionally in the service's close support units. Three of the seven were accommodated in Howdenhall centre and four in St Katharine's centre and two of the young people had experience of living in both centres.'

You will see, just reading on, that the young people were invited to discuss and share experiences on a number of themes, which were described as key themes: one being admission to ESS; another being time living there; another being time out of group, I think that's like a time away situation; another is being in a locked bedroom; another is restraint; and another is moving on to the next placement.

What we'll see and what we can read, and I'm not

going to go through this today, is that we can see what was said on these various matters by the young people concerned.

What I want to ask you is, you came to the council in 2010, around maybe the back end, in October. This exercise started in the spring of that year. Is that a document you have ever seen before?

A. No, I've never heard of this document.

Q. Would it have been one that, for the purposes of your review, you would have been interested in looking at?

A. Yeah. It would have been really helpful to have access to it. I mean, prior to going in to do my investigation, I did look at things like Care Inspectorate reports, so, you know, I gathered background information just to get a sense of how the units were performing, just for my interest and level of understanding. So, yeah, it would have been useful to see this document.

Q. I take it then that those that you spoke to didn't make any reference to it?

A. No.

Q. You spoke to quite a wide range of people, did you not, apart from staff within St Katharine's, you were obviously speaking to some of the senior managers with responsibility for St Katharine's?

A. Yes, and I'd have had conversations with the youth justice team, who obviously would be involved with the unit as well and no one made reference to this document.

Q. Can I take this from you: I think that you tell us in your report how you carried out your review, but part of the process involved, I think, having meetings with three individuals who you name in your report, about the review itself and its scope; one being Scott Dunbar, who we have just mentioned. Another, I think, who was involved was Frank Phelan. You had a meeting with him at some point?

A. Yes.

Q. The third one was Peter McCloskey, who I think at that point was the acting principal of ESS?

A. Correct.

Q. I think that that really gave you an understanding of what was expected, that you were to understand the events of 5 September 2012, that led to the use of single separation/time out, you were to review the rationale for the use of single separation on that occasion and obviously to identify areas of service improvement or training which seemed to you to be required?

A. Yes.

Q. Is that --

A. Broadly, yes.
Q. Now, during the review, did the staff at St Katharine's and the external managers responsible for St Katharine's co-operate fully with the review, in your view?
A. Erm, they did co-operate. There was different levels of engagement. Some were considerably harder to pin down and meet with, whereas other people were more available and willing to have a conversation with me.
Q. Did you get a sense, when you were trying to gather information, about how willing they were to disgorge information and discuss matters with a person who essentially was an outsider?
A. Again, that varied. It was almost like a split camp. There was people who were very, very keen to speak to me, and other people were definitely not welcoming at all.
Q. Does that apply both to staff within St Katharine's and also some of the external managers?
A. Erm, yes, it was difficult with some of the external managers. Peter and Frank, it was difficult to get, beyond basic information, particularly when I was asking -- if I can speak about it now, you know, when I was asking Frank for transcripts and different pieces of information, he was quite defensive, because, you know, I was asking for something he didn't have.

Q. Even if he didn't have paperwork, was he very forthcoming about information from recollection or memory or did he seem to be at least resistant to giving you as full an account as he could possibly remember?
A. Yeah, it wasn't an easy conversation. It wasn't an unfriendly conversation, but it wasn't a conversation where I got the information I needed.
Q. One gets the impression, I think, from what you say and perhaps what others will tell us about and we have heard evidence, that what goes on in St Katharine's stays in St Katharine's and outside interference or scrutiny is generally unwelcomed. Is that a sense that you got?
A. That would absolutely get a sense and that's something that would be vocalised by some of the staff who were willing to talk to me.
Q. That they felt that was the attitude or the culture?
A. Correct. Yes.
Q. Did you get any sense that those who were perhaps more willing to speak thought that the culture was of a particular type? We have heard expressions like 'macho culture' before, 'male-dominated', did that come across in your discussions?
A. Yes, very much so.
Q. Did the position of women who were based at St Katharine's, was that ever discussed whether they

felt discriminated, marginalised and to some extent not treated as equals by the male staff?

A. I don't know if it was about gender. I think it was more about the camp of -- there were two camps and that's how I have it in my head, and it was very much people who were focused on the best interests of the children within the unit that were trying to improve things and the experience for the young people in the unit, versus another group of individuals who had very strong opinions about how children should behave in units.

And, you know, I spoke about -- or referred to how children should be completely respectful and they should be please and thank yous. These are not a group of children that are necessarily in the best place in their life. So, you know, one group were trying to do the best to work with these children and support them and the other group were not.

Q. In a sense, that seems to be sort of confirmed by the apparent disagreement about the particular use of single separation against the background that we have talked about earlier?

A. Yes.

Q. Was it really an appropriate way to deal with the situation that Mr IMB [redacted] encountered. Would that be

perhaps confirmation of this divide?

A. Yes, yeah. You would definitely have had a difference of opinion of whether that merited the reaction that it got for that young person. There's other people who would have perhaps dealt with that in a more nurturing way.

Q. Did at least one of Mr IMB 's colleagues, not, I think, a person working in Chalmers but someone in Guthrie who was on the scene that day, did she describe to you that he was old school?

A. Yes, his --

Q. What did you -- sorry, what did you take by that?

A. That it was very much about this, that it was almost this culture of 'children should be seen but not heard', kind of that old-school, children should respect adults unconditionally, that sort of very, very rigid view of how children should interact with adults.

Q. Just going back to during the review itself, would you say that you were given unrestricted access to any paperwork that might be relevant to your review, such as records and forms and other ...

A. Erm, I was given access to it. I wouldn't say it was unrestricted access to it. I had to prise it out of the service, and by that usually I would -- if I was doing any sort of work, you sense an organisation or a place

that is open and they're willing to give you the information, but it was often very, very difficult to get it, so, for example, some of the paperwork that would have, erm -- there was one document that -- there was one about the -- it had coffee spilt on it and I think it was called a green form, I can't remember now, where times would be recorded and things and there was, you know -- I had to fight to get that document and I did eventually get it and took a photograph of it, 'cause I wasn't confident I would see it again.

Q. Was that the document that you had concerns might have been altered?

A. Correct, yes.

Q. I think that would be one of the pieces of paper that under the procedures, as they then were, should have been completed --

A. Yes.

Q. -- at the time of the --

A. Yeah.

Q. -- time away/single separation incident?

A. Yeah. I would have expected to have attended and there would be a folder that would have all of these documents contained together and when I asked for it, I would get it.

Q. Yes. We'll come to this, but I think that was one of

your recommendations, that there ought to be such a thing because you were finding great difficulty trying to work out just how the complaint was handled and also how the relevant paperwork had been completed and when and by whom?

A. Correct.

Q. So it sounds like a bit of a mess?

A. Yes, yes. It was chaotic, would be the -- my overriding memory of being in that environment was it was chaotic.

Q. Of course, as you've said, the investigating officer, Mr Phelan, doesn't seem to have thought it necessary to record anything or prepare a report or set out his findings or his reasons for his findings?

A. Yes. As far as I'm aware, nor did he give me any info -- again, I would have the same expectation of a unit as I would of a manager who had completed a complaint, that they would be able to signpost me to at least a folder, if not at that point give me a folder with, 'Here's the process, here's my ...' I would have expected that.

That's what I handed over to them, because that to me is a basic standard of carrying out a complaint or an investigation. You'd keep all your documents together.

Q. Another basic requirement probably is you should

interview the relevant personnel?

A. Correct.

Q. That didn't seem to have happened?

A. Not as far as I'm aware.

Q. Did Mr Phelan suggest he had spoken to individuals who were involved in the incident or was he -- did he reveal?

A. I didn't get any information about that.

Q. Now, just on a separate matter: at any stage during the review, do you consider that you were put under any pressure from the external managers, or indeed any other person or persons, in relation to how you should conduct your review or what matters you should or should not look at as part of your review? Did you feel you were put under any --

A. No, not at all.

Q. No. Just looking at what I would term the wider issues that you reported on in your review report, you have a section, I think it really starts maybe around page 6 of the report. It may be up on the screen actually already.

You have got some general issues that you say you picked up during the course of the review and you made certain recommendations.

I'll just maybe take you through some of these, if

I may. You formed certain conclusions about the forms used, the paperwork on the occasion in question, and, indeed, the general state of record keeping. I think we see that in your report.

I think, so far as what was called the handover sheet that we spoke about earlier, your view then was that the form or the forms used were not fit for purpose and not suitable for an audit trail and needed to be amended urgently, is that right?

A. Correct.

Q. Clearly we know in this occasion that the key information didn't even get recorded?

A. That's right.

Q. Then you also had some observations, which I think you refer to as a detailed record, that there was a need, you say, for the detailed record to be completed in legible handwriting with dates and times on the records and that the worker completing the form should be easy to identify. That was something that you picked up?

A. Yes. It was incredibly difficult from memory to understand a lot of what was in the record. Again, I've always been taught that all of these documents are legal documents and they should be dated and signed. So again, for me that's a basic requirement, particularly for a service that's registered with the Care

Inspectorate.

Q. I suppose the matter was even more important on this occasion, because there was some issue about who should be completing the forms?

A. Yes.

Q. There were also, I think, concerns about timing of completion of forms and when they were actually completed and when they should have been completed?

A. Yes.

Q. So presumably all this information would have been relevant to your review and you'd have expected to see a proper record?

A. Yes, I would have.

Q. Then you also say about the young person debriefing record. There was, I think, something, a form, that was to be used to record that this debrief had taken place and no doubt what the outcome was.

I think you say that that should have been, but was not, completed in a timely fashion?

A. That's correct.

Q. Just pausing there, I think you say first of all in relation to detailed record, that you recommended that forms are clearly written, signed, dated, times included and the writer is clearly identified?

A. Yes.

Q. In relation to the debrief record, you said:

'It's recommended that all staff are reminded that these forms are to be used at the end of each incident with a young person.'

The idea was that this should all happen contemporaneously?

A. Yes, 'cause if that form is not there at the time, you're not sure if that young person has had that debrief after that incident, so it may have happened, the debrief may have happened, but the forms didn't reflect that. They reflected it two weeks later.

Q. Just as far as the complaints handling process itself was concerned, you have made the point earlier but you do say it, I think, in your report, on page 6, that there was no folder available within the service that held all the information relating to the particular complaint. You say:

'There were limited notes of meetings and discussions with staff, external professionals. There were no records of communications with family members and the young person.'

So that was what you found?

A. Yes.

Q. You say, I think, between 6 and 7 of the report that we have, that this relates both to the initial

investigation, these observations by staff -- the initial investigation by staff within the service, and the further investigation by the management outwith the unit, where no notes were available. I think this is the Phelan investigation?

A. Yes.

Q. You say:

'Some staff when I met with them had never been interviewed regarding the events of 5 September.'

I think that included Mr IMB ?

A. It did.

Q. Who actually put the boy into a locked room?

A. He would be key.

Q. Indeed, you say that some weren't aware of an ongoing complaint?

A. That's correct.

Q. In light of these findings, you recommended, on page 7, that a clear procedure on record keeping, timelines and communication is put in place for handling a complaint and all staff trained to use the procedure.

You observed:

'If there is one currently in place, this needs to urgently be reviewed and staff trained in its use.'

A. I would have expected that to be there, because, as I said before, it's a Care Inspectorate registered

service, there was a requirement to have a complaints procedure and know how to use it.

Q. I suppose that's something the Care Inspectorate should have been picking up --

A. Correct.

Q. -- as well?

A. Mm-hmm.

Q. If we're looking at it even wider than CEC?

A. Yeah.

Q. Because these are the sort of documents they ought to be looking at as part of any --

A. Yes.

Q. -- official inspection?

LADY SMITH: By that stage, the CI were really quite well established.

A. Yes, yeah. And I know from my experience of doing Care Inspectorate investigations that they would always ask for how many complaints you've had, you know, were they upheld et cetera, so it would be part of the regular inspection process, that they would ask for that.

LADY SMITH: They would want to see the paperwork in relation to any complaint?

A. Correct.

LADY SMITH: Mr Peoples.

MR PEOPLES: I'm not going to take too long on this aspect,

but one of the matters that was raised by Mr [redacted], I think, was that the complainer, the young person's mother, was a particularly difficult person to deal with. I think there was some history of her having, according to the reports of staff --

A. That would be his view, yes, that she was difficult. I might hear it slightly different in that it was a concerned mother, enquiring after her son.

LADY SMITH: Is there another aspect to this, Kirsten, that some people can be more difficult to engage with than others and if the organisation labels somebody as 'that difficult person', there is a risk of the organisation then not doing their job properly and processing the complaint in exactly the same way they would with somebody who doesn't have that 'difficult person' label on them?

A. Yes, and that was what I felt, is that this mother did have that label, that any interaction with her, be it concerned or just frustrated, she was just a pain to them and an irritation to them and that was very, very clear. I never spoke to Mrs [redacted] in this directly, but I just heard a concerned mum trying to enquire after her son.

LADY SMITH: Indeed.

And then, just to follow up on what you were saying

a moment ago, there is a risk that if this person is thought of as 'a pain', assumptions then -- and no assumptions should be made -- but assumptions then are made that nothing she ever says could be well-founded?

A. Correct.

LADY SMITH: That is really dangerous.

A. Yes.

LADY SMITH: Yes.

Mr Peoples.

MR PEOPLES: Now, I think there's another point here though as well. Obviously there are two perceptions of this particular mother, one by the staff and no doubt we can see it in a different way. But I think one of the things you said was that whatever the situation, there was very little recording of the exchanges, so it didn't enable you to see what was being at least written and by whom to get some picture, so that -- you recommended, I think, that there should be a clear procedure for staff to follow should they consider that they're being threatened or put under pressure, including appropriate management support, handling and recording of the situation.

So from the point of view of the process, it wasn't being properly recorded or managed at all, whatever view you take of the mother, and one might say that maybe

looking at this as a general point, that we perhaps see all too commonly when people record things that mothers or young people say, when they do record them, they often don't really spell out what they're saying, or they could be dismissed as, 'Oh, this isn't correct' or it's manipulative or it's lies even, but they don't always tell you what the material is they've judged to be either incorrect or simply wrong or deliberately saying something that isn't true.

We don't get that, do we, often in records?

A. No, no, you wouldn't get that level of detail, but there wasn't even a recording of sort of general themes of what mum was raising and worried about --

Q. And why?

A. And why, yes. So even if -- even -- again, you might have an expectation that if the staff were having such an issue with mum that they would want to record that. So that potentially that could be passed on and senior people within the unit could have a conversation with mum about how do we communicate better round about this, because communication was just not happening. By the time I was speaking to people, she had been dismissed.

Q. My concern would be that, for example, if you take a different situation of a child making an apparent disclosure or allegation, particularly about a member of

staff. Even if it's recorded that it's been made, if you don't spell out what they're saying, whether you accept it or not, it becomes difficult in due course to be able to piece together what was said at the time, particularly if there's a repeated allegation at a later point, if all you get is a sort of: 'This is my judgment but I'm not actually telling you what it is I'm judging.'

That seems to be perhaps something that at least historically was done, that you didn't spell out the communications between the young person and the staff making the record?

A. Yes. I mean, I wasn't able to triangulate any of this, 'cause I didn't have an accurate record to be able to do that, so absolutely, I would agree with that.

Q. I suppose the other thing is that if you don't involve the young person or complainer by saying: 'Well, is that a fair record of what you're complaining about or what you're disclosing to me?', you don't even have, say, a signature to confirm that that's what they're saying?

A. Correct.

Q. Even if you later judge it to be not correct or not substantiated. If you don't have that, it leaves any investigation into a complaint or an allegation quite

difficult, even for an investigating officer if they do the investigation in the proper way?

A. Yes, I would agree with that.

Q. Moving on, you also said a bit about single separation and the use of single separation on page 7, as a general matter:

'The single separation guidance [I think you say at page 7] used within the units is a document that clearly outlines the seriousness of the incident as it is to be used for. However, one area of improvement is changing [you say] a particular word, "difficult", as this is ambiguous and open to interpretation.'

What you say is that you concluded that during the interviews with the staff, it was clear that there was, and remained, confusion regarding the use of single separation.

I think that might in fact be illustrated by the disagreement that you mentioned in your report?

A. Yes, I would agree with that.

Q. You tell us:

'Staff [this is something based on the interviews] frequently raised the issue that they would use the time out/time away and place a child in a locked bedroom. If there has been no resolution of the issue after the time limit of the timeout/time away procedure, which is the

30-minute time limit, staff interpreted this to mean it becomes a single separation.'

So it was obviously an automatic move from timeout to single separation?

A. Yes.

Q. Almost seeing it as a continuous process?

A. Correct.

Q. I think you made some recommendations on this matter at that time, one being that the procedures should be separated onto two documents or, at the very least, the time away procedure should precede the single separation procedure?

A. Yes.

Q. You say that the time out/time away policy should be clearer regarding where it's appropriate to remove a young person when using the procedure. For example, not in a locked bedroom wherever possible?

A. Yeah.

Q. You say that the new updated version of the timeout procedure needs to be reviewed as it's confusing?

A. Yes.

Q. So the guidance wasn't necessarily as helpful, indeed could be seen as confusing?

A. Yes. So even as a layperson going in and picking up, with it not being my background or field of expertise,

I couldn't really follow what the actual procedure was and the difference between the two. It took me quite a while to unpick that it was two very separate things.

LADY SMITH: I see also, Kirsten, that we're told that the guidance refers to -- or rather the practice was by staff, that if there was no resolution after the time limit of the timeout/time away procedure, it is this concept of resolution that I'm wondering about. Were you able to identify whether or not staff were, when they put the child into the bedroom, saying that this matter, whatever it is, needs to be resolved this way; an apology, the child calming down, something else done.

Or did it just remain vague at that stage?

A. It was incredibly vague, as to what the discussion would be and what the agreement would be that it has been resolved was never clear.

LADY SMITH: Was it regarded as a punishment?

A. To use the time away? Oh, absolutely, yes.

LADY SMITH: So if using time away is the punishment, why wasn't that just it, the 30 minutes is up?

A. Yeah.

LADY SMITH: They've had their punishment, but it wasn't being viewed that way?

A. No.

LADY SMITH: Thank you.

A. This was a way to manage young people's behaviour and again you may -- and I didn't go into a huge amount of detail with this, but for the people that had a more child-focused, you may have found them trying to use that approach, but the other side of the camp, it was definitely used to remove these children and punish them for their behaviour.

MR PEOPLES: Just picking up on this case, the word 'resolution' can be misleading in this example, because, as I understand the facts here, that you found, basically the young person was told, 'Before you get out, you're going to have to apologise to IMB', and he didn't. He wasn't prepared to do that and Mr IMB walked off and left him.

A. Yeah.

Q. That to my mind isn't resolution. That's saying, 'An apology or you don't get out'. You're not discussing the matter, you're just saying, 'Unless you do that, you'll stay there'?

A. Correct, and that's what happened to him. He was left.

Q. One could be mislead into thinking resolution means that we sit down as two equals, discuss the matter in a proper fashion and come to a mutual understanding of how this matter should be dealt with and progressed?

A. Yes.

Q. There wasn't. This was an ultimatum?
A. Yes.
LADY SMITH: That's perhaps as short sighted, by the members of staff, as a practice that I've heard a lot about taking place in other institutions, that children were told if they didn't finish the food that was on their plate, first of all, they weren't going to be allowed to leave the dining room, and all the other children left, and if it went on then it was taken away and served up to them again and again. But, of course, it would get to the stage that they couldn't serve the food up again and the child was still not eating it. It got the staff nowhere.
A. Yes.
MR PEOPLES: You also recommended maybe the use of a flowchart or visual diagram to at least make it easier for staff to follow how they should progress a situation such as the one that you had to review, and to give appropriate guidance on what should be done and when.

Broadly speaking, you recommended that all staff urgently required to be retrained in the use of these procedures as a matter of urgency?
A. That's correct.
Q. You said:

'There's clear evidence they're being used

differently by individuals within the service, which must be confusing for young people, and terms are being used interchangeably. This should be a priority.'

A. Yes, and bearing in mind, I was coming in after this event and it had already been investigated and still the staff were not clear on how to use the procedure at that time.

Q. You have a matter of managing incidents at page 7, where you say this:

'There seemed to be a lack of communication, ownership and leadership regarding this incident that culminated in the poor management of this event.'

When you are talking of lack of communication, ownership and leadership, are you talking both within St Katharine's itself, the persons involved, including the managers, and also the external managers?

A. Yes.

Q. Basically this was an example of very poor management?

A. Yes.

Q. And also very poor investigation?

A. Yes.

Q. You mention on page 7 that there were some areas that had still not been clarified by the time you produced your report and you give us an example. You said that there were some statements that had been made regarding

a fax that had been sent to the children's rights officer, and you say that when you asked to see a copy, you were informed by -- is it a senior manager within St Katharine's? I don't know, but the fax didn't exist. So you were being told there was a fax and then when you asked about it, you were told there was no such thing?

A. Yes.

Q. Then you mention on page 7 that the sheet that had coffee spilled on it was available finally. I think you took time to get it, but there was no note on it to advise why names had been changed, so there were alterations to the document?

A. Yes.

Q. You say:

'Generally all of these issues and the further ones identified in this report culminated in a failure of staff teams to recognise a significant event had occurred and for this to be managed in a professional way that would withstand scrutiny.'

You say:

'In failing fully to appreciate the gravity of the event and the subsequent minimising of its seriousness, staff exacerbated the situation. The failings of management and lack of direction and action reinforced this.'

That was your conclusion?

A. Yes.

Q. I get the impression that because of the general conclusion, you didn't think this was a one-off?

A. No. No, this felt like a way of being, the culture.

Q. On page 8 you turn to what you call other issues and I'll just deal with those, if I may, briefly.

You say in relation, I think, to the protocols for covering in other units, effectively Mr IMB was covering in another unit. He had been called over, I think, because someone was away?

A. Yeah.

Q. He was expected to stay over lunch or something like that. You say:

'One staff member raised with you a concern that when staff are covering other units, if, for example, staff are at hearings, there's no protocol in place regarding roles. Staff routinely enter units that are not their own, with no discussion as to what is required of the covering staff member. They simply do what they think needs to be done.'

Your conclusion at page 8 is:

'This practice is unsafe and a procedure will ensure staff communicate and discuss requirements prior to working with a young person within a different unit.'

Now, I think we've heard evidence from others that staff absences, sickness or for other commitments does create its problems, particularly if you are wanting stability and continuity of staff for young people, but what you're saying is: well, if that is the situation, it seemed to be here that it was a regular thing to have cover, that there was a requirement to have an appropriate protocol and procedure and everyone was clear as to what was expected?

A. Yes, and my time that I was in there, I was trying to establish who was on shift, for example, a fairly basic thing that you would usually pick up from a rota, and it was almost impossible because of this fluid movement of staff between the units and there was no requirement to sign in to the unit, so you wouldn't know how long someone had been in and if they'd been in and out or, you know, it just felt -- again it was chaotic was how it felt to me. Part of that was the frustration of trying to work out who it was that I had to interview, because it was really difficult to get that sense between staff sickness and people being away. It just wasn't clear. Who was around was difficult to pin down.

Q. Again, if it comes back to someone making a complaint, a young person or an allegation, if this is the situation and you can't even work out who was there,

it's an uphill struggle for a young person anyway making a complaint, I suppose, if you're faced with a number of staff who were on the scene, but this surely exacerbates that problem?

A. Yes, I would have thought so.

Q. Now, you also have something to say on whistleblowing as at 2013. You say one general issue that you picked up was that staff need to feel safe using the policy on public interest disclosure whistleblowing, which, I think, was the relevant policy of May 2000, and currently they report they do not?

A. Yes.

Q. They were telling you firmly they didn't feel confident about using this particular procedure or policy to --

A. Well, it's not even that they didn't feel confident, they didn't feel safe to use it.

Q. Because of what might happen to them?

A. Yes.

Q. If they said something?

A. Yes, and, you know, it's not included in my report because it was hearsay, but, for example, I spoke to one staff member who advised me of a staff member who had left the unit and had been away from the unit for quite some time, and still every year received a wreath from staff members within the unit, just to remind him that

they knew where he lived and where he was. So it was a very, very unsafe culture.

Q. You say there in relation to this matter:

'There needs to be a clear procedure for staff regarding using this policy when the concern is with the management team. The recommendation is that a procedure is in place to help staff feel safe when they wish to raise issues regarding colleagues and management covered by the above policy.'

You are really pointing out there is a real difficulty if you're going to raise a concern about a colleague or a person that's more senior to you in the same establishment?

A. Yes. People had told me they tried to raise issues with senior teams and they'd gone nowhere. Some of them hadn't even been investigated.

Q. Now, you prepared this report and you then submitted it to whom?

A. The usual way that information flowed, I would submit it directly to Scott Dunbar via email, and I would give him a hard copy as well.

Q. So at that time, and can you try -- obviously this may be quite important. I have been asked to perhaps explore with you just how it was done. Your recollection is that you sent him an email with the

report attached, is it?
A. Yes.
Q. So he would get it, he could then presumably print it off if he wanted, but you did actually give him a hard copy also?
A. Yes.
Q. Did you attempt to put it on to any electronic system at that time, you personally?
A. No. There would be no expectation for me to do that. That would be an admin function within the office. They would attach any -- any investigation would go on to a central system. As far as I'm aware, that's what would happen.
Q. Would you expect Scott Dunbar to be the person that would arrange for that to be done?
A. Yes.
Q. Do you know whether that was done?
A. I've no idea. I think it's a reasonable expectation that it would be done, but I wouldn't know if it had been done or not. I would have no reason to go back and check that it had been done. I would have made the assumption it had been done.
LADY SMITH: Would these systems be areas of the council's IT that you would have had access to?
A. Not necessarily, no. There would be no reason for me to

go in and look either.

LADY SMITH: Of course.

MR PEOPLES: In short, you didn't check or even try to establish if it went on to one of the systems that was in use then for recording electronically reports such as yours. You didn't check that?

A. No.

Q. As you say, you had no reason to?

A. I had no reason to.

Q. What you did do is that you certainly supplied a copy to Scott Dunbar and you emailed him and attached the report to the email?

A. Yes.

Q. Did you copy anyone else into the email?

A. I don't recall.

Q. You obviously mentioned other people you had some dealings with at the beginning, including Frank Phelan and Peter McCloskey. Do you know whether you would have copied them in or sent them a copy of the report?

A. No, it wouldn't be my responsibility to decide who it would be disseminated to. That would be Scott Dunbar who would decide.

Q. So effectively he was the person who was the lead for the commissioning of this report and it would be up to him to progress matters from there?

A. Yes. I would assume it would be his -- you know, I've done what I was asked to do and I can make a comfortable assumption that they would then do their bit with the report, that my role at that point had ended, effectively.

Q. Can I ask you this though: you submit the report and did you get an acknowledgment?

A. I don't know. I mean, I certainly -- although I don't remember the details of it, I know myself, with my practice, that I would have requested a face-to-face meeting with Ricky as well to discuss, 'Here's what I've done, here's my report, here's my findings', so that I could draw a line under it and give Scott the opportunity and I know that from my practice, but I don't recall the meeting so it can't have been, with no disrespect to anyone, particularly memorable. It would just be a standard meeting.

Q. To be clear, you think that there possibly was a meeting after the report was submitted that would include the person, your line manager and also Scott Dunbar, but you've no clear recollection of such a meeting but that would have been something you would normally expect to happen?

A. It would be something that I would --

Q. Try and initiate?

A. -- try and engage and get to happen. I couldn't confirm that it would happen, but I would be pretty certain that it would happen and that's -- again, it's not particularly memorable in so much of compiling this report is memorable, but that obviously just happened as day-to-day business rather than anything exceptional.

Q. I was going to ask you that those to whom the review was submitted, and you have said it was initially Mr Dunbar, but others might well have been at a meeting in relation to the report; can you recall how those to whom the review was submitted responded or reacted to the conclusions of the review? Because obviously you were making some significant criticisms and some significant recommendations. Did you get any sense at that time of how they were reacting to this?

A. Nothing at all.

Q. If there had been a reaction, say at this meeting, for example, that you think might well have happened, do you think it's something you would have remembered?

A. Yes.

Q. Did you ever get any indication from those that you did speak to after the report, Dunbar, for example, and maybe McCloskey or Mr Dover, is it?

A. Yeah.

Q. Did you ever get any indication from them or others to

whom the report was circulated or submitted or whether to higher level sort of management within the City of Edinburgh Council or so forth, did you ever get any sense of how widely it was distributed?

A. I've got no idea beyond -- my expectation would be that they would just deal with it. It's up to them. It wasn't up to me to do anything further on that. So my expectation is that it would go as far as it needed to go, erm, and I don't know if it's relevant to talk about here, but I do know that Alistair Gaw ended up meeting, as a result of my report, with Mrs [redacted].

Q. So Alistair Gaw then was what?

A. So he would be the Director of Children's Services, I guess the equivalent now of where Amanda Hatton sits in the structure.

Q. So he would be above Scott Dunbar?

A. Oh, yes.

Q. He would effectively be the Head of Children's Services at that time?

A. Yes, yes.

Q. He had a meeting with the young person's mother?

A. Correct.

Q. So he must have been aware of something going on with that particular person?

A. Yes, but the only reason I know that that meeting went

ahead, no one told me it was going ahead, it was purely because I saw him meeting with the mum within the building and I knew at that point what it was.

Q. What I would say is that, I mean, bearing in mind that you weren't simply saying something about the internal staff within St Katharine's but were drawing wider conclusions and making wider recommendations about the whole service, if Scott Dunbar was simply the Director of Looked After and Accommodated Children, do you not think it's the sort of report that should have been, to use the jargon, escalated higher within children and families?

A. Yes.

Q. Do you think?

A. Yes. I think the nature of the recommendations were severe enough, because they could have come to the attention of the Care Inspectorate, you know, for example so reputationally I think there's some quite wide recommendations within there.

Q. Most large organisations -- I'm sure Edinburgh's no exception -- are very sensitive to very critical reports, whether internal reports or external, and those that are in the positions of highest authority usually want to be made aware of them, if there are such reports circulating. Is that your experience?

A. Yes.
Q. As someone that would be aware of the way these things work?
A. Yes.
Q. You don't know, I take it then, whether the report itself was considered by Alistair Gaw, although you know he met with the child's mother, you don't know whether it was considered by the director of social work at the time or, indeed, the council's chief executive at the time. You can't help us?
A. I don't know.
Q. It's the sort of report that these people might have been interested to read?
A. Yes.
Q. You'd have thought?
A. I would have thought so.
Q. Can you sum up, maybe based on your review, if you feel able to do so, to express a view about the general culture of senior management -- or managers within both St Katharine's itself, the children and families and perhaps even the wider Social Work Department and, indeed, the council itself. What views would you have about culture, based on the exercise you performed and the problems you had to face?
A. It's quite a hard question to answer, but certainly my

sense at the time was it was a very closed culture and quite an arrogant culture and I base that on some of my conversations, for example, that I had with Frank. It was just like, well, you know -- it was like, 'You know I can't give you any paperwork'. It's like there would be, you know -- if I had said in my position within the organisation, 'I've finished my report'.

'Could you give us your transcripts, et cetera?'

'Oh, I didn't bother with them.'

You know, that effectively probably would have ended my career or certainly would have been a disciplinary thing. Whereas with, you know -- just in this example with Frank, I'm not aware there was any issues for him in his career round about this. He certainly didn't -- he remained, as far as I was aware, without any repercussions for that.

It was not an easy culture to operate in. I was in some ways the feeling 'ticking the box' to say that they've done the second part of the investigation, and I don't think there was ever any intention to make any changes as a result of it.

I say some of that, because the only reason you have this copy of the report is I went off-piste, so I took a copy of this report. I don't have a copy of any other report that I've written within the council, and yet

this one, I removed a hard copy out of the building and I actually at a period of time when I was on a secondment, when I did have it in the building, I asked somebody else to hold on to it. That was my lack of trust within the City of Edinburgh at that time.

Q. We'll find out from a person giving evidence tomorrow, Pauline McKinnon was the person you gave a hard copy to --

A. Correct.

Q. -- at the time?

A. Yes.

Q. Because you had concerns?

A. Yes. I had concerns as to what was going to happen to this report, physically happen to it.

Q. Following the report's submission, were you aware of anything changing in light of your report or any recommendations that you made? You weren't working in children and families social work side, but did you become aware or were you told that there were changes that would follow from your report?

A. No, not directly. Because I commissioned services for the Young People's Service, I would check in and say, 'How are things going? Have things improved in St Kat's? Are you seeing changes?'

And the answer was an absolute solid 'no'.

Q. So as far as you're aware, the feedback you were getting was that nothing's changing?
A. No, the feedback I got was that things were getting worse.
Q. I think you say you did hand over a copy to Pauline McKinnon, shortly after the report?
A. I can't remember the exact timeframe with it. There was a series of things that had happened round about some quality assurance questions that had come up and I'd been talking to Pauline and I just can't remember exactly where the timeframe sits. I suspect it's when I was on a secondment to a different department.
Q. What, I think, we'll be told by Pauline McKinnon is that when you left City of Edinburgh Council in 2019, you took your report back from her?
A. Yes.
Q. I think, when she carried out a subsequent investigation of ESS in 2021 maybe 2022, well 2021 mainly, she had to ask you to provide her with a copy if you had one?
A. So, she had asked me if I knew where it was stored on the electronic system initially, because obviously I'd been away from the council for a while and then asked if I had retained that copy of the report. I was in Orkney at the time, which is why you've got this photographed copy of it.

Q. I think she will tell us, indeed, that at least when she started to try and search for it, it seems to have disappeared off the system, if it was put onto the electronic record system. Indeed that, no doubt, prompted her request to you: can she be provided with a copy?

A. Yes, and I think when I spoke to Pauline initially, she was in the archive trying to find a hard copy of it in the City of Edinburgh archive.

Q. If the position is that when she spoke to Peter McCloskey and Scott Dunbar and asked about the report that you did, if the position is that they came back to her and said they'd never heard of it and didn't know anything about it, what do you say to that?

A. I would be somewhat surprised, 'cause I spoke to both of them directly about it. So it's untrue.

Q. Just perhaps lastly: on a personal or professional level, did the task of conducting the review or how it was received or how you were dealt with or how you had to deal with the people who had a connection with the matter, did that have any detrimental impact on or consequences for you personally, and if so, in what respects, the impact for you --

A. For carrying out -- no, because I think I made a reasonable expectation that once I had completed the

report, that the officers that were then responsible for making the changes would do what they were paid to do. So, no, that didn't have an impact on me.

Subsequently it's had an impact on me; the Tanner inquiry, this Inquiry, I've been involved in both now, so now it's had a bigger impact. But at the time, I think it was reasonable for me to expect these officers to do what was in their job description to do. I felt I had done a thorough investigation and made some challenging recommendations that I would expect them to follow up on.

Q. So you did your job and then you left it to others, who were paid to follow it through, to do theirs?

A. Yes.

Q. Essentially?

A. Yes.

Q. I suppose the reason that you're here and also because you've had to speak to the Tanner inquiry is that it would appear that what you expected to happen didn't happen?

A. Yes.

MR PEOPLES: These are all the questions I have for you today, Kirsten, and I would just like to thank you very much for attending and assisting the Inquiry.

LADY SMITH: Kirsten, could I add my thanks, both for

providing us with that copy of the report, which you have preserved, it's been so helpful to have that, but in engaging with us today to talk about the work you did, both before, and during and after that report was put together. It's a valuable document and it's increased my learning and understanding considerably.

Thank you, I'm now able to let you go.

A. Thank you.

(The witness withdrew)

LADY SMITH: Before I rise for the morning break, two names of people who are not to be identified as referred to in our evidence outside this room; one is IMB [redacted] and the other was Mrs [redacted].

I'll stop now for the morning break and sit again at about 11.45 pm.

Thank you.

(11.25 am)

(A short break)

(11.45 am)

LADY SMITH: Mr Sheldon.

MR SHELDON: My Lady, we have another live witness now. He is an anonymous witness and is known as 'Dominic'.

He is a witness who will require a warning, my Lady.

LADY SMITH: This witness has given evidence previously --

MR SHELDON: That's correct.

LADY SMITH: -- about a year ago, I think, in relation to St Joseph's, Tranent.

MR SHELDON: I don't have the transcript reference to hand, but I can get it for my Lady.

LADY SMITH: If we can get it some time into this transcript, it would be helpful.

It was Day 400-something, but I don't have a note of it here.

Thank you.

'Dominic' (sworn)

LADY SMITH: 'Dominic', can I begin by saying welcome back.

A. Thank you.

LADY SMITH: It must be almost exactly a year ago that you were last here helping us with evidence for the Inquiry in relation to a different establishment from the one we want to talk about today. I'm acutely aware of the burden that puts on you, but it's really helpful to us to have you here.

You'll remember that I already have your written statement and have been able to consider it in advance and that's really of great assistance, because it means we'll be able to focus on the particular parts that we want to discuss today, rather than go through it paragraph by paragraph.

'Dominic', as before, the statement is there in the

red folder. We'll bring parts of it up on the screen that you can see, that we're looking at, at any particular time and I hope that's of some assistance to you.

Also, do remember if you want a break at any time, just say. It's not a problem, because I appreciate that it's stressful doing what you're doing and we have quite a bit to ask you and you may get to the stage where you just want a breather. Just ask me if that would help.

Separately, you will also remember, I hope, that a public inquiry is not a court setting. It's not a civil litigation. It's not a criminal case, but you still have the same protections that you would have in the court setting. That means that if you're asked any question, the answer to which could incriminate you, you don't have to answer it. Please remember that. But if you do choose to answer it, of course I expect you to answer it fully.

If at any time you're not sure whether that's what we're getting at, just say and check with us, there's no problem with that.

If at any time you have any other questions, feel free to speak up, will you?

Thank you.

If you're ready, I'll hand over to Mr Sheldon and

he'll take it from there.

Mr Sheldon.

MR SHELDON: Thank you, my Lady.

Questions from Mr Sheldon

MR SHELDON: Good morning, 'Dominic'.

'Dominic', you have given evidence before, so you know the drill. There's a few pieces of housekeeping to get through before we start.

The first is to read in the reference number for your statement for our records. It is WIT-1-000001548. The transcript of the evidence that you gave previously on Day 412 is TRN-12-000000044.

'Dominic', if you could turn to the last page of your statement, please, that's page 105. Can you confirm that you signed and dated the statement, please?

A. Yes.

Q. You have said at paragraph 628:

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

Does that remain the case?

A. Yes.

Q. Turning back to the start of your statement, as Lady Smith has said, that's it in the red folder in

front of you. It will be on the screen as well, but please feel free to look at either, whatever is most helpful to you.

I will be looking at particular passages in your statement, but it is a long statement. That's no criticism of you. We had a lot of questions for you, a lot of things we wanted to know about. So I'm not going to go through the whole statement, but ask you about specific issues that perhaps arise from it and from some of the records that we've seen and that I can show you.

'Dominic', you start off by telling us a bit about yourself. You were born, I think, in 1959. You tell us about your qualifications and career and in particular that you graduated first of all MA Honours in history. You then gained a diploma in social work, an M.Ed?

A. M.Ed. Masters in Education.

Q. A PQ certificate in child protection studies, a PG certificate in advanced [redacted] studies, and a PG certificate in social services leadership and finally a PhD by research. Is there anything else to add to that extensive list, 'Dominic'?

A. No.

Q. You also have some professional awards, CCETSW, can you translate that for us?

A. Central Council for Education and Training in Social Work, it was the body that regulated social work prior to subsequent regulators.

Q. Thank you, and a [redacted] of the [redacted].

You tell us about your career. You started off as a residential social worker and that was at a List D school in the east of Scotland.

You then became a team leader and later assistant head at Wellington School, which is one of the schools that we're interested in in this part of the case study and later, SNR [redacted] at the Howdenhall centre.

Then at St Katharine's, initially as SNR [redacted] and then as SNR [redacted], that was covering both St Katharine's and Howdenhall, is that right?

A. Yeah.

Q. You then left practice and took up [redacted] in 200[redacted]?

A. Yeah.

Q. And worked your way again through the grades, as it were, as [redacted], [redacted], and you now have a position as [redacted], is that right?

A. Yeah.

Q. At paragraph 6, page 2, you note you have already

provided a statement and we have that and have the reference for it.

You make the point, at paragraph 7, that Wellington was a List D school and not directly related to the other three establishments, although you note that it shared the same line management for a few years.

Can you just say a word or two about that, please?

A. Wellington, until, I think, 1986, was independent really, managed by a board of managers, and then it was taken within Lothian Regional Council initially and subsequently -- well, actually it wasn't taken into Edinburgh City Council until the reorganisation of local government in 1996.

So it was run by Lothian Council from about 1986/1987 and I think there was still a headmaster at Wellington, but he would report to -- I think it was an assistant principal officer within the council.

Q. Do you remember who that was in your time at Wellington?

A. I think it was somebody called Brian Livingston.

Q. You may not know this, but we know that Wellington continued in operation until about 2014, when it closed. Were you aware of that?

A. Yeah, yeah.

Q. You then tell us a bit about Howdenhall and St Katharine's. I'll perhaps come back to that, because

you talk about it in more detail later in your statement.

I want to just ask you a few questions about Wellington.

First of all, I think it's clear from your biography, your CV really, that you weren't really at Wellington for a great length of time. Can you just talk us through your period at Wellington, when it started, when it finished, how that all worked?

A. I started in January 1990 and due to changes elsewhere within the sort of Social Work Department, Lothian Region Social Work Department at the time, primarily around what was going on at Howdenhall and the secure unit. They needed somebody to -- well, SNR [redacted] was leaving to take up an inspectorial post and they needed somebody to step in in a sort of temporary basis whilst they decided how to reconfigure the residential services.

So I was asked by Gerry O'Hara, who by that stage was the external manager, if I would do that on a short-term basis, so that was in, I think, probably October 1991.

Q. I think you left Wellington then to become SNR [redacted] at Howdenhall, you say 1991, was it late 1991?

A. About October '91.

Q. You were really there for less than two years?
A. Less than two years, mm-hmm.
Q. Quite a snapshot really in terms of time.

At page 4, paragraph 17, you tell us your first impressions of Wellington was that it was very remote geographically. Did that pose problems, certainly in your view, either for the running of the school generally or for the children that were in it?

A. Erm, it meant access to the city, Edinburgh, was more difficult than had it been located elsewhere. Erm, day boys in particular had to be taxied in. Yeah, the kind of resources that were available in Edinburgh were further away than otherwise they might be and, I mean, I don't know if you know Penicuik and beyond Penicuik, but it's actually a different climate at times as well, so as soon as you get a wee bit of snow in Edinburgh, then you could potentially be snowed in in Edinburgh -- in Wellington.

So, I mean, there were other advantages to that in the sense that you had access to sort of the countryside and things like that.

Q. I guess two things arising from that.

First of all, did the location and sometimes the weather pose problems for people visiting boys at the school? Was there public transport?

A. The public transport wasn't all that easy actually, because you would have to get probably the Peebles bus and get off at the road end and walk up. It wouldn't have been altogether easy, yeah.

Q. The second thing arising is just you mentioned having access to the countryside. Was that taken advantage of? Were boys taken out and given walks in the country?

A. Yes, very much. Very much, yeah.

Q. You tell us then a bit about the make-up of the staff. You say that operationally Andrew McCracken was headmaster in your time. Would SNR have been HWG?

A. He had SNR; HWG, who was [redacted], and [redacted], who was [redacted].

Q. If we can jump ahead a little bit to paragraph 26, please, page 5, you describe the ethos of Wellington as being one of care and you had no concerns about abuse or mistreatment. At that time, you were undertaking your child protection certificate, so such issues would have been at the forefront of your mind.

Perhaps you can just describe for us then the ethos that you encountered at Wellington?

A. Erm, there were some really experienced workers who were all very motivated towards working with children,

I think. They were fairly established. They had good authoritative relationships with children.

And there were a whole -- well, not a whole number, but there were others coming in with social work qualifications, community education qualifications, who were a bit younger, who, I think, were refreshing the culture a bit, but generally the culture was one of wanting to do the best for kids.

Q. You tell us at page 6, paragraph 31, again that there was at this point perhaps a growing awareness of the possibilities of abuse of various sorts and you mention some of the abuse scandals in England and Wales.

Do you remember, first of all, what the scandals were at that time, that were in your mind and what the learnings were from that?

A. I think the big one was the Waterhouse report, which, I think, concluded in 2000, was it? That was into issues in North Wales.

Staffordshire, I can't remember -- I remember Andrew McCracken did a sort of presentation at the time into the kind of publicity that was emerging around what was happening down south. I presume it was -- I think North Wales was the first one actually, so it was probably around that and then Staffordshire, but I suspect that was after my time at Wellington.

Q. Yes. The so-called Pindown inquiry was 1991, so that might have been just after you were at or just when you were leaving Wellington--

A. Pindown was '91, was it?

Q. Yes, that's the note I have anyway, yes.

A. I think we probably -- that was probably in our thoughts at the time then, and the North Wales one.

Q. So what kind of issues did that lead staff to think about and perhaps start to act on?

A. Well, I don't think the -- that probably created an impetus at council level about the need to do something about restraint, because up 'til that point, I think probably different units did their own thing. So it was about bringing some consistency as to how restraint was dealt with.

And the first restraint training that I remember was in 1991 and I was at Wellington at the time when I did that. So I think that was probably the big sort of development to come out of the initial learning from those inquiries.

Q. I mean, you mentioned that individual units tended to do their own thing. Was that because there was no particular direction or guidance from local authorities or, indeed, central government?

A. I remember, when I was at St Joseph's, I think that

Lothian Region brought in a sort of care and control policy in 1987. I think that was possibly the first one.

It was essentially -- I can't really remember, but it was things that you shouldn't do in any sort of care and control sort of practices. It was about where you might hold kids and things like that.

Q. What sort of things were in the guidance at that time, do you recall?

A. I don't really, to be honest.

Q. All right. We can perhaps look at some guidance that was produced for Howdenhall perhaps at a slightly later stage and you can perhaps comment on whether that was still applicable at the time you were there. Anyway, we can discuss that. We'll come on to that.

You note that the staff at Wellington, this is page 7, paragraph 36, came from a big mix of employment backgrounds. What were the sort of cross-section of qualifications, as it were, of staff at that time?

A. Well, Wellington historically was what they called a senior List D school, so a lot -- it was called Wellington Farm in the past. So a lot of boys would have done trades training, worked on the farm and then there was trades, so there was motor mechanics, painting at one point, erm, building, plumbing. So there was

people who probably would have been tradesmen in the past who came into instructor posts.

There were qualified teachers, there were residential social workers, some of whom would be qualified, with social work qualifications. Others who would have come in without qualifications, but had experience. The senior staff group, the four of us were all dual qualified actually, so we had two -- at least two professional qualifications.

So Andrew McCracken, for instance, was a qualified social worker, a qualified teacher, so was HWG [redacted]. Colin Hunter was social work and community education.

Q. We know that while you were at St Katharine's/Howdenhall there were a number of residential care officers, as they were, I think, then called. Did that grade or that category exist at Wellington as well?

A. Under the old List D school system within the Scottish Office, they were called residential social workers and then, when the council took over, they were called residential care officers.

Now, what happened there actually was that residential social workers were paid as social workers. When they came over to the council, residential care workers, even if they were qualified social workers, could only reach a point in the scale one below

qualified social workers.

Q. At Wellington, can you recall how many of the -- they would have been perhaps residential social workers then; were they qualified, or unqualified or a mix?

A. A mix. There were three or four qualified social workers.

Q. Out of a group of how many?

A. Probably only eight.

Q. Right. How many boys were at Wellington at the time?

A. In my time, there were three residential units of 12 boys and there was a D unit of maybe 14.

Q. All right. You make some comments later in your statement about staffing levels at St Katharine's, and we'll come on to that, but thinking about that issue at Wellington, and looking back on it now, would you regard the staffing levels there as being adequate?

A. At the time I probably did, yeah, yeah. I mean, nowadays people would throw their arms up if you expected two staff to look after 12 kids but, no, it worked okay.

One of the advantages in the residential schools was that they had a system of residential duty allowance, whereby teachers would actually do residential duties as well, so you had a consistency of staff and a spread across the disciplines.

Q. I suppose one issue that may arise where there's a shortage of staff or there just aren't enough staff, is that staff feel under pressure and in such circumstances then, mistakes happen, perhaps, or, indeed, staff were pushed into conduct that they might not otherwise indulge in. Is that a fair way of putting it?

A. Yeah. I think staff need to feel safe and confident to do the job as well as they can, and if they're running from one crisis to another, then, you know, their judgment is not going to be as good as it might be.

Q. Again, perhaps by comparison with St Katharine's/Howdenhall, how did Wellington perform on that scale, as it were?

A. It felt at one level more stable, in the sense that the staff group had been there for a good while. There wasn't too much movement of staff in my time, erm, and, as I say, you had a senior team. You had a couple of what were called shift co-ordinators and you had the sort of teaching team as well, who were managed within the overall structure of the school. That wasn't the case at St Katharine's and Howdenhall.

Q. I'm just perhaps running with that point a little further. A little further on in your statement, page 8, paragraphs 38 to 41, you are talking a bit about

training and in particular about restraint training and you note that the methods were based on pain control. Did you actually do that training yourself or is that something that you knew about?

A. Mm-hmm. No, I did that.

Q. What do you recall about the training?

A. To be honest, I thought it was okay. It was run by David Leadbetter, who was a training officer and also by Mary Harte, who was in the training section as well, she was very good. You know, the whole thrust was to give staff something that they could do to bring situations under control, which, you know, had some sort of training behind it.

Essentially, at the time this is what we were offered. No one was saying whilst we were being offered that that there was any problem with it. Latterly people started to sort of quibble about pain control and say we needed a different system, but I think the trouble with any system of restraint is that once you provide it, then people maybe use it more than -- I think you could almost -- there would be an interesting study to see whether restraint levels rose as you introduced methods, paradoxically.

Q. Yes, again, I'll ask you some more about that a bit later on, but just thinking about the earlier training

and what you described as pain control methods, was there some emphasis in this training on particular holds, particular ways of restraining a child?

A. There was something called the 'goose neck', which was essentially, you know, holding a kid by the wrist and to the point where if they moved it, it would be painful. The purpose was not to inflict pain, it was to bring a situation under control and then if a kid moved then they would recoil.

Q. I suppose, if done forcefully, it might well cause pain?

A. Yeah.

Q. Were these techniques adapted or taken from training for, for example, police officers, prison officers?

A. They were Home Office techniques, apparently.

Q. So carried over from the adult criminal justice system?

A. Yeah.

Q. I suppose, for example, if someone was, as you have described it, bending someone's wrist like that, I suppose that might be described as twisting someone's wrist?

A. Mm-hmm.

Q. At all events, you tell us that that was fairly quickly discontinued. Can you remember when that was? Did that happen while you were at Wellington or later?

A. Later. Erm, what I do remember is that when we opened

St Katharine's in September 1994, we were all trained in CALM before we -- before it opened, so it must have been in the period between about 1991 and 1994 that CALM came in. I think we were one of the first units at St Katharine's to be trained in CALM.

Q. Were all staff trained in CALM at St Katharine's -- I'm jumping ahead a bit -- but were all staff at St Katharine's trained at that time?

A. At what time?

Q. Well, 1994, I think, you said it came in?

A. Everybody who was appointed at that time before we opened was trained. That was part of the induction training, if you like, yeah.

Q. 1994, this was the new St Katharine's, the purpose-built unit?

A. Yeah.

Q. So there wasn't, as it were, it's a horrible word, but a kind of legacy establishment that carried on with staff, everyone was coming in new?

A. Yeah, which was great, mm-hmm.

Q. Everyone, you say, was trained at that time in CALM on appointment to St Kat's?

A. Yeah.

Q. Right. Again I'm jumping ahead a bit, but while we're on the subject at the moment, did that level of training

drop off at some stage while you were at St Katharine's?
A. No, not really. For new staff -- there was a rolling programme of CALM, because it was introduced across the whole of the residential estate, all the children's homes were trained in CALM as well. So there was a rolling programme. So once new staff started, they would be put on the next available CALM programme.
Q. But there might be a bit of a delay --
A. There might be a bit of a delay, absolutely.
Q. We've heard that delay might have been up to five months at times?
A. Erm, I couldn't tell you the figures.
Q. Again, we've heard that there were a number of temporary or locum staff at St Katharine's from time to time and that again, they might not have necessarily had the CALM training, is that right?
A. That's right actually, yeah. Mm-hmm.
Q. As I say, I perhaps should have left that for later, but we're on the topic and wanted to get that from you.
You talked about pain control methods. Did that also include methods of putting someone on the ground and holding them there?
A. I think that was part and parcel of it, yeah.
Q. So were there demonstrations of that?
A. Oh, yeah.

Q. You went to the gym and gym mats and people --
A. The initial training for the care -- the restraint and control training was in a hotel, I think, down Musselburgh on Milton Road or something --
Q. Sorry, I didn't catch that?
A. Sorry, down Musselburgh on Milton Road or something. It was in a hotel. When we were doing it in St Katharine's, yeah, we did it in the gym.
Q. Jumping ahead again, page 11, and paragraph 65, you talk about discipline and punishment and you say your own approach was through personal authority and relationship building. Can you just explain how that works for us, please?
A. Well, the reality is that we had very few external controls that we could put on kids. There's no corporal punishment. You couldn't withhold pocket money. Erm, and I agree with all of that. So you're only left really with your own personality to be able to, as in any family situation, to be able to actually say to kids, 'Hold on that's enough', or, you know, 'Let's do this or let's do that'. And kids very quickly found out the sort of phonies, those who weren't real in the relationship building.

When you could build relationships with kids, you were then able to sort of say to them, 'Going to no do

that', or whatever. So the whole area of discipline and punishment was about -- it was based on authoritative adult relationships.

Now, all the literature on relationships and parental relationships is that the best ones are authoritative, who are adults who can actually hold a line but can demonstrate appropriate empathy and warmth, you know, an attunement to kids' needs and I think that's the kind of approach that I sort of took and encouraged.

Q. I suppose around giving children clear boundaries?

A. Absolutely, yeah, well, in terms of -- those boundaries are going to be slightly different for every kid, as well, because it had to be a personalised approach too.

Q. Again, we might come back to that, but you tell us at paragraph 69 children might lose some pocket money if they ran away or be denied home leave, but this decision would be as much related to the circumstances rather than being a direct punishment.

What sort of circumstances do you have in mind there?

A. Well, if they were using pocket money to jump on buses to abscond, for instance, then you might, within a care planning meeting, decide that we would have some sort of restriction on what kind of money they would get at any

particular point in time but those were decisions that care staff would make alongside social workers for the most part, within care planning meetings.

Sorry, we are talking about -- we are onto St Katharine's here, are we?

Q. This, I think, is relating to Wellington still. It's certainly in the section of your statement about Wellington.

A. Right. Okay.

LADY SMITH: We're still talking 1990 to 1991, if that helps, 'Dominic'.

MR SHELDON: I mean, did the same principles apply, as it were, at St Katharine's or was that different?

A. Yeah, the same principles would have applied, yeah. We didn't have the care planning meetings I was talking about at Wellington, not to the same extent.

Q. Page 12, paragraph 72, you tell us about restraint at Wellington, that it was used, but you don't recall it being a common occurrence and some would have involved children being held in a prone position and you have talked already about techniques and so on, training.

A. Mm-hmm.

Q. Do you recall what kind of things prompted restraints at Wellington?

A. Well, we were dealing with some very difficult kids and

they could be triggered, if you want to use that word, by all sort of things that might have been going on in their heads or have happened in their sort of personal circumstances. They could just be angry, you know, with good reason to be angry.

Erm, some of them were probably violent. It could be intervening to stop a fight. It could be intervening to stop somebody else or property being damaged. The whole sort of variety of reasons and, you know, I think the initial approach of any member of staff would be to try and say, 'Well, hey', you know, 'Step away, move back', whatever. But sometimes kids just, you know, took temper tantrums, tantrums.

Q. You mention that restraints, I suppose intervention, physical intervention, might happen if children were fighting. What level did it have to get to before staff would intervene in that kind of situation?

A. Erm, well, I think the staff would use their discretion, you know. I think they would probably intervene in any fight to try and separate kids. If you do that, if you're separating a kid and then one of them wants to keep going and you're in the middle of it, then you might have to hold them somehow or usher them away or certainly move them away.

Q. You say at paragraph 73:

'I'm not aware of any restraint being prompted by horseplay.'

Again, we'll come onto this later. There is a section of your statement about this in relation to St Katharine's and I'll ask you for your views on that a bit later but I just want you to explain, if you can, what you mean by 'horseplay' in this context?

A. Erm, it could probably involve a number of things that -- essentially a sort of playful interaction, toy fighting, if you want to call it that, where kids are jumping on a member of staff, a member of staff is sort of holding them in a playful way. It could involve things like tickling. Erm, I think people know what horseplay is.

It could be -- depending on the size of the kid, and I think this is a really important point, what would constitute horseplay for a younger, smaller kid would be very different from with a sort of six-foot-two or three kid, erm, but it was really about a sort of physical contact between adults and children, much of which I think was very healthy, but I'm happy to come to that.

Q. Sure. We'll come on to it later.

Just one more thing on restraints. You say you don't recall any child being injured in the course of a restraint. Not even something like carpet burns which

seems to have been quite common, and I'm not just talking about Wellington, but across a range of establishments?

A. I don't remember at Wellington. Actually, again I'll probably come on to this, but one of the reasons why you got carpet burns at St Katharine's was that the prone restraint position was in CALM was to hold kids face down, where they could rub their foreheads against the carpet.

In Wellington and other places I've been, then we would generally hold kids face up, so they were less likely to get a carpet burn --

LADY SMITH: You do say at paragraph 72, 'Dominic', that the prone position was used at Wellington.

A. Well, if you mean 'prone' by going to the ground then it was, yeah, but kids would be face up.

I don't know what your understanding of 'prone' is, whether it's on the ground or --

LADY SMITH: The way we have heard it used is face down, so you are using it there just lying on the ground --

A. No, I don't recall any prone restraints, if that's your terminology, I don't recall those at Wellington. I think any restraint I would have been involved in I wouldn't even have thought of putting a kid face down.

LADY SMITH: Thank you.

MR SHELDON: Were you then trained, in the training that you've described, to hold children in that position rather than face down? Is that what the earlier training --

A. It was actually, yes, it was. That's my recollection.

Q. All right. But CALM, I think, perhaps changed that; is that right?

A. Mm-hmm.

Q. And encouraged a face down -- well, I shouldn't use that word, that's a loaded word, but it allowed for children being restrained face down?

A. Well, I think it said that if you are going to a prone restraint or a restraint on the ground then it should be face down, yeah.

Q. I mean, technically I think face up would be 'supine' --

A. Oh, I see.

Q. -- rather than 'prone'?

A. Right.

Q. But I'm making a serious point, which is that it may be that workers interpreted prone in a different way from that that a lawyer might, and is that right or were holds later used -- you said at Wellington they were generally face up, but later the holds, the restraints on the ground would be face down, is that right?

A. Yeah. Mm-hmm. And I do, I think, say in my statement

somewhere it depends what you mean by 'prone', you know, I wasn't quite sure when I saw it what you meant by --

Q. All right. Well, if we're misunderstanding what you are saying, you know, we're not here to put words in your mouth, so please just say if we've picked up that wrongly --

LADY SMITH: I understand from what you say, 'Dominic', that you had an aversion to face-down restraints on the floor, do I have that right?

A. Erm, I think there was an advantage in face up, in the sense that you could make eye contact with the kid, you could continue the engagement with them. Whereas face down almost felt more impersonal and I do think that there was an issue with the potential for carpet burns, yeah, but that was the system that we were given.

The system, the current system, was -- I don't want to be too critical, it was -- a lot of the holds were I think to absolve the system from any sort of comeback if there was a difficulty. So it was all about what could restrict airways, what could lead to a sort of break or something like that. In that sense I think that it maybe did away from some -- did away with some of the other aspects of the face-up restraint, which I think for me would probably have been preferable.

I wouldn't say I had an aversion, you know, but

a preference probably.

LADY SMITH: I see, thank you.

Mr Sheldon.

MR SHELDON: You go on to tell us, and this is page 12, paragraph 78, just at the foot of page 12, you are talking about day-to-day running of Wellington. You say:

'I would like to think I would have picked up most instances if any child was being abused or ill-treated. I guess the nature of abuse may involve a secretive element.'

Are you talking there really about sexual abuse, 'Dominic'?

A. Yeah, probably, mm-hmm.

Q. You say you had a good feel for what was going on:

'... I would like to think I could pick up most instances when something wasn't right.'

What sort of things then would you be looking for or trying to sense?

A. I think just the demeanour of boys probably --

Q. I'm sorry?

A. The demeanour of boys and perhaps just -- you know, a good residential worker can pick up a feel for a place. They can just get a sense that something's not quite right here, I think. And it being to do with

a number of things in terms of the mood of the unit perhaps. So it's things that are hard to sort of make tangible, but things like mood, feel.

Q. Perhaps if a child's demeanour was very withdrawn?

A. Withdrawn, yeah, probably.

Q. Depressed, flat?

A. If that was a change of demeanour, yeah. Mm-hmm.

Q. Or if their academic performance dropped off?

A. That might probably happen over a longer period, yes, absolutely, yeah. Mm-hmm.

Q. Were those kind of factors then known at that time? I mean, we know a lot more about particularly sexual abuse now and the indicators of it. But was that the kind of thing that you were looking for back at that time?

A. I think in a more instinctive way, yeah.

Q. You tell us at paragraph 81, page 13, that you didn't personally have any concerns about Wellington and you make the point that Wellington was not, to your knowledge, ever the subject of concern. I think certainly at the time that you were there, we know that there were problems historically, but I think not at this time.

If I can take you back -- jumping back to page 4 of your statement, and you tell us at paragraph 19 that you felt that although the confines of the living

accommodation were a bit limiting, the culture was a healthy one. First of all, what were the limits that you are thinking of there about the accommodation?

A. If you were to fly over Wellington -- I don't even know if it's still there to be honest -- but it's essentially ... well, the history is that the old Wellington Farm School used to be on the other side of the Peebles Road. It was moved to the site it was on when I was there in the sixties, after a fire at the old school.

The plan at that time for many residential schools was to move towards a cottage system, where there would be separate cottages and a sort of central education and recreational facility. That was certainly my experience at St Joseph's.

Apparently at the time that was what people wanted for Wellington, but they said that for financial reasons, it was going to be one big, what we would have called a block school in some ways. It did have units, but they were all connected to the central building.

Corridors -- and I think it's probably sixties architecture -- corridors were narrow. It just didn't feel as though there was as much space as you might want for 12 kids to be living together.

I don't know if there's any truth to this, but somebody had said to me, I can't remember who it was,

that it was actually the design of Wellington was almost like an H block. And it was, if you were to look over it, it was a sort of H figure.

Q. The H block was part of the prison in Northern Ireland, is that right?

A. In Northern Ireland, mm-hmm.

I think that is an important point actually, that we don't take sufficient account of actually the architecture of residential care.

Q. Yes. We have seen some photographs of the new building and would it be fair to say that it does look a bit forbidding, perhaps?

A. Austere, mm-hmm. Yeah.

Q. You go on to say that you thought the culture was a healthy one. What do you regard, what would you regard, as a healthy culture? What were you looking for in terms of a healthy culture?

A. More than anything, good engagement between adults and children, good relationships amongst the child group and I think actually good relationships among the staff group as well. I think that can go a long way towards creating a healthy culture with -- presumably conversely it could -- it would depend on the nature of that culture, but I think if you've got good relationships where people can trust one another and talk to one

another and are well motivated towards kids, then I think that would contribute to a healthy culture.

Q. So I just want to get your comments, please, on some evidence that we heard about Wellington a couple of weeks ago.

This was evidence from two staff members, one who worked there in 1989, albeit briefly for about three months, and one in 199[redacted]. This is the individual that I think you've been asked to comment on, Mr Mullen.

Mr Mullen's evidence was that he found the culture at Wellington, and I'm quoting:

'Militaristic and confrontational.'

Is that something that you --

A. I don't recognise that, no.

Q. You don't recognise that?

A. There was, I think, one guy with a military background or something --

Q. Who was that, do you recall?

A. Bill White -- no, Bill White is a former colleague.

Bill somebody, but, I mean, he wasn't militaristic. He was actually a very gentle guy.

Q. Mr Mullen said that there would be assemblies in the morning in which boys had to line up and I think he described it as almost like they were being inspected?

A. No, they didn't have to line up. They came in. There

was an assembly hall and kids would come in and take a seat. There was two seats, two rows of seats with a sort of corridor in the middle.

I can't remember if -- they probably sat according to the class that they were going to go into, erm, so they weren't lined up as such. They were in seats and then, you know, one of the senior staff would sort of announce anything that was happening today or whatever else and then say, 'Okay, class 1 go with so and so, class 2 go with somebody else'.

So, yeah, there was an assembly each morning where kids came together, but I don't remember it being militaristic in any way.

Q. In fairness, 'Dominic', Mr Mullen at that time was quite a junior and inexperienced teacher, but it certainly stuck in his mind as being something that he found quite disturbing. Again, do you recognise that at all?

A. Well, as I say in my statement, I in fact actually don't remember Mr Mullen at Wellington, so I find it hard to comment on that.

Other schools, even primary schools, I don't know if they still do it, but kids would line up, you know, outside in my day. I don't know how they go to classrooms or anything now, but, no, I didn't find it militaristic in any way.

Q. I'm jumping around a little bit and I'm sorry about that, but just to get this from you, because, of course, there is the allegation about Mr HWG , HWG , and this is page 18 of your statement, paragraphs 118 and 119.

You describe him, you say he was a very experienced residential school figure, big guy, strong personality. You knew him well and liked him. You say:

'He had some authority with them.'

That is the children, right?

A. Mm-hmm.

Q. '... but he was liked.'

Again, what do you have in mind when you talk about 'authority' in that context?

A. Erm, I think some of it came from his physical size, but he had a bit of personality about him as well. Kids liked him.

I mean, John Mullen's statement talks about him working out, being in the gym. That's not my memory of him. He played some golf, but I don't recall that he worked out or anything like that.

No, he was quite good fun with kids and kids actually did enjoy being around him.

Q. Mr Mullen also did some -- I think probably the same training that you had had, the earlier form of training

that was perhaps based on pain control methods, to some extent anyway.

A. If he was there in 199[redacted] that would have been the case. I don't remember him doing it actually.

Q. Sure. We understand your position that you don't recall him or, indeed, the incident that he talks about. I'll ask you briefly about that in a moment or two.

But he certainly felt that the training methods were a bit questionable and I think perhaps based on the idea of the pain control methods. Is that perhaps a description that you would more readily recognise, if not necessarily agree with?

A. Erm, I think I've already said that, you know, that was the training we were given at the time. If the purpose was to bring a situation under control then I could understand that.

You know, one of the tensions in residential care is that if there's a situation then you can deal with it within the confines of that situation, within the confines of the establishment. That would be my preference, because that way you're maintaining the connection between care and control.

If, as other units did, you call in the police, then the police would use control and restraint training. They would actually use pain control and, you know,

I've seen the police use that, you know, quite vigorously in a way that I've never seen within residential care settings.

So, I mean, there are tensions, there are balances to be struck. If you've got a, you know, six footer coming at you, then, you know, you need something that's going to bring it under control. We need to be realistic, I think.

Q. Perhaps I can put it to you this way, 'Dominic': can you understand why someone, perhaps particularly someone relatively inexperienced, might find it a bit disturbing that they were being taught how to control children by inflicting pain on them?

A. Erm, if you don't know the context then I think you'd think: what have I let myself in for here?

I think, if I can skip forward to St Katharine's, a lot of people didn't like actually closing a door on kids, but it was a secure unit. It came with the territory.

I have a thing about your restraint should be the last resort. If you've got the kind of relationships that I tried to encourage with kids, then you won't be using that. It's only when you -- you know, you're at the point where you're trying to avoid, you know, violence to yourself, to other people, that you get to

the restraints.

Q. The other witness that we heard from, this was a woman, a young woman at that time, who was on a three-month secondment, so again quite a short period at Wellington, and so very much a snapshot of her experience. This was 1989.

Now, I appreciate that's before your time at Wellington but I suppose -- perhaps I should ask you this question first: would you accept that if a culture establishes itself at an establishment, any establishment, then that culture is liable to continue, at least while there's a continuity of staff at that establishment?

A. Erm, I think I see what you're getting at. The thing with Wellington is that Andrew McCracken had come in as an outsider, as head, in 1986, I think. He was Scottish, but most of his career was down south and he came up as head. So there was a sort of new broom there, if you like.

I had come in, you know, as an outsider in 1991. Erm, actually, just as an aside, my wife worked at Wellington. We didn't meet there. But she would have been there in 1989. She didn't -- you know, she was a young woman. She didn't express concerns about the culture.

Q. All right. Certainly the question that I just asked you of course begs the further question: what was the culture? Was it a good culture, healthy culture or was it not?

So what this other witness, again quite an inexperienced young worker, training to be a social worker, told us was that there were full-on restraints, that children suffered carpet burns, that the atmosphere in the place was, in her words, incredibly stressful. That children were seen as 'little hard nuts', as opposed to distressed or vulnerable children.

She said, certainly from her point of view, that it was, again quoting, 'really disturbing' and she felt in the culture there wasn't much nurturing, at least not that she saw.

A. Mm-hmm.

Q. So again, perhaps I can just get your comment on that, as a snapshot of perhaps one view of the culture at Wellington at that time?

A. Well, when I was at Wellington I think I supervised about three students who came for three-month placements and each of them, I think, enjoyed it and got a lot out of it. I don't recognise, you know -- let's face it, this residential care is not for everybody. If you want to come in to counsel kids then you're going to find it

a bit of a culture shock.

I think the way that you're describing her describing it is not the way I recall it and I certainly think it's embellished, you know, at best.

Q. Well, 'embellished' is quite a strong word, 'Dominic', I mean, are you saying that she is inventing that or reimagining it or --

A. No, no, I'll come to inventing stories later, but I'm saying that I think if you have a particular perspective, you will find evidence that supports your perspective, you know. I'm saying that that's not the way I experienced Wellington or anywhere else I've worked.

Q. In fairness, 'Dominic', this is someone who came to Wellington as really her first placement and presumably then without any real preconceptions of what the place was going to be like and yet she found it the way she describes it?

A. Well, that's 20, 30 years after -- she's looking back on it. I don't know how she experienced it at the time, you know, and people are going to experience things in different ways.

Q. Just one more question then about Wellington, 'Dominic', and it relates to the incident that John Mullen talks about, this incident where he says HWG [redacted], perhaps

not entirely sure that that was who it was, but that's the name that John Mullen uses.

He says that at one of these morning assemblies, HWG essentially shouldered this child to the ground. This was a young boy, I think about 12, small, and the way that John Mullen put it was that he'd stepped out of line. I think he didn't quite recall exactly what had happened to provoke a reaction, but there seemed to have been a perception that he was, in those words, stepping out of line, and Mullen -- the way he described it, I took it that he was shouldering the child to the ground almost like --

LADY SMITH: The quotation from his statement is at 133, but I think you are also referring to evidence.

MR SHELDON: The evidence that he gave, my Lady, yes, that he shouldered the young boy to the ground, almost like a rugby move and the child went to the ground and was clearly hurt.

We understand your position that you don't recall that and you certainly don't recall even John Mullen being there at that time or of meeting him.

But I just want to ask you about paragraph 141, this is page 21. You say that you:

'... can't say whether if a child was treated in the way described I would accept it was abuse. To do so

would be speculative.'

I just wondered what you meant by that?

A. Well, I'm saying I find it difficult to comment on something that I didn't see. If somebody's saying that this happened, then I would want to know the circumstances or the context before I gave a view on it.

If, you know, a fully grown adult gratuitously knocked over a young kid, then I would say that was inappropriate. But beyond that, I don't know how I can comment on that case.

Q. I suppose the question then is: what would the child have to do to justify a fully grown adult putting a small child to the ground like that?

A. Well, I mean, it would really be about a matter of whether that was required, whether it was necessary, or whether it was, you know, in the context of a playful sort of interaction. Now, John Mullen clearly says it's not but I -- you know, I really don't think I can comment further on something I didn't see.

Q. Alright. Okay. Moving on then to St Katharine's and, indeed, Howdenhall, because I think you [redacted] SNR of the whole complex as it were, St Katharine's and Howdenhall, in 1996, is that right?

A. Yeah.

Q. You started off at St Katharine's. Page 22 you tell us

this was a purpose-built secure unit and you tell us a bit about the architecture.

You tell us a bit earlier in your statement actually about Howdenhall and I just wanted to ask you about that briefly. Essentially I think you felt that the new St Katharine's unit actually was rather a good building and quite well designed, is that fair?

A. Yeah, it was.

Q. I think certainly the old Howdenhall you didn't have such a high opinion of. Can you just perhaps tell us about that, what the old Howdenhall was like?

A. Well, it started life as what was called the assessment centre, where kids would go for -- and there was probably about 60 kids in it at one point, it was never equipped for that number of kids really.

It had a big sort of central recreational area on the ground floor. What happened was there was an upstairs, which I presume, when it was an assessment centre, would all have been sort of dormitories or bedding -- beds. Erm, some of that corridor became offices or was derelict. There was a small corridor, which became Braid secure unit after the introduction of secure accommodation in 1985, I think.

Erm, so it was really a corridor, which had been

repurposed as a secure unit. It had no access to the outside. It was tight. It wasn't fit for purpose frankly.

Then downstairs, you had Calton open unit, which was similarly not really fit for purpose. It was only ever meant as a stop gap, I think.

Q. It was basically a bit creaky and not very pleasant?

A. It wasn't particularly homely, certainly.

Q. We certainly heard some evidence that, I mean, the bathrooms, for example, in Howdenhall were stinking, they were horrible?

A. I couldn't -- I don't know if I went into the kids' bathrooms or anything. I don't remember anything being horrible or stinking, stinking. Yeah, it was pretty horrible, but I don't remember stinking. We had cleaners.

Q. There are really two secure units in the complex, Braid in Howdenhall and Guthrie in St Katharine's?

A. Mm-hmm.

Q. Both of them had open units, or at least would you describe them as step-down units?

A. You could do. I mean, I don't think we used that term, but, yeah.

Q. All right.

A. I don't think so, but, yeah, that would be descriptive.

Q. Is that in practice how they were used?
A. Yeah.
Q. We are interested in what you tell us about that?
A. The idea was that kids would come into secure accommodation in crisis, hopefully be stabilised to the point where they didn't need physical security anymore so they could be moved into one of two -- in St Katharine's one of two units, in Howdenhall they could be moved from Braid to Calton and there was -- they were likely probably still to be on secure orders at the time, so there was a prospect if it didn't work in the open unit, to bring them back into secure.

The reality was probably that that wasn't going to happen because a bed would have been filled immediately. So, yeah, it was about trying to stabilise situations in the secure unit, and then move them into a more open setting.

Q. Page 22/23, you tell us a bit about the staff, particularly, I think, the senior staff at St Katharine's and Howdenhall. This is in response to the idea that there weren't many qualified social workers and you make the point quite clearly that really the senior team were qualified?
A. Very well qualified, yeah.
Q. And we understand that. Is it fair to say that a number

of the RCOs, the residential care officers, wouldn't have been qualified, at least at that time?

A. I think the majority would have been. Some would have had diplomas in social work, or the equivalent. A number would have had HNC, which was considered to be a qualification at the time. Others would have been teachers, community education workers, all of which were considered to be qualifications for residential care.

There would have been maybe -- we had a couple of nurses, so, you know, you had a variety of qualifications. Not everybody was diploma and social work qualified, but even there, I would say, apart from the senior group, we had about four qualified social workers when we opened up and by the time I left, we probably had about ten, in addition to a qualified senior group.

Q. Certainly, 'Dominic', we know that historically many staff working in List D schools and assessment centres and so on weren't qualified, but it sounds as though that was starting to change during this period, from what you're saying.

Can you guide us through that process and when the idea that staff should be qualified started to emerge?

A. I don't think it's entirely true that people in List D schools were not qualified. Many of them would have

done the certificate in residential childcare, run by places like Moray House or Newcastle University. They would have had a qualification for residential social workers at that time.

What happened with the professionalisation of social work in the late 1990s was that CCETSW, the body I spoke about earlier, said that residential workers should be qualified as social workers. Now, that never ever happened, but I always sort of aspired to bring in as many social workers as I could. Assuming, you know, they were suited to the residential setting as well.

So St Katharine's was unusual in that I don't think many of the other children's units in Edinburgh would have had that level of qualification, but we were working on it throughout the nineties to up that as well, both through secondment to professional social work qualifications but also a lot of HNC and then they introduced what's called SVQ, so you needed to have the HNC, and an SVQ 3, I think it was, to be considered qualified.

Q. At least some of the staff would not have had qualifications while that --

A. I would say a minority, the night staff probably, most of the night staff probably weren't qualified. Though even there, one or two were.

MR SHELDON: My Lady, that perhaps might be a convenient point.

LADY SMITH: Let's just stop for the lunch break now.

If we could break now for the lunch break, 'Dominic', I hope that would suit you and then sit again at 2 o'clock to continue your evidence?

A. Okeydoke.

LADY SMITH: Thank you.

(1.02 pm)

(The luncheon adjournment)

(2.00 pm)

LADY SMITH: Good afternoon.

Welcome back, 'Dominic'. Is it all right if we carry on?

A. Yes, sure.

LADY SMITH: Thank you.

Mr Sheldon.

MR SHELDON: Thank you, my Lady.

'Dominic', before the lunch break, we were talking a little bit about the qualifications of staff at St Katharine's. Then, at page 25 of your statement, you go on to talk a little bit more about staffing and in particular staffing levels.

At paragraph 162, it's a quite striking part of your statement, where you say:

'St Katharine's was understaffed, this was a bone of contention until the final year of [redacted].'

'Dominic', I can say that that's borne out by the inspection reports. There is a number of them, but perhaps we can look at just one to illustrate the point.

It's EDI-000003563. It's the report for Howdenhall 1997/1998. [redacted], you are [redacted] Howdenhall/St Katharine's, that's right, you were [redacted]?

A. Yeah.

Q. If we go, please, to page 8, paragraph 5.1:

'This was the area from the inspection which caused the greatest concern ... Staff interviews revealed a staff team whose morale was low. Staff described a fragmented team, lacking leadership ...'

This was a group without a unit manager. What was that about at that time? Was that a kind of interim period?

A. Erm, sorry, that was 1997/1998.

Q. Yes.

A. I think what had happened was that Davey Gibson, who had been the manager of Howdenhall, left, so there was no manager. Frank Phelan, who had been one of [redacted] senior staff at St Katharine's, went across initially on an acting basis. So, yeah, there was a transitional

sort of phase. I mean, you talk about staffing. Howdenhall was probably -- well, it was, it didn't have the same staffing issues as St Katharine's. The major staffing issues were at St Katharine's because Howdenhall had been established for a while. St Katharine's, by contrast, was set up with a far-from-adequate budget and staffing complement, so we were sort of fighting against that from the outset.

Q. If we scroll down that page, at paragraph 5.4 we see there that for the month of April there were 79 shifts requiring additional staff cover because of staff vacancies. That's out of how many shifts that would normally be in a month?

A. If you think about three a day.

Q. Yes.

A. Three --

Q. About 90 or 100?

A. No, more than that if it's --

Q. It's a very significant proportion of the shifts --

A. Yeah.

Q. -- that there might have been. The inspector goes on to say:

'In the inspector's view, this is unacceptable, since it can lead to unsafe caring practices and may well breach health and safety conditions.'

You're telling us that the situation at St Katharine's was perhaps even worse than that?

A. It was.

LADY SMITH: So what's alluded to there is not just unacceptable from the perspective of the children and child protection, but it may also be in breach of health and safety regulations, which are directed at protecting staff?

A. Yeah, yeah.

LADY SMITH: Nobody's coming out of that very well?

A. No.

MR SHELDON: There is an equivalent report for St Katharine's actually. I don't think we need to go to it in the interests of time, but for reference, my Lady, it's EDI-000003673. I alluded to that, I think, briefly yesterday.

We may come back to that issue, 'Dominic', because of the effect that that may or may not have had on staff, particularly, but in paragraph 163 you say there was no slack and staffing could feel dangerously low at times. Can you tell us what you mean by that, please?

A. Well, our baseline staffing on a shift-by-shift basis was two staff per unit. On top of that we would have a shift co-ordinator and there would be a senior around.

So potentially eight staff across three units. If

something kicked off in one unit and staff from another had to assist, you'd be leaving a group of kids with one member of staff potentially. If you had particularly difficult kids in, if you needed to restrain a kid, then restraint itself required three members of staff if you were potentially going to a prone position. So you were incredibly tight, too tight in many instances.

I mean, it wasn't quite as bad as that, in that we probably had sort of three shifts, so you'd have -- during the day you would have a day shift where there would be the early shift, then a back shift and there would be a shift which sort of covered the two, but in the evenings there were times that you'd have three staff in the secure -- this is St Katharine's I'm talking about -- three staff in Guthrie and two in both of the other units, with the shift co-ordinator between the three.

Q. I suppose the knock-on effects of shortages and needing to cover shifts are, well, you either have to get in locum staff or bring in staff who weren't meant to be on shift, but who are willing to come in and cover the shift?

A. We had staff performed heroics in terms of doing double shifts on a regular basis, which again, I think, has implications for health and safety.

Q. I was going to say, and presumably safety?
A. And presumably safety and staff well-being, absolutely.
Q. And potentially the children's well-being?
A. Yeah, yeah. I mean, if you've done 14/16 hours then you're not going to be at your best.
Q. Yes. Perhaps following on from that, 'Dominic', page 26, paragraph 168, you talk about your own [redacted] style. You have talked a bit about Andrew McCracken and you talk about bringing together this entirely new staff group, which you have told us about already.

You say:

'I spent a lot of time initially "on the floor", modelling work with children.'

I take it by modelling in that context you don't mean making things?
A. No. In some ways it wasn't deliberately modelling, it was of necessity, but, you know, I had staff who didn't have a background in residential childcare, so I was -- just through my everyday practice, I was hopefully modelling some sort of stuff or practice to them.
Q. Sure. Thank you. You say that you never moved entirely away from that. But I think at some stage really, probably when you [redacted] SNR [redacted] of the whole complex, you had to become perforce more office based?

A. Yeah, you would think so, but, you know, our staffing hadn't been resolved by that time, so I was still very much involved with the kids. It was really only when the staffing review concluded, I think probably about 1999, that I was able to sort of step back a bit. And even then, I still did a late night and was around at weekends -- on call at weekends.

Q. You were still keeping a hand in --

A. Absolutely.

Q. If we can look at another document, it is EDI-000003595.

This is some correspondence with the SWSI about a joint inspection of the secure units. If we go, please to -- this is February 2000 -- to page 7, we can see the report itself and if we scroll down, we can see, I hope, the date of that, it is January 1999.

If we then go to page 22, please. At paragraph 64 the inspectors are saying:

'Recent appointment of five qualified care staff should ease some of the staffing problems in both units.'

Can I just pause there, 'Dominic', and ask you: does that imply or was there a set-up where care staff in the secure units would cover shifts in either Howdenhall or St Katharine's, or were they confined to one unit or the other?

A. I think in Howdenhall essentially it was on a shift-by-shift basis for the most part, that staff would be deployed to Braid or Calton and that was historical.

In St Katharine's, we tended to have core staff groups per unit. You know, if somebody was off or there was a gap then there may have to be some sort of cross-over, but by and large we had Guthrie teams, Chalmers and Alison teams.

Q. It's my fault, I think. I wasn't making the question clear. But was there cross-over between staff in the Guthrie secure unit and the Braid secure unit, or did they keep themselves to themselves?

A. No, they were -- by and large kept themselves to theirselves and in the very early days when we were really tight, we'd bring across, you know, a couple of staff from Howdenhall from time to time, but no, by and large they were separate.

Q. The inspectors go on to say:

'Deployment and use of staff is critical to their effectiveness. The previous report on Braid [so this is Howdenhall] was critical of the lack of a dedicated staff team. This remains the case. The adverse implications for young people have already been identified and urgent consideration should be given to

deploying a staff team to Braid.'

Sorry, bear with me. Reading on to paragraph 66:

'High quality leadership is also required to achieve progress. SNR [redacted] for Howdenhall and St Katharine's has been overloaded.'

Now, that presumably is talking about you?

A. Presume so.

Q. Is that a characterisation that you would agree with or disagree with?

A. I would agree that the need to deal with operational matters got in the way of the kind of developmental agenda that we actually had and wanted to take forward, yeah.

Q. There was a lot going on all at once?

A. Yeah. Mm-hmm. I mean, on a day-to-day basis I was still very much in St Katharine's. Frank Phelan by that stage had moved to Howdenhall. So to all intents and purposes, Frank ran Howdenhall. If there were any issues that needed to be escalated then they would [redacted] in the first instance but on a day-to-day basis, Frank Phelan ran Howdenhall. I was SNR [redacted] SNR [redacted], but still with operational responsibilities for St Katharine's.

Q. I understand. You mentioned that developmental work might have then had to take a bit of a back seat?

A. Yeah.
Q. What do you mean by 'developmental work'?
A. We had lots of really good ideas about where we wanted to go next. Certainly in St Katharine's, we had three or four really good years from opening from scratch and we had some really good staff and they had ideas and one in particular, Emily Campbell, you know, her and I were working on where next, how do we sort of take things to the next level?

I think Emily -- I did some papers, I don't have access to them. I do have something that I think I've given you that Emily had written suggesting where we would go next in developmental terms. Erm, so we had all these hopes and plans, which were sort of thwarted by the fact that we didn't have staff to cover shifts.

Q. Right. Jumping ahead a bit in your statement to page 28, you are talking there about your personal influence and particularly about punishment and discipline. You note at 179:

'The truth of the matter' and you say some staff struggled with it 'the truth of the matter was that there were few disciplinary measures we could take with children. They were already locked up and at the end of the road.'

First of all, what do you mean by staff or how did

some staff struggle with that idea?

A. I think, especially newer staff, you know, I recall that when I first started in this, you want SNR to punish kids who have given you a hard time. And, you know, it doesn't happen and I remember being frustrated that in my early career, that kids would behave in ways that I thought were really inappropriate and I wanted somebody to do something about it.

At one level it was quite inchoate, quite primitive, so you had staff who, you know, would encounter difficult behaviour and say, 'What are you going to do about that?', and I'm saying, 'Well, you know, I'm limited. We can't lock them up, they're already locked up. We just need to try and talk them through it and see how we can take things forward'.

Q. Yes. You tell us in the next paragraph, and I think you had already mentioned it in relation to Wellington, that you were against the idea of restricting leave or imposing financial punishments of some sort?

A. Yeah. I mean, I think the way that we set St Katharine's up was because it was in the community, it was near to most of the kids' home communities. The idea was that they had contact with parents and we shouldn't use -- we shouldn't restrict home leave on the basis of bad behaviour. We wanted to maintain those

family relationships.

Q. Paragraph 84, page 29, please. You indicate that you, with others, set the tone in daily care practices and you were clear that no ill-treatment would be tolerated.

Can I ask you first of all: how were you clear? How did you make that clear, that there would be no tolerance of ill-treatment?

A. As I say, I think I did a number of practice papers, which, you know, I don't have.

Q. These were papers circulated to staff?

A. To staff.

Q. Or more widely?

A. Erm, no, mostly internal, I think, yeah. Actually other units came to, you know, look at them and use them.

I think it was a matter of style, you know, that staff would pick something up from a [redacted] style about what's okay, what's not okay. I don't know if it was much more explicit than that.

Q. The second point arising is what you would have regarded as ill-treatment?

A. I mean, I've always sort of said that at one level it's an attitude of mind. It's about staff wanting to do the right thing by kids and anything that deviated from that, I think, would be unacceptable. Whether that was actually ill-treatment or just not proper treatment,

I don't know.

Ill-treatment -- it was very clear, kids were not to be hit. They were not to be -- obviously not to be sexually abused, but they should have been nurtured and controlled. They're two sides of the one coin.

You mentioned in relation to Wellington the critique of this woman who had been a student there saying that we treated kids as wee hard nuts rather than as kids in need, if you like. They were both and you needed to accept that as well. You needed to accept that these were difficult kids, but that they needed to be nurtured and have relationships built with them.

Q. I want to come back to this topic. It's clearly a big topic, but we have certainly heard evidence of prone restraints being carried out pretty quickly on young, small children. For example, a young girl who was taken to the ground by three adults. Is that something that you would see as ill-treatment?

A. Not necessarily, because the CALM programme was that if you were going to restrain somebody in a prone position, you needed three adults.

I mean, again, prior to CALM, you might do that with one adult. But if you were following the CALM procedures then you would need three adults for that.

Q. It's perhaps best to come back to that particular issue

later, because I want to ask you some questions about CALM particularly but again, thinking about ill-treatment, in quotation marks, we have also heard evidence that young people could be locked in their rooms, sometimes for days at a time, but fairly commonly for a day or so?

A. It's not true.

Q. That was evidence from staff at St Katharine's.

A. Never for days on end. Erm, and rarely for a day, you know. The kind of situation that might have led to that was if we felt that somebody had -- was a self-harmer, for instance, and had secreted let's say [redacted]. We had one self-harmer who in the education unit would take [redacted] and if we felt that she still had that then we might say, 'Okay, we're going to observe you in your room until we're satisfied that you don't'. So that kind of thing, but there were very strict limits as to how long we could keep kids in their room. Those were Scottish Government -- Scottish Office limits and the inspection reports that I've seen said that, you know, our paperwork on that, our practice on that was okay.

Q. I think at times they had some reservations about the paperwork, didn't they?

A. Erm, I didn't see any reservations about the use of

rooms paperwork. I mean, I wasn't happy, I wasn't comfortable with using rooms and one of the papers I did write was to try and say to staff, don't immediately send kids to their room. Take them aside, have a chat with them, you know, separate them from the group somehow. I mean, I think you are blurring boundaries by putting somebody in their room, which should have been a sort of refuge in some ways as well, their bedroom. So I had opened up those conversations with staff.

Erm, you know, there were times, as you suggested earlier, because of the kind of pressures that were around, that people might have put kids in their room more quickly than usual.

Q. We have your position on the idea that children might have been in the room for days, erm, and you say that didn't happen?

A. Not as far as I'm aware.

Q. Accepting that and leaving that sticking to the wall, as it were, if that did happen, anywhere, not just St Katharine's, would you regard that as ill-treatment?

A. Yeah.

Q. All right. Thank you.

A. Mm-hmm.

Q. Just to --

A. Again, on the surface I would. I would have to know the

context, but as I say, I'm not aware of that happening.

Q. All right. Just to round off a particular point and in fairness to you, I think it relates to Howdenhall rather than St Katharine's, but if we can look briefly, please, at EDI-000003563.

We can see this is the Edinburgh and Lothian's inspection unit report for Howdenhall, 1997/1998. If we go to page 5, please, paragraph 3.13. We're told:

'The inspector evidenced that the monitoring of record keeping in relation to care and control requires attention. There was also evidence that sanctions and managing challenging behaviour were not yet linked to care plans.'

3.14:

'The records requiring attention particularly related to Braid ... The inspector found a number of incomplete records in relation to use of locked bedrooms and restraint.'

So it really is a bit of a concern if there aren't complete records of practices like that, would you agree?

A. Erm, I would agree, yeah, that there should be. I don't know the circumstances of them not -- there not being.

Q. The circumstances being, perhaps particularly at this time, that staff were under pressure?

A. Possibly. As I say, I mean, that would have been Frank who was dealing with that day to day.

Q. Could I just ask you briefly about the second sentence of 3.13:

'There was evidence that sanctions and managing challenging behaviour are not yet linked to care plans.'

What's that referring to?

A. I suspect, and I think we had tried to introduce that in St Katharine's, that we should have something in care plans which says: this kid responds well to this kind of intervention, badly to another type, and to have that in the care plans. So there was some sort of touchstone about how to deal with particular kids.

Q. So it's tailoring the approach to the individual child?

A. Yeah, mm-hmm.

Q. All right.

Over the page to page 30, it's paragraph 191, you mentioned the Edinburgh Inquiry there and of course that reported in 1999. Were you kind of aware of it going on when it was happening?

A. Yeah, I was interviewed by Alan, and I think it was Kathleen Marshall, there would certainly be two of them. Just I knew Alan, you know, historically, just from my time in residential care and his time as a reporter, so he had asked to speak to me just about changes in

childcare practice over the time.

Q. This is Alan Finlayson?

A. Yeah.

Q. Did he speak to anyone else at St Katharine's/Howdenhall?

A. Yeah, he spent time there, yeah. And he was really impressed by St Katharine's.

Q. All right. And do I get the impression correctly from this that -- from this part of your statement, that the Inquiry report was really regarded as quite a major event, a milestone, if you will?

A. It was. Erm, I think it came up with over 100 recommendations or something, didn't it?

Q. Yes, well over 100.

A. Yeah, so it was something that senior management in the department were very anxious about and it sort of dominated -- I mean, if you talk about the lack of a developmental agenda, then the inquiry report and senior management responses to that got in the way of a developmental agenda as well. It really focused everything on safety and, you know.

Q. Again, a topic to come back to, 'Dominic'.

You mention existing policies, but the Edinburgh Inquiry is prompting work to streamline these and bring them together. Just thinking back to that time, I guess

[redacted] the report came out, but so far as you were aware, were there changes happening on the ground as a result of the Inquiry? Did it produce change in the way things were done, in other words?

A. It certainly produced an agenda for change. I don't know, you know, how much of that was followed through.

The council appointed somebody called Paul Hyatt, who I think had been a divisional manager or something, to look at a plan to implement the findings of the Edinburgh Inquiry. So Paul did a lot of work in terms of looking at what was there and what needed to change.

Q. Moving on to a different topic then, although, as I have said, we'll come back to the subjects, both of CALM and, indeed, the Edinburgh Inquiry recommendations about that.

You talk about strategic planning. You mention again that there's awareness of abuse cases in England and Wales. You tell us that one of the council's main ways of addressing the requirements of the Edinburgh Inquiry was to set up a staff recruitment centre, designed to assess protective staff and I think their values and commitment to working safely with children.

First of all, how was the staff recruitment centre intended to produce improvements in safety? As far as

you knew anyway?

A. I think through taking on the assumption and a lot of previous practice that people were brought in to employment and residential childcare without too many checks being done and without many checks being done on the kind of people that there were actually in terms of values, in terms of understandings of children's needs.

To be honest, I'm not sure the assessment centre actually looked at children's needs particularly in any wide sense. But the idea was to make sure that they had assessment processes, that did not just pull in people without appropriate vetting or initial training.

Q. I guess one might think that was quite a laudable aim?

A. Yeah.

Q. But I think we understand that as things turned out, the recruitment centre, the assessment centre, turned into a bit of a bone of contention between you and Duncan MacAulay, the Deputy Director of Social Work, is that right?

A. That's right, yeah.

Q. You tell us a bit about that in paragraph 194. Can I just ask you then to tell us about the concerns that you express there?

A. Well, the first one was that it was to deal with an issue which I don't think we had at St Kat's.

I think we had good recruitment process, had a good record in recruiting staff and I was able to recruit staff who came from a variety of backgrounds and who could fill the particular needs that we had at that particular time.

Erm, I mean, I didn't have any issue with the assessment centre in principle at the beginning. As it sort of developed, I'm starting to say: hold on, there are some major gaps and flaws here.

One was that you were taking people and not offering them permanent employment because they were having to attend this assessment centre and then, if successful in that, and if they were attending that, they would probably have to take a week off their work if they were in employment. If successful, they would be put on a probationary contract.

So the consequence of that is that people who are in employment, who need to stay in employment to keep mortgages and families and whatever, are not going to jump, you know, to go for something which is potentially insecure. So you're restricting the pool.

The other issue I had was that the people who were in charge of the recruitment and assessment centre had been in children's residential care and my views on children's residential care would be very different from

theirs.

I think in -- you know, whilst the assessment centre was intended to bring some sort of objectivity to the recruitment process, it didn't. You know, the assessment centre was bringing through people who those who were running the assessment centre wanted to bring in and those might not be the same people that I would have brought in.

I mean, I was influenced in some ways by Roger Kent's report, which spoke about the need to bring in people from a variety of backgrounds and professional experiences and that's what we had always done. What I find is that we're getting people who are fairly young, not much life experience, and think, 'Well, it might be a good idea to go into childcare, I quite like that'. So you didn't have the same variety of staff to choose from.

Q. You say at the end of paragraph 194:

'We were being turned into a homogenised and low-level workforce.'

I mean, I suppose one response to that might be that, well, everyone has to start somewhere and so long as you have experienced staff to show them how it's done, then it shouldn't be a problem?

A. It's a matter of balance there. What if you lose those

experienced staff? You do need a sort of apprenticeship-type model. I think you do. You need to learn from some of the old hands around you.

Q. At all events, your feeling was, your view was, that the people running the assessment centre had a rather different view of childcare to your own view?

A. Mm-hmm.

Q. 'Dominic', was that part of the reason that you ended up leaving practice and moving to [redacted]?

A. No. It wasn't really. There were probably push/pull factors in me leaving practice. To be honest, I think the final straw was when I was told that all staff needed to do a food hygiene course before they could make kids a sandwich and it was the encroachment of sort of evermore bureaucratic sort of demands on residential childcare.

The other reason I left practice was that I got the opportunity to move into [redacted], which I never thought I would get and, you know, really appreciated that. So it was a very positive move in that sense.

But you're right, you know, there were things that were -- my relationship with Duncan MacAulay was not good. Erm, I had concerns about the way that residential childcare in Edinburgh was going.

Q. We might come back a little bit to how perhaps your

relationship with Duncan MacAulay developed and perhaps where it started to become problematic, but I want to ask you first a bit about CALM training. You talk about that a bit more on page 32, this is under the heading:

'Training of staff.'

You tell us all permanent staff were required to do CALM training. You think it was a three- or four-day course and we understood, from your evidence before lunch, that you also did the training.

Can I just ask you in general terms what you thought about the training, what you felt about it?

A. There were good aspects to it, you know. It was reasonably theoretically grounded, but I think in some ways it was grounded on things like how you talk down a hostage, so some of the de-escalation stuff was, you know, perhaps in a situation where you had more time than you often do in residential childcare.

Erm, but there was a lot of good material in it. I don't have a problem with some of the conceptual material, in principle I could see where, you know, the holds came from and why, but I had some concerns about how useful they were in practice.

I think, you know, as I said earlier, I think, some of the holds were there for the integrity of the system rather than the needs of the staff who were having to

use them.

Q. I mean, that's interesting you say that. Can I show you then another document -- it's the Edinburgh Inquiry report actually, it's SGV-000024049.

A. I mean, I've not seen the inquiry report since.

Q. Just to take some brief extracts from it. If we can go to page 169, please, and paragraph 10.75, this is staff views on CALM.

Just to take 10.74:

'The CALM training was a topic which elicited some of the most strongly worded comments from staff. Some appreciated the training.'

But some said, reading short, actual practical techniques were not appropriate or helpful. Is that perhaps echoing some of what you were telling us a moment ago, 'Dominic'?

'Some commented that they were based upon a martial arts approach, required too many staff to be involved, more than would normally be around.

'Some said techniques were not appropriate for younger children. Others said it was okay for younger kids, but not older ones.'

So a real conflict of views there, perhaps?

A. Yeah.

Q. Again 10.76:

'There were many comments to the effect that the training was done to cover the department's back, seen as being primarily to protect the department.'

Again, can I just ask you to unpick -- I think that was your view as well -- why was that?

A. Erm, I remember actually discussing this with Les McEwan at the time, and to be fair he said, 'Look, I thought -- he actually took some of it on, but he said, 'I thought I was doing the right thing'. I think we've got to start from -- take that as a starting point. I think that Les and others thought that this was the right thing.

I think the problem is that people thought if they put a system in place then that system would work and, you know, a lot of people's experience of CALM was it didn't work or it didn't work in the early stages. You know, the training that we did on it, you were told: don't flail your arms. Just stand and let somebody take a hold of you.

So you're standing like this (indicating) and, you know, somebody would come and put what's called a figure-of-eight hold on or something, which was complicated in itself, but you had to do that at both sides, so your partner needed to do it as well. So if you've got this figure-of-four hold on and your partner

hasn't, then the kid is still likely to come across and, you know, lamp you.

So there was all sorts of issues at a practical level.

Q. Unpicking another one, I think, which is that some staff were saying: well, it's appropriate in some circumstances, but there might not be enough staff there to do what they say. There might not be three staff. If the staff think that a prone hold was necessary and they don't have three staff, then -- what do they do? Either they don't do the restraint or they might be tempted into trying to do it on their own?

A. Yeah.

Q. Did that happen sometimes?

A. Yeah.

Q. I think we certainly heard that there may have been single restraints, out of the reports not necessarily from your time, but it does seem to have happened certainly?

A. It happened in my time at times. You know, I don't know what else you could have done. Also I think that gives some context to some of the claims that have been made about staff rushing to a situation and in so doing, maybe upping the ante, because if you know that if it's a situation that is going to -- or may result in a prone

restraint, then you're going to need three staff there, so it does give some context.

Q. I suppose unless you are tempted to take on the child, as it were, on your own, and that obviously has risks for both the child and the member of staff, right?

A. Yeah, mm-hmm.

Q. Just another couple of passages from this document, though. If we can go to page 170, paragraph 10.86:

'We were concerned [that is to say the reporters, Alan Finlayson and his colleagues] that the CALM training seemed to have such a high degree of priority in the training schedule, more than any other issue. This seems to us to promote the idea that the job was about controlling young people. There seemed to be more emphasis placed on going on the course than on evaluating whether it worked.'

A. I think that's an interesting insight and, yeah, one I would agree with.

Q. At page 171, please, paragraph 10.88. They say:

'We were also concerned at what seemed to us to be a lack of consistency in practice regarding care and control and the persistence in some units of a culture based upon physical force.'

Is 'a culture based upon physical force' a description that you recognise from

St Katharine's/Howdenhall?

A. It wasn't based on physical force. There was physical force -- I would actually say that -- I would turn that comment perhaps on its head and to say that there were other children's units that would not physically restrain kids and I don't think that was helpful either.

I think there are times that kids do -- we can create this sort of image that there's this ideal residential worker out there who can, you know, somehow deal with kids just through the force of their personality and without physical intervention at any point. I've not seen them. So I think the way that units that didn't use control techniques, the way that they dealt with it was to call the police in and they would use control, you know, techniques. It was abrogating the responsibility for care to the police.

Q. I think we all understand, 'Dominic', that working in residential care, particularly in secure care, could at times be a very difficult job and sometimes difficult decisions to make.

Would you agree with me that it's about giving staff the training, and the tools, and the leadership to be able to deal with difficult situations as and when they arise?

A. Yeah, yeah. But the training, you know, it's that

comment -- the previous comment suggests it needs to be set in a context of childcare rather than just control.

Q. I think that's perhaps where I'm going with this, because what the reporters seem to be suggesting is that the CALM training itself may have fostered in some staff anyway an attitude that the culture was and should be based on control, including physical control?

A. Yeah. As I said this morning, I felt there was a risk that if you give staff a system then it will be used.

I think there was also another issue with CALM in the sense that it was almost an incremental -- I think there were four stages, three or four stages, but the first one should not have been in a system. It was about putting your hand on the small of a kid's back and trying to guide them.

For me, that's, you know, not within care and control. It's often natural, but if you think you've got to go through these four stages, then a kid might be high, you put their hand on their back, because you think you've got to start there, and then they say, 'Stuff you' and it's off. So, you know, there were all sorts of complexities.

I think my issue is that we tried to think -- or we thought that we would try and deal with that through a system, and that system was always imperfect.

Q. All right. You talk a bit then, over the page, about the children at St Katharine's and the legislative framework, which I think we're all familiar with.

If I can turn to page 35, please.

LADY SMITH: Is this in the Edinburgh report or in the statement?

MR SHELDON: Sorry, my Lady, this is in the statement.

LADY SMITH: A paragraph number?

MR SHELDON: It is paragraph 225, my Lady.

LADY SMITH: Thank you. It's right at the bottom of 35?

MR SHELDON: Yes.

LADY SMITH: Thanks.

MR SHELDON: This is in the context of trips and in particular, members of staff taking a child or children to their homes.

You make the point that you weren't aware of any council policy in this regard. I think you're quite open about saying that you actually thought -- at least in some circumstances -- taking a child to a staff member's home was appropriate --

A. Yeah.

Q. -- and acceptable?

A. Mm-hmm.

Q. Can I just ask you to explain your view of that, so that we can understand where you're coming from about that

issue?

A. Yeah. I mean, I think historically it would not have been an issue. I think I gave the Inquiry a link to a piece in the Guardian from a former director of social work, professor of social work, who was saying, you know, we've lost it here. We used to, you know, bring kids into our own homes and go into other people's homes to help them out, and a sort of risk culture has taken over there.

Erm, so ... and I think another thing that ought to have been an informing practice was a notion of normalisation. You didn't want to have kids just locked up the whole time. You wanted to actually give them some experience of what would be a normal-type family environment. So staff did that on occasion and it wasn't just St Katharine's staff.

I was on my work's Christmas night out this year and I was sitting beside somebody who is a youth and community worker and she was talking about her experience in London in the eighties and saying how good it was as a youth worker and just, you know, unsolicited she said, 'You know, we used to take kids home and everything'. So that was common practice amongst a number of professions.

The difficulty, I think, was that some units in

Edinburgh would have thought this was unprofessional. The recruitment centre that they set up thought this was unprofessional and were telling staff that so these staff were coming into St Katharine's and, you know, hearing that this had happened and therefore saying, 'That's awful, that's unprofessional'. It wasn't. They had no sense of history.

But there were other -- you know, it wasn't done indiscriminately. I think people gave some thought to when and with what kid they would do this with. Well, yeah, I have no sort of problem sort of saying this was our view. I didn't have a problem with it.

Q. Would you agree with me, 'Dominic', that there are some fairly obvious risks attached to the practice?

A. There are risks primarily to staff in terms of accusations.

Q. I mean, I think we accept that, but is that not at least one reason not to do it? There may be others --

A. Well, that means that you are basing a childcare policy on the needs of staff rather than the needs of children and I think that was one of the problems.

I mean, I think if you're going to abuse children then you can do it wherever, you know. I don't see why your own home would be any riskier than any other sort of setting. Especially, as I say in my report, a number

of us were actually, you know, foster carers anyway and had been through all the foster care checks. It seems daft to me that I could take children into my home as a foster carer or in some other capacity, but not a kid from care.

LADY SMITH: 'Dominic', I think we discussed this last year, almost exactly a year ago in fact. And the risk, as you put it, to staff isn't simply in terms of accusations against them. The risk is that they could find it unduly difficult to maintain the appropriate professional boundary between themselves and the child, isn't that right?

A. Erm, I remember the conversation. I've given it some thought since and I think there are -- I think I said at the time that I thought that boundaries were sort of interpersonal between particular adults and particular children and that would be behind one of the -- they're not absolute.

So, you know, if you want me to go into theory here, then I think we can think that there's a sort of professional self and a personal self and that never the twain shall meet. But if you're working closely with kids, if you're going to make an impact with them, then they need to know who you are as a person and the kind of framework that I use now talks about three Ps, it's

fairly well accepted now, so it's professional, personal and private and within that framework, the personal and the professional come together, and it's only a small part of yourself that you keep private.

Another theoretical perspective is that the necessary work between adults and children actually happens on what is called the relational boundary. It's when you get close and within that you can -- there can be boundary crossings, but you stop. There are no boundary violations. So I think that, you know, there are good arguments to support my case.

I think those arguments are actually now picked up by the current policy, which is The Promise, which talks about the need of kids for warmth and love. I don't know how you offer that, unless you're prepared to get sufficiently close to them.

LADY SMITH: When you talk about your case, are you saying your case is that a member of staff should have the freedom to take a child to their home?

A. Erm, not an absolute freedom, no. I think it should be sort of negotiated through childcare practice, through care planning practices.

LADY SMITH: That's the focus of Mr Sheldon's questioning at the moment. It's the specific matter of a member of staff taking children into their home.

A. Yeah.
LADY SMITH: So you're not telling me that it should be left to the member of staff to decide in a particular case whether or not they think that's a good idea?
A. No, I'm not -- I'm telling you that nowadays that would be okay if it were negotiated openly through care planning processes and the social worker and others were involved. I think the key is about transparency.
LADY SMITH: Thank you.
MR SHELDON: Just to be clear, 'Dominic', are you telling us that current practice is that this can be allowed in certain circumstances?
A. I would think so, I mean I --
Q. Are you aware of any specific instances of that?
A. Erm, well, you know, in my role as a foster carer until recently, I would have my foster carer's friends in our house, who were also in care, yeah, and I think social workers were aware of that.
LADY SMITH: Do you mean your foster child's friends?
A. Yeah. Yes, I did.
LADY SMITH: Sorry, you said 'carers' and I was confused.
A. I did. Mm-hmm.
MR SHELDON: You think the social workers were aware of that?
A. I know the social workers were aware of it, it probably

wasn't planned.

Q. You mention Roger Kent's report. You've mentioned it briefly already and you mention it later. I think his view, albeit that he may want and advocate for children having access to comfort and affection from adults, I think one of the things he says in his report that one of the indicators of possible abuse is an adult giving a child treats, taking them home, that kind of thing.

Do you accept that?

A. I accept it could be the case. The trouble with that is that those are, at another level, the indicators of a good adult-child relationship and the difficulty is actually separating the two.

Q. I was about to say, how do care protection professionals, agencies, whoever it may be, looking at that from the outside, how can they tell what the division is?

A. I don't know how they do. I think there's an element of trust in that.

Q. I suppose, moving on to your point about The Promise, you talk about that at paragraph 233 of your statement, page 37.

You say that The Promise has recognised and is trying to shift what you describe as 'the bureaucratic soulless care culture that have characterised childcare

practice over the past 20 to 30 years'.

First of all, that kind of soulless care culture, is that what you perceived as being represented by the recruitment centre, the assessment centre?

A. It is, yeah.

Q. So I suppose the question that arises, if one is to move away from that, is how one can have a more rounded sense of caregiving outside the family home, but consistently with child protection and child safety. Do you have a view on how that can be done?

A. I think it's always going to be a bit of a tension. I think the trouble is that we're out of kilter and have been out of kilter in recent years or recent decades and it's about trying to re-establish some sort of balance.

Q. You think it's got out of balance, that the balance has shifted too far towards --

A. Towards protection, yeah, absolutely.

Q. All right. Moving on then to the question of discipline and punishment and then restraint.

First of all, discipline. You rather echo what you said in relation to Wellington. You say at paragraph 246, at page 39, that your approach to discipline and punishment was that it could only be based on warmth, authoritative child-adult relationships. Is that really the same as you were

saying in relation to Wellington?

A. I think it is.

Q. You say there was a council care and control policy in relation to discipline and punishment which staff would have been aware of, and the terms of that would have been addressed in CALM training.

Paragraph 251, you talk about children being placed in their bedrooms, sometimes with the door open, sometimes locked, if they were disruptive and needed some time away. We have talked about that a bit already and you say, yes, children could be locked in their bedrooms but not, you thought, for days at a time?

A. I don't recall any kid being locked in for days at a time.

Q. Were concerns or complaints about that ever made to you or, indeed, to other staff at St Katharine's/Howdenhall?

A. I don't think so. I think -- I was aware of needing to be on top of that. I don't think there was any external complaints.

Q. Were there records of complaints at that time?

A. Yeah. I think just round about the time we were opening, there was a complaints process, which was a centralised one at Social Work Department headquarters.

Q. I wanted to ask you about that. Do we understand

correctly then that there was no record of complaints held within St Katharine's/Howdenhall?

A. I don't think there was, no.

Q. If we look briefly, please, at EDI-000003595.

It's page 21, paragraph 62. That, I think, confirms what you say, that neither unit maintains -- I'm sorry, I should have said that this is the joint inspection of the secure units that we looked at earlier.

LADY SMITH: That was -- the 1980s?

MR SHELDON: This is 1999, my Lady.

Neither unit maintains a record of complaints. These are dealt with independently by the Social Work Department's complaints officer. The recommendation at the end of that paragraph is:

'Copies of monthly returns on complaints in Howdenhall/St Katharine's should be forwarded to the respective unit managers.'

So, I mean, that confirms what you say, that there wasn't a record within the units. Can I ask you, thinking back, why that was the case?

A. I think it was to do with the sort of initial intention of complaints processes, to be able to bypass units and to have them dealt with without -- you know, outwith, so it was to allow ready access outwith the unit, if you like. That's the only thing I can imagine or assume.

Q. So I suppose two things arise. The first is that that depends on the complaint getting outside the unit --

A. Mm-hmm.

Q. -- by whatever means.

Secondly, does it not mean that you, as SNR SNR of the complex, wouldn't know whether there was a pattern of complaints coming in about a particular issue?

A. Potentially, yeah, mm-hmm.

MR SHELDON: Okay. My Lady --

LADY SMITH: Would that be a convenient time to break?

You may remember, 'Dominic', I also take a short break at this point in the afternoon and that will give the stenographers a breather and everybody else a breather.

Are you okay if we do that now for about ten minutes?

A. Yes.

LADY SMITH: Let's do that.

(3.01 pm)

(A short break)

(3.10 pm)

LADY SMITH: Welcome back, 'Dominic'.

Are you ready for us to carry on?

A. Yeah.

LADY SMITH: Thank you.

Mr Sheldon.

MR SHELDON: Thank you, my Lady.

'Dominic', before we broke, I was about to move on to the topic of restraint and you talk about that in some more detail from page 39, paragraph 252.

You make the point there that restraint was required at more times than others, depending on factors such as the composition of the residential group and the complement and skills of the staff group.

I think you go on to explain a bit about what you mean by that, over the page, paragraph 253. You say there were two contextual factors that you want to tell us about. What were those?

A. Yeah. Erm, I think I alluded to this earlier, that we were getting a good reputation in the field and I think a consequence of that was that we started to get some incredibly difficult kids who, in many cases, couldn't be managed elsewhere.

One in particular, who was very much a feature of this period in question, you know, had been kicked out of one secure unit. We tried to negotiate a place in another. Two members of staff took him up, left him there and before they got back to Edinburgh, we were phoned to say, 'Come and get him, he's ruined the

place'. So we had to go and bring him back.

I had a couple of members of staff actually who took him into the hills to a bothy for a bit, just to give staff a break. Erm, we did bring him back and managed him under the circumstances very well. He was happy with us. He liked being there, but he was possibly the most difficult kid I've dealt with.

So that can really sort of impact on the incidence of restraint in a couple of ways: 1, he needed restraint. In another way, if you've got three members of staff having to deal with him, you've got other kids in the unit saying, 'What about me? I want a bit of attention too'. So the whole dynamic of the unit could actually be affected by, you know, one kid like that.

We had others who were almost as difficult, I think he was probably up there towards the top anyway.

So, yeah, we were getting kids as well who we were getting because there was no psychiatric inpatient facility in Edinburgh, so some serious self-harmers, eating disorders, kids who in other circumstances would perhaps have been in a psychiatric inpatient facility.

In fact, we took one from a psychiatric inpatient facility elsewhere. Erm, autistic kid, you know, I didn't know what autism was, erm, so we're having to try and work that out from scratch. So there was a lot

going on.

Do you want me to continue?

Q. Well, I think I can move on, 'Dominic'. Thanks for that explanation.

I think you move on in the statement to say that restraint was always the last 'resource'. Do you mean it should be a last resort, is that what you're saying there?

A. Erm, it should be. The difficulty with that statement is that, you know, what's the last resort? Do you do that after somebody's been, you know, seriously injured or do you try and get in before that's about to happen? Of course, you don't know if it's about to happen with certainty.

Q. So there may be a need for perhaps a pre-emptive strike?

A. Pre-emptive --

Q. Is that what you're saying?

A. Possibly, but that may also be a sort of last resort as well, if ...

Again, that's the kind of thing we were trying to accommodate within sort of care plans to say, you know, if this kid is escalating then you need to get in there quickly or you're best just to give them space.

Q. There were perhaps further problems that you advert to in paragraph 257, new starts, new staff, may not have

been CALM trained and so they would have to take a lead -- so new staff might essentially be thrown in at the deep end really where restraint was concerned?

A. Which was the reality. Up until that point, none of us were trained in restraint.

Q. You say towards the end of your time:

'We were very aware of increasing levels of restraint.'

Was that a cause of concern for you, first of all?

A. Mm-hmm, yeah. Mm-hmm.

Q. Can I just ask you why in particular it was a cause for concern?

A. Because I don't think any staff actually -- any members of staff that I've worked with likes restraint. It's distressing. It's distressing for kids. It's actually distressing for staff as well. There's something about that level of anxiety rising in the run-up to a restraint as well, which is not nice. We'd all prefer not to have that. I also don't like restraining kids. You know, almost all of us didn't like restraining kids.

Q. We have heard some evidence that some staff may have, if not enjoyed it, then perhaps welcomed it?

A. Honestly, I was not aware of that.

Q. Was it also a concern, the increasing levels of restraint, was that also a concern to external bodies at

that time?

A. I wasn't hiding it. I was drawing it to their attention, you know, on a regular basis.

Q. All right --

A. That was my role.

Q. Sure. Can we just look, please, at EDI-000003600.

This is a set of documents, again relating to Howdenhall, and I'm going to ask you for your comments about it from your point of view as SNR [redacted] at that time.

This is the inspection report 1998/1999 for Howdenhall. If we go to page 5, please. At 3.8 there is a section on care and control:

'Care and control is clearly a key issue in the operation of a unit such as Howdenhall.

'The unit managers in recognising the need to review practice intend to set up an internal working party.'

Is that something that you recall? Were you involved in that at that time? We're told there's a general concern within Howdenhall and St Katharine's regarding the use of CALM in certain situations?

A. Yeah, I mean, I don't remember the specifics of that. I remember there was a number of initiatives to try and say how can we, you know, try and bring these levels down.

Q. If we look at page 6, please. 3.13.

There's a recommendation to have a review of care and control practices within the unit, in particular the apparent high use of prone restraint techniques. So not just restraint but prone restraint.

So again, does that flag up any particular concerns for you and did it at the time?

A. I suspect it reflects the views of staff in Howdenhall at the time as well.

Q. Sorry, Howdenhall policy?

A. Are we talking about -- we're talking about Howdenhall/St Katharine's?

Q. Yes.

A. Yeah, I mean, I couldn't disagree with that. I mean, I think if we're talking about a working party then that would suggest that we felt there was something we needed to try and reflect upon and do something about.

Q. Page 10, please. It's 8.3. We're told there:

'Staff morale overall appears to be low. Staff were signalling to the inspector feelings of vulnerability. This needs to be addressed to ensure that the environment continues to be one of safety and security.

'Care and control is a major issue.'

There's a comment about morale and vulnerability. I think the evidence that we've heard about that so far

was that that was because of staff shortages and staff feeling vulnerable because of that. Does that sound about right?

A. I would say there was also the external environment, which was one of staff being suspended, not necessarily in Howdenhall and St Katharine's, but just a sense that, you know, you could get a knock on the door essentially and be told that somebody had said something and you were out. So that really demoralised staff. That took away any confidence that many of them might have had.

Q. Perhaps I can just go straight to a passage at page 16 then, please, in the light of that comment.

This is part of correspondence between Frank Phelan and Lawrie Davidson in the inspection unit, do you recall seeing that set of correspondence?

A. I presume I would have. I don't recall it.

Q. Perhaps we can just go quickly to page 20 first of all, then.

Sorry, it must be 21. We can see there's a letter from Lawrie Davidson, in the registration and inspection office. If we go to page 19, that's the start of the letter and it's dated April 1999. So this is the period we're talking about.

If we go then to page 16, paragraph 9, this is from Mr Phelan's reply to Lawrie Davidson and he notes

comments. He says, this is about halfway down:

'The point highlighting the staff's perceptions about the support being offered by the Social Work Department as a whole are similar to those outlined in the Edinburgh Abuse Inquiry, that staff do feel that the prescribed method of dealing with difficult behaviour, ie CALM, is driven by a desire for the department to protect itself.'

Reading short:

'... allied to this is my experience of a staff team here that can be quite inward-looking and can be very suspicious of the motivation of people outside the centre. I would be interested in your views on what staff were saying that they would find supportive.'

Does that support what you were saying about staff feeling vulnerable or is that a different point again?

A. No, I think that probably supports it.

Q. If we can look, please, again at page 19, this is in the original letter.

I apologise for jumping about a bit, but I just wanted to get that point about the vulnerability of staff. This is from Mr Davidson's letter.

A. Mrs.

Q. I beg her pardon. Mrs Davidson says:

'The effectiveness of CALM may be restricted by the

fact that not all staff are trained.'

There's a paragraph with some statistics, suggesting, I think, quite a high rate of restraints. 55 incidents resulting in restraint being used over a three-month period.

LADY SMITH: It's less than three months.

MR SHELDON: Yes, I beg your pardon, my Lady, it is. It is significantly less.

'Records suggest prone position used 44 times.' Again, would you agree that seems a pretty high rate of particularly prone restraints or was that typical of that time?

A. I don't know, it would have to be set against other timeframes. Is this Howdenhall still?

Q. This is Howdenhall, yes.

A. It is. I don't really know.

What I would say, you know, it's not directly related to this, but it's still related to St Katharine's, I remember Emily Campbell saying that she was --

Q. This was your assistant?

A. She's one of the senior staff, saying that she was six months in post before she heard the alarm, before she witnessed a restraint. There are periods when there were very few and periods, for the kind of reasons

I alluded to earlier, that once you get one or two kids kicking off, then it can contribute to a wider sort of culture almost.

So, I mean, I don't know, you know, what those figures would be like compared to other periods.

Q. If we can move to page 20, please. First of all, paragraph 4:

'From reading the records, the inspector is of the view that there may be incidents which led to prone restraint techniques, which could have perhaps been handled in a different way and that the intervention of staff may have escalated the situation.'

So that is the inspector's view. Is that something that you were aware of or conscious of?

A. Not that specific sort of view. I don't -- I would have seen that report, I'm sure, but, you know, 20-odd years ago.

Q. 'The record indicates that a young person having refused a shower became verbally abusive to a member of staff after the member of staff removed the young person's duvet. This led on to a situation where the young person was placed in the prone position.'

It does seem as though prone restraint was used because of an incident at least starting with verbal abuse?

A. Yeah.
Q. We have heard some evidence of that in this set of hearings?
A. Yeah. I mean, on the surface, I would have thought that should have been dealt with differently, you know, if you say that the touchstone is whether somebody is at risk or property is at risk, then, you know, that probably should not have turned into a restraint.
Q. Paragraph 5:

'The records indicate that on a number of occasions the situation escalates quickly from verbal abuse to physical intervention by staff. It's unclear what guidance staff have been given on this, but it appears necessary to the inspector that a full audited incident report is required to ascertain how and why staff are intervening in this way. The lack of agreed individual measures of care and control appears to suggest that the common denominator may apply, "If challenged, intervene".'

What's your comment about that?
A. Again, it's very hard to comment in the abstract without knowing specific situations.

I do agree that, you know, it's that line about when you intervene and I don't think you should be intervening on the basis of verbal abuse alone.

Q. Sorry to cut across, but I think it seems what the inspector is saying is that some staff at least came to view restraint as the normal or perhaps default response to challenging children, children acting out?
A. I think that's something always to be aware of in that kind of setting, to be honest. I think that the management task is really to try and do what you can to support that and avert it.
Q. I want to move on to a different topic, and it's a topic of horseplay which you talk about in your statement at page 41. You say, paragraph 261:

'While horseplay did happen, I never felt it was used excessively or inappropriately.'

Your view was that horseplay didn't lead into restraint incidents; is that right?
A. For the most part. I mean, I know what you're going to show me now, but --
Q. What do you think I'm going to show you?
A. A comment in an inspection report, no?
Q. All right.
A. Yeah. You know, before all this, this period, I would never have even thought of horseplay as a particular feature of St Katharine's. I'm sure it was used but, you know, it wasn't something that, you know, figured in my everyday thinking about the unit and any time I did

see it, it was utterly appropriate and, you know, it wasn't just men that were doing it, you know, women would mess about with kids as well in a friendly way.

Q. I'll perhaps come back to that issue, but first of all another word for horseplay is toy fighting. I just wonder, we wonder, I think, whether the fighting is truly toy fighting. There are no toys involved or are there?

A. No, no.

Q. It's physical interaction --

A. It's horseplay, it's physical interaction.

Q. And sometimes robust physical interaction?

A. Yeah. Erm, mostly not robust actually, I think, in this period of time, and again it's to do with the composition of the staff group that, you know, it can be less robust with a wee kid of four-feet-nine than it would be with a six-feet-three kid, who's operating at a 2-year-old level.

Q. I suppose if you have a six-feet-two kid, who is trying to engage in horseplay with a much smaller member of staff, for example a female member of staff, then you may have some problems?

A. I take that. No, I think that's one of the issues.

Q. You are right that I want to take you to an inspection report, it's EDI-000003595.

If we can just see the first page of that, please, just to get the date again. This is the inspection of Edinburgh secure units February 2000. If we go to page 16, please. Paragraph 37, we're told:

'In Braid, the atmosphere is warm, caring and relaxed. Difficult situations were defused rapidly. In Guthrie, a relaxed atmosphere could soon become tense with horseplay deteriorating into loss of self control. This was partly attributable to the instability of some young people and the mix of residents. However, the standoffish approach adopted by Guthrie staff may have contributed to a climate where incidents were more likely and could easily escalate. Staff complained about the policing role in relation to young people and attributed this to low staffing levels. Observation of staff suggested otherwise. We were struck by the failure of staff to engage consistently with young people in a structured programme of activities. Urgent consideration needs to be given to the use of staff in Guthrie.'

Do you remember that report, 'Dominic'?

A. I remember -- I remember getting the report, yeah. I don't remember too much of the detail, but I'd have to say I agree with, you know, aspects of it.

Q. So horseplay or toy fighting, at least on the basis of

that report, was also starting to give you some grounds for concern?

A. Erm, I don't know if it was. I mean, that same report did not say there was an issue with horseplay. It said that they saw one episode of horseplay leading to restraint. It didn't say there was a systemic issue of horseplay particularly and it didn't sort of suggest that the intervention was abusive.

Q. I'm not sure it's referring necessarily to one incident of horseplay, it's not saying that there was an incident of horseplay, which --

A. Okay.

Q. -- deteriorated.

I think at an earlier stage there were some guidelines put together about horseplay or toy fighting; is that right?

A. By me? Or --

Q. That's what I wanted to ask you about actually. If we can look at EDI-000005687.

This is the Howdenhall induction pack and if we scroll right to the foot, I think we can see a date there, which is before your time at St Katharine's.

If we get right to the foot of the document, I think the date should be there. It may be on the last page, then, try page 3. There you go.

A. It's Andrew.
Q. Andrew McCracken, 4 November 1992.
If we can just look though at page 2 of that document, please.
LADY SMITH: Could I just interject, Mr Sheldon, I'm not sure from anything I've seen that page 2 is necessarily the page in the overall document that came before what's numbered as page 3. These individual pages have been extracted.
MR SHELDON: They have been extracted.
LADY SMITH: Can I be confident that page 2 is a November 1992 creation or not?
MR SHELDON: I'm sorry, my Lady.
(Pause)
LADY SMITH: Sorry, about this 'Dominic'. These three pages don't obviously look as though they ran together in a single document.
MR SHELDON: Yes. I apologise, my Lady. This document was received at a very late stage and an extract created to avoid the redaction process in short order, but we'll check that, my Lady.
LADY SMITH: If we could.
It may or may not matter, it's just to be careful about that.
MR SHELDON: Yes.

LADY SMITH: We're not categorically saying to you, 'Dominic', that this is definitely a document dated 4 November 1992 but it looks as though it's probably 1990s, from what we've heard.

A. If it was Andrew McCracken who wrote it, then that would be just after he took over at Howdenhall so that would make some sense.

LADY SMITH: When did he take over, can you remind me?

A. He went to Pentland View in September 1992.

LADY SMITH: Okay. Right. So it might be around that time?

A. I would suspect.

LADY SMITH: Thank you.

MR SHELDON: Can I just ask you: have you seen this document? We can see the first three paragraphs there:

'Toy fighting can provide an appropriate mode of physical contact ...'

And so on.

(Pause)

My Lady, it doesn't appear that there's a date on this particular part of the document. It does seem to be a separate document from the cover page.

Just coming back to my question to you, 'Dominic', is this something that you have seen before or some version of this perhaps?

A. I've a feeling I may have written it.

Q. Well, that was my next question.
A. I don't know in what context or where particularly, but I suspect at St Katharine's.
Q. Right, so whatever the cover page, as it were, says about it being a Howdenhall induction pack, you think this might be a St Katharine's document, or at least that there might have been an equivalent at St Katharine's?
A. I would have thought it would be moving towards some sort of harmonisation across the two units. I suspect that that is something that I wrote.
Q. So you tell us -- I should say neutrally, that the document tells us that:

'Toy fighting between staff and young people can provide an appropriate mode of physical contact.'

And we have your evidence about that.

5.2:

'Youngsters who have been abused can benefit from experiencing physical contact. However, take care not to become involved in any physical contact which might be construed as sexual.'

I suppose, pausing there, that does beg the question of whether staff either have appropriate boundaries or are able to recognise when a physical contact might be turning into something sexual.

A. Erm, I was never aware of anybody saying that horseplay had a sexual connotation. I mean, I think I would have written that on the basis of what kids' previous experiences may have been and for staff to be aware of that.

Q. 5.4:

'Toy fighting should not be used as a trial of strength with young people. If this is one of its purposes, it excludes those staff who are not as physically able or who are less comfortable in such ways of working and hence reinforces messages that control is executed through physical strength.'

So I guess two points there, perhaps at least two points. Staff who were not as physically able or perhaps not as comfortable with engaging in this sort of conduct might feel excluded?

A. Mm-hmm.

Q. I suppose if they walked into a room and saw a member of staff, at least apparently, fighting with a young person, they might find that quite disturbing actually?

A. Potentially, yeah. I mean, it's one of these things where there's no black and white answers. I think sometimes people look for black and white when it's only ever shades of grey.

I wasn't comfortable in horseplay so I didn't really

get engaged -- engage in it at all.
Q. You were personally uncomfortable with it?
A. Personally, yeah, yeah, but I could see other staff were very good at it so ...
Q. What do you mean by 'good' in that context?
A. That kids got something out of it. That they got something out of the physical engagement. They got something out of the proximity to staff, the closeness, the -- especially with staff that they liked or only actually with staff that they liked. It tended to happen with -- you know, amongst kids and staff who had a pre-existing relationship.
Q. Yes, but I guess again there are dangers in that. If children are seeking out this form of physical contact with perhaps particular members of staff, then it's testing boundaries for both of them, isn't it?
A. There are dangers in everything we do in residential care. That's the reality.
Q. The other point arising from that paragraph is it may reinforce messages that control is executed through physical strength. We've seen some material that suggests that the CALM training and perhaps the way that was interpreted by some members of staff at St Katharine's/Howdenhall also reinforced that message, that control was all about physical strength. It was

about power?

A. Mm-hmm. I mean, I think this suggests, you know, that I was aware in having those conversations about horseplay.

I mean, I probably formed my views on horseplay from previous experience in some ways, erm, where I thought it was bordering on that control element. I wasn't aware of that in St Katharine's. Most of it was very positive.

Q. All right.

LADY SMITH: 'Dominic', you say, very frankly, you weren't comfortable with horseplay and you didn't really get engaged in it at all, but you tolerated it?

A. Yeah, because I think it is to do with interpersonal comfort, you know. I wasn't good at it. You know, so, yeah, I found other ways to engage with kids and that was probably going to the gym, running about with them, playing football or something. So it was satisfying a need that, I think, kids, particularly boys, have for physical contact.

LADY SMITH: Was there ever a concern you had that the fact that it was permitted put pressure on staff who also weren't comfortable with it, to engage in it?

A. Erm, I don't think that happened, I mean I think --

LADY SMITH: How would you know?

A. Erm, through sort of -- through seeing, through seeing it and I think kids often initiated it. So they would initiate it with kids -- with staff who they thought would respond in a way that they wanted them to respond. Kids are very intuitive. They actually pick up who is to do particular things with or engage at particular levels.

LADY SMITH: Thank you.

Mr Sheldon.

MR SHELDON: My Lady.

You tell us over the page, paragraph 264, that --

LADY SMITH: This is in the statement?

MR SHELDON: This is in the statement, my Lady, yes.

That you're aware of claims about the link between horseplay and restraint. I suppose that is the next question arising from the whole issue and, indeed, the guidance that we've seen, that if you have children, perhaps engaging with each other, or engaging with staff, in a physical -- you describe it, I think, in your statement somewhere as wrestling, 'If you want to raise boys, learn how to wrestle'.

Is there not an obvious danger that it gets out of control, that someone just goes that little bit too far, pokes, prods and the situation escalates and either staff have to step in, separate, restrain or the staff

member engaged in the horseplay feels that they have to restrain the child or, indeed, retaliate, is that not a danger?

A. It's a danger. There's also a danger that if you don't actually accommodate kids' desire for physical contact, then they play that out in other ways. That's a very powerful message in Laura Steckley's research, that kids need physical contact and if they don't get that kind of physical contact in appropriate ways, then there's a good chance that they'll act it out through restraint.

So in some ways there's two sides to that story. I think, handled badly, it could actually escalate. Handled well, it could avert a situation of restraint.

Q. I think we all understand that children, adults too, have a need for comfort, warmth, reassurance and that that can be done physically.

I suppose the question is: does it have to be through horseplay or are there other appropriate means of showing physical affection that would be more appropriate and more calming?

A. Erm, I don't know. I mean, I don't know if we're always looking for calming. We're sometimes looking for, you know, getting rid of energy. I think you're looking for sort of calming interventions as well, which might be a pat on the shoulder or ...

Q. You say that there was an investigation about the issue by Les McEwan, the Director of Social Work. He said the investigation hadn't found anything untoward, but he suggested to you that you were circumspect in relation to how horseplay might be construed.

So was he meaning really that you should be aware of how outsiders to St Katharine's might perceive it?

A. I suspect so, yeah.

Q. You then go on to talk a bit more about restraint and injuries. You've talked a bit about this before. The only obvious injury you saw were carpet burns and we have heard some evidence about children sustaining that sort of injury, both in St Katharine's and elsewhere.

I just want to ask you about the type of restraint that perhaps you used to use, which was placing a pillow under a child's face to prevent this kind of injury, but you said you moved away from that.

A. My recollection was that we were told not to do that in CALM training. I suspect it was to do with covering a kid's nose and mouth and airways.

Q. It seems like a potential asphyxiation risk, but that practice did happen for a while, did it?

A. No, I don't know if it did under CALM. I think when we used to previously restrain kids, we would put a pillow under their head.

Q. Okay. Page 43, you talk a bit about the day-to-day running of St Katharine's. I can take that short.

But returning to the issue of complaints, we saw some documentation earlier that indicated that there was no record of complaints held within the unit, albeit there may have been one independently outwith the complex.

Did children in fact complain?

A. Sometimes, yeah.

Q. Or, indeed, adults on their behalf?

A. Erm, I'm not aware of that. I mean, you know, the option was there.

Q. Were complaints ever upheld, do you recall?

A. You know, I don't recall any. I mean, I'm sure -- there was one actually that I do remember that was upheld and I was annoyed about it, and it was early doors.

It was a lad who -- he was the first sort of openly gay boy that I had worked with and, erm, we had concerns he was on the sort of rent boy scene, and he came back with a tenner at one point, having been out, and I took the tenner from him and he complained.

The reason -- my rationale was that, you know, I wasn't going to pass judgment on what he was doing, but if he was bringing money back into the unit then I couldn't be seen to condone that. So I took the money

from him. He complained and I had the complaints officer and the children's rights officer saying to me, 'That's his money, give him it back'. I held my line on it. So there were -- that's the one that comes into my mind.

Q. It's a digression from the subject I wanted to ask you about, 'Dominic', but just to ask you about that because obviously child exploitation is very much in the news at the moment. That was clearly a concern you had at the time. What led you to have that concern, do you recall?

A. That was a one-off at that point. Subsequently there was some concern at council level and a couple of people did a report, presumably with the director on it. I wasn't aware of exploitation as a particular issue.

Q. What made you suspect, or fear perhaps, that this young person was, this child was --

A. He was quite open about it in some respects. So that was an individual case. There was nothing systemic that concerned me.

Q. I'm just interested in the individual case; how you were able to reach that conclusion and you say he was open about it. He was open about what exactly?

A. He was open about being on the sort of gay scene, I think, in Edinburgh. He was in one of the open units.

Q. What age would he be at that point?

A. 15, I think.
Q. All right, and did he say that he'd had sexual encounters?
A. Yeah, more or less he did, yeah.
Q. That led to the incident that you've described?
A. Yeah.
Q. Did he tell you where or how he was coming about these sexual encounters?
A. No.
Q. It was all fairly vague, was it?
A. It was pretty vague, yeah. I mean, he actually had a very good relationship with Onanda, who was one of the seniors at the time, she dealt with him mostly.
Q. Did he say expressly, or even by implication, that people he was having sexual encounters with were older people?
A. He didn't actually, no.
Q. But you say he came back with some money and you suspected that that was the result of something like that?
A. It's a suspicion, yeah, yeah. It was a tenner.
LADY SMITH: How did you know he had the money?
A. I think the night staff, he came in and he must have told them or they must have saw him with it in his hand or his pocket or something.

LADY SMITH: Okay, thank you.

MR SHELDON: Would he have had any other obvious source of income at that time?

A. I mean, it could have been completely innocent, but no.

LADY SMITH: He could have nicked it.

A. Absolutely, yeah.

MR SHELDON: Thank you. I'm sorry, that was digressing.

I was asking you about complaints. Were complaints ever withdrawn?

A. What do you mean withdrawn?

Q. Well, did children ever make a complaint and later say, 'Oh, no, that didn't happen'?

A. Erm, if they made a complaint it would have gone to the complaints officer, who would have decided whether it needed investigation. That investigation might initially have been checking out with myself, I guess, but if it was beyond that, then, you know, there would have been some more formal process of investigation, so I don't know if there was scope really for -- kids would have had to then get back in touch with the complaints officer somehow.

But the other dimension to this is that they all had social workers as well. You know, there were all sorts of other routes to complain, other than the complaints process itself.

Q. How did it actually work within the units? Did children say to staff, 'Look, I want to make a complaint about this, give me the form to fill in'?

If, indeed, there was such a form.

A. There was such a form, yeah.

Yeah, that's basically the way it would work. I mean, I think, as with any complaints procedure, the first line is to say the lowest level resolution, so you would say: can we sort this out, you know, before we need to go to a complaint.

Q. Well, that's really what I wanted to ask you about. Can I show you a document, it's at CIS-000006052.

This is an SWSI report on care arrangements in secure at St Katharine's/Howdenhall. If we scroll down we'll get the date. It's December 1998.

If we go to page 8, please. Paragraph 34, we're told:

'Young people were aware of their right to make a complaint. There was some uncertainty about the exercise of this right, particularly in Guthrie. Complaints leaflets containing a freepost slip are produced by the Social Work Department and should be readily available. However, young people drew attention to staff attempts to dissuade them from making complaints and slowness in supplying forms, which are

held centrally. Staff have an important enabling role in relation to young persons' complaints, but overzealous attempts to resolve them locally may be misconstrued as a denial of rights. Both units should follow the departmental complaints procedure.'

Now, first of all, do you recall seeing this report?

A. Yeah, well, 25 years ago.

Q. Sure. I appreciate it's a long time ago. But is that right? Were staff trying to dissuade children from making a complaint?

A. I think we probably were following the complaints procedure, which was, you know, to try and deal with the situation at local level. We never denied any -- if you look at the paragraph above on that report, then you'll find a statement which says that children were well aware of their rights, confident about their rights and how to exercise them.

So I don't have an -- you know, it was really -- I was uncomfortable about leaving complaints forms just on a coffee table or whatever, because you'd get kids falling out with somebody saying, 'He never gave me my pocket money on time', or, 'He never took me out shopping that day', and that would become a centralised complaint.

Most of the things that kids complained about were

pretty low level and were easily resolved at unit level.
Q. I suppose if there's a culture in the unit of saying to children, 'Look, we can sort this out locally, don't worry about it', then does that culture not become ingrained if there are more serious complaints to be made?
A. I think potentially. On the other hand, I think people were aware of what needed to be escalated and what could be dealt with once the initial heat of a situation died down.
Q. Are you sure that all staff were on board with that? I mean, if some staff were trying to persuade children to withdraw a complaint and deal with it in-house, it's not very far from that, isn't it, to simply saying, 'No, I'm not letting you complain', or ripping a complaint form up?
A. Nobody ripped complaint forms up.
Q. Well, we understand your position about that, 'Dominic', and it's in your statement, but is that not the culture where that sort of thing might happen?
A. It wasn't that kind of culture. It was a pretty open culture. That was the kind of culture that I tried to encourage. Erm, I was not aware of -- you know, staff were aware that kids had all sorts of other outlets as well. We had a children's rights officer coming in on

a regular basis. We had social workers coming in, hopefully on a weekly basis. So if a kid said to a social worker, 'He never gave me a complaints form', then, you know, that could be taken up through that channel as well.

I think staff would be taking a bit of a risk by saying, 'I'm not giving you a complaints form'. They would certainly be taking a risk by ripping one up.

Q. I want to look at something that follows on from that. At paragraph 281 you were talking about concerns about the senior management culture. You have referred earlier to the situation where staff perhaps didn't feel safe because they thought they were under scrutiny from outside the unit.

At 281, you talk about concerns being played out in the establishment and the operation of the recruitment assessment centre and the idea that staff coming through the assessment centre were being briefed to 'dish the dirt', of which there wasn't any.

I suppose the first question that arises from that is, well, if there wasn't any 'dirt', using that expression loosely, why would staff have been trying to persuade children to withdraw or drop complaints?

A. I don't think they were. They were sort of saying, you know, 'You've had a fall out. Can we deal with that?',

as you deal with fall outs, which is interpersonally, and if you can't do it there, then, you know, take the next step.

Q. I mean, from the point of view of external agencies; Duncan MacAulay, Director of Social Work, and so on, we have seen the chapter in the earlier documents about the level of physical interventions at St Katharine's and Howdenhall and what's been described as perhaps an insular attitude of staff at that time.

We have the SWSI report saying that staff may have been trying to persuade children not to complain. I accept that's a fairly bold statement. It may not tell the whole story, but that's perhaps what outsiders are seeing.

If the St Katharine's view is, 'Well, keep walking, there's nothing to see here', then can you perhaps see that outside agencies might have cause to want to know more about what was going on in St Katharine's/Howdenhall?

A. Yeah, I mean, I was always very open about what was going on in -- St Katharine's in particular. I think that report that you're alluding to was addressed to Les McEwan as ultimately, you know, the person who was in charge of secure accommodation.

Q. Well, that's perhaps my point.

A. He didn't come to me and say, 'Look, there's an issue with complaints. You need to have a conversation about this'. Nobody did.

Q. Okay. Can we look, please, at some correspondence. This is correspondence that you provided us with. The first one is WIT-3-0000005796.

This is a letter from you, and I think it's to Duncan MacAulay, about a woman called Carol Mentiplay. You say you need to raise some grave concerns about the role of Ms Mentiplay in recent events:

'For a good while, I've been concerned at the blurring of boundaries between the recruitment and the assessment centre and the management structure.'

You met with someone called Stan Godek and Carol Mentiplay in an attempt to clarify this:

'I was assured the role of assessors was solely that to address competency requirements. More recently, I've been concerned at some of the messages emanating from the assessment centre about the role of males in residential care and the perception that females are natural de-escalators and thereby, by inference, that males are not. This, I believe, is a naive and dangerous view and one which would seem to me to reflect a particularly political view of sexuality.'

Taking that short:

'It's been also drawn to my attention that Ms Mentiplay is misrepresenting departmental policy in relation to toy fighting by indicating to new recruits that it is prohibited. As you know, it is not. The representation of this view, however, is likely to put recruits in a position whereby they witness practice in St Katharine's which they must assume is contrary to departmental practice.

'Within the past few days I've been informed that Ms Mentiplay has called one of the RCOs at St Katharine's and enquired of her whether she wished to discuss any concerns about practice with yourself. This was a permanent RCO with whom Ms Mentiplay has absolutely no locus for such intrusion.'

I think that goes over the page and there's some further material there about Ms Mentiplay.

About halfway down that paragraph, you say:

'Had Ms Mentiplay any genuine concerns about practice within St Katharine's or the safety of young people here, she had an obligation at that time to raise them with one of [redacted] senior staff or myself. If for any reason she did not feel able to do so, her obvious point of contact for any concerns ought to have been Donny Scott. I cannot understand why she should choose to bypass established line management structures by

attempting to route any concerns directly to yourself. Such behaviour is entirely dissonant with any notion of the kind of open culture which the department professes to encourage as the best way to ensure the safety of young people in our care.

'I can provide supporting evidence ... '

Reading short -- I should read that actually:

'I am sure that you will agree that this information, if substantiated, must seriously prejudice any inquiry that has been initiated ... and such behaviour has had an extremely deleterious effect upon staff at St Katharine's and our ability to ensure appropriate service delivery.'

I'm going to show you the reply that Mr MacAulay then sent, but I just wondered, just thinking about that last passage, why did you feel it would seriously prejudice any inquiry?

A. Because the inquiry was on the basis of information that had been fed to Duncan MacAulay and Duncan MacAulay was going to undertake the inquiry. It was a complete lack of boundary between the two. He was also soliciting information.

Q. I think the point I'm putting to you is that was it not a legitimate exercise, to solicit information?

A. No --

Q. In the circumstances that he was aware of at that time?
A. I don't think it was. I think that there's an --
I think it was a breach of trust actually, in employment terms that, you know, he was going behind my back to try and solicit information about what was going on in the unit, without any process, without any due process.
The unions were very annoyed about that at the time.
Q. Yes, you mentioned that you copied the memo to UNISON.
If we can look then at Mr MacAulay's reply, it is WIT-3-0000005795. This is April 2000. He refers to your earlier memo, specifically mentions Carol Mentiplay:
'Firstly, let me say that I'm pleased that you've had an opportunity to raise with Stan and Carol, prior to Christmas, your concerns.'
Reading short:
'At the management board recently, which has a broad range of representation, we agreed that issues of practice that were of concern to either of the employee and development officers should in the first instance be taken to the line management structure within the unit. We also agreed, however, that should there be wider issues that remain unresolved, then these could be taken outwith the unit.
'With regard to your concern about the messages

emanating from the assessment centre about the roles of men and women, I am somewhat perplexed by that. As you know, I chair the management board and I can at no time recall any discussion on this matter. I would be grateful if you could give me some details.'

In relation to the issue of toy fighting, the matter is discussed and he says:

'I'll draw Carol's attention to the current policy.

'In relation to the other matters raised in your memo regarding Carol's role in the free expression of staff concerns, whilst I do not wish to comment on detail, she was in fact acting with my authority. As you know, whilst acting under the free expressions of staff concerns, staff have the opportunity to discuss this with whomsoever they wish. Whilst you may not agree with that particular aspect of the policy, that is in fact what happened in this instance and Carol was not acting outwith the agreed policy of the department.'

Scrolling down:

'I note your intention to consult with the union.'

There is a bit about the issue about the inquiry that you have mentioned.

So Mr MacAulay there is making clear that Ms Mentiplay was acting on his -- certainly with his authority and this is part of a process or a procedure

known as free expression of staff concerns and is it not a good thing to have such a process and in which concerns, such as those raised, whether well-founded or not, can be aired?

A. Erm, I think there's got to be an element of proportionality and there was potential, if she was unhappy with what is going on at unit level, to go to my line manager, who was Donny Scott. I think my concern was that by this stage, I had been seen as a problem because I was raising legitimate concerns about the assessment centre and there was an attempt to find out -- try and find stuff that could stick to me.

Q. Well, just to be clear, I think you told us earlier that your real concern about the assessment centre was that essentially they took a different view of childcare policy to your own?

A. Well, also took a wrong view of childcare policy by telling potential recruits that horseplay was forbidden when it wasn't, and that taking kids home was forbidden when it wasn't and was unprofessional. So there was a clash.

Q. I suppose they may have thought, and I'm sure we wouldn't condone misrepresentation, but they may just have thought the horseplay was inappropriate?

A. No, they said it was against departmental policy.

Q. If someone has a concern, as I say, whether well-founded or not, and we know your position about that, if someone has a concern that staff are acting violently towards young people, then that is surely a legitimate concern to raise through a process such as the one that Mr MacAulay's describing?

A. Actually, was it -- you know, KTS [redacted] tried to raise it at the time and then acknowledged that what she saw was not -- you know, was okay, that there were no concerns.

If you look at KTV [redacted]'s statement, she says:

'I didn't see many restraints, they didn't happen when I was there.'

So on the one hand they're saying there were seven or eight restraints a day, which is nonsense, and at another level, they're saying, 'I didn't see them'.

Q. I think the point I'm putting to you though, 'Dominic', is a wider one, that Duncan MacAulay and Carol Mentiplay are faced with reports like that?

A. Yeah.

Q. Whether they're correct or not, they also have inspection material that suggests that there's a high number of prone restraints happening, that staff are too quick to restrain, that physical intervention is the

first response perhaps rather than last one --

A. You are taking --

Q. -- and with the idea that there may be an issue, there may be an issue with the complaints process within the unit, then that is surely a matter of concern for the wider department?

A. Yeah, okay, it was partially sort of implemented then, because Emily Campbell wrote a letter, a memo, under the free expression of concerns to the Lothian Region Inspection Service, drawing attention to the mismanagement from senior managers and that didn't get any response.

So there was an attempt to use the free expressions policy to the purposes or to the ends of, you know, senior management rather than to really engage in a kind of discussion that needed to happen.

I mean, I was not averse to sitting down with people and saying, you know: how do we deal with these issues?

What I was concerned about was the, you know, management culture. I have documentation which outlines the results of a seminar held regarding the Edinburgh Inquiry, and it speaks very explicitly of a blame culture and a culture of fear within the department.

That emanated from the top.

MR SHELDON: My Lady, I have got probably another 15 minutes

to go, I'm happy to press on. I'm in my Lady's hands about how we continue.

(Pause)

There are just a few more documents to look at, 'Dominic'. I think probably three.

You say at paragraph 291 that you weren't aware that there were any concerns that staff were mistreated, all inspection reports noted that they were safe.

We have seen some reports about prone restraints and so on. I just want to look, if we can, at EDI-000003595 again. We've seen this before but this time it's paragraph 53:

'Measures of control to deal with challenging behaviour were accepted by young people. In Guthrie, restraint techniques were seen to be used appropriately by staff to bring behaviour under control and prevent young people being hurt. Young people in Braid said that staff were sometimes heavy handed when placing them on the floor. We noted a number of injuries to staff, particularly to fingers and wrists, when using the CALM method of restraint.'

So there is a complaint there of being heavy handed, and it's perhaps unclear what that means, but if one were to see that in an inspection report, that would give one some concern, would it not?

A. Yeah, if it did then I would have thought that senior managers would have done something about it. But the interesting thing about that is that it actually is the opposite of the other inspection report because that says that practice at Guthrie was actually very good, whereas in Braid it was potentially heavy handed. The other one said that practice in Braid was very good and in Guthrie was, you know, not so good.

Q. I suppose that point works both ways, 'Dominic', because it may be that the inspectors observed some practice on a particular day --

A. I mean, they're snapshots. I was the one who was there throughout.

Q. Were you conscious of staff being heavy handed?

A. No.

Q. You didn't get complaints about that from anyone?

A. No, not that I'm aware.

Q. All right. If I can look at another document. It's EDI-000000749, please.

Are you familiar with this document, 'Dominic'?

A. Erm, funnily enough, I have seen it, even although I was well away from St Katharine's by the time that Gordon Collins was there.

Q. Yes, and there's a number of caveats about your knowledge and involvement in what is talked about here.

I want to put it to you for your comment all the same because it does cover the period 1995 to 2006 in both Northfield and St Katharine's and the point of the report was first and foremost about the sexual abuse perpetrated by Collins and he's convicted in 2016.

But the review looked a bit more widely than that. If we can look, please, at page 6 first of all, it's towards the foot. It's a paragraph on methodology.

We're told that the report is looking at what were the circumstances in which abuse was able to occur and, indeed, to continue for so long. In phase 2, which is what this report is about, the reviewers interviewed the girls concerned, now women. They read police statements, examined case records of professionals and that included social work, residential care, police, education and health. And over the page, please, examined residential care files and interviewed staff from all agencies, except education involved with the victims at the time.

That included 17 residential care staff and managers from Northfield and St Katharine's, four social workers and a school-based social worker, three children's rights officers or advocates, senior managers, a nurse, a sexual health adviser, four staff from Edinburgh Connect and assorted others.

So it's quite a broad range, perhaps not a huge number, but it's a significant number of people consulted and interviewed and as well as the risk of sexual abuse, they were looking at circumstances which might have contributed to that.

At page 48, they start to look at some other issues which caused them concern in that respect. They've covered Northfield, they now look at St Katharine's and they say:

'Some of the staff behaviour and management responses at St Katharine's that were described to us concerned us.'

Of course, this comes with the caveat that we're not sure actually whether this relates to a period when you were there or whether it was after that. But we had a conversation earlier about culture and how cultures can continue if, for example, staff remain over a period of time.

The reviewers had reports that residents were locked in their rooms without any possessions for long periods, sometimes for days, and we have had evidence about that directly in this set of hearings. A member of staff raised a concern about a colleague who had pinned to the floor a girl who had given the member of staff 'a funny look'. The staff member who reported the concern was

told 'perhaps secure is not the place for you'.

That's actually a phrase that you used earlier on, 'Dominic', in relation to some staff, perhaps less experienced ones, that you felt weren't going to be suitable for it, 'Maybe secure isn't the place for you'. Is that something that you would have said?

A. Erm, not directly to somebody, no.

Q. I thought you told us earlier on that it was?

A. No, I didn't say that I would use that phrase. I think there's a big difference between, you know, that as a general statement and me actually saying, 'Maybe this is not for you'. I was far more sensitive in my interactions with staff.

Q. All right.

A care officer saw a boy's wrist and arm twisted. On reporting what she saw, she was challenged to repeat the allegation and had what she felt was a hostile interview.

A member of staff complained she saw a girl restrained and dragged upstairs to stop her leaving Chalmers unit.

A member of staff reported a colleague's harsh behaviour.

Another ex-member of staff said she thought some staff enjoyed restraint and were waiting for it.

External professionals, staff and ex-staff, said that St Katharine's was a:

'... macho environment staffed by big men who believed the young people were high risk, needed to be locked up and had to be kept under control.

'The harsh regime and the overuse of power was considered by those visiting the unit to be abusive.'

So that's the reports that the reviewers are getting. Again, I just want to get your comment on what you think of that, thinking about your time at St Katharine's?

A. Well, I wasn't interviewed. I'd have thought if they were concerned about my time at St Katharine's then whoever did the review would have interviewed me. Erm, so I've no idea. I don't see why an inquiry into abuse which started in Northfield, when? 1997?

Q. 1995, we think. Or certainly that's when Collins started working there.

A. Okay, but the first instance of abuse was?

Q. 1996, I think.

A. Right. Okay, well, I mean, I don't know why the culture at St Katharine's for that period would actually be of any relevance. It seems to me as though the council is trying to say, 'Well, that was then and this is now and we're okay now', which is not the case.

Q. Well, with respect, 'Dominic', I think that's a bit of a deflection of the question. Whatever the merits of the procedure that the review follows, this is what was reported to them. I'm asking you whether that kind of culture was a feature of life, so far as you were aware, at St Katharine's during your time there?

A. It wasn't, no. I think I've given a fairly full account of what I thought St Katharine's was like. Not just me. I mean, everybody -- or almost everybody who worked there.

Q. We have heard evidence that you were heavily involved in admin, that at times even overloaded. Is it possible that things were going on that you just weren't aware of?

A. I don't think so. I had good relationships with staff and with kids. Erm, I think I had a good feel of what was going on.

Q. I suppose perhaps finally I should really put two questions to you.

The first is about the correspondence that we have looked at in relation to outside agencies, such as Duncan MacAulay's office, looking into matters at St Katharine's. Would you agree that the way that that's all framed does make it appear that you were being quite defensive and quite insular about the

running of St Katharine's, that you didn't welcome outside scrutiny?

A. That's nonsense. I saw that in one of the sort of statements that were made. Erm, it was the opposite. I was -- as I say in my statement, I was proud of what was going on at St Katharine's. I was well respected. I've got testimonials from all sorts of people who talk about the good work that St Katharine's did, which is very different to what is available in that report.

Q. It is always possible, isn't it, that among good practice, there are those who indulge in bad practice?

A. In any setting.

Q. That may not depend on qualifications. Someone can be well qualified and yet still --

A. Absolutely.

Q. -- act in a way which is --

A. That's why I sought to have a variety of qualifications.

Q. At page 48, paragraph 300:

'Looking back, there's nothing I did or failed to do in relation to the treatment or discipline of children or protection of children that I now regret.'

Having regard to the various bits of material that I've shown you and the discussions that we've had, do you stick to that, 'Dominic'?

A. I do, absolutely.

MR SHELDON: My Lady, I have no further questions for 'Dominic'.

LADY SMITH: Thank you very much, Mr Sheldon.

'Dominic', it just remains to me to thank you for bearing with us today and we've questioned you at length about matters that happened a lot time ago. I do appreciate that and I'm sure that it's been stressful for you to go through this.

You know why we are doing what we're doing and it's not to do with any of us, it's to do with children and trying to work out the best things for the future. Your input has been really valuable. I'm grateful to you for that.

Now, please feel free to go and hopefully put your feet up this evening.

A. Before I do, I would just like to say that the way into this for me seems to be two statements, both of which have made erroneous, malicious and defamatory, you know, statements about me. Erm, I don't think that's the best use of the Inquiry really to, you know, allow that kind of statement to take such precedence in terms of the demands that have been put upon me.

I think I've gone through each of the claims made in the statements and rebutted every one of them, which was very easy, because, as I say, they're false, they're

malicious, and, if uttered in a different place, would be subject to legal action.

LADY SMITH: That's all noted, 'Dominic'.

It's in the transcript. Thank you.

(The witness withdrew)

LADY SMITH: No read-ins today, Mr Sheldon.

MR SHELDON: No read-ins today, my Lady.

I think tomorrow we have another live witness first thing.

LADY SMITH: Yes.

The rest of this week we plan to take one witness in person tomorrow, one witness in person on Friday.

MR SHELDON: That's correct, my Lady.

LADY SMITH: Hopefully finish the read-ins, the statements that we haven't yet read in, and dare I even suggest that when we get to Friday, that will have been the last witness in person for this phase.

MR SHELDON: I believe that's correct, my Lady.

LADY SMITH: Which began in September 2023.

MR SHELDON: Quite the milestone.

LADY SMITH: I'm sure we're all feeling we'll believe it when we see it.

Meanwhile, there is another couple of days' work to do. I'll rise now for the break until tomorrow morning.

Before I do, three names from today were mentioned,

who mustn't be identified as referred to in our evidence outside this room. One of them's [redacted], another [redacted] and another [redacted].

Thank you very much.

(4.32 pm)

(The Inquiry adjourned until 10.00 am on Thursday, 23 January 2025)

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