

Part D – Abuse and Response

The questions in Part D should be answered in respect of abuse or alleged abuse relating to the time frame 1930 to 17 December 2014 only.

5. Abuse**5.1 Nature**

i.	What was the nature of abuse and/or alleged abuse of children cared for at the establishment, for example, sexual abuse, physical abuse, emotional abuse?
	<p>Taking account of the timeframe within which the Inquiry is concerned and the extensive research undertaken by the school in responding to the section 21 notice, Merchiston considers there has been and/or may have been abuse in the following areas: sexual (including voyeurism and lewd practices); physical; associated emotional and/or psychological abuse and, in a small number of peer to peer cases, significant emotional or psychological abuse as a 'stand alone' category.</p> <p>While there is evidence of sexual abuse such as voyeurism and touching, we do not have evidence of examples of sexual abuse involving e.g. intercourse/rape/physical sexual contact. There is one case (5.9.25) where a former female member of staff has admitted to sexual relations with pupils in the Upper Sixth Form (S6) during the academic year 2014-15. This could have taken place before or after 17 December 2014. As we cannot be sure we have included this in our return.</p>

5.2 Extent

i.	What is the organisation/establishment's assessment of the scale and extent of abuse of children cared for at the establishment?
	<p>The time period of this Inquiry is 80 years. In that time there have been thousands of pupils and hundreds of members of staff who have attended or been employed at Merchiston. From these numbers we have identified a total of 14 members of staff plus one individual who was the owner of an outdoor education business where there have been allegations of abuse. The spreadsheet linked to 5.9 has a total of 58 examples of alleged/admitted/proved abuse. The School does not seek to minimise the allegations in any way.</p> <p>The School has undertaken meticulous and comprehensive research in order to respond to the Inquiry's section 21 notice. We reviewed all staff</p>

files and records held. We reached out to former pupils and parents as well as to current ones on 17 separate occasions, detailed in 5.7 (iv).

To obtain as full a 'corporate memory' as possible, we have gathered input from the one living former Headmaster and from three former Deputy Heads, covering a range of experience from 1942 – 2012. We have also spoken to current staff whose combined experience at Merchiston covers 1979 to the present day. Additionally, we have communicated with 4 Chairs of Governors.

The examples of abuse found are set out in spreadsheet appendices at 5.8 and 5.9. Taking the examples into account, our assessment of the scale and extent of abuse of children cared for at the establishment is that, while there is evidence of abuse by individuals, we do not have evidence that there was a network of abusers. We can say that when concerns were raised by staff, pupils or parents, the School did investigate and/or review the complaints and/or allegations being made. Following the research undertaken as part of this exercise, we can see, with hindsight, the action taken in some instances was not what we now consider to be strong enough and that, in some cases, appropriate connections between incidents were not made. We are confident that were such cases to arise today that the full and robust process we now have in place would mean that such individuals were disciplined, employment action taken and information passed to relevant authorities.

The assessment of the scale and extent of abuse in this section is based on cases where an internal or external investigation has found evidence of abuse and action has been taken. We set out some examples below:

- One former member of staff was found guilty of sexual offences, but not convicted. In this case, the Scottish Court Service said afterwards: "In respect of this matter after a trial, Mr CGJ was found guilty of three charges of indecent exposure. The court then without proceeding to a conviction dealt with the matter in terms of Section 246 (3) of the Criminal Procedure (Scotland) Act 1995 by way of an absolute discharge. The impact of this disposal is that although Mr CGJ was found guilty he has not been convicted of the offences libeled." See Specific Complaints, 5.9.1.
- One former member of staff was charged by the police. "The Procurator Fiscal has received a report concerning a sixty-nine year old man in connection with a number of incidents alleged to have occurred in Edinburgh between 1 and 31 March 1977. There are currently no proceedings but the Crown reserves the right to raise proceedings should further evidence become available." See Specific Complaint, 5.9.22.
- One now deceased member of staff was disciplined on a number of occasions by the School for inappropriate behaviour that could

	<p>be classed as abuse. See Specific Complaints, 5.9.2/3/5/31/32/33. There were a number of further allegations which came to light after this member of staff committed suicide and which were passed to the police. These are listed in Section 5.9.11/12/16/23.</p> <ul style="list-style-type: none"> • One former member of staff has admitted to behaviour which the School considered inappropriate and possibly abusive. Specific Complaint, 5.9.21. • One former member of staff (female) was investigated by the police and charged in 2015/16. The School understands that there has been a decision by the Procurator Fiscal not to prosecute at this time. This former member of staff was subject to a General Teaching Council for Scotland Fitness to Teach investigation and in XXXX 2017 was removed from the teaching register with consent, having admitted all of the allegations which she faced. Specific Complaint 5.9.25. <p>There have been allegations of abusive behaviour against a further 6 former members of staff:</p> <p>Specific Complaints 5.9.4 and 6/7/13 and 18 and 27/14/15/17</p> <p>There has also been an allegation against the owner of an outdoor activity centre used by the School. This individual was convicted of lewd and libidinous practices, but not involving pupils from this school. 5.9.8 and 10 and 24.</p> <p>Allegations of abuse by adults have been shared by the School with the police. The School has fully co-operated and all available information has been provided by the School.</p> <p>We also acknowledge cases of peer to peer abuse, principally verbal and physical bullying, and these are also listed in Specific Complaints 5.9.34 to 58 (Peer to Peer alleged abuse section).</p> <p>Based on our research and our own knowledge, we do not feel that there has been a consistent or persistent culture where bullying has been allowed to thrive with robust intervention in all known cases.</p> <p>There was one case of proven peer/peer sexual abuse, 5.9.38.</p> <p>5.9.20 was reported to the Police who found there was no evidence to support the allegation made.</p>
ii.	What is the basis of that assessment?
	<p>As mentioned above, the School reviewed all of its past files as well as communicating with parents and the whole former pupil body on seventeen separate occasions as part of the investigation which was</p>

	<p>sparked by allegations made in 2013, 5.9.11. On nine of those occasions there was an explicit appeal that the recipients contact the School with any specific concerns or queries referring to past or current abuse.</p> <p>The School considers that there was abuse by a limited number of individuals who used their position of trust to indulge in wholly inappropriate behaviour which in the examples provided can be said to amount to abuse.</p> <p>There have been two police investigations into possible abuse at Merchiston Castle School. The first was conducted by DS Brady starting in April 2013. The second, known as “Operation Brecon” started in May 2015. Operation Brecon revisited the alleged cases of abuse by adults against young people, scrutinised in the 2013 investigation. It also explored reports which arose from former pupils whom the School encouraged to come forward when the 2013 investigation began.</p> <p>Whilst we have reported historic allegations to the police, we do not know the details of the outcome of these cases. We have based our assessment on proven cases of abuse through external or internal intervention.</p>
iii.	Against how many staff have complaints been made in relation to alleged abuse of children cared for at the establishment?
	<p>14.</p> <p>There is one other individual included in the 5.8/5.9 spreadsheets who is not a member of staff and who ran an outdoor centre which children attending the establishment went to.</p>
iv.	How many staff have been convicted of, or admitted to, abuse of children cared for at the establishment?
	To our knowledge, one former member of staff was found guilty in court (see 5.2.ii above and 5.9.1). One former member of staff (5.9.25) admitted to allegations which amounted to abuse (in terms of the Inquiry’s Terms of Reference) at General Teaching Council for Scotland Fitness to Teach proceedings.
v.	How many staff have been found by the organisation/establishment to have abused children cared for at the establishment?
	Our records show that following investigation of complaints, six members of staff were found by the School to have abused children cared for at the establishment. Please see 5.9.1/2 and 3 and 5 and 28 and 31 and 32 and 33/21/22/29/30 .
vi.	In relation to questions iii – v above, what role did/do those members of staff had/have within the organisation/establishment?

1. Mervyn Preston (1935 – 1976) – Housemaster; Second Master and Acting Headmaster (5.9.13 and 18 and 27)
2. Iain S Robertson (1943 – 1960) – Teacher of Music (5.9.14)
3. Eric (EN) Mackay (1952 – 1980) - Latin Teacher, Head of Athletics, resident tutor (5.9.15)
4. James Rainy-Brown (1960 – 2013) – Housemaster of Pringle; teacher of Junior Mathematics and Science (5.9.2 and 3 and 5 and 11 and 12 and 16 and 23 and 26 and 31 and 32 and 33).
5. BRL [REDACTED] (1968 – 1972) – Teacher of [REDACTED] and House Tutor in Chalmers West. (5.9.17)
6. OZK [REDACTED] (1972 – 1977) – Teacher of [REDACTED], House Tutor Chalmers West (5.9.22)
7. CGJ [REDACTED] (1976 – 1985) – Teacher of [REDACTED] (5.9.1)
8. OPA [REDACTED] (1985 - present) – Director of [REDACTED]; Housemaster of several Boarding Houses (5.9.20)
9. DRW [REDACTED] (1991 – 1994, 2010- 2013) - Student Teacher at Merchiston ([REDACTED] 1991 – [REDACTED] 1991); Teacher of [REDACTED] and [REDACTED] ([REDACTED] 1992 – [REDACTED] 1994); Pringle Housemaster ([REDACTED] 2010 to [REDACTED] 2013). (5.9.21)
10. Allan Macpherson (1993 – 2007) – School Chaplain; Teacher of Religious Studies; Master in Charge of Pipe Band (5.9.4 and 6)
11. ODL [REDACTED] (2000 – present) – Teacher of [REDACTED] and [REDACTED] non-resident House tutor. (5.9.30)
12. QZL [REDACTED] (2001 – 2005) – Teacher of [REDACTED] and Director of [REDACTED]; resident House Tutor and Assistant Housemaster of Rogerson East. (5.9.7)
13. RCQ [REDACTED] (2008 – 2015) – Teacher of [REDACTED]; Child Protection Co-ordinator; Resident tutor then Assistant Housemaster [REDACTED], Acting Deputy Head Pupil Support (5.9.25)
14. QZA [REDACTED] (1976-2009) Teacher of [REDACTED]; House Master; SNR [REDACTED] (5.9.9 and 29)
15. NOT MERCHISTON STAFF: Torquil Johnson-Ferguson, Owner/Director of Ru'a Fiola Island Activity Centre, Firth of Lorne from 1976 until he resigned as a director in December 2013. Wild

	Island Exploration Ltd also ran Solwaybank Farm Adventures, Dumfriesshire, which Merchiston pupils used from until October 2012. (5.9.8 and 10 and 24)
vii.	To what extent did abuse and/or alleged abuse of children cared for at the establishment take place during off-site activities, trips and holidays?
	There were five allegations of abuse at off-site activities. There was one at a school camp in 1991, one in 1999 and another at a school camp in 2001 (5.9.21 and 2 and 5). The fourth was at an outdoor activity centre called Ru'a Fiola in 2007 and the fifth at an outdoor activity centre called Solwaybank in 2012 (5.9.8 and 10 and 24). These three examples were allegations against the owner of these centres, Torquil Johnson-Ferguson. Mr Johnson-Ferguson was convicted of lewd, indecent and libidinous practices and behaviour in April 2015. This did not involve young people from this school.
viii.	To what extent was abuse and/or alleged abuse of children cared for at the establishment carried out by visitors and/or volunteers to the establishment?
	We have no knowledge or record of any such incident.
ix.	Have there been allegations of peer abuse?
	<p>There have been some allegations of peer abuse. Included below in 5.9.34 to 58 there are allegations of bullying, peer sexual abuse and assault.</p> <p>In responding to this question, the establishment's definition of Peer Abuse or Alleged Abuse has been the following:</p> <ul style="list-style-type: none"> • Physical • Sexual • Associated emotional and/or psychological • Stand-alone emotional or psychological abuse where this was deemed very significant e.g. persistent campaign <p>We have included incidents where there was parental dissatisfaction with the school's response to the complaint, particularly where it led to the withdrawal of their son.</p> <p>The School has always been very alert to bullying and has always put in place anti-bullying measures to as stringent a level as possible.</p>

5.3 Timing of Disclosure/Complaint

i.	When were disclosures and complaints of abuse and/or alleged abuse of children cared for at the establishment made to the organisation or establishment?				
	5.9 Ref.	Date of Complaint	Alleged Abuser	On-going/Recent (OR) Non-recent (NR)	
	1	1982	CGJ [REDACTED] (member of staff 1976-1985)	OR	
	1	17/12/1985	CGJ [REDACTED] (member of staff 1976-1985)	OR	
	28	02/10/1988	James Rainy Brown (member of staff)	OR	
	29	17/02/1995	QZA [REDACTED] - former member of staff.	OR	
	40	01/12/1997	Approx. 10 pupils at Merchiston – do we know the names	OR	
	2	16/03/1998	James Rainy Brown (deceased member of staff)	OR	
	3	12/10/1999	James Rainy Brown (deceased member of staff)	OR	
	4	26/02/2000	Allan Macpherson (deceased Chaplain and members of staff)	OR	
	48	06/09/2000	[REDACTED] - S3 pupils.	OR	
	31	05/10/2000	James Rainy Brown (deceased member of staff)	OR	
	49	09/04/2001	Members of Lower Sixth year group.	OR	
	50	18/04/2001	A group of 9 boys in the same year group, IV Form	OR	
	32	16/05/2001	James Rainy Brown (deceased member of staff)	OR	
	34	16/01/2002	[REDACTED] - P7 pupil	OR	
	35	12/11/2002	[REDACTED] - Lower Sixth Form Pupil	OR	
	41	09/10/2003	[REDACTED] - P6 Pupil	OR	
	30	9/09/2003	ODL [REDACTED] - member of staff	OR	
	36	17/11/2004	[REDACTED] - S3 pupil.	OR	
	42	30/09/2004	2 Upper Sixth prefects, [REDACTED] and [REDACTED] and peer, [REDACTED]	OR	
	51	04/02/2005	S3 pupil, [REDACTED] at the school involved in bullying of [REDACTED]	OR	
	43	18/05/2006	[REDACTED], S4 pupil	OR	

6	22/05/2006	Allan Macpherson (deceased Chaplain and member of staff)	OR	
7	November 2006	QZL (former member of staff (01-05))	OR	
52	22/03/2007	S2 pupil.	OR	
8	15/09/2007	Ru'a Fiola Island Exploration Centre run by Torquil Johnson-Ferguson (friend of James Rainy Brown)	OR	
53	08/04/2008	S3 pupil.	OR	
54	12/11/2008	Lower Sixth Pupil.	OR	
44	04/12/2008	S3 pupil	OR	
9	08/03/2009	QZA - former member of staff	OR	
33	March 2010	Deceased staff member, James Rainy Brown	OR	
55	25/05/2010	S1 pupil	OR	
45	22/11/2011	P6 pupil	OR	
10	18/03/2012	Solwaybank camp run by the owner of Ru'a Fiola (Mr Torquil Johnson-Ferguson, also a friend of James Rainy Brown)	OR	
11	23/04/2013	James Rainy Brown (member of staff)	NR	
12	After April 2013	James Rainy Brown (member of staff)	NR	
17	20/05/2013	Mervyn Preston (former member of staff-deceased)	NR	
14	October 2013	Iain Robertson (former member of staff)	NR	
15	18/05/2013	Eric Mackay (former member of staff - deceased)	NR	
16	20/05/2013	James Rainy Brown (member of staff - deceased)	NR	
17	20/05/2013	BRL (member of staff)	NR	
18	22/10/2013	Mervyn Preston (former member of staff-deceased)	NR	
20	31 May 2013	OPA (member of staff)	NR	
21	May/June 2013	DRW (former member of staff)	NR	
38	20/05/2013	(former S3 pupil)	NR	
22	29/06/2013	OZK (former member of staff)	NR	

	19	22/08/2013	James Rainy Brown (former member of staff - deceased)	NR	
	23	28/10/2013	James Rainy Brown (former member of staff - deceased)	NR	
	46	12/02/2014	██████████ - Upper Sixth Pupil	OR	
	37	16/03/2014	Two P7 boarders, ██████████ and ██████████	OR	
	56	16/04/2014	A group of S2 pupils.	OR	
	47	05/10/2014	██████████ S3 pupil.	OR	
	57	25/11/2014	A group of S2 peers.	OR	
	24	13.02.2015	Ru'a Fiola Island Exploration Centre run by Torquil Johnson-Ferguson (friend of James Rainy Brown)	OR	
	39	09/10/2015	██████████ - former prefect	NR	
	58	10/02/2015	A group of S1 peers	OR	
	25	03/10/2015	RCQ ██████████ (former member of staff)	NR	
	25	05/10/2015	RCQ ██████████ (former member of staff)	NR	
	26	10/11/2016	James Rainy Brown (former member of staff - deceased)	NR	
	10	13/01/2017	Ru'a Fiola Island Exploration Centre run by Torquil Johnson-Ferguson (friend of James Rainy Brown)	NR	
	27	12/06/2017	Mervyn Preston (former member of staff - deceased)	NR	
ii.	To what extent were complaints and disclosures made while the abuse or alleged abuse was on-going or recent?				
	Of the 60 complaints registered and listed above in 5.3 i, 40 related to on-going or recent disclosures.				
iii.	To what extent were/are complaints made many years after the alleged abuse i.e. about non-recent abuse?				
	Of the 60 complaints registered and listed above, 20 relate to non-recent allegations of abuse.				
iv.	Are there any patterns of note in terms of the timing/disclosure of abuse and/or alleged abuse?				
	The suicide of a member of staff in April 2013 meant that 15 of the 20 non-recent complaints were made in response to the Headmaster writing to all audiences and in particular alumni of the School seeking any relevant and pertinent information. The Headmaster interpreted responses from some complainants regarding potential abuse by some members of staff, as giving these individuals the chance to be listened to and gain a sense of healing and closure. In addition, press				

	<p>reports following the member of staff's suicide also acted as a catalyst, encouraging former pupils to reflect on their experience and come forward.</p> <p>In terms of the on-going/recent complaints from above, the only pattern we can discern is in connection with one specific former member of staff whose suicide is referenced above.</p>
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5.4 External Inspections

i.	<p>What external inspections have been conducted relating to children cared for at establishment which considered issues relating to abuse and/or alleged abuse of children?</p>
	<p>All external inspections which the School has undergone focused on key elements of the wellbeing and protection of the children. However, the following external inspections, covering the period ending in December 2014, had a specific focus on issues relating to abuse or alleged abuse of children:</p> <ul style="list-style-type: none"> • The Care Inspectorate (unannounced) inspection, 29 October 2012, investigated a concern raised with the Care Inspectorate by the father of a former part-time boarder, 5.9.45 • The Care Inspectorate (unannounced) inspection, September 2013, was carried out after the school notified the Inspectorate of historic child abuse allegations, following the suicide of a member of staff. 5.9.11. • In October 2014, Education Scotland and the Care Inspectorate carried out a joint inspection, which again focused on Child Wellbeing and Protection, including the remit of the Governing Body in overseeing this crucial aspect.

For each such external inspection please answer the following:

ii.	Who conducted the inspection?
	The Care Inspectorate: inspectors Marion Neil and Iain Lamb
iii.	Why was the inspection conducted?
	A concern had been raised with the Care Inspectorate by the father of a former part-time boarder, the concerns raised related to an accident, but the parent alleged targeted bullying.

iv.	When was the inspection conducted?
	29 October 2012
v.	What was the outcome of the inspection in respect of any issues relating to abuse or alleged abuse of children?
	<p>For all areas of the inspection, including the Quality of Care and Support, grade 6 (Excellent) scores were given.</p> <p>The Inspectorate spoke to all of the staff who dealt with the incident. The inspector felt the rules were extensive and proscriptive and recommended revisiting these rules to help give pupils' ownership of their behaviour, and a better understanding of their responsibilities.</p>
vi.	What was the organisation/establishment's response to the inspection and its outcome?
	Whilst there were no recommendations or requirements made following this inspection, the School Leadership Team put in place an Action Plan to take forward any suggestions for improvement, in particular to involve junior pupils in the formulating of rules and guidelines affecting them.
vii.	Were recommendations made following the inspection?
	There were no formal recommendations or requirements.
viii.	If so, what were the recommendations and were they implemented?
	Not applicable.
ix.	If recommendations were not implemented, why not?
	Not applicable.

ii.	Who conducted the inspection?
	The Care Inspectorate (unannounced) inspection, September 2013, inspectors Marion Neil and Iain Lamb
iii.	Why was the inspection conducted?
	This inspection was carried out after the school notified the Inspectorate of historic child abuse allegations, following the suicide of a member of staff. Due to the issues of a child protection nature, the inspection focused on a review of the School's existing

	safeguarding policies and procedures.
iv.	When was the inspection conducted?
	04 September 2013
v.	What was the outcome of the inspection in respect of any issues relating to abuse or alleged abuse of children?
	<p>For all areas of the inspection, including the Quality of Care and Support, grade 6 (Excellent) scores were given.</p> <p>The inspector noted that the School had co-operated fully with external agencies, including the Care Inspectorate, concerning the historic child abuse allegations.</p>
vi.	What was the organisation/establishment's response to the inspection and its outcome?
	<p>Whilst there were no recommendations or requirements made following this inspection, the School Leadership Team put in place an Action Plan to take forward any suggestions for improvement. The key action was to make more detailed Child Protection training available to all staff attending external trips, especially residential visits although they were satisfied that staff were fully aware of the guidelines and had received training.</p>
vii.	Were recommendations made following the inspection?
	There were no formal recommendations or requirements.
viii.	If so, what were the recommendations and were they implemented?
	Not applicable.
ix.	If recommendations were not implemented, why not?
	Not applicable.

ii.	Who conducted the inspection?
	<p>In October 2014, Education Scotland and the Care Inspectorate carried out a joint inspection, led by Anna Boni (Education Scotland) and Iain Lamb (Care Inspectorate).</p>

iii.	Why was the inspection conducted?
	This inspection focused on Child Wellbeing and Protection, including recruitment processes and the remit of the Governing Body in overseeing this crucial aspect.
iv.	When was the inspection conducted?
	October 2014
v.	What was the outcome of the inspection in respect of any issues relating to abuse or alleged abuse of children?
	There were recommendations to ensure that policies and procedures in relation to safeguarding, including Child Protection documentation, were maintained to the highest standards and consistently implemented by staff.
vi.	What was the organisation/establishment's response to the inspection and its outcome?
	An Action Plan was produced to meet all the recommendations and requirements made.
vii.	Were recommendations made following the inspection?
	Yes and one Requirement from the Care Inspectorate.
viii.	If so, what were the recommendations and were they implemented?
	<ol style="list-style-type: none"> 1. The provider should support the Child Protection Coordinator to ensure that the pro forma documents developed to make the School's child protection systems as safe as possible are always used to report child protection concerns. National Care Standards, School Care Accommodation Services. Standard 3- care and protection. This was included in a Post Inspection Follow-up Action Plan. 2. The provider should ensure that the School uses its HR systems effectively and that employment applications are consistently audited to ensure they are complete before being considered. National care Standards, School Care Accommodation Services. Standard 7- management and staffing. This was included in a Post Inspection Follow-up Action Plan 3. The provider should review its staff disciplinary procedures to ensure that pupils are safeguarded in the event of allegations being made. National Care Standards, School Care Accommodation Services. Standard 7- management and staffing. This was included in a Post Inspection Follow-up Action Plan. <p>Requirement: By 31 March 2015 the service provider must demonstrate to the Care Inspectorate that all decisions made in the course of the business for which it is registered, are made in accordance with its safeguarding</p>

	<p>policies and procedures. This is to comply with regulation 4 (1) of the Social Care and Social Work Improvement Scotland- Requirements for Care Services Regulations 2011, Scottish Statutory Instrument 2011/210.</p> <p>The Care Inspectorate confirmed that this Requirement had been met within this timescale following its inspection, completed 11 May 2015: "the service had changed and updated its arrangements for meetings of the Board of Governors to ensure that Child Protection and Safeguarding received a higher priority and that all relevant members attended for discussions."</p>
ix.	If recommendations were not implemented, why not?
	All recommendations and Requirements were met.

5.5 External Investigations

i.	What external investigations have been conducted relating to children cared for at the establishment which have considered issues relating to abuse and/or alleged abuse of children?
	<p>There have been seven external investigations:</p> <ol style="list-style-type: none"> 1. The police were called by the School to investigate a fight on the back fields/assault in 2006. 5.9.43 2. The police were called by the School to report an allegation of sexual abuse by a former member of staff, QZL, 2006. 5.9.7 3. Merchiston was involved in police inquiries led by DS Brady in April 2013 following the suicide of James Rainy Brown. 5.9.11 plus others. 4. An external investigation commissioned by the Governing Body in 2013 5. A further investigation commissioned by the Governors in 2014 6. Merchiston was subject to a police inquiry, Operation Brecon, in 2015, an investigation into historic child abuse at Merchiston 7. The School called the police to report an allegation of sexual abuse by a former member of staff, RCQ, leading to a full police investigation in October 2015. 5.9.25. We have included this as it involved investigation of alleged abuse before December 2014.

For each such external investigation please answer the following:

ii.	Who conducted the inspection?
	1) Lothian and Borders Police carried out the investigation.

	<ol style="list-style-type: none"> 2) DS Hossack and DC Todd of Child and Families Services Unit, Lothian and Borders Police, responded to a concern raised by the School 3) A police investigation conducted by DS Brady into historic child abuse cases at Merchiston 4) An independent Investigation by Mr John Robertson, former Rector of Dollar Academy, into issues in Merchiston Castle School, specifically concerning Mr DRW (5.9.21) 5) Report on Child Protection Policy and Procedures at Merchiston, including a review of the School's handling of historic child abuse cases, carried out on behalf of the Board of Governors by Kate F Cherry, Education Consultant and former HMle. 6) Police Scotland, DS Wright and team 7) Police Scotland, DS Brady and team
iii.	Why was the inspection conducted?
	<ol style="list-style-type: none"> 1) Lothian and Borders Police carried out an investigation into an organized fight, with pupils spectating, resulting in one pupil being injured/assaulted 2) The Child and Families Services Unit, Lothian and Borders Police, responded to a concern raised by the School following an allegation of sexual abuse by a member of staff reported to the Chair of Governors by the former pupil's father 3) A police investigation conducted by DS Brady into historic child abuse cases at Merchiston following a complaint made to the police about Mr Rainy Brown by a former pupil. 4) Independent Investigation by Mr John Robertson, former Rector of Dollar Academy, into issues in Merchiston Castle School, specifically concerning Mr DRW. This refers to 5.9.21. 5) Report on Child Protection Policy and Procedures at Merchiston, including a review of the School's handling of historic child abuse cases, carried out on behalf of the Board of Governors by Kate F Cherry, Education Consultant and former HMle. The remit was: <ul style="list-style-type: none"> • To determine whether the School has, in any sense, fallen short in terms of its duty of care to the boys in its charge • To record lessons to be learned from the tragic

	<p><i>sequence of events</i></p> <ul style="list-style-type: none"> • <i>To extend the review to the school's handling of other child protection issues since 1998</i> • <i>To recommend any change to current procedures or policies which should be implemented in the light of this review.</i> <p>6) Police Scotland, DS Wright and team carried out an investigation to review the previous inquiry (three in this list) and to investigate cases where the accused was deceased as this had not formed part of the previous inquiry. The police felt it was important that the complainants were taken seriously, given the opportunity for closure and to feel reassured that they had been listened to.</p> <p>7) Police Scotland, DS Brady and team carried out an investigation following reports of abuse by former member of staff, RCQ [REDACTED].</p>
iv.	When was the inspection conducted?
	<p>1) Lothian and Borders Police carried out the investigation in May 2006.</p> <p>2) Child and Families Services Unit, Lothian and Borders Police responded to a concern raised by the School in November 2006.</p> <p>3) A police investigation conducted by DS Brady into historic child abuse cases at Merchiston in April 2013.</p> <p>4) Independent Investigation by Mr John Robertson, former Rector of Dollar Academy, reporting in June 2013.</p> <p>5) Report on Child Protection Policy and Procedures at Merchiston, including a review of the School's handling of historic child abuse cases, carried out on behalf of the Board of Governors by Kate F Cherry, Education Consultant and former HMle was concluded in August 2014.</p> <p>6) Police Scotland, DS Wright and team carried out this investigation from May 2015, debriefing the Headmaster in August 2015.</p> <p>7) Police Scotland, DS Brady and team carried out this investigation in October and November 2015, reporting their findings to the Procurator Fiscal.</p>

v.	What was the outcome of the inspection in respect of any issues relating to abuse or alleged abuse of children?
	<ol style="list-style-type: none"> 1) Lothian and Borders Police charged one pupil with assault and referred the case to the Crown Office and Procurator Fiscal Service. In place of being prosecuted the Procurator Fiscal referred the pupil for support from the Social Work Department, September 2006. The School suspended the two pupils involved in the fight and a further four pupils for their involvement in instigating and organizing this fight. 2) Child and Families Services Unit could not take the investigation further in the absence of a complaint from the perceived victim. This former pupil did not wish to lodge a complaint with the Police. 3) A police investigation conducted by DS Brady into historic child abuse cases at Merchiston. Two charges were made, one of which went to trial and resulted in a guilty verdict, the other which did not continue to court. There were no more charges made. 4) The independent investigation by Mr John Robertson, former Rector of Dollar Academy, into issues in Merchiston Castle School, confirmed that the actions of the school had been deemed "correct and "proportionate" by the police and by the Care authorities." "During the investigation, it became clear that, while the school management continues to show care for DRW, there is no confidence in his ability to fulfill the duty of care to the boys for whom he was, until his suspension, responsible." 5) The Report on Child Protection Policy and Procedures at Merchiston, including a review of the School's handling of historic child abuse cases, carried out on behalf of the Board of Governors by Kate F Cherry, Education Consultant and former HMle who was asked "...to determine whether the School (including Governors, Senior Management, past or present) has, in any sense, fallen short in terms of its duty of care to the boys in its charge." <p>Ms Cherry reached the following conclusions:</p> <ul style="list-style-type: none"> • It would be unfair to make overly critical judgement on the early period covered by this review. There is very limited written, recorded evidence or information available from that period on which to base a full evaluation. It is also unwise to judge past events and the values and expectations of those times with current views. As the interim report neatly said, "It is therefore important to avoid judging the past behaviour through the prism

of modern attitudes and standards of child protection”.

- The national process to ensure rigour across all care and educational establishments in handling child protection issues were at an early stage in the 1970s and 1980s. That is not to say that such matters were not important then. Schools had to ensure the safety and care of their pupils and staff were expected to conduct themselves in a professional manner. Merchiston Castle School offered some guidance through the Staff Handbook. In 1994, this included reference to protection of pupils and ensuring no corporal punishment took place. In 1995, additions were made to the handbook which covered welfare and child protection in more detail.

- Errors of management did occur where the balance of pupil care and collegiate loyalty or ‘making allowances’ was not well judged. Such instances include the Mr X case in the handing of his continued use of physical punishment, his attitude towards nakedness in swimming, and disregard for safety procedures. Together they paint a picture of questionable behaviour which may not have been seen at the time by any one senior management person. Separately, many could have had firmer and more timely action than appears to have been taken. Lack of tight procedures for length of employment and updating contracts of employment added confusion to the expected retirement date of Mr X and to clear time-limits for extended part- time employment beyond retirement.

- In the employment of **DRW**, more weight could have been given to his background and former working relationship with Mr X. Re-advertising the post of Housemaster might have been considered. This highlights the harder decision is sometimes not to appoint.

- Overall, most of the other cases reviewed from 1998 indicate that they were handled appropriately. Where lapses occurred, insufficient consideration had been given to experience, for example where young teachers, tutors and students were deployed to accompany pupils on trips. On other occasions, the role of the member of staff seemed to have been a barrier to taking swifter action over inappropriate behaviour. This is a dilemma for management in not wanting to undermine someone’s career and reputation but being sufficiently distanced to follow due process.

- Since 2013, the rigour of ensuring pupils’ safety has increased even further. The sequence of events provided a catalyst to turn all procedures out for forensic scrutiny. Clear lines of responsibility have been drawn and communications across key responsibility holders made more robust, resulting in the much needed oversight of concerns. This should mean that the ‘big picture’ will be seen by the Headmaster and Senior Management,

	<p>and serious concerns picked up quickly and shared with Governors, as necessary. This oversight was missing over the years.</p> <ul style="list-style-type: none"> • Perceptions, accurate or not, of staff having influence through their friendships with Governors and the wider alumni network have been addressed. Better role delegation to individual members of the Board, one as liaison for Child Protection and one for Staff liaison, provides open communication. At the same time, it will be important for Governors and Senior Management not to become overly anxious to the point of needing to be involved at every level for all issues. • Hard lessons have been learned in the School and the current comprehensive arrangements are as effective as any can be in the constant vigilance of the young people in the school's care. The honest and self-searching process by staff has resulted in these current high quality systems. There is, of course, no guarantee that incidents won't occur. Constant commitment by all, staff, Governors, pupils and parents, needs to prevail. <p>6) Police Scotland, DS Wright and team made no further charges against any individual although, had others been alive, there might well have been other cases put forward to the Procurator Fiscal. The former pupils who DS Wright spoke to "are pleased to have had the opportunity to air their concerns". DS Wright commented favourably on the culture change within the school.</p> <p>7) Police Scotland, DS Brady and team charged the individual and a report was sent to the Procurator Fiscal who we understand has decided not to proceed at this stage.</p>
vi.	What was the organisation/establishment's response to the inspection and its outcome?
	<p>1) All parents were informed of the incident by letter from the Headmaster, May 2006. The Headmaster enclosed with this the School Policy on Filming and technology. Additionally, the School carried out an Audit of Pastoral Care in the Boarding Houses.</p> <p>2) Care Commission and HMle were informed by the School. All staff were reminded of the policies and procedures for Child Protection. The School remained vigilant for any other issues which may arise relating to the time this former member of staff was employed at Merchiston.</p> <p>3) A Police investigation conducted by DS Brady into historic child</p>

	<p>abuse cases at Merchiston</p> <p>4) Independent Investigation by Mr John Robertson, former Rector of Dollar Academy, into issues in Merchiston Castle School, specifically concerning Mr DRW</p> <p>5) Report on Child Protection Policy and Procedures at Merchiston, including a review of the School's handling of historic child abuse cases, carried out on behalf of the Board of Governors by Kate F Cherry, Education Consultant and former HMle.</p> <p>6) During the time of this investigation the Governors supported the proposal to increase the school leadership capacity through the appointment of a Deputy Head Pupil Support from August 2015. This was to improve the School Leadership Team's capacity to monitor and quality control pupil support provision and to help drive change, for example through the introduction of a Staged Intervention Model which clearly underlines the responsibility of all in the promotion of wellbeing. A Pupil Support Leadership Team was then established with the appointment of 2 Assistant Heads Pupil Support.</p> <p>7) Police Scotland, DS Brady and team reported that they had submitted a report to the Procurator Fiscal. The School informed all regulatory bodies including GTCS and Disclosure Scotland. It has since cooperated closely with GTCS which held a Fitness to Teach hearing, 2017. We have reviewed policies relating to residential staff and in particular we have updated the guidance for staff working in boarding houses. We have further increased staff training to ensure all staff are fully aware of their role and responsibility in not only their own work, but also in monitoring the behaviour of colleagues. In this regard, a presentation to all staff by Enough Abuse UK on grooming was particularly powerful.</p>
vii.	Were recommendations made following the inspection?
	<p>1) Yes.</p> <p>2) No.</p> <p>3) Yes.</p> <p>4) Yes.</p> <p>5) Yes</p> <p>6) Yes.</p> <p>7) No.</p>

viii.	If so, what were the recommendations and were they implemented?
	<p>1) The Police did not make any specific recommendations following this investigation, but the Procurator Fiscal recommended that one pupil receive support from Social Services. This pupil went on to complete a successful school career without further incident.</p> <p>2) Not applicable.</p> <p>3) The Police supported the school's engagement with staff, current and former pupils and current and former parents asking that if anyone had concerns that they should feel comfortable coming forward wither to the Headmaster or the Police.</p> <p>4) The independent Investigation by Mr John Robertson, former Rector of Dollar Academy, into issues at Merchiston Castle School made the following recommendations:</p> <ul style="list-style-type: none"> • Ensure that all members of staff recognise the potentially serious implications of a failure to accord sufficient weight to Child Protection (CP) Guidelines. Along with Health and Safety Guidelines, CP Guidelines have to be regarded as being national in source, and not an imposition by Merchiston. Fully implemented. • Consider the potential risks of appointing a Housemaster who is not a current member of staff. The importance of someone in that position being conversant with policies and practice should not be underestimated. The appointment of a Housemaster might in addition be undertaken with the presence of a Governor on the interviewing team. In respect of those particular points, we have not proceeded to include Governors on Housemaster appointment panels as this is a mid-management position (Governors are on the appointment panels for senior management positions). We have also taken particular care over the Induction of new Housemasters to ensure that they have a full induction in and are fully aware of all policies and practice. Rigorous employment procedures are fully implemented at all levels of employment. We have a robust Recruitment Procedure (see Appendix C1). • Accord greater weight to the induction of all new staff to Merchiston by regarding them as a discreet group, with similar needs in school orientation, regardless of their age and experience. Fully implemented. We now have an Induction Programme which lasts for the full first half term with weekly training sessions particularly to ensure confidence in Child Protection and pupil wellbeing and support. The Line Manager then continues this process in a clearly defined PRD calendar.

	<ul style="list-style-type: none"> • Avoid if possible the tensions arising from a precautionary suspension which allows a teacher and/or his family to remain on campus. Many staff are of the view that the sensitivity shown in safeguarding Mr DRW has led to rumour, irritation and factionalism on the staff. Any precautionary suspension must involve the member of staff being off campus. Fully implemented. This is also now covered in the updated Disciplinary Policy and Procedure. • Commend staff (teaching and support) on their resilience in coping with additional teaching and pastoral demands, tensions and media coverage this term. Fully implemented. • Recognise that many members of staff would experience considerable difficulties in day-to-day operation with Mr DRW were he to return as a colleague. His continuing to express regard for the methods of Mr Rainy Brown would create a challenge to colleagues sensitised to the unacceptable behaviour of Mr Rainy Brown. Continuing his current level of criticism of the Merchiston management team would likewise not be in the best interests of MCS. Fully implemented. Mr DRW left the School's employment without returning from suspension. • In whatever action the school opts to take in the light of this investigation, ensure that the high level of pastoral support already provided for Mr DRW and his family is maintained. The School feels it fulfilled its obligations in this area. <p>5) Report on Child Protection Policy and Procedures at Merchiston gave a list of suggested improvements which the School implemented in full:</p> <p>1. Procedures for interviewing members of staff on care and welfare issues should take account of close friendships or close working relationships to ensure objectivity in decision making and to avoid inadvertent over empathising.</p> <ul style="list-style-type: none"> • <i>Consultation with external agencies determined the route forward</i> • <i>Any staff members involved in an investigation of a staff care and welfare issue must declare any conflict of interest and where necessary be replaced by another staff member or possibly a Governor or an external educationalist.</i> • <i>Staff care and welfare issues must be referred through the Child Protection Co-ordinator</i> • <i>School Leadership Team must take due cognisance of possible conflicts of interest.</i> <ul style="list-style-type: none"> ○ <i>Application Form now requests a note of any acquaintances within the Merchiston Community.</i>
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	<ul style="list-style-type: none"> ○ <i>CPC always informed and early advice sought from External Agencies</i> <p>2. Ensure incidents are properly logged and dealt with in a prompt manner with firm decisions taken to avoid future occurrence or misunderstanding by staff on the importance of due care towards pupils.</p> <ul style="list-style-type: none"> • Lessons have been learned from historic incidents and the robust handling of one former staff member is evidence of this. • Minor incidents must be highlighted on the staff file to allow possible emerging patterns of behaviour to be identified. Chronology cover sheet added. • Child Protection Coordinator must be informed. <ul style="list-style-type: none"> ○ <i>New processes covered in updated Disciplinary Policy and Procedure.</i> <p>3. Keep under review appropriate and consistent internal sharing and auditing of logged incidents across the school.</p> <ul style="list-style-type: none"> • Human Resources to catalogue and summarise Staff files so that Child Protection and Disciplinary issues are clearly noted within a summarised career history with pertinent paperwork readily identifiable. NB confidential so cannot be delegated. • Open separate Child Protection log to record concerns about individual staff members and cross refer to pupil files. • Separate Staff Disciplinary/Child Protection file to be kept by Headmaster for oversight and ready review. <ul style="list-style-type: none"> ○ <i>Disciplinary Log for current staff held in HM Study</i> <p>4. Continue to share the procedures for disciplinary action regularly with all staff.</p> <ul style="list-style-type: none"> • The Staff Manual is updated annually and incorporates GTCS Code of Conduct. • Further INSET through use of scenarios <ul style="list-style-type: none"> ○ <i>New Disciplinary Policy and Procedure</i> <p>5. Length of career experience and closeness of age of teachers to senior pupils should be given more focus in staff guidance and when deploying members of staff in supervisory roles.</p> <ul style="list-style-type: none"> • New Child Protection guidelines have been issued to all staff and the new Staff Manual entry entitled Staff in Boarding Houses is a part of the annual cycle of Child Protection staff training. • Assistant Housemasters should have maturity in age and/or experience and the Staff in Boarding Houses policy must be included with any letter of appointment. <ul style="list-style-type: none"> ○ <i>Due cognisance of this taken in appointments made from September 2014</i> • Revise the School's pocket sized Child Protection Guidelines to include additional good working practice points from Education Scotland's version of the model.
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	<ul style="list-style-type: none"> ○ <i>Child Wellbeing and Protection card is issued to all staff, the Sixth Form (a different version) as well as translated card into Polish.</i> • Continue very careful consideration of supervisory roles given to young/inexperienced members of staff. <p>6. Ensure residential visits continue to be rigorously risk assessed in relation to Child Protection procedures of the centre and managers.</p> <ul style="list-style-type: none"> • Significant progress has been made by Deputy Head Co-curricular in adopting and integrating the Government's "Going Out There" recommendations into Merchiston's Educational Visits Policy. <ul style="list-style-type: none"> ○ <i>Deputy Head Co-curricular leads update training sessions for staff on Residential Visits</i> • Dr Sue Hamilton helped lead staff INSET on this issue in April 2014. <p>7. The implications of posting personal information and comment on social-media should be emphasised in staff (and pupil) guidance and include the possible associated reputational risk to individuals and the school.</p> <ul style="list-style-type: none"> • Covered in the Staff Manual including the GTCS Code of Conduct covered in INSET August 2014 and a part of new staff induction. • The GTCS Code of Conduct is included in all letters of appointment for academic staff. <ul style="list-style-type: none"> ○ <i>SSSC Code of Practice is issued to all staff from January 2015.</i> • Pupil use of social media also covered annually by Child Protection meetings and Personal, Social and Health Education and by Housemasters. • ICT User Guidelines and Acceptable Use Agreements revised to cover this; reissue to each pupil and staff member for signature and return each September (or on joining). <ul style="list-style-type: none"> ○ <i>AUA updated, signed and recorded</i> ○ <i>Issued to all people working in the school irrespective of whether they have access to the School network or not.</i> <p>8. Consider having a separate sub-committee in the event of historical allegations which might arise. It could be convened to review these independently from the school's internal process.</p> <ul style="list-style-type: none"> • A governor was appointed. This remit has been taken over by the Child Protection and Compliance Committee which was established in May 2016. <p>9. Include in the recruitment and interviewing process explicit need for candidates to disclose in writing and verbally any previous or ongoing matters related to child protection.</p> <ul style="list-style-type: none"> • The Headmaster or School Leadership Team (SLT) member to cover explicitly in interview any possible involvement in former Child Protection investigations or incidents.
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	<ul style="list-style-type: none"> • Reference forms have been revised and updated to include elements of good working practice from other schools. <ul style="list-style-type: none"> ○ <i>Further revisions made to cover references for all staff.</i> • The Self Declaration Form was updated and expanded to include similar questions to those added to the Reference Form. <ul style="list-style-type: none"> ○ <i>Self Declaration now separated from Health Questionnaire and required alongside Application Form – January 2015</i> • The <i>Information for Applicants</i> document, available to all applicants, which explains our requirements and expectations in full, is sent to all applicants invited for interview, so that we are certain their attention has been drawn to it. • At interview, applicants will be asked to review their electronic application and sign to say that the information therein is indeed correct and accurate. • Involvement of Governor or external educationalist for senior staff appointments. <p>10. Review and, where necessary, tighten contract procedures for length of employment and updating contracts of employment beyond anticipated retirement date.</p> <ul style="list-style-type: none"> • Since the abolition of the default retirement age in 2011 it is no longer possible to terminate an employee's contract at the age of 65. Workers reaching this age are entitled, should they wish to do so, to continue work on the same terms and conditions. Any performance issues are managed through the Review & Development process. <ul style="list-style-type: none"> ○ <i>PRD process involves a regular discussion of future plans with possible referral to the Bursar for further pensions advice if required.</i> <p>11. The Headmaster and Board of Governors should continue to ensure a united approach in the oversight and management of grounds of concern involving individual members of staff. In doing so, agree the levels of disciplinary action and at which stage they are sufficiently serious for the involvement of the Board of Governors.</p> <ul style="list-style-type: none"> • The appointment of a Whistleblowing Governor to address disclosure directly to the governing body. This system allows any member of staff to go directly to the Whistleblowing Governor. • There is a section in either the Child Wellbeing and Protection termly Report to Governors by the Child Protection Liaison Governor (following adoption by the CP &CC) or in the Headmaster's Progress Report noting SIGNIFICANT grounds for concern with regard to individual members of staff in the following areas: Child Protection; Discipline; Personal Circumstances. This enables the Board to be fully informed. • In order for this to work, it is essential that staff understand and act upon their responsibilities with regard to Child Protection and regular staff training reinforces this.
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	<ul style="list-style-type: none"> ○ <i>The Headmaster maintains confidential notes of concern about staff and personal issues – from September 2014, reviewed annually by the Chair of the Child Protection and Compliance Committee.</i> <p>6) DS Wright stressed to the Headmaster the culture change in the school on which so many former pupils had commented. He highlighted two specific areas on references: full, individual references and he also stressed the importance of full criminal record and background checks being carried out. The Headmaster confirmed that the school follows best practice in both of these areas. Additionally, he commented that certain staff behaviours deemed acceptable in the past, such as what was termed “muscular Christianity”, were no longer acceptable. The Headmaster confirmed that this culture change has taken place in the school and DS Wright stressed the importance of this. He endorsed fully the decision of the Board of Governors not to accept a substantial legacy from Mr Rainy Brown nor to celebrate his contribution to the school in any way.</p> <p>7) Not applicable</p>
ix.	If recommendations were not implemented, why not?
	All recommendations were implemented.

5.6 Response to External Inspections/Investigations

i.	What was the organisation’s procedure/process for dealing with external inspections and/or investigations relating to abuse, and/or alleged abuse, of children cared for at the establishment?
	<p>The Governing Body and the School Leadership Team co-operated fully with each inspection or investigation, whilst ensuring data protection guidelines were followed and confidentiality respected. The Governing Body commissioned two independent reviews detailed in Section 5.5.</p> <p>The practical communication was managed on behalf of the Governing Body by the Headmaster as leader of the School Leadership Team (SLT), but members of the Governing Body always met representatives of the inspection or investigation.</p>
ii.	What was the organisation’s procedure/process for responding to the outcomes of such external inspections and/or investigations?
	Representatives of the Governing Body attended all inspection feedback meetings and received detailed reports from the Headmaster of any investigatory meetings which they were not required to attend. The outcomes were discussed by the Governing Body with the Headmaster

	and representatives from the SLT and the Child Protection Co-ordinator.
iii.	What was the organisation's procedure/process for implementing recommendations which followed from such external inspections and/or investigations?
	The process was to establish an agreed Action Plan detailing the person responsible, timescale and a section to evaluate the impact of any actions. Any substantial new improvement was embedded into the School Improvement Plan and from May 2015 the drafting of a Self-Evaluation Leading to Improvement proposal form, following Education Scotland's established process for bringing about change, was the first stage of the process.

5.7 Impact

i.	What is known about the impact of abuse on those children cared for at the establishment who were abused, or alleged to have been abused?
	<p>Although the School has gone out to the pupil and parent body on a number of occasions and has received information, complaints and allegations, we do not have a great deal of specific information on the impact of the instances.</p> <p>We do know from our review and anecdotally that in the case of James Rainy Brown, he encouraged a culture of 'favourites' and we can see from the information now reviewed in total that this had a negative impact on the pupils who were adversely targeted by Rainy Brown.</p> <p>We have identified a range of experiences and possible long term negative mental health impacts including:</p> <ul style="list-style-type: none"> • We are aware of former pupils for whom their experience of abuse at Merchiston had a negative mental impact at the time, and we have evidence from 2 former pupils who reported a long term negative mental health impact and/or have made comments to suggest they have experienced a long term negative mental health impact. (see 5.9.26, 39 and 51) and an anonymous former pupil who raised a complaint to the police, 5.9.11. • Former pupils complained about the indecent exposure of a member of staff, please see 5.9.1. When this case eventually came to court in December 2015, we understand that some of the witnesses at the court case of a former member of staff were emotionally distressed. • The former pupil (above, 5.9.26, 39 and 51) has made

	<p>comments on social media that suggest that he is suffering long-term negative mental health effects from his experience at school. He has also made a formal allegation of sexual abuse against a former member of staff and a former senior pupil.</p> <ul style="list-style-type: none"> • A former pupil was clearly upset at the time of the incident because he reported that he brought it to the attention of his teachers, but nothing happened (unfortunately, the school has no record of this). He gave some evidence that he has suffered from some lasting negative emotional/mental effects from his experiences because he reported that it took him some time to “find his way” after leaving school. Please see 5.9.23. • A former pupil was particularly distressed in emails and letters when he recalled his experiences at school, and he also expressed emotional distress when the Headmaster and Chairman of the Board of Governors met him in person. His negative experiences of Merchiston contributed to his decision not to send his own son to be educated at the school. Despite his emotional distress, he wrote in an email that he has suffered no long term issues from his experiences. See 5.9.16 and 17 and 18. • We are aware of former pupils who allege that either they or their peers were subject to abuse by staff, but did not report the incidents at the time. The former pupils report that at the time they knew that the behaviour was “not normal” but did not know what to do about it. They now recognise that this behaviour is a form of abuse and should be reported, so they came forward to the school to talk about their experiences. It is unclear the extent to which these experiences have had a long term impact on the former pupils. The current Headmaster had a telephone conversation with each of them and they were able to talk comfortably about their experiences. With their consent, the school passed on the contact details of each of these former pupils to the police, and it is not known what they have said in their statements to the police. With regard to the other allegations of abuse, those former pupils have not expressed any emotional distress, nor have they reported any long term problems in their adult life, so it is difficult for us to assess if they have experienced any enduring negative effects. However, the fact that they have come forward to the school later on in life to report their awareness of possible child abuse indicates that their experiences have had some form of long term impact. Please see 5.9.13 and 14, 5.9.15, 5.9.19, 5.9.27 • A former pupil continues to experience anxiety relating to his experiences of corporal punishment at Merchiston in the 1950s – he reports having bad dreams and emotional difficulty in dealing with people in authority. He shared with the Headmaster an extended reflection of his experience at Merchiston between 1955-60 which we include as Appendix D4. He refers to “lasting anxiety” caused by his memories of school and he also acknowledges that his parents made “big sacrifices to send me to Merchiston for which I remain very
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grateful. Several of my cohort remain life-long friends.”

- Before corporal punishment was banned at Merchiston in 1987, physical punishment was usual. As far as we are aware the physical effects of this form of punishment (e.g. weals, bruising, pain and associated restricted movement) were short term. We are not aware of any former pupils suffering from long term physical effects of abuse.

Peer abuse

- There are some pupils for whom we know that the instances of peer abuse or alleged peer abuse had a negative mental health impact at the time, to the extent that they left school after the incident. For the most part, we are not aware of the long term negative mental health impact of abuse or alleged abuse in these instances, apart from:
 - A mother recently let us know that a former pupil continues to refuse to perform his musical instrument in public due to the bullying he received at Merchiston. Please see 5.9.57
 - See 5.9.40 – letter from mother, 10.03.1999, in which she states that “*■’s mental and physical wellbeing suffered and if the situation had been resolved differently perhaps he could still be enjoying the advantages of Merchiston.*” She concludes that “*retrospectively we have many fond memories of Merchiston which we cannot forget, because ■ whether he recognises it or not, has been forged with many of its ideals.*”
 - Parents wrote to the school soon after a pupil who was withdrawn from the school following a period of bullying which had not been successfully resolved. This letter made clear the negative impact this experience had had on their son. Please see 5.9.56

Sexual, physical and emotional abuse from peers and staff – remained at school

- Over the years the school has worked with a number of pupils who have experienced peer abuse, to help resolve the situation and enable them to remain at school. For some of these pupils, we know that the peer abuse caused some negative impact at the time, for example 5.9.42, 54, but they found the resolution satisfactory and were able to remain at school. For many of these pupils, the school has provided additional support for the remainder of the pupil’s time at Merchiston. In this way, we believe that we have minimised the long term impact in such instances.
- We have a current pupil who has tried to continue, with

	<p>additional support, but the effects of bullying in his first two years have had a negative impact on his self-esteem. Please see 5.9.58</p> <ul style="list-style-type: none"> • There have been pupils who have made allegations of abuse by staff and the school has been alerted to this at the time of the incident. The school was able to provide immediate support to the pupil to resolve the situation and to minimise any negative impact and to offer on-going support. Please see 5.9.28, 29 and 30 as examples. • In 2015 a current pupil reported an incident that happened in 2012 at an outdoor activity centre. The pupil decided not to make a formal police complaint, but he received counselling and the school put a Child's Plan in place. He is a current pupil who is making very positive progress. Please see 5.9.24.
ii	Where does the organisation/establishment's knowledge/assessment of that impact come from?
	<p>Most of our knowledge of the impact has come from the school repeatedly writing to current and former pupils urging them to contact the school should they have any concerns about their experiences at Merchiston. Following the announcement of a police investigation into allegations against a deceased member of staff in 2013, many former pupils and former parents came forward to the school to describe their own experiences.</p> <ul style="list-style-type: none"> • On 13/06/2015 and 21/10/2015 the School sent out an email to parents, guardians, staff, former pupils, former parents and friends of Merchiston asking anyone to come forward with any questions, concerns or observations regarding the wellbeing of children at Merchiston past and present. • Further emails (six emails between November 2015 and June 2017) informed the audiences of the investigations into historic child abuse cases and gave contact details should anyone have any concerns. This communication to wider audiences has brought to our knowledge a number of potential issues and allegations, and accordingly, we have promptly referred this information to the police. <p>Personal narratives</p> <p>The present Headmaster has had telephone conversations with former pupils, and he has also met one former pupil in person. We have been given a copy of an essay written by a former pupil about his experience of Merchiston in the 1950s (Appendix D4). From these conversations, emails and letters we have made an assessment of the emotional/mental impact of the experiences of former pupils.</p> <p>Contemporaneous complaints of peer to peer abuse leading to the removal of a pupil from school</p>

	<p>If a pupil made a complaint at the time of an incident and they consequently left Merchiston, then we have assessed this as a significant impact at the time of the complaint. Please see 5.9.38,40,45,50,51,53,56,57.</p> <p>The requirement for additional pupil support</p> <p>The school is aware of the impact of abuse in particular because of our Care Plan structure which incorporates regular formal review points and has the young person at the centre. This support is in place both for the pupil who has suffered abuse as well as for the peer abuser. Examples of pupils who have benefited from this approach include, 5.9.37,45,57 and 58.</p> <p>Self-reported long term impact</p> <p>In a few instances a former pupil has explicitly described experiencing negative effects long into their adult life; for example, taking a long time to find their way in life, bad dreams and emotional difficulty in dealing with people in authority. A former pupil has also made a civil action claim against the School for damages in connection with historical child abuse – we have assessed this as an indication of a significant long term negative mental health impact. See 5.9.26 and 39</p>
iii.	<p>What is known about the impact of abuse on the families of those children cared for at the establishment who were abused, or alleged to have been abused?</p>
	<p>We are not aware of widespread problems with relationships between former pupils who have experienced abuse and their parents. We are however aware of one former pupil who resents his father for sending him to Merchiston, particularly because he had expressed his unhappiness to his parents, who dismissed his concerns about Mr Rainy Brown. It was his negative experience which meant he did not send his own son to Merchiston. See 5.9.16 and 17 and 18.</p> <p>The parents of the pupils who experienced abuse at Merchiston, see 5.9.40, 45, 50 51, 56 and 57 as examples, were very concerned for their children at the time. In the instances where the parents removed their child from the school due to peer abuse, we understand that parents were unhappy with how the school had dealt with the situation, considering it to be unresolved. Most of these parents reported feeling disappointed or regretful that a resolution could not be found. In terms of the long term impact on families, the school does not routinely hear from parents of pupils who have left the school, although the Headmaster has on occasion heard how the former pupils have settled well into their new schools.</p>
iv.	<p>Where does the organisation/establishment's knowledge/assessment of</p>

	that impact come from?
	<p>The Headmaster has written to parents and former pupils on the following 16 occasions since April 2013. An * indicates an explicit request that parents and former pupils contact the School or the police, with any particular concerns about abuse. This has brought to the fore many of the concerns from former pupils and parents.</p> <ol style="list-style-type: none"> 1. 29/04/2013 – announcement Mr Rainy Brown's death 2. 07/05/2013 – announcement of Mr Rainy Brown's suicide 3. 17/05/2013 – announcement of Police investigation into Mr Rainy Brown 4. 19/08/2013 – announcement of no further action by Procurator Fiscal with regard to Mr Rainy Brown. 5. *December 2014 – Letter to parents about Ru'a Fiola Activity Centre and Solwaybank 6. *20/03/2015 – Letter to parents about Ru'a Fiola and the owner, Mr Torquil Johnston-Ferguson, facing charges 7. *██████/2015 – ████████ article regarding court case, Mr CGJ ██████ 8. ██████/2015 – Communication about a former female member of staff. 9. *██████/2015 – Communication about a former female member of staff. 10. *██████/2015 – Communication about a former female member of staff. 11. *██████/2015 – Communication about Mr CGJ ██████ court case 12. ██████/2016 – Communication about a former female member of staff. 13. ██████/2016 – Communication about ████████ articles, one concerning alleged abuse by former female member of staff, the other regarding the CGJ ██████ case. 14. 05/01/2017 – Letter to current parents/guardians of pupils who attended Solwaybank until 2013. 15. *31/01/2017 – Communication about the Scottish Child Abuse Inquiry 16. *08/02/2017 – Communication about the Scottish Child Abuse Inquiry 17. *██████/2017 - Communication about a former female member of staff. <p>Personal narratives The present Headmaster has had telephone conversations with former pupils, he has met one former pupil in person, and we also have a copy of an essay written by a former pupil about his experience of Merchiston in the 1950s. From these conversations and copies of letters and emails we have made an assessment of the emotional/mental impact of the experiences of former pupils and the effect on their family life.</p> <p>Meetings with parents When the Headmaster had meetings with parents of pupils who had</p>

	<p>suffered peer abuse, the parents sometimes showed signs of emotional distress.</p> <p>Letters from former parents and family members</p> <p>In the letters from parents informing Merchiston of the decision to remove their child from the school, the parents sometimes write about their disappointment or regret. See 5.9.40 and 50. One father told us that he had lost trust in the school and sought to rectify what they believe to be a flawed account of what happened to their son by providing a codicil to be filed alongside their son's GIRFEC (Getting it Right for Every Child) Plan. See 5.9.56 We have also received letters from the solicitors of the grandparents of another former pupil see 5.9.51, expressing dissatisfaction at unresolved bullying issues.</p>
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5.8 Known Abusers at Establishment

i.	Does the organisation/establishment know of specific abusers, or alleged abusers, of children cared for at the establishment?
	Yes. See Spreadsheet 5.8 at Appendix D1 for all details.
ii.	If so, what are the names of the abusers, and/or alleged abusers?
	See Spreadsheet 5.8 at Appendix D1
iii.	<p>For each of these persons, please provide as much as possible of the following information:</p> <ul style="list-style-type: none"> the period (dates) during which they are known or alleged to have abused children cared for at the establishment the role they had in the organisation/establishment during the period of abuse and/or alleged abuse where they worked prior to, and following, their time at the organisation/establishment the knowledge sought or received about them by the organisation/establishment at the point of recruitment, and while they were at the establishment any information sought by, or provided to, future employers or third parties after they left the establishment, including regarding abuse or alleged abuse
	See Spreadsheet 5.8 Appendix D1
iv.	Were known abusers, or alleged abusers, of children cared for at the establishment moved from one establishment run by the organisation, to

	another establishment run by the organisation?
	No.
v.	If so, why was this considered to be appropriate?
	N/A
vi.	If so, what process of monitoring/supervision followed at the new establishment?
	N/A

5.9 Specific Complaints

i.	How many specific complaints of abuse of children cared for at the establishment have been made to the establishment/organisation?
	<p>For full details see Spreadsheet 5.9 – Appendix D2</p> <p>From the research we have carried out, we have identified 58 specific complaints of abuse of children cared for at the establishment made to the organisation.</p> <p>In preparing the enclosed submission, the School has considered very carefully the Inquiry's definition of abuse, contained in the Inquiry's Terms of Reference, as well as the additional information regarding the definition in the FAQ section of the Inquiry's website. The definition of abuse is of complaints of physical/ sexual abuse of children cared for at the School, as well as associated emotional/psychological abuse. Where the School has identified complaints of solely emotional/ psychological abuse, the School has used its judgement about what to include in this submission. In exercising this judgement the School has followed the Inquiry's guidance (provided by email of 26 June 2017 to the School's solicitors) and included complaints of emotional abuse that from the evidence appear to be very significant or where it appears that there has been a campaign of emotional abuse against a particular pupil by a fellow pupil or teacher.</p> <p>On this basis, the following general classes of incidents have not been reported in full by the School in this submission:</p> <ol style="list-style-type: none"> 1. Unspecific complaints with no individual named nor evidence of abuse 2. One-off incidents of unprofessional conduct investigated and resolved to the satisfaction of all parties, for example, staff using derogatory language towards pupil(s)/swearing around pupils/one-off comments which a pupil found humiliating. 3. Report of peer to peer bullying over a short period with resolution that did not involve suspension/a pupil leaving the School.

	<ol style="list-style-type: none"> 4. Report of possible abuse not involving pupils at Merchiston 5. Reports of close relationships where the School made a successful early intervention and there was no suggestion of any physical/sexual/or emotional abuse. 6. Repeated poor behaviour resulting in the perpetrator being asked to leave the school but not directed against one complainer 7. Possible abusive incidents, which on investigation were clearly wellbeing issues, for example, reports of inappropriate sexual behaviour between pupils where there is no suggestion of abuse. <p>If the Inquiry considers it necessary, the School can provide further information.</p>
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For each specific complaint, please answer the following:

Please see Spreadsheet 5.9 **Appendix D2** detailing the responses required for each complaint.

5.10 Civil Actions

i.	How many civil actions have been brought against the organisation and/or establishment relating to abuse, or alleged abuse, of children cared for at the establishment?
	To date we have one civil action process started against the organisation.

For each such civil action, please answer the following:

ii.	Who brought the action?
	The School received correspondence from Thompsons Solicitors on behalf of [REDACTED].
iii.	When was the action brought?
	The letter was dated 10 November 2016.
iv.	Against whom was the action brought?
	Merchiston Castle School
v.	What was the nature of the abuse, or alleged abuse, to which the action related?

	<p>The School received correspondence from Thompsons Solicitors and the letter indicated <i>"We are instructed by the above named, [REDACTED] to claim damages in connection with historical sexual abuse at your School. Our client boarded at your School in 2001 and this year our client was sexually abused by a teacher, James Rainy-Brown. Our client looks to you for reparation by reason of your breaches of common law. You are vicariously liable for the actions of your staff."</i> Please see Spreadsheet 5.9 Appendix D2 at 5.9.26.</p>
vi.	What were the names of the persons said to have, or alleged to have, committed abuse?
	Mr James Rainy Brown.
vii.	When/over what period was the abuse said, or alleged, to have taken place?
	In 2001, as stated in the letter from Thompson's solicitors.
viii.	How did the action progress?
	<p>The Bursar of Merchiston Castle School passed this to the School's legal advisors. Merchiston contacted Social Care Direct for advice and notifications went to the Care Inspectorate, Education Scotland, the Registrar of Independent Schools and the Scottish Council of Independent Schools. The Police have also been fully informed. DS Wright responded to the school on 03.03.2017: "In addition, I recall your colleague contacting myself. This is a civil matter. I will not be able to provide any further specific comment on this."</p>
ix.	What was the outcome?
	Not known at this stage.
x.	Was the action settled on a conditional basis of confidentiality?
	Not known at this stage.
xi.	Who was/were the organisation/establishment's legal representative(s) in relation to the civil action?
	Anderson Strathern, Edinburgh.
xii.	Did the organisation/establishment carry insurance for meeting civil claims at the time the action was live?
	Yes.
xiii.	How/where can copies of the court papers relating to the civil action be

	made available to the Inquiry?
	It has not progressed to court.

5.11 Criminal Injuries Compensation Awards

i.	Has any criminal injuries compensation been awarded in respect of abuse, or alleged abuse, of children cared for at the establishment?
	No.
ii.	If so, please provide details if known.
	N/A

5.12 Police

i.	How many complaints of abuse of children cared for at the establishment have been made to the police?
	There have been 18 complaints of abuse of children cared for at the establishment passed to the Police. These examples of abuse are all found within Spreadsheet 5.9 Appendix D2 .

In relation to each known complaint to the police, please answer the following questions:

Please see Spreadsheet 5.12 [Appendix D3](#) detailing the responses required below for each complaint.

5.13 Crown

i.	To what extent has the Crown raised proceedings in respect of allegations of abuse of children cared for at the establishment?
	<p>To our knowledge there is one example of the Crown raising proceedings in respect of allegations of abuse of children cared for at the establishment and this former member of staff, CGJ. Please see 5.9.1</p> <p>We understand RCQ, a former member of staff was charged but that the Crown decided not to prosecute. See 5.9.25</p>

In relation to each time the Crown has raised proceedings, please answer the following questions:

ii.	What is the name of the person(s) against whom the proceedings were raised?
	Mr CGJ [REDACTED]
iii.	What was the nature of the charges?
	Three charges of indecent exposure.
iv.	What was the outcome of the proceedings, including disposal/sentence if there was a conviction?
	Mr CGJ [REDACTED] stood trial at Edinburgh Sheriff Court and was found guilty in [REDACTED] 2015 on three charges of indecent exposure at the school covering a period of between 1980 and 1985. He was not fined or given a jail sentence but instead received an absolute discharge by Sheriff Kevin Drummond. No penalty was imposed and no conviction is recorded and he was not placed on the Sex Offenders Register.
v.	What was the organisation/establishment's response to the proceedings and outcome?
	After leaving Merchiston in 1985, Mr CGJ [REDACTED] taught at [REDACTED] School, Oxfordshire. Merchiston cooperated fully with the police investigation. The School wrote to current parents and former pupils, [REDACTED] 2015 and [REDACTED] 2016, to notify them of this case and the likelihood of press coverage as well as to encourage that any concerns are brought to the school. We were aware from press coverage that a spokesperson from that school was quoted as saying: <i>"In the light of this verdict and following legal and local authority advice, the member of staff returned to work in January. Oxfordshire Safeguarding and Child Protection has since re-examined the case and confirmed that it is appropriate for the individual to resume their role."</i> Because of the Police investigation, Merchiston had no direct communication with this school.