

Friday, 31 January 2025

(10.05 am)

LADY SMITH: Good morning, and welcome back to Chapter 12 in this phase of our case study, looking into St Katharine's, Howdenhall, et cetera.

You may remember we had one statement still to read in, I think it is quite a substantial statement that we have to cover. Ms Forbes, I gather you are ready to do the read-in, is that right?

MS FORBES: Yes, my Lady.

LADY SMITH: Thank you.

MS FORBES: Good morning.

My Lady, this statement is from an applicant who anonymous and is known as 'Danni', spelled D-A-N-N-I.

'Danni' (read)

MS FORBES: The reference for 'Danni's' statement is WIT-1-000000485.

As your Ladyship says, it is a 126-page statement. However, much of it deals with other places --

LADY SMITH: Yes.

MS FORBES: -- outwith this case study, but I will try to summarise as best as I can.

'Danni' tells us, my Lady, she was born in 1963. She says it is difficult for her to remember where and when she was in the different places, and she tried to

1 estimate in her statement, but states that she might not
2 be correct.

3 She tells us about her life before care between
4 paragraphs 2 and 5. She has two older brothers, and she
5 heard different stories about her parents growing up.
6 I think the records that we have say that her mother
7 took her own life and that seems to have then led to
8 various homes and placements. I think at six months
9 old, we know from the records, she went to stay with her
10 maternal grandmother, and that was her and her two
11 siblings. Then she was admitted to Glasclune on
12 [REDACTED] 1964, at only 15 months old.

13 From then on she stayed in various different houses,
14 children's homes, placements, group homes, until she was
15 admitted to Midfield on [REDACTED] 1977, when she was
16 13 years old. I think on the run up to that, she was
17 at points split up from her siblings. I think that was
18 just after her eighth birthday.

19 She tells us about Midfield between paragraphs 6 and
20 196. [REDACTED] Secondary Institutions - to be published later

21 [REDACTED] Secondary Institutions - to be published later
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 She talks about a community placement, I think she

1 thinks she was there, supposed to be permanently, but it
2 seems to have been a little bit of a trial period, and
3 that's between 196 and 205, the paragraphs in her
4 statement.

5 I think the records we have show she only went to
6 stay with this couple for a few occasions and she never
7 really left Midfield, and then she was back in Midfield
8 from [REDACTED] 1978.

9 She talks about Midfield again from paragraphs 206
10 to 224. She was 15 by this time, [REDACTED] 1978, Secondary Institution

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22 Secondary Institutions her being in Howdenhall.

23 Then she tells us about Howdenhall from paragraphs
24 225 to 260. We know from her records, my Lady, she was
25 actually only in Howdenhall from [REDACTED] 1979 to

1 [REDACTED] 1979, so a period of only about five or six days,
2 and she was aged 16.

3 She tells us at Howdenhall that nobody discussed
4 with her how long she was going to be there for, and
5 I think we know, I think from her, yes, she tells us
6 first of all that when she arrived, every door you went
7 through could be locked with a key. This is at
8 paragraph 227. She was terrified of locked doors and it
9 was all basically cells.

10 She talks at paragraph 229 about Mr EWA, who they
11 called EWA, who was a big, bald-headed man, and
12 was a big man.

13 At paragraph 231 she tells us that she was taken to
14 Howdenhall in handcuffs by two policemen. The records
15 we have show that she was taken there by a member of
16 staff from Midfield and the purpose of her being taken
17 there was for a four-week assessment. The records we
18 have state that Howdenhall didn't know she was coming,
19 and said they could not hold her legally. A children's
20 hearing wasn't possible, because she had turned 16 and
21 then Midfield agreed to have her back under pressure,
22 ultimately.

23 In any event, from 'Danni's' recollection, I will
24 read from paragraph 231:

25 'I was taken to Howdenhall in handcuffs by two

1 policemen. I don't know who exactly met me when
2 I arrived, but I do remember it was two members of
3 staff. One was a male and one was a female. I was
4 frogmarched by the police into a room that had a locked
5 door and bars on the window. At the time I thought that
6 it was a cell. I was absolutely shitting myself.

7 'In front of the police I was strip searched and
8 then physically searched by the two members of staff.
9 I had to stand up against the wall as if I was being
10 frisked. At one point they made me stand naked and
11 cough. I think they did that in case I was concealing
12 a knife. The staff members then made me put on a gown
13 that was a little bit like a dressing gown. I felt like
14 I was being treated like a big hard criminal. Secondary Institutions - to be published later

15 Secondary Institutions - to be published later To me it was nothing
16 that I had done.

17 'I was then put into a freezing cold shower by the
18 two members of staff. They put this smelly shampoo
19 stuff on me for head lice. I was made to scrub myself
20 with carbolic soap in case I had lice or scabies. I was
21 then made to put on clothes whilst I was standing still
22 soaking wet. They never even gave me a towel, so as
23 I could dry myself. After I got dressed, the police
24 went away. They went into one of the offices, I don't
25 know what they did in there. I was made to sit next

1 door.

2 'I remember sitting next to the big woman who was in
3 charge. I remember her doing a lot of writing. I had
4 to give my name and address to her and all that kind of
5 detail. All the big woman said to me was that if
6 I thought I could get up to any antics in Howdenhall
7 then I was to think again. She also said that if I did
8 anything, she would come down on me like a tonne of
9 bricks.

10 'The big woman then took me into the girls' section
11 of Howdenhall and into the sitting room. I remember
12 that all the girls were sitting around. I tried to look
13 big and tough, but inside I was shitting myself. The
14 woman then locked the door behind us. I asked the woman
15 right away whether I could go to the toilet. She
16 basically told me no, because it wasn't time for the
17 toilets. She did, however, say that it was time for
18 smoking and I could have a fag if I wanted to. I was
19 given a cigarette and had a smoke. By that time it was
20 late so we were then all sent to bed. I remember that
21 when we went up to bed, all the doors had to be unlocked
22 and locked as we went through them. I was then taken to
23 my room. That first night I was so scared that
24 I couldn't really sleep.

25 'I remember that I needed the toilet during the

1 first night because I hadn't been allowed to go when
2 I arrived. I rang the bell in the room to get a staff
3 member's attention and a female staff member came to the
4 bedroom door. She started screaming at me and told me
5 that I should have gone to the toilet ages ago. The
6 woman then took me to the toilet and watched me whilst
7 I was on it. She was staring right at me. When I went
8 to shut the cubicle door, she kicked it back open.
9 I thought the woman had made a mistake so I went to shut
10 the door again. She immediately kicked it open again.
11 After I finished, I told the woman that I was going to
12 wash my hands. The woman stopped me from doing that and
13 I complained that it was dirty not to do that. She then
14 sent me to my bed with dirty hands.'

15 She then talks about the routine at Howdenhall, and
16 mentions communal showers, which she says were always
17 supervised by female staff and she says the water was
18 freezing. In relation to food, she says the food wasn't
19 great, and she was given clothes to wear.

20 If I can go to paragraph 242, she talks about school
21 and says:

22 'When I arrived I told the staff that I had left
23 school. I was told by the staff that I was under their
24 rules, I would do what I was told and that I had to go
25 to school. The school was located in the building.

1 I remember being told by the staff, before I started
2 school, that I looked quite stupid so I would be placed
3 in the remedial class. I decided to go along with it.
4 The teacher in the school was lovely. He really was
5 a nice man. I remember thinking that I didn't want to
6 leave his class because he was one of the few nice
7 people in Howdenhall. In my experience, you didn't get
8 more than one nice person in these type of places.
9 I thought that if I was moved class, I may get
10 a horrible teacher. I tried to act stupid during the
11 classes because of that, but I couldn't quite do it.
12 I remember the teacher trying to get me to spell words
13 like "door" and "cat". I remember that I would try and
14 make my handwriting look poor.

15 'In the end, Midfield called Howdenhall and informed
16 them that I was actually quite intelligent and that
17 I had good grades. After that I was moved into the
18 higher class. The teacher of the higher class was
19 horrible. I knew that would happen before I went there.

20 'You were allowed out in the yard for leisure time.
21 You were only really allowed out for between 20 and
22 30 minutes at a time. You would just walk around. It
23 was just like what I imagine it is like being in
24 a prison. There weren't really activities. There was
25 a television in the sitting room. You weren't allowed

1 to change the channel. If you didn't want to watch what
2 was on, then it was tough. I know the boys had a pool
3 table, but that wasn't something that the girls had.'

4 She then tells us that they could smoke five
5 cigarettes a day, and that staff gave them their
6 cigarettes and controlled the matches.

7 If we can go to paragraph 249, she says:

8 'They had a wee room which had a wee woman in it.
9 It was a bit like a first aid room. I don't know what
10 the woman's role was. I don't know whether she was
11 a staff member, a nurse or what. She never introduced
12 herself to me. There was one incident which involved
13 the plastic knives we were given during meal times.
14 I took one of the knives and sharpened it on one of the
15 walls outside. I was going to use it on Mr EWA to get
16 him back, but ultimately decided that that wouldn't be
17 too clever. [REDACTED]. You would
18 call it self-harming nowadays. That was something that
19 I needed.

20 'On one occasion I [REDACTED] in front
21 of a staff member and other children. I still have
22 [REDACTED] because I did that. I remember doing
23 that and receiving no medical treatment. All that
24 happened was that I was taken into a room by a member of
25 staff, had a [REDACTED] by the wee woman

1 then given a fresh pair of trousers. The wee woman just
2 said that I was a nuisance. I didn't care that I didn't
3 receive any other treatment. At that time I just didn't
4 care what happened to me.

5 'There weren't any toilet or washing facilities in
6 the bedrooms. If at night you wanted to go to the
7 toilet you had to ring a bell for someone to come and
8 take you to the toilet. I remember that on the first
9 morning I was there the big woman got us all up.
10 I remember her screaming at those girls who had wet
11 their beds. I remember one small girl in particular who
12 had wet the bed getting bullied for wetting the bed by
13 the woman. All the other girls started calling the
14 small girl "pishy". The big woman told me to say that
15 to the girl. I refused to say it because I didn't want
16 to be cruel. I remember the girl was then made to strip
17 her bed. I don't know whether she was made to have
18 a shower after that.'

19 She then tells us about abuse from paragraph 252:

20 'The staff in Howdenhall were animals and they
21 treated us like animals too. It was no wonder, given
22 the way we were treated, that we acted the way we did.
23 I kicked off whilst I was there because I am just one of
24 those people who will, when told they can't do
25 something, do that just to annoy people. I just

1 couldn't keep my mouth shut when I was there. I was
2 somebody who would rebel. I am still like that to this
3 day. You regularly received beatings from the staff in
4 Howdenhall. It felt like that happened pretty much
5 daily.

6 'I wasn't really scared of the other people who were
7 in Howdenhall with me, I knew that I could more than
8 hold my own if people tried to fight me. What did
9 terrify me was the locked doors. I was always being put
10 in locked cells on my own as a punishment. That could
11 be for anything between 20 minutes and four hours. That
12 happened to loads of people there. Sometimes it was
13 given as a punishment because people didn't do as they
14 were told. Sometimes there was no reason why people
15 were put there. That was something that I didn't like
16 then and still don't like now.

17 'The big woman was the person who gave most of the
18 beatings. I can't remember her name. If she gave you
19 a beating it would be for things like not making your
20 bed properly, or not following instructions. I remember
21 she would tell me to turn left or right and I would get
22 it wrong, because I didn't know my left from my right.
23 She gave me beatings because of that. Other times
24 I remember getting hit for sticking up for other people.
25 When she beat me she kicked me in my back or wherever

1 she could. I remember her doing that in front of
2 everybody else. Everybody would be standing there
3 watching and nobody would do anything. That included
4 the boys, girls and other staff members.

5 'One dinner time I was trying to be a smart arse,
6 because I was trying to fit in. I was trying to act
7 tough in front of some of the boys that I knew. When we
8 said grace I said, "For what we are about to receive the
9 pigs have just refused, amen", instead of what we
10 usually said. EWA was standing behind me when
11 I said that. He grabbed me by the scruff of my neck and
12 my hair and dragged me through the dining hall.
13 I remember that everybody was laughing at me. He then
14 dragged me all the way upstairs, put me in a tiny wee
15 room and closed the door behind him.

16 'I found the room terrifying because I didn't like
17 small spaces. The room was probably less than six foot
18 square in size. All that it had was a wooden bench and
19 a window that was high up. I remember I was freaking
20 out because he was a man and I didn't know what was
21 going to happen. EWA then beat the living
22 daylights out of me. He punched me, slapped me, kicked
23 me and grabbed me by my face and throat. As he was
24 doing that he was calling me an "arsonist", "a little
25 bastard" and every name you could think of. I remember

1 him going on about the fire. I didn't understand why he
2 was going on about that, because it had nothing to do
3 with him.

4 'I'd had kickings before, but nothing like that in
5 my life at that point. I've never had a kicking like
6 that since. I've never seen anyone as angry as he was
7 in my whole entire life. The physical assaults that had
8 happened to me in care by that point were nothing in
9 comparison. He used every ounce of force in his being
10 when he was hitting me.

11 'The assault must have lasted half an hour in total.
12 It could have been longer or shorter, but that was how
13 long it felt like it lasted. It all finished with
14 EWA telling me that I needed to be taught more
15 than one lesson, and that I was to stay in the room. He
16 then stepped outside, locked the door and told me that
17 I wasn't getting out. I remember thinking that I was
18 never going to get out. I went in there about 1.00 pm
19 and didn't get out until 5.00 pm. It was only four
20 hours, but to me it felt like four years. I was
21 absolutely terrified when I was in that room.

22 'It was one of the female staff members who let me
23 out. I was black and blue from head to toe when I came
24 out that room. I remember that the woman said that
25 I deserved a lot more than what I had received. Not one

1 person gave a shit about me, even though it was clear
2 what had happened. The only people that cared were the
3 other boys there who knew me. I was terrified after the
4 assault in Howdenhall by EWA. I tried not to
5 speak. I never even said grace, I just mumbled under my
6 breath. I remember that he was always behind me
7 watching. I remember him telling me that I was the
8 class clown.'

9 Secondary Institutions - to be published later

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She says she was
left with him in the visiting room with the door locked
and whilst they were in the room together, he sexually
assaulted her.

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She then talks about going to court and said that
she pled guilty during the court hearing and said the
judge turned to her and said that she was a nuisance to
society and that she would have to stay in local
authority care until she was either 18 or 20.

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She says that she thinks the order that was made at
that time was a supervision order, and that was the
first time she realised that she could have walked out
of care at any point up until then.

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She says at paragraph 263 she was told that she

1 would be going back to Midfield Secondary Institutions - to be published later

2 Secondary Institutions - to be published later

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6 At paragraph 263, halfway down, she says:

7 Secondary Institutions - to be published later

8 Secondary Institutions - to be published later

9 Secondary Institu I was then taken from the court back to

10 Midfield by the police. I wasn't taken in handcuffs.

11 I was told by the police that I wouldn't be placed in
12 them unless I misbehaved.'

13 Then she tells us about going back to Midfield

14 between paragraphs 264 and 272, so this was 1979,

15 she was aged 16. Secondary Institutions - to be published later

16 Secondary Institutions - to be published later

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18 She was transferred to two different placements then

19 in Windsor Square in 1979 and 1979.

20 I think she was back to Midfield again, Secondary Institutions

21 Secondary Institutions - to be published later

22 She then tells us about Seaview Children's Home, as

23 an emergency placement, and we know from the records

24 that was 1979 and she tells us about that

25 between paragraphs 302 and 342.

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4 She was then placed in Coventry for a period of
5 time, that was [REDACTED] 1981. She tells us about that
6 between paragraphs 343 and 382. She was aged 17.

7 She then went to Red House Home Trust in
8 Musselburgh, and tells us about that between paragraphs
9 383 and 438. This was [REDACTED] 1981, and she was aged
10 18 by this point. Secondary Institutions - to be published later

11 Secondary Institutions - to be published later

12 We know from our records, my Lady, that she went
13 back to Coventry for a period, and she was back to Red
14 House and then she went to Barony Hostel, that was on
15 [REDACTED] 1982, when she was 19. She talks about Barony
16 Hostel between paragraphs 439 and 443.

17 She then went to court and she was told that she was
18 free and after six weeks she could apply for a house and
19 go to college. So she was back in Barony House for six
20 weeks, Secondary Institutions - to be published later

21 We know from her records, my Lady, she started college
22 in January 1983 and by [REDACTED] 1983, she was living in her
23 own flat.

24 She then talks about life after care between
25 paragraphs 451 and 459. She studied to become a vet but

1 in her final year she was required to put an animal down
2 and couldn't do that, and that was essentially the end
3 of her studies. She left college and got a job in a [REDACTED]
4 [REDACTED]. She then suffered an injury to her back
5 in a bus accident and she was in hospital for a while.
6 After she left, she had to sign on.

7 She met her future husband, who had also been in
8 care. They had their first daughter. She struggled
9 with that, those relationships, social work became
10 involved, and she remembers being told by a social
11 worker that two people who had been in the care system
12 shouldn't have children. She split up with her partner,
13 her childhood friend then became her community
14 practitioner nurse and helped her to get back on track
15 and she got back together with her partner, who became
16 her husband. They have been together ever since, they
17 have five children together and she says that having
18 those children is the best thing that ever happened to
19 her.

20 She tells us about impact from paragraph 460 and it
21 is really about her whole time in care. In summary, she
22 says she has been blessed with a loving family and good
23 friends but she still struggles to stay alive. She has
24 self-harmed and taken overdoses, she has anxiety,
25 flashbacks, nightmares and has PTSD. She has never

1 abused drugs but has always smoked heavily. She has
2 asthma and COPD.

3 She then tells us about lessons to be learned from
4 paragraph 496. She talks about disclosure checks,
5 training of staff and that social workers should be more
6 involved.

7 Then at paragraph 503 of her statement she talks
8 about hopes for the Inquiry. If I can go to
9 paragraph 503, she says:

10 'I hope that the Inquiry can stop what happened to
11 me happening again. I want people to make sure that the
12 things that happened to me never happen again. I don't
13 want, in 30 or 40 years' time, for some little child who
14 is in care now to be sitting speaking to an inquiry like
15 I am now. If that happens, then nobody has learned
16 anything. I don't want the Inquiry to just say things,
17 I want it to make sure that things are done.'

18 Then 'Danni' has signed her statement, it's dated
19 3 November 2020.

20 LADY SMITH: Thank you very much.

21 I can't help but notice that 'Danni', in the first
22 18 years of her life, was in 14 different placements.

23 MS FORBES: Yes.

24 LADY SMITH: It can't have been easy.

25 Does that complete the read-ins?

1 MS FORBES: It does, my Lady.

2 I think now we move to closing submissions. I don't
3 know if it is appropriate to have a short break or
4 whether we want to just move to that?

5 LADY SMITH: We could just move on to closing submissions
6 now.

7 Mr Peoples, if you would like to set the scene and
8 while you are getting organised, there was one name
9 there that I mentioned on a number of previous occasions
10 as somebody who has the protection of my
11 General Restriction Order; EWA [REDACTED]. He is not to be
12 identified as having been referred to in our evidence
13 outside this room.

14 Mr Peoples.

15 MR PEOPLES: My Lady, I will keep my comments short today.

16 Closing submissions from Mr Peoples

17 MR PEOPLES: We are now at the stage of closing statements
18 and we have received closing statements on behalf of
19 Rossie Young People's Trust from Mr Haywood, who will be
20 addressing you shortly, and also closing remarks for the
21 City of Edinburgh Council from Mr Batchelor, who is also
22 here today.

23 I don't really plan to say very much. We have had
24 12 days of evidence. I think we have had 21 oral
25 witnesses, and 25 read-ins, or thereabouts. Obviously

1 we have heard evidence about Wellington, St Katharine's,
2 Howdenhall, and latterly the two, St Katharine's and
3 Howdenhall, when they were collectively Edinburgh Secure
4 Services and of course evidence about Rossie.

5 Other than that, at this stage I think I will
6 perhaps pass on first of all to Mr Haywood.

7 LADY SMITH: Thank you very much, Mr Peoples.

8 MR PEOPLES: Thank you very much.

9 LADY SMITH: That's Mr Haywood for Rossie?

10 MR PEOPLES: Yes.

11 LADY SMITH: Mr Haywood, whenever you are ready, I am ready
12 to hear you, thank you.

13 Closing submissions from Mr Haywood

14 MR HAYWOOD: Good morning, my Lady.

15 The Inquiry already has the benefit of the written
16 submissions that were put before it on Wednesday,
17 I don't intend to read every word but I will go through
18 those submissions, my Lady.

19 In its opening statements at the beginning of this
20 phase of the Inquiry, Rossie explained that its aim was
21 to protect and to improve the well-being of young people
22 in its care, and to that end it was committed to
23 developing, improving and innovating on the care it
24 provides. It aspired to be a centre of excellence as it
25 seeks to improve the well-being of young people who have

1 been exposed to adverse childhood experiences.

2 It acknowledged that there were aspects of its
3 history that were unacceptable, and at that time it
4 apologised unreservedly to all those who were harmed by
5 past failings. It renews that apology, my Lady.

6 LADY SMITH: Thank you.

7 MR HAYWOOD: I am instructed to reiterate that those who
8 lead the Rossie of today are profoundly sympathetic to
9 those who have suffered abuse while at Rossie.

10 Assistance to the Inquiry, my Lady. Rossie has been
11 committed to assisting the Inquiry in its investigations
12 as much as possible. The Inquiry received the detailed
13 Section 21 notices, and also an enormous amount of
14 records were also provided. Again, following oral
15 evidence earlier in the month, further material was also
16 provided, and Rossie wishes to say that it will continue
17 to provide any information that is sought, and to do
18 that speedily.

19 LADY SMITH: Thank you very much.

20 MR HAYWOOD: Rossie's CEO is again present today, she has
21 been present throughout all of the evidence, and, of
22 course, gave evidence herself.

23 LADY SMITH: Mm-hm.

24 MR HAYWOOD: Hearing those who gave evidence, they describe
25 serious and significant incidents of abuse, abuse of

1 children who were meant to be in a safe place, where
2 care was meant to be given.

3 Instead, the Inquiry heard what was repeated
4 incidents of brutality. That that abuse took place is
5 a disgrace. My Lady, you saw the demeanour of
6 Mrs Geaney when she was questioned about the evidence
7 that she heard. She was horrified. When matters were
8 put to her by the Inquiry's counsel, she took no issue
9 with the experiences that the witnesses had described,
10 and how could she. As the leader of today's Rossie, she
11 has asked me to emphasise that her witnessing of this
12 terrible evidence has been impactful and painful, and
13 that should be so, and I think my Lady saw that.

14 In my submission, when regard is had to the evidence
15 of witnesses, whether they were in the witness
16 statements that were read in or in the witnesses who
17 gave evidence, it is clear that when children at Rossie,
18 they were treated appallingly.

19 Given what witnesses said about the punishments
20 administered by SNR and at least one SNR, it
21 would appear that at times a culture of brutality was
22 led from the top of the organisation, and that it didn't
23 seem to be hidden. That people outside Rossie likely
24 knew of the culture, yet seemed to have stood by is hard
25 to fathom. I have referenced the witness statement of

1 Mr Ritchie.

2 In my submission, that's illustrative of the point.
3 The Inquiry may have material that hasn't been drawn to
4 my attention, but the account of Mr Ritchie's inspection
5 of Rossie in around 1993, and the lack of any follow up
6 by those he reported to, appears to point to there being
7 a toleration of brutality which extended beyond the
8 walls of the institution.

9 My Lady, in making that point, there is no intention
10 to deflect attention from what was actually happening
11 inside those doors, I just make the point that it had to
12 have been known outside.

13 LADY SMITH: Indeed. Although, as we sit here, 1993 was
14 actually quite a long time ago. The 1990s were a period
15 of quite a sea change in society's recognition of
16 children's interests, the need to put children's
17 interests first, and the need to pay attention to child
18 protection. That wasn't very long before we legislated
19 for a completely new approach to the care of children,
20 the 1995 Act, and yet it was a rather different picture
21 that was going on at Rossie.

22 MR HAYWOOD: Indeed, and sometimes legislation -- what we
23 were seeing went beyond legislative oversight.

24 LADY SMITH: Indeed, and that's after the United Nations
25 Convention on the Rights of the Child, as well. We

1 maybe need to learn to act faster when we realise that
2 society has opened its eyes to problems with child
3 protection, and not wait, slowly, before we change.

4 MR HAYWOOD: My Lady, I think we saw from the evidence of
5 'Stan', the staff member at Rossie who had been working
6 there from 1998 until relatively recently, that there
7 was an evolution.

8 In my submission, his evidence pointed to
9 a modernising organisation with an improving culture
10 over the 25-year period of his employment there.

11 Then, my Lady, the Inquiry heard from Rossie's CEO
12 and from the chair of the trustees. Both had only been
13 involved with Rossie in the last decade, and they are
14 both vastly experienced leaders in the sector. In my
15 submission, they demonstrated credentials, knowledge,
16 and expertise which was almost unrivalled, and, in my
17 submission, their evidence was frank and fair.

18 I have already said that when questioned about
19 Rossie's past failings, Ms Geaney accepted the obvious
20 criticisms. Properly, she made no attempt to defend
21 this when counsel put this to her.

22 LADY SMITH: Yes.

23 MR HAYWOOD: What was emphasised by counsel about the past
24 stood in stark contrast to what we see in Rossie today,
25 where Ms Geaney's stewardship has existed since 2016.

1 In my submission, her evidence, and the evidence of
2 Mr Frizzell, demonstrated that today's Rossie doesn't
3 bear resemblance to the Rossie of past times.

4 In my written submission I had said no resemblance
5 whatsoever, but, of course, it is the same location, and
6 there has, of course, had to be an evolution of the
7 environment, and that's been something that's been
8 ongoing.

9 In my written submissions I have referenced a number
10 of the important aspects that we heard in the evidence
11 where things had moved on. There is an improved
12 environment, with a central recognition that it is the
13 place where young people live, and the word 'home' was
14 used several times during that chapter of the evidence,
15 and also an emphasis on it needing to be a good place
16 for staff to work. There is an increase in technology,
17 with CCTV, to help young people stay safe and to track
18 the staff whereabouts at any time of the day or night.
19 Enhanced leisure facilities, including indoor and
20 outdoor gym, a forest school for learning and pleasant
21 grounds.

22 It was significant when the indication was given in
23 evidence that there had been a move away from the large
24 dormitories to single bedrooms with en suite facilities,
25 with an emphasis on personalisation of space to

1 encourage close support and independent living. My
2 Lady, I am the solicitor that acts for the organisation,
3 I've been there and it does have a modern feel. It does
4 not feel like institutions that I have been in other
5 places.

6 LADY SMITH: Thank you.

7 MR HAYWOOD: We heard of improved and improving management
8 and supervision of all staff, and a better ratio of
9 staff to children, of comprehensive training of staff
10 and oversight in dealing with difficult and distressed
11 behaviours with a better understanding and a wider
12 philosophy on de-escalation techniques, physical
13 intervention and appropriate restraint. We heard a lot
14 about that, and I think it was clear that there was
15 a real understanding of that being core to what's going
16 on with the staff.

17 It happened, my Lady, that on the last day that
18 evidence was being given, somewhat ironically there was
19 a care inspection, unannounced, and that's what
20 Ms Geaney returned to, to find that day 1 had already
21 happened. There has been a very positive report on the
22 back of that, but of course that's not material that's
23 yet been given to the Inquiry, but my client will ensure
24 that that is provided when it becomes available.

25 LADY SMITH: That would be very helpful, thank you. It will

1 no doubt go on to the Inspectorate's website, but if we
2 could get it directly from you as soon as it is sent
3 that would be good.

4 MR HAYWOOD: Yes, my Lady.

5 In my submission, there was an interesting chapter
6 when Rossie's chair was answering questions, and he was
7 frank about the fact that there is never enough
8 resource -- that was almost his mantra -- and that there
9 will never be enough resource.

10 LADY SMITH: Mm-hm.

11 MR HAYWOOD: He makes perhaps the rather obvious comment
12 that greater funding means better resources, both in
13 terms of environment and staff training and
14 qualifications. But funding is a challenge and it is
15 never going to go away.

16 Again, in my submission, my Lady, there was
17 an important chapter, and I don't know if this is
18 something that's come up in other chapters, or when
19 investigating other areas, but both the chair and the
20 CEO discussed the challenge that's involved in
21 recruitment at board level. It is a voluntary role and
22 it requires serious scrutiny by mature individuals, with
23 an appropriate range of skills who have the time, the
24 commitment, and the dedication to serve.

25 Rossie seems to be well served. The CEO described

1 what sounded like a welcome culture of regular scrutiny,
2 challenge and accountability. I think board members
3 were even turning up unannounced, which to my mind is
4 a good thing. And she welcomed that, as well. That was
5 evidence that I don't think we heard about the Rossie of
6 the past. But it is right to reiterate that both the
7 chair and the CEO indicated that that was a real
8 challenge, that board involvement is voluntary and it
9 can be seen as a thankless task, or worse a task that,
10 when taken on, presents board members with taking on
11 their own risks.

12 LADY SMITH: Well, indeed. It's not only voluntary, it's
13 agreeing to walk yourselves into very significant and
14 burdensome statutory responsibilities and if you fail to
15 fulfil them in accordance with the statutory
16 requirements, you could get into trouble.

17 MR HAYWOOD: As I recall, my Lady made that point from the
18 bench at the time, as well.

19 LADY SMITH: Yes.

20 MR HAYWOOD: It is matter for the Inquiry, but in my
21 submission there are real lessons to be learned from
22 that particular aspect.

23 LADY SMITH: Mm-hm. It is a problem. And in Rossie's case,
24 although Rossie isn't that far from Montrose, and then
25 in turn Aberdeen, but it is rather more remote than

1 places in the central belt, and if you are trying to
2 attract people to be involved, and be properly involved,
3 so that, as you say, Mr Haywood, actually go to the
4 place, and see it, and get to know it, and they live far
5 away. It is tough to ask them to take that all on.

6 MR HAYWOOD: I think, my Lady, that was the evidence that
7 Mr Frizzell gave, that one person had come on board, but
8 it was just too much of a geographical challenge.

9 LADY SMITH: Yes.

10 MR HAYWOOD: My Lady, as I conclude, I should say that in
11 preparing these submissions, my client was concerned to
12 ensure that when pointing to the positives of Rossie of
13 today, that that wasn't coming across as something that
14 was crass, given the reality of past abuse. I was asked
15 to say that.

16 Nonetheless, it is in my submission appropriate to
17 mention the various awards and acknowledgements that
18 Rossie has received in recent years. When the Inquiry's
19 counsel made reference to that, Ms Geaney also explained
20 that in 2021, Rossie was the first and only secure
21 centre to sign up to the Scottish Government's Redress
22 Scotland scheme. And they have been committed to it.

23 It also enables Rossie to offer every former
24 resident who seeks their historical records
25 an invitation to visit Rossie, if that can assist and

1 LADY SMITH: Mr Batchelor, when you are ready.

2 Closing submissions from Mr Batchelor

3 MR BATCHELOR: Thank you, my Lady.

4 On behalf of the City of Edinburgh Council, I adopt
5 the closing remarks document which has been submitted.
6 As with Mr Haywood, I don't intend to read that out or
7 go through it word for word, but I do intend to go
8 through it and highlight what I would see as the main
9 points arising.

10 LADY SMITH: Thank you.

11 MR BATCHELOR: Closing submissions are obviously to follow
12 from 12 to 14 February, and that will give the City of
13 Edinburgh Council another opportunity for perhaps a more
14 comprehensive document to be submitted, so I would say
15 just as a caveat that this document is not intended to
16 cover absolutely everything which has arisen from the
17 evidence.

18 LADY SMITH: Thank you.

19 MR BATCHELOR: What has struck the City of Edinburgh
20 Council, my Lady, is one particularly overarching theme
21 from this chapter of evidence and the case study in
22 general is the balance between care and control. The
23 evidence, in my submission, indicates that for too long,
24 children in secure care and List D schools were regarded
25 as being in need of being controlled.

1 LADY SMITH: I am interested in your use of the word
2 'balance', but would you agree that actually it is maybe
3 not a question of seeing that they are evenly balanced,
4 but the emphasis always needs to be on care, child
5 protection --

6 MR BATCHELOR: I would agree with that.

7 LADY SMITH: -- and the interests of the children.

8 MR BATCHELOR: Indeed, and the control can be part of
9 a caring environment --

10 LADY SMITH: Yes.

11 MR BATCHELOR: -- that can form part of care.

12 LADY SMITH: But only as a means of implementing
13 responsibilities to protect the child and do the best
14 for the child.

15 MR BATCHELOR: Indeed.

16 As I say, for far too long, the emphasis was on
17 control and not on care.

18 LADY SMITH: Mm-hm.

19 MR BATCHELOR: The Council acknowledges, my Lady, that there
20 was widespread abuse of children in their care at the
21 establishments being examined in this case study; that's
22 Wellington, St Katharine's and Howdenhall. Children
23 suffered sexual, physical and emotional abuse.

24 The evidence suggests that some abuse, particularly
25 in the form of excessive restraint and abuse by

1 isolation practices continued and was still happening as
2 recently as 2019. That's a matter of significant
3 concern to the council, as I am sure it is to the
4 Inquiry, that such practices have been found to be
5 taking place so recently. It is, as Amanda Hatton
6 described it, appalling.

7 The council also acknowledges that there were
8 widespread failures in historic systems for safeguarding
9 children, as well as significant failures by the council
10 in its response to allegations of abuse and in the
11 process of implementing changes as a result of
12 investigations into abuse.

13 There is also a concerning pattern from the 1990s
14 onwards of a failure to learn lessons from previous
15 inquiries and investigations, in particular there has
16 been a cycle of abuse, inquiry and attempted but limited
17 change.

18 LADY SMITH: Yes.

19 MR BATCHELOR: As they did at the beginning of this case
20 study, and as Amanda Hatton also did during her oral
21 evidence, the council wishes to apologise again to each
22 and every child who suffered abuse whilst in their care.

23 LADY SMITH: Thank you.

24 MR BATCHELOR: At paragraphs 9 to 11 of the written
25 document, my Lady, I cover the council's involvement

1 with the Inquiry. The council has responded to 23
2 Section 21 notices and has provided approximately 2,300
3 documents. Also, during the course of this chapter of
4 evidence, a detailed statement was provided from
5 Amanda Hatton following on discussions with the Inquiry
6 counsel and I hope that that was of some use to the
7 Inquiry during this chapter.

8 LADY SMITH: It was, I am grateful to you for that.

9 MR BATCHELOR: Turning to the witness evidence, my Lady.

10 The council does not seek to challenge the evidence of
11 applicants regarding their experiences at Wellington,
12 St Katharine's or Howdenhall. Pulling perhaps one point
13 which is very consistent across a lot of the statements,
14 particularly from the read-ins, my Lady, about
15 Howdenhall in the early years when it operated as
16 an assessment centre, the picture is of a prison-type
17 environment --

18 LADY SMITH: Mm-hm.

19 MR BATCHELOR: -- where the emphasis was very much on
20 control and not on care. It was an environment where
21 children were routinely physically and emotionally
22 abused and we have, of course, also heard evidence of
23 sexual abuse occurring there as well.

24 LADY SMITH: Yes. It was also a matter of concern that
25 children didn't understand where they were going, what

1 for, it didn't become any clearer when they were there,
2 and in the case of some of them, the length of the time
3 that they were there just wasn't defensible as a period
4 for assessment. Killian Steele is a prime example of
5 that.

6 MR BATCHELOR: Indeed.

7 LADY SMITH: 11 months or so.

8 MR BATCHELOR: 11 months is far too long a period of time
9 for anybody to be in there. It is also difficult to
10 understand why children with all sorts of different
11 needs were placed in closed conditions.

12 LADY SMITH: Mm-hm, yes.

13 MR BATCHELOR: Although it is not mentioned in this
14 document, I would intend to cover in the closing
15 submissions the fact that there was little consideration
16 given to the suitability of that placement.

17 LADY SMITH: Yes.

18 MR BATCHELOR: When it was, as I say, essentially a holding
19 centre for children from all different environments,
20 with all sorts of different needs.

21 LADY SMITH: Yes.

22 Correct me if I am wrong, Mr Batchelor, but I don't
23 remember seeing any document or hearing any evidence to
24 the effect that the council ever set down its thinking
25 on what should be done for assessment purposes in

1 relation to any child, assessment as it was called and
2 some would say so-called, am I right?

3 MR BATCHELOR: We haven't heard any evidence about that, my
4 Lady, and historic records are lacking from Howdenhall
5 from that time.

6 LADY SMITH: Yes.

7 MR BATCHELOR: But I think we have certainly had
8 a consistent theme through the evidence that children
9 don't recognise that they were being assessed in any
10 way.

11 LADY SMITH: No.

12 MR BATCHELOR: So it is not entirely clear how that process
13 was actually happening.

14 LADY SMITH: No, the picture is rather more of something
15 akin to a parking lot. Maybe I am being unfair, but it
16 did seem a bit like that. Park the children there for
17 a while, and decide what to do with them next.

18 MR BATCHELOR: Yes.

19 LADY SMITH: Yes.

20 MR BATCHELOR: Although fewer applicants gave evidence of
21 their experiences at St Katharine's and Howdenhall after
22 1994, when the new St Katharine's opened, the Inquiry
23 does have the benefit in this chapter of evidence of
24 some very detailed reports from Kirsten Adamson,
25 Stella Perrott and Pauline McKinnon. The council

1 accepts the terms of these reports, my Lady, and I would
2 commend them to the Inquiry as comprehensive and
3 diligent pieces of work and the conclusions of them are,
4 in my submission, convincing.

5 Much of the oral evidence that we heard came from
6 employees, or ex-employees, who had worked at these
7 establishments. In relation to Wellington, oral
8 evidence was heard from John Mullen and Jane Carmichael,
9 and those individuals gave evidence of their experiences
10 as outsiders coming into Wellington around the late
11 1980s/early 1990s, and whilst both, I think,
12 acknowledged that they were only there for
13 a comparatively short period of time, so could only
14 provide us really with a snapshot, their experience had
15 clearly left a lasting impression on them, and they both
16 spoke of an environment which they felt to be one of
17 fear and control.

18 In my submission, there was evidence which would
19 support a finding that practices at Wellington in some
20 respects were not dissimilar to those at the other City
21 of Edinburgh Council establishments being considered as
22 part of this case study. I will expand on that in
23 submissions to follow.

24 Broadly speaking, the evidence in relation to
25 St Katharine's and Howdenhall from the employees, in my

1 submission fell into two camps.

2 The first camp included those who were critical of
3 practices at St Katharine's and Howdenhall and who had
4 raised concerns.

5 The second involved those who had worked at those
6 establishments, and I would say, broadly speaking, were
7 quite defensive of those establishments and the
8 practices which were taking place there.

9 LADY SMITH: Yes.

10 MR BATCHELOR: The City of Edinburgh Council are not going
11 to seek to resolve all of the disputes on particular
12 incidents which may have occurred there. However, in my
13 submission there are certain areas where the weight of
14 evidence, in my submission, is such that the Inquiry can
15 draw reliable conclusions and, in my submission, there
16 are also some aspects of the evidence which was given by
17 all of the witnesses which support the conclusions which
18 were drawn by Pauline McKinnon in her detailed report.

19 LADY SMITH: Yes.

20 MR BATCHELOR: If I move on to key themes now, my Lady. As
21 I say, I have listed six key themes here, but that's not
22 intended to be an exhaustive list, because other themes
23 have arisen, but I consider these were probably the main
24 ones so far as the City of Edinburgh Council were
25 concerned.

1 The first theme is restraint, and that's obviously
2 been a recurring theme throughout the entirety of this
3 case study. Prior to the 1990s, Lothian Regional
4 Council and predecessor authorities, there do not appear
5 to have been any clear policies, procedures or training
6 in relation to dealing with restraint or physical
7 intervention. But we did hear evidence that restraint
8 training was introduced by Lothian Regional Council some
9 time around the early 1990s, and the evidence indicated
10 that that initial training was based upon pain control
11 techniques.

12 Later, in the 1990s, CALM training was introduced
13 and the ethos of that training was intended to be that
14 restraint was used as a last resort. Whilst that
15 training may have evolved and improved over time, it
16 appears that the techniques taught, particularly prone
17 restraint, came to be used overzealously by some staff.
18 It is the council's position, my Lady, that there is
19 clear evidence that restraint, particularly prone
20 restraint, was being used unnecessarily and
21 inappropriately. There was, generally speaking,
22 an insufficient focus on de-escalation, and in my
23 submission, to some extent that conclusion is actually
24 supported by some of the individuals who worked at
25 St Katharine's and Howdenhall. 'Bill' in particular,

1 gave evidence that he had been trained to get in there
2 early when it came to intervention, and 'Joe' gave
3 evidence that verbal abuse of a staff member could lead
4 to a physical restraint.

5 In my submission, having regard to the whole
6 evidence, the Inquiry may conclude that the threshold
7 for physical intervention at those establishments was
8 lower than it should have been on the basis of the CALM
9 model.

10 Further, there is evidence which indicates that
11 restraints may well have been instigated by staff
12 goading children, or escalating rather than
13 de-escalating situations.

14 Toy fighting was a practice which received some
15 attention, and it seems to have been prevalent in the
16 1990s and into the early 2000s. The practice was
17 outlawed by the council some time around the mid-2000s,
18 but prior to that seemed to form part of official
19 council policy.

20 LADY SMITH: I was interested in reading Stella Perrott's
21 report, the one that was published in 2017, but covered
22 a period from the late 1990s, I think, that she found
23 that toy fighting, as it was called, was banned because
24 it was recognised, there was a risk of it escalating
25 into abuse of children.

1 MR BATCHELOR: The risks are self-evident, my Lady.

2 LADY SMITH: Yet I heard from some witnesses that no, it was
3 good, and children need to touch, be touched and engage
4 in that sort of play.

5 MR BATCHELOR: I think we also heard from 'Joe' that he did
6 not feel comfortable with doing it, and he recognised
7 the risks at the time, when others were. So in my
8 submission the risks of it are self-evident and you can
9 understand why the practice was outlawed, even if at one
10 points it was thought that in some ways it could provide
11 a healthy environment, even the policies and procedures
12 allowing it, I think, highlight that there are
13 significant risks.

14 LADY SMITH: Yes, there must be high risk, as there is with
15 prone restraint. The more one thinks about prone
16 restraint, it is not just the risk of injury to the
17 child, suppression of their breathing, carpet burns,
18 whatever. But it must on occasion involve the child
19 being held down by somebody who has come at them from
20 behind and is pinning them down from behind, they don't
21 even see.

22 MR BATCHELOR: Three people, my Lady.

23 LADY SMITH: Well, exactly, it has to be three, but they
24 don't even necessarily see who it is. Terrifying.

25 MR VERNEL: Yes, as I say, at paragraph 22, my Lady, you may

1 consider there is sufficient evidence to find the
2 practice of toy fighting, with its inherent risks,
3 provided the opportunity, provided the disguise, for
4 situations to be escalated.

5 LADY SMITH: Yes.

6 MR BATCHELOR: Rather than de-escalated.

7 LADY SMITH: It also provided, I would have thought,
8 an opportunity for the member of staff to emphasise the
9 power that they held over children --

10 MR BATCHELOR: And their control.

11 LADY SMITH: -- their dominant position. Some of these men
12 were pretty big.

13 MR BATCHELOR: Indeed.

14 LADY SMITH: And, indeed, one of the witnesses we heard from
15 said on more than one occasion that he was a big guy,
16 and he is a big guy, still, now.

17 Yes.

18 MR BATCHELOR: Turning to the evidence from some of the
19 ELRIS inspection reports, my Lady, which were very
20 detailed reports and I think provided very helpful,
21 detailed insight into the status of these establishments
22 in the late 1990s.

23 One of the inspection reports from Howdenhall
24 indicated that there were 55 restraints in a period of
25 approximately two months.

1 LADY SMITH: Yes.

2 MR BATCHELOR: Although obviously practice has moved on, we
3 heard from Amanda Hatton that the council have been able
4 to reduce the number of physical restraints across all
5 of their houses in a year to six, with no physical
6 restraints. A large part of that has to do with proper
7 care planning and an emphasis on caring for the
8 children. You have to be able to understand your child,
9 and understand their triggers, in order to care for them
10 properly. So it is possible to reduce the number of
11 physical restraints, and it clearly was self-evidently
12 possible to have reduced it to below those sorts of
13 levels.

14 In my submission, it is just indicative of
15 a historic approach which was heavily weighted towards
16 controlling the child rather than caring for the child.

17 Another theme which has arisen throughout the case
18 study, and throughout this chapter of evidence, relates
19 to isolation practices, or single separation, as it is
20 sometimes referred to. There is consistent evidence
21 throughout the period of time being considered by the
22 Inquiry that children were shut or locked in their rooms
23 as a means of control, rather than a means of care.

24 LADY SMITH: Yes. I was very struck by Amanda Hatton
25 putting it, I think she did, so simply, that once you

1 get to the stage of giving children individual rooms,
2 your purpose is to give them a safe place that is
3 theirs.

4 MR BATCHELOR: Yes.

5 LADY SMITH: To then make it a dual-purpose room, which will
6 be used to punish them, makes no sense at all.

7 MR BATCHELOR: It also has to be borne in mind, my Lady,
8 that when we are referring to rooms, for a large period
9 of time at St Katharine's and Howdenhall, these were not
10 really bedrooms in the way that we would think about
11 them, they were really cells.

12 LADY SMITH: Yes, yes. They sometimes had the property
13 emptied out of them as part of the using the room for
14 punishment system. So there was virtually nothing left
15 for the child or young person in their room, their
16 possessions had been removed from it.

17 MR BATCHELOR: Yes, as a means of control.

18 LADY SMITH: Yes.

19 MR BATCHELOR: Kirsten Adamson's report from 2013 I thought
20 was a very professionally produced report and very
21 detailed and provides a comprehensive overview where
22 a child was isolated in their room for an excessive
23 period of time for what was an entirely unjustified
24 reason: giving a member of staff a funny look. There
25 was clear confusion over the use of the single

1 separation and time-out policies.

2 LADY SMITH: Yes.

3 MR BATCHELOR: The McKinnon report, my Lady, identified

4 seven cases where there were concerns over single

5 separation, and those practices appear to have continued

6 until the 2010s. So really very recently.

7 LADY SMITH: Of course, the McKinnon report, as I recall,

8 was careful not to include in that number cases where

9 the child was encouraged or taken to their room,

10 possibly with a staff member staying with them, to get

11 some space and time to calm down and reflect. Because

12 there is a difference --

13 MR BATCHELOR: Of course.

14 LADY SMITH: -- and I don't think Amanda Hatton was

15 suggesting that you wouldn't use the room in that way.

16 MR BATCHELOR: No.

17 LADY SMITH: But that is rather different from using it as

18 punishment.

19 MR BATCHELOR: Very different.

20 Turning to complaints and investigations, one of the

21 major criticisms of Stella Perrott's report in 2017, in

22 relation to the abuse by Gordon Collins, was that

23 insufficient and perfunctory investigations had been

24 carried out relating to disclosures of abuse by him. At

25 paragraph 13, I have talked about Holly's case --

1 LADY SMITH: Yes.

2 MR BATCHELOR: -- and what happened there.

3 What was very striking was the way that that

4 investigation was dealt with, although I think the staff

5 were probably doing what largely they were supposed to

6 be doing at the time, it was largely a systems issue,

7 she was disallowed from discussing the abuse with any

8 member of staff. She was totally isolated, and indeed

9 there is clear evidence in the 2017 report that some

10 members of the staff cohort explicitly disbelieved her.

11 LADY SMITH: Yes. This was despite it being prompted by

12 entries in her diary, which she wasn't putting before

13 staff.

14 MR BATCHELOR: Indeed.

15 LADY SMITH: It was other youngsters who saw them and

16 started the disclosure procedure then. It was very hard

17 to fathom --

18 MR BATCHELOR: Yes.

19 LADY SMITH: -- why she was told, 'Don't talk, it is being

20 closed down, we don't believe you'.

21 MR BATCHELOR: It is indicative of a lack of understanding

22 of trauma and a lack of focus on the child and the

23 child's needs.

24 LADY SMITH: Yes.

25 MR BATCHELOR: The 2017 report is very clear that the

1 council and the police both failed to draw the
2 connection between Holly's disclosure and the previous
3 disclosures which had been made about Gordon Collins,
4 and although he had been suspended when Holly's
5 disclosure was made, he subsequently resigned from
6 employment before disciplinary action was progressed,
7 and the council failed to tell the SSSC. A more
8 in-depth investigation at that time should have brought,
9 certainly could have brought, Collins to justice much
10 sooner.

11 LADY SMITH: Yes.

12 MR BATCHELOR: An example of a perfunctory investigation, my
13 Lady, was provided by Kirsten Adamson in her evidence.
14 By the time she became involved in the 2013 complaint,
15 there had seemingly already been a prior investigation
16 of that complaint by an ESS manager, which had led to
17 the complaint not being upheld.

18 However, she gave evidence that staff had not been
19 spoken to and there was no paper trail around any of
20 that. When she spoke to the staff, it was the first
21 time they had been spoken to. So it's clear that no
22 proper investigation had been conducted prior to that
23 complaint not being upheld.

24 LADY SMITH: It was striking, of course, in Amanda Hatton's
25 evidence how soon after she took up post, at the end of

1 2021, she realised that recording systems needed to be
2 revolutionised and the council is still undertaking the
3 implementation of a new system, which should be much
4 better. I can't remember the name of the new system.

5 MR BATCHELOR: It is Mosaic.

6 LADY SMITH: Mosaic, yes, thank you.

7 MR BATCHELOR: Yes, the current system is Swift and the new
8 system is Mosaic.

9 LADY SMITH: Yes.

10 MR BATCHELOR: Pauline McKinnon's report, my Lady, reached
11 the conclusion that children were being discouraged from
12 raising complaints and when they did complain, they
13 could be criminalised. In my submission, whilst there
14 is always scope to resolve disputes on an informal basis
15 if they are comparatively minor matters, that approach
16 doesn't have a place when it comes to an allegation of
17 abuse by a member of staff.

18 The next theme which I have highlighted, my Lady, is
19 culture, which I think comes across loud and clear as
20 an important factor underlying much of the evidence, or
21 overlying much of the evidence that we heard.

22 There is perhaps an inherent risk with residential
23 care and secure care in particular that the environment
24 can become very insular and closed. As Ms Hatton said
25 in her evidence, when you see a closed culture, that is

1 a red flag and that's what happened at ESS.

2 There were some parts of the evidence that the
3 Inquiry may consider, my Lady, gives an insight into how
4 a closed culture can build up. In particular, the
5 council was struck by the exchanges between 'Dominic'
6 and senior management at the council in the late
7 1990s/early 2000s, which maybe give a flavour of
8 a reluctance that St Katharine's and Howdenhall should
9 be open to outside influence and scrutiny. The widely
10 held belief amongst some staff that some new recruits
11 were plants is indicative of a culture where something
12 has gone wrong and there is certainly a lack of trust
13 between what seemed to have been, maybe slightly over
14 simplistically put, two separate camps.

15 LADY SMITH: It is a very odd one, because as I think was
16 touched on in questioning, from them saying that, it
17 sounds as though they recognised that the council had
18 concerns, and wanted to find out more.

19 MR BATCHELOR: Indeed.

20 LADY SMITH: Whereas their other line is the two men
21 concerned -- or three men, rather, concerned, 'But the
22 council had no reason to have any concerns so why would
23 you think that?' Rather strange.

24 MR BATCHELOR: It can also be contrasted, my Lady, with the
25 approach which Amanda Hatton gave in her evidence, that

1 you should welcome those sorts of enquiries, and you
2 should welcome additional lines of sight --

3 LADY SMITH: Yes.

4 MR BATCHELOR: -- so that you can be part of a learning
5 culture.

6 LADY SMITH: Yes.

7 MR BATCHELOR: There were specific cultural issues within
8 ESS, my Lady. The culture wasn't child-centric,
9 complaints from children, as I say, seemed to have been
10 discouraged, there was a macho culture in some respects,
11 certainly that was the impression of some witnesses.
12 Overall there was an abuse of power dynamics which
13 emphasised control over care.

14 But the cultural issues didn't stop at ESS, my Lady,
15 and that's been laid bare by the Tanner report into the
16 whistleblowing culture at the council, which indicates
17 that those problems were not confined to one
18 establishment and historically there was a dysfunctional
19 work culture in the children's and families directorate
20 of the Social Work Department. So in addition to the
21 culture within ESS, there was a broader culture of not
22 challenging poor practice. Children's voices were not
23 being heard and managers who had the opportunity to
24 address problems elected not to address them, or did not
25 address them effectively.

1 In addition, the council's quality assurance
2 mechanisms were also ineffective in bringing about
3 meaningful change.

4 One striking piece of evidence, my Lady, which
5 perhaps sums up the cultural problems and the distrust
6 felt by staff, was that Kirsten Adamson actually asked
7 Pauline McKinnon to safeguard a copy of her report,
8 a copy of her investigation report, when she went on
9 secondment, and that evidence was corroborated by
10 Pauline McKinnon, and the fact that Kirsten Adamson felt
11 the need to do so is a matter of significant concern.

12 LADY SMITH: Yes.

13 MR BATCHELOR: Turning to the failure to learn lessons.

14 Several of the recommendations from the McKinnon report
15 look very similar to recommendations that have been made
16 in previous reports, going back to the time of the
17 Edinburgh Inquiry in 1999.

18 The council considers that there were failures at
19 both a local and organisational management level to
20 ensure the recommendations from investigations and
21 reports were incorporated into practice and were
22 improving the standard of care to be provided.

23 A stark example of that again is the Adamson report
24 from 2013. Kirsten Adamson gave us evidence that she
25 provided that report to a senior manager at the council

1 and it is clear that further decisive action required to
2 be taken, and it wasn't.

3 A further opportunity to take decisive action
4 followed on the Gordon Collins significant case review
5 in 2017. An action plan was compiled following that
6 report but that stagnated and wasn't progressed, despite
7 the efforts of some staff who were trying to press
8 managers to progress it.

9 There was then subsequently a lack of professional
10 curiosity, which meant that reassurances provided to the
11 then Chief Social Work Officer were taken at face value
12 and not appropriately questioned or verified, and, as
13 the McKinnon report says, had that action plan been
14 progressed timeously, some of the incidents which
15 occurred could have been avoided.

16 LADY SMITH: Yes.

17 MR BATCHELOR: Finally, my Lady, reflections and
18 improvements. The Inquiry heard from Amanda Hatton
19 about changes which have been made since the McKinnon
20 report. The council no longer have a secure service,
21 nor does it run residential schools. Children are now
22 cared for in houses.

23 Ms Hatton has made a number of structural and
24 governance changes to the council since taking up her
25 position, or to the Social Work Department of the

1 council since taking up her position. Those allow for
2 different lines of sight into practice.

3 One key area of improvement has been in relation to
4 quality assurance, including much more regular audit.

5 Another concerning piece of evidence was that the
6 conclusions reached by Pauline McKinnon in her report
7 could have been reached by anyone, looking at the
8 records that she looked at.

9 LADY SMITH: Yes.

10 MR BATCHELOR: Ms Hatton candidly accepted that effecting
11 change can be extremely challenging and it can still be
12 extremely challenging and even as someone in a senior
13 position such as her trying to bring about change has
14 encountered resistance and challenges.

15 However, she was able to provide evidence on
16 a myriad of issues where real changes are being made and
17 how those are bringing about overall change to the
18 culture of the organisation, but it is an incremental
19 process, my Lady, and it is a journey.

20 The council hope that the evidence which has been
21 provided will provide some reassurance to the Inquiry
22 and to those for whom the council are corporate parents,
23 that meaningful changes are being made this time.

24 LADY SMITH: Do the council take issues with

25 Pauline McKinnon's evidence regarding the hostility she

1 experienced after she delivered her report?

2 MR BATCHELOR: There are perhaps some differences of opinion

3 about the minutiae about what happened, my Lady. But

4 what I can say is the council accept that Pauline was

5 not appropriately supported and sufficiently supported.

6 LADY SMITH: It seemed evident from her evidence that she

7 was deeply distressed --

8 MR BATCHELOR: Indeed, my Lady.

9 LADY SMITH: -- and to this day suffers distress from it.

10 MR BATCHELOR: I think there is definitely learning there

11 for the council, my Lady, that people who are carrying

12 out these sorts of investigations need to have

13 appropriate support from line management, but also need

14 to have access, if they need it, to therapeutic support

15 also.

16 LADY SMITH: Yes.

17 One other thing, you will probably come back to

18 this, Mr Batchelor. You will remember that Mr Peoples

19 put the question to Amanda Hatton: what about the

20 \$64,000 question? Namely: given Edinburgh Council's

21 troubling history in relation to the provision of

22 residential care for children, can there be any

23 confidence that that history won't repeat itself? It is

24 very easy to say well, of course they will now say yes.

25 MR BATCHELOR: Indeed, my Lady.

1 LADY SMITH: Is there a more nuanced answer perhaps that
2 needs to be given?

3 MR BATCHELOR: The answer is that the council have to earn
4 that trust --

5 LADY SMITH: Yes.

6 MR BATCHELOR: -- and the proof of the pudding will be in
7 the eating.

8 LADY SMITH: Yes, and perhaps they need not to lose sight of
9 some very important points that Amanda Hatton made, like
10 they have to understand what it is like to be a child in
11 their services. They have never got to lose curiosity.

12 MR BATCHELOR: And they can't be complacent, my Lady.

13 LADY SMITH: No.

14 MR BATCHELOR: It is always difficult to pin down culture
15 and the reasons why a culture grew up, but it definitely
16 has something to do with leadership.

17 LADY SMITH: Yes.

18 MR BATCHELOR: If the person who is in charge of your
19 organisation is a good leader, they should be able to
20 effect the culture.

21 LADY SMITH: Yes.

22 MR BATCHELOR: I hope that the Inquiry can take at least
23 some confidence that the person who is in charge of the
24 organisation now is doing her utmost to move it in the
25 right direction.

1 LADY SMITH: Indeed, because recognition of complexity, so
2 far as the creation of an effective culture, effective
3 for child protection, is concerned, if I have this
4 right, was articulated way back in the report of the
5 Cleveland inquiry by Lady Butler-Sloss, who started the
6 part in which she set out her analysis and
7 recommendations by saying that the reasons for the
8 crisis that occurred are complex.

9 These are difficult, complex, situations, and the
10 skill that's needed, perhaps, is to not allow problems,
11 some a series of small problems, to build up without
12 dealing with them, because otherwise you are looking at
13 something huge by the end of it.

14 MR BATCHELOR: The problems are complex, my Lady, and when
15 we look back at the history of Edinburgh City Council,
16 and the number of recommendations, for example, that
17 came out of the Edinburgh's Children report in 1999 and
18 the action plans which followed thereon, I think that
19 a wise piece of advice comes from the 2017 report, where
20 no recommendations are made.

21 LADY SMITH: Yes, it is striking.

22 MR BATCHELOR: In actual fact they say what you need to
23 focus on is the experience of the child, and the quality
24 of the care being provided to the child, rather than
25 ticking the boxes and the action plan becoming an end in

1 and of itself.

2 LADY SMITH: Yes, thank you.

3 Mr Batchelor, thank you for that, and I look forward

4 to hearing more of the council's thoughts halfway

5 through February, when we get to the final submissions

6 for this long phase.

7 Mr Peoples.

8 MR PEOPLES: I have nothing to add at this stage. I think

9 we will be obviously having final closing statements in

10 mid February --

11 LADY SMITH: Yes.

12 MR PEOPLES: -- and no doubt we are all looking forward to

13 hearing from those that are to provide them.

14 LADY SMITH: Yes, I welcome all the help we can get.

15 As far as dates are concerned, the current plan is

16 to sit all day on the 12th, in the afternoon on the

17 13th, and as much of the 14th as we require. If that

18 changes, I will let everybody know.

19 Thank you.

20 MR PEOPLES: Thank you.

21 (11.42 am)

22 (The Inquiry adjourned until 10.00 am on

23 Wednesday, 12 February 2025)

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