

1 Tuesday, 27 May 2025

2 (10.00 am)

3 LADY SMITH: Good morning, and welcome back to our
4 evidential hearings in relation to this phase of our
5 work, looking into the provision of residential care of
6 children with healthcare, additional supports and
7 disability needs.

8 Now, we turn today to education inspection in
9 Scotland, and I think we have a single witness, is that
10 right, Ms Innes, who is ready to give evidence?

11 MS INNES: Yes, that's right, my Lady. Janie McManus is
12 His Majesty's Interim Chief Inspector of Education in
13 Scotland. She has previously given evidence to the
14 Inquiry, first of all in relation to the case study in
15 relation to boarding schools on Day 211, that was
16 17 March 2021; and then, more recently, in the Secure
17 Care case study on Day 375, that was 28 September 2023.

18 LADY SMITH: Thank you.

19 Janie McManus (sworn)

20 LADY SMITH: Welcome back again. Thank you for coming to
21 help us with your evidence once more.

22 When you were last here, you were content that I use
23 your first name; is that all right still?

24 A. Yes.

25 LADY SMITH: Thank you for that, Janie.

1 I know that you now are here in a role you took up
2 just a month or so after you last gave evidence, as the
3 Interim Chief Inspector of Education in Scotland, which,
4 of course, makes your evidence even more valuable than
5 it was before, so I'm grateful to you for that.

6 You know how we work, you know what's in the red
7 folder, and thank you for all the material you and your
8 organisation has provided to us for the purposes of this
9 section of our work.

10 Please remember that if you've got any questions at
11 any time, you must ask. If you want a break at any
12 time, you must ask. If it works for you, I promise it
13 will work for me. All right?

14 A. Thank you.

15 LADY SMITH: If you're ready, I'll hand over to Ms Innes and
16 she'll take it from there. Thank you.

17 Questions from Ms Innes

18 MS INNES: Thank you, my Lady.

19 Good morning, Janie.

20 A. Morning.

21 Q. As Lady Smith has just mentioned, you're currently the
22 Interim Chief Inspector of Education in Scotland, and we
23 understand from your CV that you took that role up in
24 November 2023, and that, as we understand it, is part of
25 the transition to a new independent inspectorate?

1 A. Yes, that's correct.

2 Q. Now, Education Scotland have provided a report for this
3 phase of the Inquiry, but before I turn to it, if we can
4 look briefly at the separate methodology document
5 provided, which is at SGV-001033535.

6 First of all, at page 2 of that document, you set
7 out, at paragraph 3, the points covered in the
8 Section 21 notice sent to you in respect of this phase
9 of the Inquiry, and that is what you've addressed in
10 your report and summaries?

11 A. Yes.

12 Q. If we go on over the page, please, to page 3, at
13 paragraph 5 you note that various searches were
14 commissioned in relation to the 20 named establishments;
15 is that right?

16 A. Yes.

17 Q. If we look down to paragraph 9, you say:

18 'Where no records relevant [to the notice] were
19 found for an establishment, a short establishment
20 overview has been prepared ... providing any relevant
21 material that Education Scotland is aware of.'

22 If there are no records of inspections -- so, for
23 example, for some of the institutions we're looking at,
24 like Melville House, Linwood Hall, for example -- does
25 that mean that no inspections took place?

1 A. No, not necessarily. It means that we didn't have
2 records to show whether inspections took place or not,
3 and it was more that the records we were able to access,
4 the case studies were compiled from that, rather than no
5 inspections took place.

6 Q. Thank you.

7 Now, you go on to set out in detail the approach
8 that you took in terms of the preparation of the report,
9 and I think that's broadly similar to the approach taken
10 by Education Scotland in relation to previous phases of
11 the Inquiry, for example in relation to secure care?

12 A. Yes, it is.

13 Q. Now, if we can move on to your main report, please,
14 which is at SGV-001033534, and if we move to page 3 of
15 this, please.

16 As before, at paragraph 1.2, you refer to both
17 Education Scotland and its predecessors and
18 HM Inspectors, and you set out that HM Inspectors are
19 currently part of Education Scotland; however, as we
20 know, the inspection function is in the process of being
21 made independent?

22 A. Yes, that's correct.

23 Q. Okay, and we'll come back to that later on in your
24 report.

25 At paragraph 1.3, you note, as you've set out in

1 previous reports, that there are three types of school:
2 public schools, grant-aided schools and independent
3 schools.

4 You explain that a public school would be under the
5 management of an education authority, and some of the
6 schools covered by this case study would fall into that
7 category, I think?

8 A. Yes.

9 Q. So, for example, the ones I've just mentioned,
10 Melville House and Linwood Hall, were under the
11 management of Fife?

12 A. Yes.

13 Q. Then there are some grant-aided schools, and you say
14 that these are schools in respect of which Scottish
15 Ministers give grants to the schools' managers.

16 A. Yes.

17 Q. Again, there are some grant-aided schools within the
18 scope of this case study.

19 A. Yes.

20 Q. I think perhaps Harmeny is a grant-aided school; is that
21 right?

22 A. Yes.

23 Q. Then there are independent schools, which fall into
24 neither of the previous two categories, and they're
25 managed by the proprietor of the school?

1 A. Yes.

2 Q. So, again, in this case study, for example, Starley Hall
3 is an independent school; is that right?

4 A. Yes.

5 Q. If we go down to paragraph 1.5, you note that five of
6 the establishments on the list that we're looking at in
7 this case study are open today, and you say that these
8 establishments are classed as special schools, with
9 residential provision services.

10 So what is a 'special school'?

11 A. So a special school is defined as a school, whether it's
12 a class or a unit, that is specially suited to provide
13 education for children or young people who have
14 particular special needs, needs for support.

15 Q. You give reference there to section 29(1) of the
16 Education (Additional Support for Learning) (Scotland)
17 Act 2004 as setting out that definition, or the current
18 definition; is that right?

19 A. Yes.

20 Q. If we go on to the top of the next page, page 4, you
21 note that special schools could fall into any of the
22 three categories: public, grant-aided or independent.

23 A. Yes.

24 Q. You also say any such provision, where it provides
25 residential accommodation, must be registered as

1 a school care accommodation service, and that's with the
2 Care Inspectorate?

3 A. Yes.

4 Q. But that school would also be subject to inspection by
5 HM Inspectors?

6 A. Yes. The school education element is subject to
7 inspection by HM Inspectors.

8 Q. Okay.

9 You also note that you liaise with the Registrar of
10 Independent Schools in relation to those schools falling
11 within the category of independent schools.

12 A. Yes.

13 Q. At paragraph 1.6, you note that the special schools
14 which are still open are either independent schools or
15 grant-aided schools; none of them fall within the
16 definition of public schools?

17 A. That's correct.

18 Q. So I think that those which are still open would be
19 Harmeny, Seamab, Starley Hall, the Royal Blind School
20 and Donaldson's.

21 A. Yes.

22 Q. Although Donaldson's no longer provides residential
23 accommodation.

24 A. Yes.

25 Q. Then you go on to list all of the institutions that you

1 were asked to look at in the context of this case study
2 at paragraph 1.7.

3 Now, if we move on to page 5 and part 2 of the
4 report, you note, at paragraph 2.1, that the records
5 show that there is evidence that children who were
6 accommodated in at least some of the establishments
7 under investigation by the Inquiry during the relevant
8 period were abused, and you go on to note that the
9 records may not be full or comprehensive, as you've just
10 said. So at paragraph 2.3, you note that Education
11 Scotland accepts that it's unlikely that all abuse will
12 have been reported or, indeed, recorded.

13 Now, I understand that you have an additional
14 statement to read in connection with the acknowledgement
15 of abuse by Education Scotland, so perhaps if I give you
16 an opportunity to read that now.

17 A. Thank you.

18 Good morning. I'm here today on behalf of
19 Education Scotland to assist the Inquiry with its
20 investigations into the abuse of children and young
21 people accommodated in residential care establishments
22 for those with long-term healthcare needs, additional
23 support needs and disabilities.

24 In preparation for giving evidence to the Inquiry,
25 Education Scotland carried out a review and evaluation

1 of records held in relation to establishments included
2 in this phase.

3 In the written response to the Inquiry,
4 Education Scotland acknowledge that children and young
5 people suffered abuse and other unacceptable practices
6 whilst accommodated in one or more of these
7 establishments, and I want to reiterate that
8 acknowledgement in person.

9 I also want to acknowledge that the records we
10 reviewed are unlikely to provide a comprehensive account
11 of the abuse that took place, and this may be due to
12 records not being retained or abuse not being recorded
13 at the time. And I therefore want to acknowledge that
14 the absence of records should not be interpreted as
15 evidence that abuse did not take place.

16 It's unacceptable that any child was abused or
17 subjected to abusive practices, conditions and regimes.
18 Children attending educational establishments should
19 have done so with the expectation that they would be
20 safe and free from harm, and for children who were
21 abused, this was not the case.

22 On behalf of Education Scotland, the agency
23 currently responsible for the inspection of education,
24 I would like to apologise sincerely for failings in
25 inspection regimes over the years which have contributed

1 to environments that enabled the abuse of children to
2 take place.

3 I'd like to apologise to each of those children and
4 their families for the harm and distress caused at the
5 time of the abuse and the effect that this has had on
6 their lives.

7 In my capacity as His Majesty's Interim Chief
8 Inspector of Education, I want to ensure that the
9 inspection of education is trusted by children and that
10 it helps in protecting them and keeping them safe from
11 harm.

12 While inspection has changed over the years,
13 including an increased focus on child protection and
14 safeguarding, I'm committed to ensuring that Education
15 Scotland does all it can to promote the safety and
16 wellbeing of children when they are in education, and
17 that all possible measures are taken to ensure that
18 education is delivered within a safe environment.

19 I want to reiterate my previous commitment to
20 listening. I'll engage fully with the evidence
21 presented during these hearings and the questions raised
22 so that I can reflect carefully on any further
23 improvements needed to strengthen inspection practice.

24 Thank you.

25 LADY SMITH: Janie, thank you for that thoughtful and full

1 apology. It's much appreciated that you took the
2 trouble to do that.

3 MS INNES: Thank you, Janie.

4 Now, if we can move on in the report, please, to
5 page 9. At section 6, you start looking at the
6 legislative framework and, again, this is evidence that
7 you have given to the Inquiry before, but just to touch
8 on a couple of matters.

9 You refer to the powers to inspect, and then if we
10 go on over the page, at paragraph 6.3, we see reference
11 to the Care Inspectorate that you just mentioned in your
12 evidence, and you highlight, in paragraph 6.3, that
13 HM Inspectors do not ordinarily inspect the residential
14 accommodation provided by such services, although they
15 have power, in terms of the 1980 Act, to carry out
16 inspections for the purposes set out in that Act. Then
17 you go on to refer to the way in which you work with the
18 Care Inspectorate.

19 At paragraph 6.4, you say that the approaches have
20 changed over the years, and you say that there were care
21 and welfare inspections for public schools and
22 independent school residential accommodation in Scotland
23 between 1996 and 2002.

24 Did Education Scotland have any involvement in these
25 inspections or were these carried out by others?

1 A. Well, they were carried out with HMIe at the time --
2 well, coming into the 2000s in time. So, yes, we did.

3 Q. Okay.

4 Then you say that the care and welfare inspections
5 stopped in 2002 but then, from 2003, as a result of the
6 Regulation of Care (Scotland) Act 2001, there were
7 integrated inspections, and those were HM Inspectors and
8 Care Commission inspections?

9 A. Yes.

10 Q. Were these carried out together, the inspectors forming
11 a team and going into an establishment together?

12 A. Yes, they would go into an establishment together, and
13 the care inspectors, Care Commission, would look at the
14 accommodation, and HM Inspectors would look at the
15 education element.

16 Q. Then if we move forward in time, obviously the Care
17 Inspectorate then came into being in 2011 and, at
18 paragraph 6.6, you note that HM Inspectors have a duty
19 of co-operation with other scrutiny bodies, including
20 the Care Inspectorate.

21 You go on to note that, in terms of section 115 of
22 the 2010 Act, Scottish Ministers can require Education
23 Scotland and the Care Inspectorate to carry out a joint
24 inspection.

25 So is that essentially the same as the integrated

1 inspection?

2 A. It's a similar philosophy, whereby the Care Inspectorate
3 would look at the accommodation and HM Inspectors would
4 look at the education at the same time.

5 Q. Okay.

6 I said we would come back to reforms later on, which
7 we will do, but in terms of the prospective reforms to
8 the Inspectorate, is that going to continue, the joint
9 working with the Care Inspectorate?

10 A. Yes, we currently -- yeah. Yes. In two elements it
11 would work, and currently the bill for legislation is
12 going through stage -- it's about to go on to stage 3,
13 and that will set out ministerial -- whether -- the
14 ministerial responsibilities. But under the Public
15 Sector Reform Act, we would be looking to carry out
16 joint work with the Care Inspectorate.

17 LADY SMITH: Does your joint work always result in a joint
18 report, rather than separate reports, or not?

19 A. Yes.

20 LADY SMITH: That must be more helpful to those who need to
21 know.

22 A. Yeah.

23 LADY SMITH: Yes.

24 MS INNES: If we go on over the page, to page 11, you talk
25 at paragraph 6.7 about your liaison with the Registrar

1 of Independent Schools, and there are certain contexts
2 in which you would liaise with the Registrar, one being
3 the registration of a proposed school.

4 What would the involvement of inspectors be in
5 relation to registration?

6 A. So in the registration of a proposed school, the
7 proprietor would send inspectors all documentation. The
8 inspectors would visit the school to carry out a site
9 visit of the school. We would look at aspects such as
10 staff being employed there and if they are registered
11 with the GTCS. So we would carry that out as
12 a pre-registration visit, provide the Registrar with
13 a report, and they would then determine whether
14 registration should go ahead.

15 Then nine months after that, we would carry out
16 a post-registration visit, and that's where we would see
17 the school in operation. Because the pre-registration,
18 there wouldn't be any children and young people there,
19 so then nine months after, we would see the school in
20 operation.

21 Q. Okay.

22 Then the second point there is that you note
23 compliance visits where conditions have been imposed on
24 the running of a school within residential or secure
25 accommodation, or where a notice of complaint has been

1 served on such a school in accordance with part 5 of the
2 1980 Act.

3 Can you explain the role of the inspectors in
4 relation to those matters?

5 A. So where conditions have been imposed, then there is
6 usually a time limit for the condition, and inspectors
7 would then carry out a visit to the school to ascertain
8 what progress has been made in addressing the condition
9 and whether the condition has been met or not, whether
10 there's sufficient evidence that the condition has been
11 met or not and, similarly, if they went on to the notice
12 of complaint, and that might be a visit, depending on
13 the nature, or it could be an inspection itself.

14 And there are also some times where the conditions
15 arise out of an inspection, and so it may be that
16 inspectors -- or we have set out that we'll go back and
17 carry out a further inspection and that, depending on
18 the timescale, that we would review the conditions or
19 the notice of complaint as part of that further
20 inspection.

21 LADY SMITH: For completeness, Janie, correct me if
22 I'm wrong, but I don't think the Registrar of
23 Independent Schools actually goes and inspects him or
24 herself?

25 A. No, the Registrar --

1 LADY SMITH: The function of the Registrar is to keep the
2 register and only have people on the register who should
3 properly be there, but if there's any doubt about that,
4 it's you or the Care Inspectorate, if appropriate --
5 A. Yes, it is.

6 LADY SMITH: -- who will go out and see what's actually
7 happening on the ground.

8 A. Yes, and we will provide the Registrar with a report.

9 LADY SMITH: Yes. Thank you.

10 MS INNES: Then if we go on under 'Enforcement Powers' at
11 paragraph 6.8, you note that the Scottish Ministers'
12 enforcement powers in respect of public and grant-aided
13 schools are set out at sections 66B to 66D of the 1980
14 Act, and we'll come back to that in a different context.

15 You then go on to talk about the powers of
16 enforcement in relation to independent schools, and you
17 say that those are set out under section 98E of the
18 1980 Act.

19 Can you explain what those powers of enforcement are
20 and what the Inspectorate's involvement is?

21 A. So, again, where it's conditions or -- and the
22 conditions are imposed under section 98E then, again,
23 inspectors would conduct compliance visits to monitor
24 and report on the school's progress against those
25 specific conditions, and we would provide a report on

1 the extent to which the conditions have been met.

2 Q. Then at paragraph 6.10, you note that there are certain
3 provisions that if the Scottish Ministers are satisfied
4 on any of the grounds set out in the notice that
5 a registered school is objectionable, they must serve
6 a notice of complaint, and then you have already told us
7 about how inspectors would be involved in monitoring
8 compliance with the measures specified in the notice of
9 complaint.

10 Now, I would like to look at some documents in
11 respect of the establishments that we're looking at in
12 this case study, which perhaps provide some examples of
13 the work of the Inspectorate and its liaison with the
14 Registrar.

15 So, first of all, if I can ask you, please, to look
16 at SGV-001033296, and if we can go to page 6 of this
17 document. This is in respect of Algrade School. It's
18 a bit blurred. It's a letter from 4 November 1968 and
19 it says here:

20 'I am writing to let you know that Algrade School
21 has today been registered provisionally in the Register
22 of Independent Schools.

23 'When the school has had time to become established,
24 in a few months' time you may expect to have a visit
25 from HM Inspector of Schools. Following this, the

1 school will be considered for final registration.'

2 So that suggests a bit of a different process to the

3 one that you've set out?

4 A. Yes, the process changed -- has changed, in that we

5 carry out the pre-registration visit first and then we

6 then go back in nine months to carry out

7 a post-registration visit. So the process of

8 registration has changed.

9 LADY SMITH: That makes sense.

10 A. Yes.

11 LADY SMITH: Because you don't want to register a school,

12 then there be an inspection, and the result of the

13 inspection be that it doesn't really justify

14 registration at all because of the standards it's

15 failing to meet.

16 A. Yes.

17 MS INNES: Now, if we can move on to page 9, please, and

18 towards the bottom of this page, there is a handwritten

19 note on 11 December 1968, which is to HMI Mr Cumming

20 from another inspector, and it says:

21 'I visited the Algrade School today. This is

22 a praiseworthy, voluntary effort and I am prepared to

23 recommend final recognition, subject to one minor

24 technical condition. There are possible complications

25 about the total set up which I shall describe on

1 a separate minute sheet.'

2 So that looks to be the inspector making

3 a recommendation of final registration at this point?

4 A. Yes.

5 LADY SMITH: And that's about five weeks after the

6 registration, I think. The indication was registration

7 in early November.

8 MS INNES: Yes.

9 If we go to page 10, we see the beginning of

10 a handwritten note, Algrade School, Humbie, and it says:

11 'This independent school (for occupational centre

12 level children) was visited today to see whether it

13 could receive final registration.'

14 Then the note goes on to suggest different types of

15 provision.

16 If we scroll down towards the bottom of the page, it

17 refers to -- there is a -- so if we scroll up a bit,

18 please -- sorry, down. 'A school ... ':

19 '... for children of junior [and I think "OC" is

20 "occupational centre"] level, children can be and are

21 both day and residential.'

22 There is:

23 '(b), a 'craft centre' for children of borderline

24 intelligence.

25 '(c) a playgroup for children who are clearly care

1 centre level (that is untrainable and uneducable).

2 '(d) a senior occupational centre not yet opened,
3 and then one residential villa.'

4 So there seems to be a variety of different
5 provisions within this --

6 A. Yes.

7 Q. -- organisation.

8 A. Yes.

9 Q. Okay.

10 Now, if we can go on, please, to page 17, there's
11 a paragraph beginning:

12 'One thing which is worrying, both as a matter of
13 general educational policy, and as a potential cause of
14 difficult individual cases, is the trend towards
15 "teaching" the children, ie in the three Rs. This is
16 confined to the school group. There can be no doubt
17 that the parents who are behind the school and the staff
18 themselves have this as the ideal to be aimed at. The
19 star "pupil" in this group was the girl who had "read
20 a book" since coming here. Ms Macrae herself admits
21 that that is why parents send their handicapped
22 offspring here. I already have a file relating to
23 a Midlothian teacher parent who is appealing to his EA
24 [education authority] to have his child sent to Algrade
25 because she will have the opportunity of learning to

1 read and will be instructed by a teacher. I spoke at
2 some length in plain terms to Ms Macrae about this
3 danger. She accepts the point intellectually but not,
4 I think, emotionally. All that we can hope to do here
5 is gradually over the years to modify the staff's point
6 of view. The prospect of educating parents is nothing
7 if not long-term. Each set of parents comes to the
8 problem afresh and a substantial proportion never come
9 to terms with the extent and nature of their child's
10 handicap.'

11 Now, that would seem to be suggesting that the
12 inspector's doubtful as to the fact that children who
13 are at Algrade are capable of being educated. What is
14 your reaction to that?

15 A. It's difficult sometimes to put into words, and
16 certainly the terminology being used, to say that
17 children are uneducatable, using language that we
18 wouldn't use today at all, because, you know, I would
19 expect -- most certainly expect now that all children
20 receive an education that is suitable to their needs and
21 enables them to make progress, and that that education
22 goes beyond the three Rs as well.

23 Q. Then if we look at the final paragraph that we can see
24 on the screen, it says:

25 'As I have pointed out already, this is a one-woman

1 show and it is unlikely that the rest of the school
2 committee could carry on if Ms Macrae for any reason
3 disappeared from the scene.'

4 So I think we understand that Ms Macrae was the
5 person who was in charge, and the inspector here seems
6 to be indicating a potential concern in relation to the
7 ability of the school to carry on without her.

8 Is the dependence on a particular person something
9 that the inspectors would look at?

10 A. No, we would look at, overall, the governance, how the
11 school runs, and today, if we were looking at it, if
12 such a school was dependent on one individual, then we
13 wouldn't have confidence in that school to carry on
14 actually and to function as a school, and we would be
15 looking at certainly what arrangements were in place to
16 not only run the school but to have oversight of the
17 school as well.

18 So today we wouldn't see that school as having
19 sufficient leadership in order to carry out its
20 functions.

21 Q. I think if we go on to the next page, please, page 19,
22 there's another handwritten note, which is commenting on
23 Mr Petrie's note that we have just looked at, because --

24 LADY SMITH: Do we have a date for this? It's not showing
25 up on that page.

1 MS INNES: If we scroll down, it's 7 February 1969.

2 LADY SMITH: That's not long after the previous items that
3 we looked at. Thank you.

4 MS INNES: Yes.

5 Of course, we have already seen that Mr Petrie
6 recommended final recognition, and it says:
7 'Subject to the school satisfying the fire
8 authorities, as indicated in HMI Mr Petrie's note, final
9 recognition should be granted.
10 'It is, of course, clear from Mr Petrie's paper that
11 there is a serious risk we must take. What would happen
12 to the school if and when Ms Macrae leaves it?'

13 But then there doesn't seem to be any answer to
14 that.

15 So the issue about governance seems to have been
16 recognised.

17 A. Yes.

18 Q. But I think if we go on to page 40 of this, this is much
19 later, this is 22 April 1970, a letter to Ms Macrae, and
20 we can see there that it says:
21 'I am now writing to inform you that the final
22 registration granted in respect of Algrade School
23 relates only to Rose Cottage and the schoolroom. The
24 number of children in attendance must not exceed 10.
25 'If you propose at any time to increase this number,

1 you should inform the Registrar at once. The Registrar
2 should also be informed if you intend to alter or extend
3 the school buildings or acquire additional buildings.'

4 So it appears that there's a particular focus on
5 some of the accommodation at Algrade as being registered
6 as a school, and then there's a suggestion that if
7 there's to be any changes, the Registrar should be
8 informed, and I think you mention that in your report --

9 A. Yes.

10 Q. -- that if there was to be an increase, then
11 HM Inspectors would be involved again.

12 A. Yes.

13 Q. Now, I'd like to move away from Algrade and to
14 Starley Hall, and to SGV-001032269.

15 We can see on the second page of this, that this is
16 a letter from the Registrar of Independent Schools, but
17 if we go back to the first page, this is a letter to
18 Mr Lorne Findlay of the Fife Council Social Work Service
19 Inspection, Registration and Client Relations Unit,
20 dated 28 January 1999. So this was before the Care
21 Commission were in place. If we scroll down, it says:

22 'I refer to my brief telephone conversation with you
23 about the attached copy of a letter...'

24 From a person who has made allegations against
25 a member of staff at Starley Hall.

1 Also referring to the dismissal of a teacher at the
2 school and bullying at the school.

3 It then goes on:

4 'For registration of independent schools under the
5 1980 Act, this department has previously asked
6 independent schools to inform us if a teacher has been
7 dismissed or resigns under circumstances which, had they
8 not been dismissed or resigned, may have led to possible
9 criminal proceedings being taken against them. However,
10 they are under no legal obligation to do so. It is not
11 clear from the letter whether the dismissal of a member
12 of staff who may or may not have been a teacher is
13 a recent occurrence or has happened in the far past.'

14 Then it says:

15 'Following consultation with the Schools
16 Inspectorate, it is considered that we should ask your
17 department to investigate the allegations. If such
18 an investigation were carried out, I would be grateful
19 if you would keep us informed.'

20 So it appears that a complaint's been made to the
21 Registrar, the Registrar has discussed it with the
22 Education Inspectorate, and the decision is to ask the
23 local authority to investigate.

24 Is that a process that you recognise or not?

25 A. So there are times where local authorities are involved,

1 where local authorities would -- where they have the
2 responsibility for a school, they would carry out
3 an investigation. But ... (Pause)

4 And I suppose to ascertain what action the school
5 took, particularly where there have been staff being
6 dismissed.

7 Q. To put it another way, would Education Scotland
8 investigate that sort of issue now or would it go to,
9 for example, the Care Inspectorate?

10 A. So, as an Inspectorate, we don't have powers to
11 investigate, so we can't carry out investigations
12 ourselves. So that's where we would then be in contact
13 with another body to carry out an investigation, whether
14 that be social work, a local authority, Care
15 Inspectorate, to carry work out, because we can't carry
16 out that investigation ourselves.

17 Q. Okay. So if the same thing happened today, it would go
18 to one of these other bodies --

19 A. Yes.

20 Q. -- that you have mentioned for further investigation?

21 A. Yes.

22 Q. Okay.

23 Now, staying with Starley Hall School, but looking
24 at a different issue, if we can look, please, at
25 SGV-001032116.

1 We can see that this is a letter dated 2 May 2007 to
2 the director of Starley Hall School, and we see that it
3 refers to registration of independent schools.

4 It then goes on to say:

5 'The Scottish Ministers have considered the HMIe
6 report published today and I wish to inform you that
7 under the powers specified in section 98E(1) (a) of the
8 Education (Scotland) Act 1980, the Scottish Ministers
9 consider it necessary to prevent [the school] from
10 becoming objectionable in terms of section 99(1A) (a) to
11 impose the following conditions on the carrying on of
12 the school.'

13 The first condition is that:

14 'The school must, by 3 September 2007, ensure that
15 it has a sufficient number of qualified and/or
16 experienced teachers to enable delivery of a suitably
17 broad curriculum to meet the needs of all the young
18 people in school and be delivering such a curriculum to
19 all the young people in the school.'

20 The second condition is that:

21 'By the same date, all staff must have been made
22 fully aware of the school's policy on managing
23 challenging behaviour of young people and all staff must
24 be implementing that policy consistently, with the aim
25 that young people are more engaged in learning and

1 achievement and attainment are improved.'

2 Then it goes on to note that it's possible to appeal
3 against the imposition of these conditions.

4 So is this an example of an HMIe report highlighting
5 issues which then give rise to the use of the powers in
6 the legislation?

7 A. Yes, it is.

8 Q. Are these the sorts of conditions that you would see
9 imposed today or not?

10 A. There are times where we would see conditions imposed
11 about curriculum, and particularly the breadth of the
12 curriculum. We would also see conditions around
13 behaviour or conditions around policies not being in
14 place, and then the condition would also put the policy
15 being updated or put into place, but also implementation
16 of the policy. So we would see similar types of
17 conditions today.

18 Q. What sort of factors would give rise to conditions being
19 imposed, as opposed to you just saying in your report,
20 'There needs to be a policy in relation to this', or,
21 'The policy needs to be reviewed'? How does it get to
22 this stage?

23 A. So it can get to this stage in a number of areas. It
24 can be a stage where a school -- in conversations with
25 the inspectors, the confidence level that the inspectors

1 have that the school will carry out areas for
2 recommendation. So if there's been a school inspection
3 and we've set out areas of recommendation, we will form
4 a view on the level of confidence that the school will
5 carry that out, and that view is formed over the course
6 of interactions that we've had with the school during
7 the time that we've been there.

8 It can always also arise where we have set out areas
9 of improvement in an inspection report and, when we have
10 gone back to carry out a further inspection, there has
11 not been sufficient progress has taken place.
12 Therefore, we would then -- we would not have the
13 confidence that enough progress was taking place or the
14 pace of the progress.

15 Q. Okay.

16 Now, in relation to these conditions, if we can move
17 on, please, to SGV-001032162. This is a report of
18 a visit to Starley Hall School in relation to these
19 conditions, and the visit is dated 26 September 2007, so
20 just after the deadline for compliance, and there are
21 certain background notes.

22 If we look down to 'Conclusions and recommendations
23 for discussion with the Registrar', it notes in relation
24 to condition 1:

25 'The inspector is confident that the school now has

1 a sufficient number of qualified and/or experienced
2 teachers.'

3 Then in relation to condition 2, the inspector says:

4 'I am confident that all staff have been made fully
5 aware of the school's policy on managing challenging
6 behaviour of young people with the aim that young people
7 are more engaged in learning and that achievement and
8 attainment are improving as behaviour management and
9 other factors (eg choice of programmes and changes to
10 learning approaches) improve. I am less confident, as
11 are staff themselves, that all staff are implementing
12 that policy consistently, although the intent to do so
13 is clearly there from management and the willingness
14 from the staff themselves. This is as much due to the
15 time allowed for such a significant change to take place
16 and to be clearly demonstrated and evidenced.'

17 So the inspector on this visit seems to have some
18 concern about the implementation in practice of the
19 policy?

20 A. Yes.

21 Q. Is that, again, something that you would look at at
22 a follow-up visit?

23 A. Yes, we would look at that, and particularly where it's
24 around managing challenging behaviour, it would also --
25 you can see a policy is in place, but there may not have

1 been instances of challenging behaviour that you can
2 then see how well the policy has actually been
3 implemented. So that can sometimes -- what it means by
4 time. So we would sometimes say it's not had time to be
5 embedded or it's not had time to take full effect.

6 Q. So if we look on, please, to SGV-001032154, this is
7 a follow-up letter to the director of Starley Hall
8 School, dated 29 October 2007, and it is headed,
9 'Consideration of Removal of Conditions on
10 Registration'. It appears that the director has
11 enclosed a school improvement plan with a letter of
12 29 August, and it notes the Scottish Ministers have
13 considered the evidence which was submitted and the
14 advice received from HMIe following a visit to the
15 school, and the first condition was then revoked.

16 The second condition is then noted, and then, at the
17 bottom of the page, it says:

18 'With regard to this condition, the evidence and the
19 HMIe advice demonstrated that good progress had been
20 made in respect of staff now being aware of the school's
21 behavioural policy but there are still weaknesses in
22 respect of the implementation across the school. The
23 Scottish Ministers have therefore decided to refuse your
24 request for the condition to be revoked. However, in
25 recognition of partial compliance and the good work

1 which has been undertaken by the school, the Scottish
2 Ministers ... decided to vary the condition.'

3 And it says:

4 'The school management should, by 31 January 2008,
5 ensure that staff are implementing the school behaviour
6 policy consistently and that they have appropriate
7 monitoring processes in place to provide supporting
8 evidence.'

9 So this letter is dated October 2007, so that's
10 providing another timeframe, and the condition is
11 specifically to look at implementation of policy?

12 A. Yes.

13 Q. Again, is that the sort of thing that can happen if
14 there's a concern about policy implementation?

15 A. Yes, that can happen, and that happens today, and it
16 sometimes depends on the scale of the condition that has
17 been met, and there are elements where parts of
18 conditions will be met incrementally, so elements are
19 then revoked, but new conditions can be put into place
20 to cover the areas that now need to be taken forward as
21 well.

22 LADY SMITH: I suppose in doing it this way, it keeps the
23 school, if you like, on the end of a piece of string.
24 The key is to work out what's a period of extension to
25 give them that will keep up the pressure, effectively,

1 but isn't too long for the sake of the children.

2 A. Yes, and both areas, to keep that incremental change,
3 but also to show where progress is being made -- and
4 that it's not just a 'No, we're keeping the
5 condition' -- progress has been made in this part of it,
6 but there's still more work to be done.

7 LADY SMITH: So here they're being given four months --

8 A. Yes.

9 LADY SMITH: -- which is quite a lot, and then they'll be
10 examined again, in about four months, to find out what
11 progress has been made?

12 A. Yes.

13 LADY SMITH: Thank you.

14 MS INNES: Then if we look on, please, to SGV-001032144, we
15 see a letter to the director of Starley Hall School,
16 this time dated 5 June 2008, and it refers to
17 an integrated inspection between HMIe and the Care
18 Commission. The inspection was carried out in February
19 and the report was published on 3 June. That includes
20 HMIe advice in respect of the school's compliance with
21 the condition, and it notes below it:

22 'The Scottish Ministers have considered the
23 contents of the report and the advice in respect of the
24 condition.'

25 And the ministers were satisfied that the condition

1 had now been met and should be revoked. So the
2 condition was then revoked as of June 2008.

3 I suppose the inspection there was carried out in
4 February, so there's a few months passed with the school
5 still being subject to that condition. Do you know why
6 there would be that time lag?

7 A. So the time from the inspection to, I suppose, the
8 inspection report being published will be actually to
9 compile the report and for it to go through quality
10 assurance to make sure the evidence is sound, is what
11 happens just now.

12 At the moment -- what can happen at the moment is,
13 in between that period, that advice is then provided on
14 conditions in between that period, between, I suppose,
15 the fieldwork of inspection taking place and then the
16 report being published.

17 LADY SMITH: Advice by the Inspectorate to whom?

18 A. It would be to the Registrar or to ministers.

19 LADY SMITH: Or both?

20 A. Well, it would be the same report that would go to --

21 LADY SMITH: Right. But meanwhile, no further communication
22 with the school; is that right?

23 A. No, there wouldn't be, yeah.

24 LADY SMITH: Thank you.

25 MS INNES: If the Inspectorate provided advice in the

1 intervening period, do you know if the condition could
2 then be lifted even before the published report or does
3 it have to wait for the published report?

4 A. No, it doesn't have to wait until the published report.

5 Q. Okay.

6 But in this case, it appears that the condition
7 wasn't lifted until the report was published; is that
8 right?

9 A. Yes, it appears that way.

10 Q. Okay.

11 Now, if we can move back to your main report now,
12 please, at SGV-001033534, page 12, at paragraph 6.12,
13 under the heading, 'Additional Support Needs'.

14 You refer again to the Education (Additional Support
15 for Learning) (Scotland) Act 2004 and how that provides
16 the relevant legal framework, and you also note that
17 education authorities and appropriate agencies, such as
18 NHS boards, have a duty to have regard to the statutory
19 code of practice when carrying out their functions under
20 the 2004 Act.

21 Is compliance with that statutory code something
22 that the inspector will consider when carrying out
23 an inspection?

24 LADY SMITH: That's in the penultimate line of 6.12, and
25 there's a link to a guidance document.

1 A. Yes, sorry.

2 LADY SMITH: Yes?

3 A. Yes, we do.

4 MS INNES: Okay. So you will consider whether the statutory

5 code of practice is being applied?

6 A. Yes.

7 Q. Okay.

8 Does the code of practice also apply to the

9 Inspectorate, as an agency or a body? (Pause)

10 A. I will need to check that.

11 Q. Okay. I just wasn't sure from the way in which it was

12 framed. I think it's referring to other agencies other

13 than the Inspectorate, perhaps.

14 A. Yeah. I can come back with that one.

15 Q. You can clarify that. Thank you.

16 If we can move on to page 13 of your report. You

17 deal in section 8 with the approach to inspecting

18 schools within residential care for establishments for

19 children and young people with long-term health needs,

20 additional support needs and disabilities.

21 Again, at paragraph 8.2, you refer to the specific

22 schools that are still in operation that we're dealing

23 with in this case study, and you note that the

24 Royal Blind School, Donaldson's Trust and Harmeny Trust

25 are all grant-aided special schools; is that right?

1 A. Yes.

2 Q. Although you note Donaldson's no longer provides
3 residential care.

4 Then you say the other schools, Seamab and
5 Starley Hall, are independent special schools.

6 A. Yes.

7 Q. At paragraph 8.3, you say that there are currently
8 a further two schools within residential care
9 establishments for children and young people with
10 long-term healthcare needs and disabilities, and these
11 are East Park School and Stanmore House School. Both of
12 these schools are grant aided.

13 A. Yes.

14 Q. So are these seven schools all of the residential
15 special schools in Scotland?

16 A. Yes.

17 Q. Are there other special schools that provide day
18 provision only?

19 A. Yes, there will be.

20 Q. Okay. But as far as residential schools are concerned,
21 the only ones remaining are these seven, and none of
22 them are public schools?

23 A. That's correct.

24 Q. At paragraph 8.4, you say:

25 'In addition to inspection, these schools are also

1 visited by HM Inspector each year in what is known as an
2 annual engagement visit. An HM Inspector is assigned on
3 an ongoing basis to each of these schools as a link
4 inspector.'

5 Does this appointment of somebody as a link
6 inspector only apply to these residential special
7 schools or does it apply more broadly?

8 A. It applies more broadly. We have link inspector --
9 linkage inspectors for independent schools, we have them
10 for colleges as well, and we are re-introducing them for
11 local authorities.

12 Q. Okay.

13 LADY SMITH: We discussed the link inspector system in the
14 boarding schools section when you came to give evidence,
15 if I remember rightly, Janie.

16 A. Yes.

17 MS INNES: Now, if we move down to section 9, you talk about
18 how HM Inspectors apply the school quality framework in
19 the type of schools that we're looking at in this case
20 study.

21 If we go on to the top of page 14, you note that the
22 current standards are set out in the quality framework,
23 'How Good is our School?', 2015, the fourth edition,
24 which was in 2015, and you say this framework applies to
25 the inspection of all schools in Scotland.

1 A. That's correct.

2 Q. So that applies to residential special schools?

3 A. Yes.

4 Q. Now, if we go on, please, to page 15. If we can look,
5 please, at paragraph 9.7, you talk about the way in
6 which the framework is applied to schools for children
7 with additional support needs. So you say at 9.7:
8 'In addition to evaluating and grading four quality
9 indicators, HM Inspectors also evaluate two additional
10 themes which are particularly relevant to independent
11 special schools and grant-aided schools.'
12 The first one is the governance framework theme, and
13 you say that this would be relevant in an independent
14 residential special school as these schools have
15 a proprietor and are not governed by a local authority.
16 So would I be right in thinking that this theme
17 would also apply to independent schools more generally,
18 as well as to special schools?
19 A. Yes. Yes.

20 Q. Then at 2.4, there is a targeted support scheme, and you
21 say this is relevant in this sector as all children and
22 young people will be receiving personalised support due
23 to their long-term healthcare needs and disabilities.
24 Are you able to explain that a bit further?
25 A. Yes. So in this particular sector, we would see very

1 individualised planning for each individual child or
2 young person, that's what we would call targeted
3 support.

4 And in a mainstream school, you would see group
5 planning or whole-class planning for taking forward
6 learning. But in this sector, we would see
7 individualised planning. So we would want to look at
8 the targets for learning that are being set, we would
9 want to look at who's involved in setting those targets,
10 and how the individual needs of each child and young
11 person is being taken forward.

12 So that's why the targeted support theme is
13 particularly important.

14 Q. Now, paragraph 9.8, you say as in all school
15 inspections, in inspecting the schools that we're
16 looking at here, the focus will be on the children and
17 young people's learning experiences within and beyond
18 the classroom and looking at how a school is performing.

19 Then at paragraph 9.9, you go on to set out some
20 information about the specific factors that the
21 inspectors consider when looking at schools in this
22 sector in a different way, perhaps, to in other
23 settings.

24 If we go to paragraph 9.10, at the bottom of that
25 page, you say that in these settings, HM Inspectors

1 recognise that all children -- and then at the top of
2 the page -- and young people have a range of individual
3 learning needs.

4 Is that essentially linked to what you've just been
5 saying about targeted support?

6 A. Yes, it is.

7 Q. But does it impact on any of the other quality
8 indicators that you're looking at?

9 A. Yes, so it impacts on learning, teaching and
10 achievement, because it impacts on how needs have been
11 met. So those sort of themes about meeting needs run
12 across quite a few quality indicators.

13 And it also links in with attainment and
14 achievement, because you would be looking at the
15 individualised targets and, for some children and young
16 people, the targets would be quite small and
17 incremental, but are still demonstrating that children
18 and young people are making progress in their learning.
19 So we would want to look at how that links in terms of
20 progress as well, to look at how their needs are being
21 met.

22 LADY SMITH: So you say you've come a long way from writing
23 children off as being ineducable --

24 A. A very long way.

25 LADY SMITH: -- was that word was used, as we saw in an

1 earlier document.

2 A. Yes.

3 LADY SMITH: All children should be capable of some

4 education?

5 A. Yes.

6 LADY SMITH: You would go as far as that?

7 A. Yes.

8 LADY SMITH: Thank you.

9 MS INNES: Then you go on to speak about different,

10 essentially, learning styles or the way in which pupils

11 use different modes of communication and, at

12 paragraph 9.11, the way in which staff understand and

13 apply teaching approaches to address these issues is

14 something that would be looked at.

15 A. Yes.

16 Q. At paragraph 9.13, you talk about evaluations of how the

17 school uses technology, including assistive technology.

18 Are you able to tell us a bit more about what the

19 inspector would be considering in relation to this?

20 A. So we would be looking at how children and young people

21 are communicating and whether technology assists

22 children and young people to communicate.

23 We would also be looking at the extent to which the

24 assistive technology is helping children and young

25 people to be independent in their learning, and the

1 range of technology or technological packages that are
2 being used and whether those packages are helping
3 children and young people make progress in their
4 learning, or whether they're there to pass the time. So
5 we'd be looking at the quality of packages as well and
6 we'd also be looking at how staff are using those
7 packages as part of their learning.

8 And it links back in to the targeted support: what
9 are the targets, and does the technology support
10 progress with those targets?

11 Q. Then at paragraph 9.14, you refer again to how you
12 consider how well staff recognise and track learners'
13 progress, and you look at, going on over the page, how
14 well the school identify and record all forms of
15 progress.

16 At paragraph 9.15, you say that inspectors would be
17 reviewing individual learning plans, so going down to
18 the detail of an individual child's learning plan.

19 A. Yes.

20 Q. Broadly, how many of these learning plans would
21 an inspector look at in an inspection of one of these
22 establishments?

23 A. So it would -- it depends on the size of the
24 establishment. In some establishments, the team would
25 look at all of them, depending on the number of children

1 that are in an establishment. Larger establishments, we
2 would then sample. But we would be sampling the
3 individual learning plan while we're observing learning
4 as well, so you'd be looking at the learning, you'd be
5 looking at the interaction with the staff and the child,
6 and then if -- also where we needed to cross-reference
7 with an individual plan, we would go back and do that.

8 Q. Then at paragraph 9.16, you note in the middle of that
9 paragraph that in these schools, there is a particular
10 focus on ensuring that learners make as much progress as
11 possible in relation to their own strengths and needs
12 and, again, that's what you've been emphasising,
13 I think?

14 A. Yes.

15 Q. At paragraph 9.17, to evaluate attainment and
16 achievement, inspectors would look at learning, look at
17 examples of work, and also look at the schools'
18 attainment data.

19 So what would that involve in this particular type
20 of setting?

21 A. So it would look at different levels of accreditation
22 and achievement levels as well, depending on the needs
23 of the individual children and young people. We may
24 look at Curriculum for Excellence levels or we may
25 look -- which the schools will have a note of as part of

1 their attainment data. But we may look at other
2 accreditation as well, if it's taken place, with
3 achievement.

4 Q. What sort of other accreditations could you look at?

5 A. So you may look at different awards that children have,
6 or if there are any awards -- particularly if it's going
7 into senior phase education. So you'd be looking at
8 Scottish SCQF Awards and different courses that children
9 are undertaking.

10 Q. If we look down to the next paragraph, at
11 paragraph 9.18, you note that whilst the expectation is
12 that all schools provide high-quality education, there
13 are distinct challenges in these settings, and you note
14 that many pupils who have complex healthcare needs, that
15 can impact attendance, and then that has a consequent
16 impact on learning.

17 How do inspectors deal with that sort of issue?

18 A. So it's a similar issue, 'cause we would expect those --
19 the care needs to be part of that care plan, that
20 individualised plan. We would be looking at, for
21 example, if children and young people needed to spend
22 periods of time in hospital, how education was being
23 provided by the school and then, in terms of
24 consolidating learning, what was happening to ensure
25 that there's consolidation and continuity of learning.

1 So there's a lot of emphasis on the information in
2 these individualised plans to look at where that
3 continuity of learning is coming through.

4 Q. You refer there in your evidence and you refer in your
5 report to care plans. Are these the same as individual
6 learning plans or are they separate?

7 A. So they can be the same, with different sections in it.
8 In its totality, its individualised learning plans and
9 care plans for an individual.

10 LADY SMITH: Who will have written these plans?

11 A. So the school will have written the plans, but we would
12 expect multi-agency input into those plans as well.

13 LADY SMITH: Well, that would be my next question, because
14 there's more than just the school to draw on --

15 A. Yes.

16 LADY SMITH: -- for knowledge and information and good
17 ideas, so far as what might help the child.

18 A. Yes.

19 MS INNES: Now, from what you've been saying in relation to
20 these particular settings, inspectors have to look in
21 detail at the various aspects that you've referred to.

22 Do inspectors who are going into residential special
23 schools have to have particular knowledge, experience or
24 training?

25 A. Yes. So we have -- we expect our inspectors that are

1 going into a specialised provision have got experience,
2 training and up-to-date training. So we have a team of
3 inspectors with specialist backgrounds in particular
4 aspects of additional support who have been senior
5 leaders in similar types of provision, or where we
6 haven't, then we put the training in place.

7 Q. What sort of training might be relevant for the
8 inspectors in this setting?

9 A. So in types of training, we'll be looking at
10 trauma-informed practices that we're looking at. We'll
11 be looking at communication, so British Sign Language as
12 well, and de-escalation techniques in behaviour as well.

13 Q. Okay.

14 Now, if we can look on, please, to page 19 of your
15 report, and past inspection practice.

16 At paragraph 10.6, you refer to the fact that past
17 practice of HM Inspector of Schools had been to review
18 the welfare of pupils at residential schools as
19 an aspect of running the schools.

20 Then, at paragraph 10.7, you refer to
21 Professor Levitt's report, and you say that three forms
22 of welfare inspection were noted in the 1996 inspection
23 guidelines, which followed the passing of the Children
24 (Scotland) Act 1995 and, at (iii, we see that it says:

25 'A further inspection would occur where a school

1 catering for special education needs was subject to
2 an inspection under the rota. In the SEN schools,
3 a joint inspection was intended to reflect the
4 underlying principle that the integrated nature of the
5 schools should be recognised by inspecting educational
6 and welfare provision at the same time. HM Inspectors
7 would also have access to the inspection reports of the
8 respective local authority social work departments.'

9 So, again, this was prior to the Care Inspectorate
10 or the Care Commission coming in and local authorities
11 were carrying out inspections.

12 Do HMIe ever inspect residential special schools on
13 their own or is it always a joint inspection with the
14 Care Inspectorate now?

15 A. No, we inspect on our own.

16 Q. So there would be some joint inspections, but some would
17 just be in respect of education?

18 A. Yes.

19 Q. If you're carrying out an inspection, obviously when
20 it's made public, that would be available to everybody
21 to look at, but do you provide information that arises
22 during the course of your inspection to the
23 Care Inspectorate at an earlier stage?

24 A. Yes, depending on the nature of the information. We
25 have a memorandum of understanding with the Care

1 Inspectorate and we've really improved the
2 information-sharing. So we will share where we're
3 inspecting and, likewise, the Care Inspectorate do that
4 with us, and if the Care Inspectorate are inspecting and
5 there is anything relevant that we need to know, they
6 will let us know and vice versa.

7 Q. Okay.

8 If we can move on, please, to page 21 and
9 paragraph 10.15, where you're referring to work that's
10 done before an inspection. You note there that prior to
11 every inspection, a questionnaire is issued to staff,
12 pupils, parents and stakeholders and you've given
13 evidence about this before.

14 How do you deal with that where you have children in
15 the school who have communication differences?

16 A. So at the moment what we do is there will be times where
17 they will need an adult to help them, but we also have
18 what we call an easy-read version that has face emojis
19 that children and young people can access.

20 Q. How do they go about accessing it? Would they have to
21 do that with a member of staff at the school?

22 A. Yes.

23 Q. I assume that you would be dependent on the school
24 sending or providing those questionnaires to the
25 children and them sending them back to you?

1 A. Yes, or electronic -- or accessing them -- electronic or
2 a written version, yes, we are.

3 Q. Do you have any other ways of interacting with children
4 prior to an inspection? So, for example, we've heard
5 that the Care Inspectorate have videos where they've got
6 an animation or, you know, they send a video in advance
7 that can be shared with the young people.

8 A. Not currently videos. What we do is we send photographs
9 of the inspectors who are going to be part of the team
10 to the school so that the children and young people are
11 familiar, but we're not currently doing that at the
12 moment. However, that is something that -- we are
13 carrying out a review of our school inspection
14 frameworks, and a key focus of that is children and
15 young people engagement.

16 Q. When you are actually at the school, you've mentioned
17 BSL, for example, so presumably -- do you send
18 an inspector with a specific qualification in BSL so
19 they can communicate directly with children, or do you
20 use interpreters?

21 A. So we do both. So we can -- we have inspectors who are
22 trained in BSL, but we will also access our own
23 interpreter to come with us to the school as well.

24 Q. Again, we have heard evidence of different communication
25 methods that can be used, for example Social Stories or

1 Talking Mats or a PECS system.

2 Do your inspectors use these methods to communicate
3 with children?

4 A. What we will do is we will use the key sources of
5 communication that the school uses that the children and
6 young people are familiar with, and because our
7 inspectors come from the sectors, they are familiar with
8 using that type of tool kit. So we'll use whatever the
9 school is using for communication, and that's how we'll
10 engage with children and young people.

11 Q. Okay.

12 You have mentioned already that there's a review of
13 the inspection approach going on, and one of the areas
14 is in relation to the voice of the child.

15 Are you able to tell us what sort of things you're
16 looking at?

17 A. So we're looking -- at the moment, in the review of
18 school inspections, we're looking at it in its totality.
19 So we're looking at the framework, 'How good is our
20 school?' It needs to be updated and we need to look at
21 specifically what we do with specific guidance for
22 specific sectors as part of that, whether we have
23 a generic and then subject specific or sector specific.

24 We are looking at engagement with children and young
25 people and how we can make much better use of digital

1 means to engage with children and young people.

2 Our questionnaires. So we're looking at what we do
3 before, what we do during inspection as well, and how we
4 can engage with a much broader group of children and
5 young people and, again, how children and young people
6 can access inspectors much more during inspection.

7 And then, following the inspection, the reporting
8 mechanism, how we communicate, and part of that is we'll
9 be looking at how we communicate with children and young
10 people as well.

11 So it is a whole-scale review that we're carrying
12 out.

13 LADY SMITH: You have said a number of times, Janie, that
14 you're looking at what you do in different ways. Do you
15 have a particular project directed at this at the moment
16 that's ongoing?

17 A. Yes. So we have started the review, and up until
18 Easter, we were gathering informal views. We're taking
19 a different approach to the review of inspections this
20 time than previously. So we've been gathering general
21 views from children and young people, and then we will
22 then determine our fixed areas that we will go out to
23 public consultation on.

24 LADY SMITH: Is this with an eye to how the Inspectorate
25 will function, assuming the current bill is passed in

1 substantially the same form as it's in at the moment and
2 in the not too distant future?

3 A. Yes, it is. But it needed to be done anyway. The
4 framework, 2015, it's a long time, and had it not been
5 for COVID, the review of the framework would certainly
6 have taken place. But education has evolved so much
7 that we need to look at our practices as well.

8 LADY SMITH: We'll no doubt come back to this, but as I read
9 the bill, it seems to underline the recognition that
10 your inspectorate needs to have the freedom to run
11 itself, be independent and make its own decisions as to
12 what matters and what doesn't, and this would seem to
13 sound like the sort of thing that you'd be wanting to do
14 without anybody looking over your shoulder.

15 A. Yes, and looking at -- the intentions of the bill is to
16 look at the frequency, the focus of inspection would sit
17 with the Inspectorate, a detailed inspection plan would
18 be publicly available, and that there would also be an
19 advisory council that the Chief Inspector would need to
20 have due regard for.

21 LADY SMITH: And the style of your communications might look
22 rather different in the future?

23 A. Yes, yes, and we're undertaking some work with some
24 other inspectorates around how we can take reports and
25 tailor them for different audiences to make sure they're

1 more accessible and not as much jargon.

2 LADY SMITH: Good. Thank you.

3 Ms Innes.

4 MS INNES: Thank you, my Lady.

5 If we look to the bottom of page 21, under the
6 heading 'During the inspection', you refer there to
7 reference being made to national guidance for child
8 protection in Scotland from 2021 and quality
9 indicator 2.1 when inspecting safeguarding and child
10 protection approaches.

11 Then you say in schools within residential and
12 secure accommodation, the Scottish Government national
13 guidance, which has included, engaged and involved
14 part 3, is particularly relevant as this contains
15 guidance in relation to the use of physical intervention
16 and seclusion.

17 Am I right in thinking that this is updated guidance
18 published, I think, in November of last year?

19 A. Yes.

20 Q. You will then look at how the school is complying with
21 that guidance.

22 A. Yes.

23 Q. You note, for example, in this setting, that you'll look
24 at how schools manage the use of equipment that could
25 restrict freedom of movement. For example, a wheelchair

1 strap could be considered a mechanical restraint,
2 depending on the context in which it's used.

3 A. Yes.

4 Q. Then if we go on to paragraph 10.19, you say that you
5 review the school's plans and protocols, all the
6 different documents that you look at.

7 Is that any different to what you would do in other
8 schools or is it essentially the same?

9 A. It's the same.

10 Q. Then at paragraph 10.20, you say that during inspections
11 HM Inspectors will arrange focus groups with children
12 and young people that include discussions about feeling
13 safe in school, bullying and children's rights.

14 Are these also done in residential special schools?

15 A. Yes.

16 Q. But I assume, as you've been discussing, that the way in
17 which children communicate would have to be
18 accommodated?

19 A. Yes.

20 Q. Then at paragraph 10.21, you refer to the various
21 policies that you would review to see if they comply
22 with national guidance, and I assume that's the same in
23 all schools?

24 A. It is, yes.

25 MS INNES: Okay.

1 I'm conscious of the time, my Lady.

2 LADY SMITH: Is that an appropriate point to break?

3 MS INNES: Yes, it is.

4 LADY SMITH: Janie, you may remember, I usually take a break

5 about this point in the morning, and if that would work

6 for you, we'll do that just now.

7 (11.30 am)

8 (A short break)

9 (11.50 am)

10 LADY SMITH: Janie, welcome back. Are you ready for us to

11 carry on?

12 A. Yes, thanks.

13 LADY SMITH: Thank you.

14 Ms Innes.

15 MS INNES: Thank you, my Lady.

16 If we can move on in your report to section 11 on

17 page 24, please. This is where you start giving some

18 information in relation to the specific institutions

19 that we're looking at in this case study.

20 At paragraph 11.2, you say the records that are the

21 basis of Education Scotland's knowledge of the nature

22 and extent of abuse at these establishments is more

23 limited than for previous reports provided to the

24 Inquiry.

25 Do you know why that is? Why is it more limited in

1 these institutions?

2 A. So for some of these institutions, it wasn't always
3 clear the sort of roles and responsibilities and who was
4 responsible for inspecting.

5 Q. I think you mention that particularly in relation to
6 hospital schools --

7 A. Yes.

8 Q. -- which we'll come back to in due course.

9 Okay. If we move on, please, to page 25 and
10 paragraph 11.4, you refer, in the first paragraph there,
11 to a report, first of all, in February 1971 in relation
12 to inspection reports at Corsbie Hall School in Fife,
13 and at that time, in February 1971, it was suggested
14 that some boys were being regularly assaulted by other
15 children.

16 A. Yes.

17 Q. There was a suggestion that one of the housefathers had
18 thrown a boy through a window, and it says that it was
19 noted that this was said to have happened some time ago
20 and it seemed unwise, under the circumstances, to
21 cross-examine the boys on this story.

22 A. Yes.

23 Q. Now, if an inspector was to be told that a child had
24 been thrown through a window in the course of
25 an inspection, what action would the inspector take

1 nowadays?

2 A. So the action that inspectors would take nowadays would
3 be to see if the school was aware of it through the
4 child protection co-ordinator, and what -- if the school
5 was or wasn't aware of it, what action the school had
6 taken in terms of alerting the appropriate authorities
7 to take that work forward.

8 LADY SMITH: Janie, let's say the school tell you, 'Oh, yes,
9 we know all about this, we knew about it', would your
10 inspectors then say, 'Can we see your records about it,
11 please'?

12 A. Yes, we would go through the records to look at what had
13 been recorded, who had recorded it, but also the
14 follow-up as well.

15 LADY SMITH: Thank you.

16 MS INNES: Now, if we can look, please, at SGV-001033714,
17 and at page 27.

18 Now, this, we can see, is a report in relation to
19 Corbie Hall School in Fife based on visits paid in May
20 and June 1971. So that's after the report that you have
21 referred to in your report there, which was February of
22 the same year.

23 If we look in the note, it says:

24 'At the risk of some clumsiness and repetition, the
25 form of this report will follow as closely as possible

1 that which was based on visits by HM Inspectors on the
2 week beginning 8 February 1971.'

3 That's a report that you have just told us about in
4 your report.

5 Now, if we can go down under 'Staffing', there is
6 a paragraph which begins -- the largest paragraph there,
7 which is:

8 'There are three additions to the child care staff,
9 Mrs Dickson, Mr Carrigan and Mr PMF . Only Mr PMF has
10 had any previous experience of this kind of work. He
11 was with Mr GUL in the Newton Stewart branch
12 of Corsbie Hall since its early days and had been with
13 Barnardo's before that. He came to Thornton following
14 a dispute with KWD-KVL who are now SNR at
15 Newton Stewart.'

16 We'll come back to other references to Mr PMF , but
17 here it appears to be noted that this person had some
18 experience of childcare, whereas the other people
19 didn't.

20 A. Yes.

21 Q. We can see reference to Mr GUL , who I think we
22 understand was SNR of Corsbie Hall, both in Fife
23 and in Newton Stewart at the time.

24 If we can go on, please, to page 29, and again
25 towards the bottom of the page, there is a section

1 headed 'School discipline and sanctions', and it says:

2 'There has been no change in policy. The system of
3 merits and demerits remains unaltered. According to
4 Mr HSP [SNR at the time] more money is
5 being awarded for good behaviour and less withheld for
6 misdemeanours.'

7 It appears that there was a system where there would
8 be financial penalties.

9 A. Yes.

10 Q. I assume that is something that you wouldn't expect to
11 see nowadays?

12 A. No, we wouldn't expect to see that.

13 Q. Then it says:

14 'With reference to the story in the last report of
15 a boy having been thrown through a window, Mr HSP
16 admitted that there had been grounds for this report and
17 that he, the housefather and five boys had gone to
18 Glenrothes police station where an investigation had
19 been conducted by a police inspector. The five boys had
20 insisted that the pupil had been thrown through
21 a window. Mr HSP was adamant, however, that when the
22 housefather had attempted to remove the pupil bodily
23 from the dining room for insolence, the boy had
24 struggled and put his elbow through a pane of glass.'

25 It then goes on to say that the housefather had

1 subsequently been dismissed for being heavy-handed. The
2 February report had expressed doubt about this man.'

3 So it looks, at this stage, that the inspectors have
4 asked more questions about the window incident.

5 A. Yes.

6 Q. And we see that there was a police investigation as
7 well.

8 If we can move on, please, to page 34, there's
9 a paragraph beginning:

10 'The harsh limelight beating on this school ...'

11 I think that may refer to publicity or issues that
12 were being raised in Parliament in relation to this
13 school.

14 It says:

15 'This makes dispassionate evaluation oddly
16 difficult. There is a tendency to attack or defend.'

17 Just pausing there, if a school was in the headlines
18 or issues in relation to a school were to be raised in
19 Parliament, would the Inspectorate take action following
20 those reports?

21 A. It would depend on the reports and it would look -- it
22 would be part of the basis of the -- I suppose the
23 intelligence that we would build up about a school, and
24 this may be something where, particularly if there was
25 something in the media, that the link HMIe inspector may

1 contact the school in -- I suppose it's a relational
2 aspect, rather than an investigatory aspect, just to
3 find out some more information.

4 Q. It goes on in this paragraph to say that:

5 'Time will not always be on the side of
6 Corstie Hall, but the policy of suspending final
7 judgment has so far been the right one. Whatever
8 happens, the Inspectorate and the sending authorities
9 will always have to keep a close eye on the
10 establishment. The major imponderable is the enigmatic
11 Mr GUL [REDACTED]. Skilled and decisive in matters of
12 material detail, he yet appears to have a basic
13 immaturity. There is a slightly absurd flavour of
14 [REDACTED] about the large, luxuriously equipped
15 SNR [REDACTED] room with its broad desk, its Telex and the
16 office with the immense and gadget-ridden duplicator.
17 At one point he said rather pathetically that he hoped
18 to cope with children that had been rejected by other
19 establishments. A man who could hope to do this with no
20 skilled staff whatsoever and long before the school had
21 even basic equipment is out of touch with reality. His
22 lack [REDACTED] and inability [REDACTED]
23 long-term planning is beginning to show in staff
24 tensions and indecisive policies. Much will depend on
25 whether Mr HSP [REDACTED], SNR [REDACTED], decides to remain.'

1 So I suppose here there are various issues raised in
2 relation to the [REDACTED] arrangements in respect of
3 this school?

4 A. Yes.

5 Q. And that's something, as you have said, that you would
6 be looking at.

7 A. Yeah.

8 Q. Presumably you'd be extremely concerned if you thought
9 the person [REDACTED] of the school was out of touch with
10 reality.

11 A. Yes.

12 Now, this was in 1971, and if we can go on to
13 another report in this document, starting at page 4.
14 This is a report of a visit on 26 May 1972, so the
15 following year.

16 If we can look, please, at page 7, under 'General
17 impression'. There is a heading 'General impression'
18 down the page:

19 'Classroom organisation is chaotic. Mr Alderman
20 does his best but there has been so much chopping and
21 changing that no systematic instruction is going on.
22 The only two reasonable teachers, Ms [REDACTED] and
23 Mr Alderman, are leaving. The present staff are doing
24 their best because on the whole they feel a sense of
25 responsibility for the boys.'

1 Then it refers to specific members of staff.

2 Particularly one is unsatisfactory. The lack of SNR

3 SNR is crippling. So it looks that, by this

4 stage, Mr HSP is no longer at this school.

5 If we go down to the next paragraph, it says:

6 'The HMI feel that the childcare staff, because of
7 their lack of expertise, are in danger of antagonising
8 the boys. There were complaints from both the teachers
9 and pupils themselves that the houseparents resorted to
10 mass punishments.'

11 So if one misbehaved then everybody would be
12 punished, and then it goes on from there.

13 Now, in terms of having suitably trained childcare
14 staff, is that something that the Inspectorate would
15 become involved in nowadays or is that something for the
16 Care Inspectorate?

17 A. That would be for the Care Inspectorate.

18 LADY SMITH: But say your inspectorate were inspecting alone
19 and observed that it looked as though there was
20 an insufficiency of trained childcare staff, would you
21 communicate that to the Care Inspectorate or what?

22 A. Yes, we would communicate it to the Care Inspectorate,
23 but we also -- because sometimes what you'll see is the
24 childcare staff are with some pupils in the education
25 element of the school as well, so we would comment it

1 through our own report through that, but we would also
2 be alerting the Care Inspectorate, and that's where we
3 alert and have regular conversations with the Care
4 Inspectorate. So if we saw something, we may speak to
5 the Care Inspectorate that day.

6 LADY SMITH: Good. Thank you.

7 MS INNES: Then if we go on to page 8, please, this is still
8 in the same report, and there's material in relation to
9 financial issues. If we go down to a paragraph
10 beginning:

11 'He gives the impression of a man [this is
12 Mr GUL] at the end of his tether. He simply
13 wants to get out. His grasp of educational, financial
14 and administrative realities is alarmingly tenuous.

15 'It is suggested that the Registrar of Independent
16 Schools should write a warning letter to
17 Mr GUL . Mention should be made of the
18 resignation of satisfactory teaching staff and of the
19 urgent need of an experienced and competent SNR .
20 The lack of professionalism on the childcare staff
21 should be pointed out, along with the danger of
22 antagonising the children by the practice of inflicting
23 mass punishments. It is not suggested that a notice of
24 complaint should be served immediately. If thought
25 necessary, the possibility of so doing could be

1 mentioned.'

2 Do you have any comment in relation to that? The
3 recommendation seems to be this isn't serious enough for
4 a notice of complaint, to send a warning letter.

5 A. I would say if that was today, that we would be putting
6 up advice to say that potentially putting on conditions
7 or potentially going -- carrying out an inspection --
8 I can't recall from that previous letter whether this
9 was an inspection or a visit.

10 Q. It is an inspection.

11 A. But, yes, if we found -- because we've got issues with
12 governance, we've got issues with care, antagonising
13 children, mass punishments, so a lot of aspects in
14 there.

15 LADY SMITH: And there's no SNR [REDACTED].

16 A. And there's no SNR [REDACTED].

17 LADY SMITH: That's got red flags all over it, hasn't it?

18 A. Yes.

19 LADY SMITH: Thank you.

20 MS INNES: If we can move, please, to SGV-001033715 and
21 page 13.

22 This is a memo to Mr Monroe, the Secretary of State
23 at the time, and this refers to, as you'll see,
24 Corsbie Hall School and the inspection carried out on
25 26 May and recommends that a letter of warning be sent

1 to the proprietor.

2 If we go to the next page --

3 LADY SMITH: We're now at June 1972, I see there.

4 MS INNES: Yes.

5 At paragraph 2, it refers to the serious concern of
6 the inspectors as to the deterioration in education at
7 the school, and it goes on from there.

8 But if we can move, please, to page 15, under
9 'Action', it begins:

10 'In the view of the persistent interest of Mr W
11 W Hamilton in this school, if for no other reason, it is
12 hardly possible to take no action now.'

13 That is the local MP.

14 A. Okay.

15 Q. Then if we scroll down to paragraph 7, it says the
16 alternatives are to issue a notice of complaint or to
17 write a warning letter.

18 At paragraph 8 we see that:

19 'If a notice of complaint is issued, the proprietor
20 has the right to appeal it to an independent tribunal.
21 It is therefore essential that the notice itself should
22 be well-founded and that the Secretary of State has
23 acted reasonably.'

24 It goes on:

25 'It is doubtful whether the issue of a notice of

1 complaint against Corsbie Hall now, presumably on the
2 grounds that it is not providing efficient and suitable
3 instruction for its pupils, would satisfy these
4 criteria. The instruction is certainly below standard
5 in one or two classes and there is a lack of central
6 direction since the resignation of SNR, but
7 the real deficiencies are prospective and contingent on
8 the departure of good two teachers without adequate
9 replacement. It would be difficult to argue
10 convincingly that the situation is now so bad as to
11 warrant the issue of a notice of complaint.'

12 So it appears to have been considered at that time
13 that a notice of complaint couldn't be justified on the
14 basis of the material, but I think your own reaction was
15 it's so serious that you would have thought a notice of
16 complaint would have been the appropriate way forward?

17 A. Yes.

18 LADY SMITH: There's an interesting point there about the
19 imminence of the departure of two good teachers, and it
20 appeared they were key, because there wasn't much else
21 available in terms of good teaching, but it looks as
22 though they didn't feel they could use that as any
23 strong basis for a notice of complaint.

24 Would that be your approach now?

25 A. No, where we had -- where we have either evidence or

1 intelligence of something that's going to happen, then
2 you can put in a notice of complaint and set conditions
3 and it can be around recruitment of staff or continuity
4 that you're looking at, because today we would come --
5 aside from the other areas that are in here, we would
6 come at it from continuity of learning.

7 LADY SMITH: I mean, it's not as if there's any information
8 apparently that the school have been anticipating the
9 loss of these teachers, and they have either secured
10 replacements who will take over or are in the process of
11 doing so and are feeling confident that they're going to
12 get good teachers coming in their place. There just
13 seems to be a void.

14 A. Yes. Yes.

15 LADY SMITH: Yes.

16 Ms Innes.

17 MS INNES: Thank you, my Lady.

18 If I can move to another document now, please. It's
19 SGV.001.008.6837 and, going back in time slightly, this
20 memo is from January 1972.

21 But if we look at the heading, so it's 'Recent
22 developments in independent special schools with
23 reference to the registration procedure.'

24 If we go to the second paragraph beginning:
25 'It may be best to start with the most recent

1 applicant.'

2 The most recent applicant is Mr PMF, who we have
3 just seen referred to in the other document. It says:

4 'His letter to the Registrar of Independent Schools
5 is dated 13 December 1971 and his address at that time
6 was Monken Hadley School.'

7 This the former Corsbie Hall:

8 'He asks for positive reassurance regarding this
9 matter of recognition and says that his proposed school
10 premises are the very excellent custom-built premises of
11 Woodhall College. He will start with 20 children from 6
12 to 15 years and build up to 100 pupils.'

13 Then it goes on to refer to the custom-built
14 premises being a group of buildings formerly owned by
15 a Catholic religious order and had been on the market
16 for some time. It might be affected by dry rot.

17 Then in the next paragraph, in (b):

18 'This person is an unqualified housefather who was
19 in Corsbie Hall from the early days. Mr GUL
20 had said that he had experience in Barnardo's.'

21 Which we have already seen:

22 'By a series of coincidences, every time HM
23 Inspector has visited, this person has had a day off.
24 There is no reason to think that this is other than
25 coincidental. We are thus dependent for our knowledge

1 of him on the reports of those running the branches of
2 Corsbie Hall in Newton Stewart and in Thorntoun.'

3 Then it refers to various reports where he's
4 described as a troublemaker and the fallout between
5 KWD-KVL and Mr PMF, and he appears to have
6 moved between the two sites in Newton Stewart and Fife.

7 If we go on over the page, it then says, at the top
8 of the page:

9 'When HM Inspectors were still in the building
10 however, the headmaster and the matron reported that
11 they had just discovered that Mr PMF had spanked a 7
12 year-old boy and sent him up to his dormitory before
13 supper because the child had been bedwetting.'

14 You refer to that in your own report. You highlight
15 this issue.

16 If we scroll down to the bottom of -- yes, the
17 paragraph that we're seeing on the page if we go back up
18 again, the very last sentence in this first paragraph
19 says:

20 'One senior girl from Glasgow telephoned the school
21 three times in an effort to rendezvous with Mr PMF.'

22 So there appears to have been a number of concerns
23 about Mr PMF at this time.

24 If we move on to page 3, the final paragraph at (d),
25 it talks about what it calls Falconwood Residential

1 School, which seems to be the school that Mr PMF
2 intends to open. It says:

3 'This seems to be the shakiest of the lot and may
4 indeed never open, but the disconcerting fact remains
5 that Mr PMF can go ahead and can open a school under
6 existing legislation and can quite probably attract
7 pupils.'

8 So at this stage the author seems to be suggesting
9 that this person, there are the concerns about him, he
10 can just go and open a school.

11 Would that happen now?

12 A. No, it wouldn't happen now, and -- so you would be
13 looking at the PVG scheme, Disclosure Scotland, in terms
14 of registration, but also you'd be looking at
15 potentially the pre-registration visit to try to look at
16 these areas as well.

17 Q. If we can go back to SGV-001033715 and to page 10, and
18 if we scroll down a little, I think we can see that this
19 is from June 1972.

20 It says here that a Mr Murray of Social Work
21 Services Group has had a phone call from a Mr King of
22 DHSS in London about -- and this is Mr PMF :

23 'You will recollect that he was for a time
24 a housefather in Corsbie Hall School, Newton Stewart and
25 later at Corsbie Hall, Thornton. He also wrote to the

1 department asking about the possibility of registration
2 if he opened a school for maladjusted boys at the former
3 Jesuit training college building in Colinton. Mr Murray
4 has been informed that there was a court case involving
5 Mr PMF in 1966 and he was charged with inciting boys of
6 8 to gross indecency. The DHSS are to write to him as
7 it appears that he has taken up a post in England. Our
8 action, if he should attempt to open an independent
9 school, in Scotland should be clear.'

10 So it appears that this person had been charged with
11 offences against children in 1966, which was before he
12 ever came to Scotland.

13 A. Yes.

14 Q. Again, is that something that would be picked up now
15 through disclosure?

16 A. That should be picked up through disclosure.

17 Q. This is an offence in England, and he wasn't convicted,
18 but you would expect that to come to light?

19 A. Yes.

20 Q. Now, if we can move on from this to SGV-001033716, and
21 page 4, this refers to a visit to Monken Hadley School
22 on 16 November and this is 1972.

23 If we look to the bottom of the page, we see here
24 that it says:

25 'Mr HSP said that Mr PMF and another member of

1 staff were dismissed for suspected homosexual practices.
2 Scottish Education Department had been kept informed of
3 this.'

4 It refers to the wife of the other person:

5 'Mr HSP had recruited neither of these men but
6 when his suspicions had been confirmed to his own
7 satisfaction, having seen one man kiss a boy while in
8 the television room, and the other lying on a bed
9 comforting a crying boy, he gave them two days' notice
10 to quit their quarters. That is by 19 December 1971.'

11 So it looks from this memo that SNR
12 seemed to be concerned about potential abuse of children
13 by Mr PMF back in 1971.

14 A. Yes.

15 Q. But I think we saw in the other memo that the concern
16 from an earlier visit seemed to be about him smacking
17 a boy for bed-wetting. It's a different issue.

18 A. Yes.

19 Q. Would you expect issues of this sort of severity to come
20 to light at a much earlier stage?

21 A. Yes.

22 Q. And to be reported?

23 A. Yes.

24 Q. I want to turn to another document in relation to
25 Monken Hadley now. So this is the site at Newton

1 Stewart and later in time.

2 So it is SGV-001033717, and page 12. This is
3 a letter from the school to the Inspectorate, dated
4 24 September 1982, and it says:

5 'It is with the greatest of regret that I have to
6 inform you of the sudden death of one of our pupils. He
7 was referred to us through child guidance in Forfar.

8 'The child's death occurred shortly after he had
9 begun a PE lesson at 2.30 pm. Because of the sudden
10 nature of his death, the police have been involved and
11 full statements have been taken from all concerned and
12 these have been passed on to the Procurator Fiscal. The
13 pathologist report is not available to me but his
14 conclusion on the death certificate was that the child
15 died of an anomalous condition of the coronary arteries.
16 Everything possible was done at the time and we were
17 fortunate to get an ambulance and doctor within a very
18 few minutes of the child collapsing.'

19 Then it goes on from there.

20 If we go to the next page, please, there is
21 a response from the Scottish Education Department, the
22 Inspector of Schools office, dated 19 October 1982. It
23 acknowledges the letter, and then it says:

24 'I do sympathise most sincerely with you in these
25 sad circumstances for I realise what a traumatic effect

1 such a tragic happening can have on the life of the
2 school.'

3 Would you expect the death of a child to be reported
4 directly to the Inspectorate in the way that this was?

5 A. So the death of a child doesn't need to be reported to
6 the Inspectorate, but it's one of the reasons why we
7 have our link inspectors, so there's that communication,
8 and in best practice, significant events, we -- it's
9 best practice for the school to get in contact with the
10 Inspectorate.

11 Q. Then, again, I assume that the link inspector being
12 given that information, depending on the circumstances,
13 may follow that up in a particular way?

14 A. Yes. In the -- you know, it would be enquiring what was
15 happening now and linking with the Care Inspectorate if
16 necessary as well.

17 Q. Now, I'm going to move on to another example of
18 awareness of abuse that you give us, and this is in
19 relation to Harmeny.

20 If we can look, please, at SGV-001033198, and if we
21 can start, please, at page 8. This is a letter dated
22 26 September 1997 to the Education Department. It's
23 from KYN [REDACTED], I think, if we scroll down. It says:

24 'I'm writing formally to let you know of an incident
25 which took place yesterday morning at Harmeny School

1 wherein a child, who has been particularly aggressive
2 since the beginning of term, lashed out at a member of
3 staff and unfortunately, on this occasion, the member of
4 staff retaliated. To this end, we obviously have to
5 inform the authorities which include the Social Work
6 Registration Inspection Department and the Social Work
7 Department that the child is resident in and they will
8 go forward with the usual procedures. I, of course,
9 have had to suspend the member of staff pending
10 an inquiry internally for disciplinary reasons and
11 obviously externally for other reasons. I have made
12 verbal contact with Dr O'Hagan...'

13 Then it goes on.

14 In the next paragraph, it says:

15 'The matter will be dealt with through our usual
16 internal disciplinary procedures and an investigation
17 conducted by my deputy is commencing this morning. I am
18 informing you because of our special link with the
19 Scottish Office and indeed so that people will
20 understand that we deal with such matters in an open and
21 straightforward way.'

22 So I assume the special relationship or link is the
23 grant-aided status?

24 A. I couldn't say.

25 Q. Would you expect a report like this to be made in to the

1 Inspectorate?

2 A. So I would -- yeah, I would expect where -- you know,
3 what would be classed, I suppose, as a significant
4 incident would be -- again, best practice. It doesn't
5 have to be, but we find that in best practice schools
6 would let, I suppose, a number of different bodies know,
7 and sometimes they would email ourselves and the Care
8 Inspectorate and others in the one email now.

9 Q. If we go to page 7, there's a letter from the department
10 to the school dated 2 October 1997, which acknowledges
11 the letter and asks for an update in relation to the
12 outcome of the investigation when it's concluded.

13 Would you expect any more than that or is that what
14 you would expect?

15 A. I think the outcome of the investigation and potentially
16 the outcome of the work that social work were going to
17 do as well.

18 Q. Then if we move to page 3, we see a letter dated
19 10 October 1997, referring to that last letter, dated
20 2 October, a letter from KYN, and it encloses
21 a full copy of the findings of the disciplinary hearing,
22 and it says:

23 'You will note from the correspondence to the member
24 of staff concerned that he has been given a final
25 warning with stringent conditions attached. I took into

1 account the level of stress and pressure he was under at
2 the time and subsequent to my decision have made contact
3 with both the local social work department, who have
4 investigated the incident, and the mother of the child.
5 In both instances they were fully supportive of the
6 decision made and they both recognised the high level of
7 provocation which the member of staff had been subjected
8 to.

9 'I hope that you feel I have dealt properly with the
10 action and that it is to the satisfaction of your
11 department and that the matter is hopefully closed.
12 I appreciate your concern over such matters and the need
13 to keep you in touch with all aspects of Harmeny which
14 may influence your work with us. I thank you for your
15 support over this and Harmeny's development and look
16 forward to meeting you for a further discussion in
17 relation to a building development.'

18 Would you expect an institution like this to look to
19 the Inspectorate for approval in relation to the way in
20 which a disciplinary matter has been dealt with?

21 A. No.

22 LADY SMITH: There was one aspect -- and I think I've got
23 the right report here -- of the disciplinary report,
24 which the Inspectorate must have had, that I wondered
25 about, and this matter of being under pressure and

1 stress seemed to have been attributed, at least partly,
2 to staffing shortages.

3 So are you telling me the inspector wouldn't even
4 look further into that, because that could have a direct
5 impact on the matters for which the Inspectorate's
6 responsible?

7 A. It would depend on -- so if we had access to a report at
8 the time --

9 LADY SMITH: I think you must have had because you referred
10 to this disciplinary report in your schedule, and
11 Ms Innes will correct me if I'm wrong about that. You
12 very helpfully put information in a table at the end of
13 your report.

14 A. Yeah.

15 LADY SMITH: And I'm on page 9 of 255 of annex A at the
16 moment, and it's the last block there. The date against
17 it is 10 October 1997, and the summary of the letter is
18 the letter that we have just seen.

19 But then you provide details that include
20 a reference to the disciplinary report, both there and
21 on the next page.

22 Do you see what I mean, Janie?

23 A. Yes.

24 LADY SMITH: That's where, on the next page, there's
25 reference to problems with staffing shortages, increased

1 violence at the school, and the member of staff
2 undergoing a personal challenge.

3 A. Yes. I would say having that information being brought
4 together is something where we would then need to look
5 at to see what's going on in the school.

6 LADY SMITH: Looking at it at a high level, if you had, for
7 example, a disciplinary report that flagged up something
8 that might be a matter of concern from the point of view
9 of your principal responsibilities, you'd surely want to
10 look into that, wouldn't you?

11 A. Yes, because you have your staffing shortages, increased
12 violence, so -- and you are also bringing in the part
13 about childcare training as well. So it would be all of
14 the contributing factors.

15 LADY SMITH: And a member of staff getting to the level of
16 stress that, to use a colloquialism, he seems to have
17 lost the rag.

18 A. Yes.

19 LADY SMITH: Thank you.

20 Ms Innes. (Pause)

21 Janie, I'm sorry about this. I'm assured this
22 shouldn't take too long.

23 (12.35 pm)

24 (A short break)

25 (12.43 pm)

1 LADY SMITH: Welcome back, Janie. Are you ready for us to
2 carry on?
3 A. Yes.
4 LADY SMITH: Thank you.
5 Ms Innes.
6 MS INNES: Thank you, my Lady.
7 If we continue looking at the same document, and if
8 we go to page 2, we see the response to that letter from
9 Mr KYN from the Scottish Office, Education Department,
10 and it says:
11 'I am most grateful to you for your letter with the
12 disciplinary findings. The contents and actions taken
13 have been noted, along with the fact that you are
14 continuing to liaise with HMI Dr O'Hagan.'
15 So that would be a relevant inspector?
16 A. Yes.
17 Q. Then, finally in relation to this person and this issue,
18 at page 1, we see a letter from the school to the
19 Scottish Office, dated 10 March 1998, and then in the
20 body of the letter it says:
21 'You will recall that in October we had
22 a disciplinary hearing and that a stringent procedure
23 was put in place to monitor the staff member's progress
24 following a final warning being given. Unfortunately,
25 in early February two incidents occurred which, after

1 a hearing last week, left me in the position of having
2 to decide whether to continue his employment with us or
3 not. On the basis of the evidence presented, I decided
4 to terminate his employment.'

5 So ultimately the staff member was dismissed by
6 Harmeny.

7 A. Yes.

8 LADY SMITH: So that's a move forward from dealing with it
9 by additional training which was recorded in the report,
10 I think, as a recommendation, disciplinary report.

11 A. Yes.

12 LADY SMITH: Thank you.

13 MS INNES: Now, I'm going to move on to another school and
14 some material referenced in your report, and that's
15 Donaldson's.

16 If I can ask, please, if you could look at
17 SGV-001033476, at page 75. This is a memo dated
18 15 April 1987, but if we start, please, at page 75, it
19 refers to allegations of sexual abuse having been made
20 in a letter from an MP, and it notes that the son of
21 a constituent of this MP alleged that he was sexually
22 abused while a pupil at Donaldson's between 1985 and
23 1986. Then it notes that the housemaster concerned
24 committed suicide at the school in 1986, shortly after
25 the allegations were put to him, and you refer to this

1 incident in your report.

2 Now, if we can look down to the bottom of the page,
3 there's reference to this person having been a bachelor
4 who lived at Donaldson's School. He had worked there
5 for 23 years. He was well regarded by the school. Many
6 of the staff had known him for many years and are
7 adamant that there was absolutely no evidence that he
8 had paedophilic tendencies.

9 'The senior management of the school take a similar
10 view. We are told that he was boisterous and perhaps
11 rather naive in the attitude he adopted to the children
12 under his care, although Donaldson's make the point
13 quite reasonably that touching and physical contact are
14 far more important in dealing with children who are deaf
15 and who spend a good deal of their time away from home
16 than would be the case with children who are not
17 handicapped and who live a normal life.'

18 Now, just pausing on that comment there, that it
19 appears to be accepted that the point made by the school
20 in relation to physical contact is a reasonable point,
21 that touching and physical contact would be more
22 important with children who are deaf and handicapped, as
23 it says in this memo.

24 When the Inspectorate are looking at the residential
25 special schools that we have been talking about, how

1 would these sorts of issues be taken into account now?

2 A. So this is where we would be looking at physical
3 intervention and physical restraint and the tie-in
4 within that child's plan, around what is that --
5 physical contact would be physical intervention, and
6 what was appropriate for that particular -- for
7 particular children in place within that child's plan.

8 Q. I suppose it would also connect to child protection
9 policies?

10 A. Yes.

11 Q. And safeguarding?

12 A. Yes.

13 Q. So what's an appropriate touch?

14 A. Yes.

15 Q. If we can go on to page 76, please, in the second
16 paragraph of this page, it says:

17 'The department's role is not to establish guilt or
18 innocence.'

19 I suppose that's the same as you've been saying:
20 that the Inspectorate's role is not to investigate.

21 A. Yes.

22 Q. 'Our concern is three-fold. First, to establish whether
23 it is possible that other children at the school are
24 being sexually abused, as the MP alleges, and if so, to
25 ensure that the school takes proper action. Second, to

1 ensure that the care arrangements are such as to
2 minimise the possibility of sexual abuse. Third, to
3 establish that the managerial arrangements are such as
4 to pick up any possibility of sexual abuse and ensure
5 that it is properly investigated.'

6 Would the role of the Inspectorate now be similar,
7 in terms of looking at these issues, or not?

8 A. So when -- we would be looking at the arrangements that
9 the school has in place for child protection, the policy
10 that it has in place and how well publicised that policy
11 is around the school, so that children and adults know
12 what to do, and then, if there have been any child
13 protection or safeguarding allegations, how they have
14 been taken forward, what's been recorded and the
15 follow-up action that has been taken.

16 Q. Then if we --

17 LADY SMITH: Just before we move on, this may be obvious,
18 but let me articulate what I hope is the right approach:
19 that it's not for Her Majesty's Inspectorate of
20 Education to say, 'Allegations of sexual abuse aren't
21 something we take to do with, because we're just looking
22 at education', if a child is being abused, you have to
23 proceed on the basis that that is likely to have
24 an adverse effect on their ability to be educated. Am I
25 right?

1 A. Yes.

2 LADY SMITH: However you look at it, quite separately from
3 the fact that you do liaise with the Care Inspectorate.

4 A. Yes.

5 LADY SMITH: You can't have one inspectorate saying, 'We
6 don't have any concern with abuse; we're just looking at
7 education'.

8 A. Yes.

9 LADY SMITH: If you're looking at the whole child and the
10 whole life of the child, you have to take account of
11 allegations like this, don't you?

12 A. Yes, absolutely, and that's why we changed our approach
13 in our framework to include that quality indicator
14 around safeguarding and child protection.

15 LADY SMITH: Yes. Of course, it flows from what now are
16 your statutory duties, but didn't used to be; is that
17 right?

18 A. Yes.

19 LADY SMITH: Thank you.

20 Ms Innes.

21 MS INNES: Thank you, my Lady.

22 There is a paragraph there beginning:
23 'Although I cannot offer a categorical assurance,
24 I can say with confidence that the investigations by
25 Donaldson's have been thorough and I can also say that

1 nothing in what I have been told of previous allegations
2 leads me to think that there is any substance in the
3 assertion that boys other than this child may have been
4 sexually abused.'

5 That seems to be going quite far, for an inspector
6 to express that view.

7 A. Yes.

8 Q. Would you expect an inspector to go that far or not
9 these days?

10 A. No.

11 Q. Then it goes on to the questions posed by the MP in
12 relation to the management and care arrangements, and it
13 notes:

14 'In answer to his first question, Donaldson's tell
15 me that it was indeed the case that the child alleged
16 early in 1986 that this person had sexually abused him.
17 The teachers to whom these allegations were first made
18 drew the matter to the attention of the headmaster who
19 seems to have investigated them thoroughly. No evidence
20 was uncovered to corroborate the allegations, which the
21 member of staff completely denied; and since about the
22 same time the member of staff had cause to give the
23 child a severe reprimand, it is just possible that the
24 allegations were made vindictively. Nonetheless, the
25 member of staff was given a severe warning by the

1 headteacher about the need to ensure that his behaviour
2 was beyond reproach and was seen to be so.'

3 So, pausing there, it looks like there had been an
4 earlier allegation, while the child was at the school,
5 which was investigated and there was no evidence to
6 corroborate it; some suggestion it might have been made
7 vindictively. Is that something the Inspectorate would
8 dig into a bit more?

9 A. We would look to see what the school had done and had
10 they alerted the appropriate authorities, and how they
11 had followed that through.

12 Q. Then it says:

13 'With the benefit of hindsight, it might have been
14 sensible for the school to tell the parents about the
15 allegation and to give them a full account of their
16 investigations but so far as I am aware, they did not do
17 so.'

18 Now, I assume you would expect parents to be
19 informed if there were allegations of this nature?

20 A. Yes, in line with letting the authorities know in the
21 first instance to safeguard the child, but, yeah.

22 Q. Then if we go on over the page to page 77, there's
23 reference to changes in relation to the way in which
24 records of allegations are kept.

25 Then towards the end of the first paragraph on this

1 page, there is a sentence beginning:

2 'We are content with this so far as it goes but we
3 shall suggest one further measure to the school. That
4 is that the headteacher and possibly the chairman of the
5 board of governors, should from time to time review all
6 recorded allegations over a lengthy period and consider
7 whether there is a body of circumstantial evidence
8 which, when viewed objectively, might appear to amount
9 to more than consideration of individual incidents in
10 isolation would suggest.'

11 So the Inspectorate here is suggesting that records
12 need to be kept, but those records need to be reviewed
13 in order to establish if there's any patterns.

14 A. Yes.

15 Q. So is that something that the Inspectorate would still
16 look at?

17 A. Yes, and we'd also be expecting the chairman of the
18 board of governors to have oversight of what was taking
19 place in the school as well.

20 Q. In the next paragraph, it then talks about the care
21 arrangements, and it says:

22 'For staff appointments will no longer be made only
23 by the headteacher but by a panel consisting of a member
24 of the board of governors, the headteacher and the
25 school psychologist. The school has always made

1 enquiries about the background of candidates for
2 appointment, including with the police, and they will
3 continue to do so.'

4 So the Inspectorate seems to be suggesting that
5 staff members shouldn't just be appointed by the
6 headteacher, but there should be a panel. Is that
7 something that the inspector would engage in?

8 A. Sorry, engage in as part of the panel?

9 Q. Engage in advising on the way in which staff should be
10 recruited.

11 A. So we would be looking at, predominantly in
12 a pre-registration, how staff had been recruited,
13 whether staff have gone through PVG, what safe
14 recruitment practice this school has taken -- taking
15 place. But ongoing recruitment, we wouldn't.

16 Q. I suppose this is also mentioning the board of governors
17 being involved, and you have mentioned that you would
18 expect the board of governors to have oversight of
19 particular issues.

20 What sort of things would you be expecting them to
21 be involved in and have knowledge of?

22 A. In terms of the board of governors, we would be
23 expecting that they have oversight about how the school
24 was carrying out its work. We would expect the board of
25 governors to be trained in child protection as well, so

1 that they have a strong understanding, and that areas of
2 child protection or safeguarding, physical restraint,
3 that the board of governors have oversight of the work
4 of the school.

5 Q. When an inspection is being carried out, would the
6 inspection team normally meet with the whole board or
7 members of the board?

8 A. We would expect to meet with members of the board,
9 either in person or it may be virtually, but we would
10 expect to meet with at least one member of the board.

11 MS INNES: My Lady, I'm going to move on to another
12 document.

13 LADY SMITH: I think we should stop now for the lunch break
14 and I'll sit again at 2 o'clock.

15 Thank you.

16 (12.59 pm)

17 (The luncheon adjournment)

18 (2.00 pm)

19 LADY SMITH: Janie, welcome back. Are you ready for us to
20 carry on?

21 A. Yes, thanks.

22 LADY SMITH: Thank you very much.

23 Ms Innes.

24 MS INNES: Thank you, my Lady.

25 Now, we're going to stay with Donaldson's and pick

1 up, just as a follow-up to the issue that we were
2 discussing before lunch, which was the allegations
3 against the houseparent made in 1987.

4 If we can look, please, at your summary report,
5 which is at SGV-001033536, and at page 195, we see there
6 reference to a letter dated 2 September 1987 from the
7 Inspectorate to the Education Department, saying that at
8 this point the -- sorry, it's a letter from the SED to
9 the Inspectorate, and the letter states that:

10 'The SED had been provided with information from the
11 Crown Agent which advised that fresh evidence had
12 emerged in relation to the previous allegations against
13 the houseparent who had committed suicide. The fresh
14 evidence indicated that the allegations were likely to
15 be true.'

16 It then goes on:

17 'The SED representative expressed concerns that
18 arrangements at the school were not adequate to detect
19 the possibility of unacceptable conduct from the
20 houseparent and that there was no disposition on the
21 part of the principal to take the allegation seriously.
22 In the letter, the inspector was asked to examine the
23 progress made by the school in implementing the various
24 measures previously endorsed by ministers and to report
25 back to the Scottish Education Department. The

1 inspector was asked to press Donaldson's hard to
2 implement the measures previously agreed and continue to
3 take them seriously.'

4 Then the inspector was asked to report back if he
5 had any concerns about the school.

6 So this seems to be the follow-up, or the further
7 follow-up, to the material that we looked at before
8 lunchtime, in which the inspector had suggested various
9 issues like keeping a record of allegations, reviewing
10 the allegations and suchlike, and here it appears that
11 the Inspectorate is being directed by the Education
12 Department to follow this up.

13 A. Yes.

14 Q. Does this sort of thing still happen?

15 A. Not by the Education Department. We would be
16 potentially asked for advice, but the direction would
17 come under section 66 by ministers to carry out
18 the inspection or to get advice on it. We wouldn't
19 usually have from -- it would be the learning
20 directorate of Scottish Government who would ask us. We
21 wouldn't usually have that now.

22 Q. Okay.

23 I'm just wondering if you might move the microphone
24 down a little. I think it's been lifted up. I think
25 that would be better.

1 A. That better?

2 Q. Thank you.

3 Okay, and from this note it says that, from records
4 reviewed, there is no further information to indicate
5 what action was taken after this. There was obviously
6 a direction to review matters, but we don't have any
7 more documentation in relation to it.

8 I'm going to ask you to look on in this summary to
9 page 199 -- this is ten years later, in July 1997 -- to
10 a minute of discussion written by an inspector and sent
11 to other inspectors, and this detailed discussions
12 between the inspector and two child protection officers
13 from local authorities, who had delivered training for
14 staff at the school.

15 'The HM Inspector reported that the headteacher was
16 hostile to the training and was attempting to discredit
17 it. The minute also detailed alleged abuse in the
18 school, including the rape of a female pupil by the
19 headteacher and pupils being kicked in the corridors by
20 staff. Social work staff were intending to undertake
21 a welfare of residential provision inspection at
22 Donaldson's.'

23 So just pausing there, that seems to have been what
24 the local authority would have done prior to the Care
25 Commission being in place.

1 A. Yes, it appears to be.

2 Q. 'They had experienced great difficulties in getting in.

3 The school had not responded to phone calls or

4 documentation regarding social work inspection.

5 Eventually a meeting was held between the social work

6 inspection unit and the school. The social work

7 inspection unit described the headteacher as being

8 extremely resistant to the notion of unit staff

9 conducting an inspection of provision. The minute

10 concluded that this is certainly a fraught area of

11 evidence because of the circumstantial evidence rather

12 than hard evidence.'

13 I'm assuming that's circumstantial evidence in

14 relation to allegations?

15 A. Yes.

16 Q. 'However, when so many agencies involved with the school

17 are independently expressing concerns, there must be

18 a cause for the Education Department's interest.'

19 Then it says:

20 'I know from recent [it carries on over the page]

21 special educational needs panel discussions that we

22 intend to place Donaldson's School on our inspection

23 programme. It appears to me that the sooner this is

24 done the better, just in case we find ourselves in the

25 middle of a rather messy affair.'

1 So that seems to include some quite serious concerns
2 being raised by one of the inspectors, and the
3 suggestion is that an inspection take place.

4 A. Yes.

5 Q. Now, if we look down at the bottom of this page, the
6 final entry is 27 April 1998, which says that the school
7 was inspected in April 1998. So it appears to have
8 taken between July 1997 and April 1998 for the
9 inspection to take place.

10 Is that the sort of length of time you would expect,
11 given the issues that were raised?

12 A. No, and certainly not today. Sort of -- currently, that
13 wouldn't -- we would -- where we had significant
14 concerns, we would go in much -- much quicker and we
15 would decide -- there would be three aspects that we
16 would decide: we would decide whether it goes on to the
17 inspection programme and the school receives
18 two-and-a-half weeks' notice of an inspection; we would
19 decide whether we go in much sooner with a short-notice
20 inspection, so we would give a couple of days'
21 notification; or if we felt that the school may not be
22 forthcoming or try to hide things from us, we would go
23 in unannounced and we would turn up at the school with
24 a letter to the school. And that's the, sort of, three
25 avenues that we would do.

1 Q. How common is it for the Inspectorate to do
2 an unannounced inspection?

3 A. So it's not common. It's not common and, as I say, we
4 would only undertake an unannounced if we felt that we
5 may not get an accurate picture of the school. We have
6 done one recently, in the past year, and we've also
7 done -- carried out a short-notice inspection in the
8 past year as well. So it depends on the, I suppose,
9 severity and the level of risk.

10 LADY SMITH: Janie, forgive me if I've asked you this on
11 a previous occasion, but what is the downside of doing
12 an unannounced inspection?

13 A. The downside?

14 LADY SMITH: From the inspector's point of view.

15 A. So the downside from an inspector's point of view can be
16 around gathering the views of children, parents. But
17 what we can do now, that we haven't in previous years,
18 is the system that we have set up for our pre-inspection
19 questionnaires, we can get those out on the day that we
20 arrive and actually get them analysed before we leave.

21 But also, in an unannounced, we can potentially stay
22 on as long as we need to stay on.

23 LADY SMITH: Of course, and I suppose that as compared to
24 unannounced, the school won't have had to get its
25 paperwork together for you, all the up-to-date

1 information, the data that you'll want from any school
2 for inspection purposes, so that's not going to be ready
3 for you to do your advanced homework and for it to be in
4 place as you go forward with the inspection. Have I got
5 that right?

6 A. That's correct. Yes.

7 LADY SMITH: But there may be times when you need just to go
8 in.

9 A. There may be times where, if we feel that there is
10 a risk to children and young people, that we need to go
11 in almost immediately, and these are inspections that we
12 would provide advice to Scottish Ministers, we would set
13 out what our concerns are, and we would set out -- and
14 therefore we will carry out either an unannounced or
15 a short notice, and that's the ones where ministers
16 would then direct us to carry out it underneath
17 section 66 of the Act.

18 LADY SMITH: Thank you.

19 MS INNES: Is there any consideration being given to
20 changing the approach that you take to short-notice or
21 unannounced inspections in the ongoing review that
22 you're having?

23 A. So an ongoing review -- so the views that we're
24 gathering just now are quite mixed. There are, you
25 know, practitioners and headteachers who are saying,

1 'Look, just turn up, just turn up and just see the
2 school as it is'. So we'll see where that goes to.

3 Q. Now, looking at the entry that we just saw at the bottom
4 of page 200, we see the school was inspected in
5 April 1998, and then it goes on:

6 'During the inspection, a pupil made an allegation
7 that she was assaulted by the headteacher the previous
8 day and showed the HM Inspector bruising.'

9 This was then reported to social work services and
10 the police:

11 'The pupil was interviewed at home. During the
12 inspection, another allegation of a sexual nature was
13 made to HM Inspectors about two members of staff. These
14 were reported to social work services.'

15 There's then more detailed notes referred to in the
16 next entry, which say that:

17 'The notes detailed discussions with pupils during
18 the inspection and allegations made by them about staff.
19 Allegations included staff entering shower and dressing
20 areas and looking at them, physical assault by the
21 headteacher and one allegation of sexual abuse by
22 a member of staff.'

23 All of these reports were made directly to the
24 inspector; is that right?

25 A. Yes.

1 Q. Then we have seen that there was onward reporting to
2 other authorities, which I think is probably more like
3 what you would expect to see today.

4 A. Yes.

5 Q. Then we see the HM Inspector noted that the one very
6 positive thing to arise from the inspection was the
7 review of childcare and child protection procedures:

8 'This should include a clear complaints procedure
9 for pupils and staff and a comprehensive personal safety
10 programme being put in place to ensure all children and
11 young people acquire the skills, knowledge and
12 understanding to keep themselves safe in the school and
13 wider community. These were identified as key issues
14 which were to be clearly flagged in the published report
15 and which required urgent attention. The Scottish
16 Secretary wrote to the Secretary of State to inform him
17 about the allegations.'

18 It goes on, on the next page, and it notes that the
19 headteacher was suspended on 29 April 1998. So I think
20 that seems to have been a reaction to the allegations
21 made to the inspector during the inspection.

22 A. Yes, appears to be.

23 Q. Now, staying with Donaldson's, we know that the
24 Inspectorate had a significant involvement with
25 Donaldson's at a later period, between 2013 and 2014,

1 and Education Scotland have previously provided a report
2 in relation to its involvement with Donaldson's School,
3 and this is to be found at SGV-000086464.

4 This report is dated 9 November 2022, and if we look
5 on page 2, at the top of the page, it notes that this
6 case study was prepared in relation to a request from
7 the Scottish Government response unit to provide
8 a document setting out the chronology of the
9 Inspectorate's involvement with Donaldson's School from
10 1993 to 2014 based on the files available, and
11 a document with the overarching narrative of the
12 Inspectorate's involvement with Donaldson's School,
13 including key messages and issues to highlight.

14 My understanding is that this was prepared as part
15 of work that was undertaken by Professor Levitt. Is
16 that right?

17 A. Yes.

18 Q. Now, if we can look, please, just at the bottom of
19 page 2, we see that between 2013 and 2014, the
20 Inspectorate had a significant level of engagement with
21 the school, with inspections in May 2013, May 2014 and
22 November 2014.

23 So before we look at any other matters, is it
24 unusual to have three inspections within the course of
25 a year and a half?

1 A. Yes.

2 Q. If we go on, please, to page 3, we see that, in
3 May 2013, there was a routine joint inspection or
4 integrated inspection of the school and nursery together
5 with the Care Inspectorate, and it says this was
6 scheduled for publication in August 2013 and initially
7 it was a positive inspection; is that right?

8 A. Yes.

9 Q. Then it goes on to say that, in June 2013,
10 a confidential draft of the report was sent to the
11 school for comment in June 2013. So for each
12 inspection, before it's finalised and published, would
13 it be sent to the school?

14 A. Yes.

15 Q. What's the purpose of providing the school with a draft?

16 A. So the purpose is to provide the school with the
17 opportunity to comment on our findings and carry out
18 a factual accuracy check, and also gives the school the
19 opportunity if they want to submit any evidence, and
20 then the inspection team will look at any comments that
21 are provided back and then they will determine whether
22 any changes are made to the report or not.

23 Q. Do schools regularly challenge gradings that are
24 awarded, as it were?

25 A. I wouldn't say they regularly challenge gradings. They

1 do challenge gradings, but they also provide comments on
2 phraseology in the reports as well.

3 Q. It notes that, as a result of significant events at the
4 time, including the suspension of the school principal
5 and headteacher, the Inspectorate decided to postpone
6 the report's publication.

7 A. Yes.

8 Q. Would that be a normal approach?

9 A. No, that's not a normal approach.

10 Q. What would normally happen?

11 A. So normally what would happen is we would complete and
12 publish the report in around -- in ten weeks, after
13 we've carried out the fieldwork element of the
14 inspection. If the school provides additional evidence,
15 then it may go beyond the ten weeks, or if there's
16 a dispute about gradings, it may go beyond the ten
17 weeks.

18 Q. And if, as you have here, the suspension of the
19 principal and headteacher before you publish the report,
20 would the publication be postponed or not?

21 A. No, not ordinarily, no.

22 Q. Then it says that the Inspectorate continued inspection
23 activity along with a range of support to the school,
24 and the inspection report was published ultimately in
25 December 2013.

1 In the next paragraph, you say that with the
2 exception of improvements through self-evaluation in the
3 school, which moved from satisfactory to weak, the
4 quality indicator gradings in the published report
5 remained those as had been in the draft, so there's only
6 that one change.

7 A. Yes.

8 Q. And you note there that the decision to continue the
9 engagement of inspectors over that length of time was
10 unusual.

11 A. Yes.

12 Q. Can I ask you, please, to look at page 15 of this
13 report, please. There's an entry there:

14 'Events following the publication of the report on
15 the integrated inspection that began in May 2013.'

16 We can see that the date there is 16 December 2013,
17 which I think must have been when the report was maybe
18 published, or by that time the report had been
19 published, rather, and it says:

20 'HM Inspector Assistant Director visited the school
21 for separate meetings with the Educational Institute of
22 Scotland representative with the acting headteacher and
23 the acting deputy headteacher and with the interim
24 principal.

25 'Discussion with EIS and acting headteacher and

1 acting deputy headteacher focused on issues around the
2 use of a sign language interpreter and relationships
3 between staff and the inspection team. Assurances were
4 given that the inspection team for the scheduled further
5 inspection would be fully aware of the issues and would
6 take account of feedback from the school.'

7 Do you know anything further about this meeting?

8 A. I don't know anything further about this meeting, but
9 where we have meetings where we've got -- so the EIS,
10 a teacher trade union in there, when that would usually
11 occur is where relationships between the staff and the
12 inspection team have broken down, and there have been
13 potential complaints about the inspection team, either
14 the way they've carried out their duties or not, and we
15 would either go out and visit the school to hear the
16 staff concerns, and, in this case, perhaps the EIS have
17 gone because the staff potentially have complained to
18 their trade union representative.

19 Q. So if we hear evidence later in this case study that
20 staff felt that their concerns had not been heard by the
21 Inspectorate back at the time they were doing the
22 May 2013 report, then that might be consistent with
23 having a meeting with the union at a later stage, would
24 it?

25 A. Yes, potentially.

1 Q. It seems to suggest some kind of unhappiness --

2 A. Yeah.

3 Q. -- amongst the staff, as you say, about the relationship
4 between them and the inspectors?

5 A. Yes.

6 Q. Okay.

7 Now, if we can move back to the body of this report
8 again and to page 3, we can then see, just going back to
9 where we were reading, there is a paragraph beginning:

10 'Following the publication of the inspection report
11 in December 2013, HM Inspectors engaged with the school
12 over a sustained period.'

13 Then there was the inspection in May 2014, and then
14 in November 2014 in response to concerns.

15 If we look down to the next paragraph, it says:

16 'The further integrated inspection carried out by
17 HM Inspectors and the Care Inspectorate in November 2014
18 was not scheduled in advance. Rather, it was arranged
19 at short notice in response to concerns raised with
20 HM Inspectors, Scottish Government policy officials and
21 the Care Inspectorate by the newly appointed school
22 principal. The school principal's concerns were
23 connected with allegations of physical and sexual
24 assault and a culture of bullying. HM Inspectors'
25 decision to carry out this inspection was taken in

1 consultation with Scottish Government policy officials
2 and the Care Inspectorate.'

3 So here, by November 2014, there's a new principal,
4 and it appears that she has raised concerns which give
5 rise to the inspection; is that right?

6 A. Yes.

7 Q. Then you go on to tell us that, during that inspection,
8 a number of incidents and allegations were disclosed to
9 the inspectors, and there was then a reference made to
10 Scottish Ministers in accordance with the Inspectorate's
11 duties under section 66 of the 1980 Act; is that right?

12 A. Yes.

13 Q. I think there was a recommendation that a preliminary
14 notice be served; is that right?

15 A. Yes.

16 Q. Now, if we can look, please, at that preliminary notice,
17 if we look at DSD-000000010, and if we can look, please,
18 at page 3.

19 We see Education Scotland's reference to the
20 Scottish Ministers under section 66B of the 1980 Act,
21 and it says that there was an inspection in
22 November 2014 following information from the principal,
23 who had been in the post for three weeks.

24 Then if we look down to the bottom of the page,
25 under 'Summary of findings', it says:

1 'Current child protection procedures are not
2 effective in ensuring the safety of children and young
3 people.

4 'The behaviour of some children and young people is
5 resulting in a high number of assaults of a physical,
6 verbal and sexual nature.

7 'Current behaviour management plans, deployment of
8 staff and levels of supervision are not effective in
9 ensuring that children are safe from harm from other
10 children in the school.

11 'Staff do not have a consistent understanding of the
12 roles and responsibilities in keeping children safe in
13 the context of pupil on pupil violence.'

14 Then going on over the page, it refers to a culture
15 of bullying and intimidation. The next bullet point is
16 high staff turnover levels. The next bullet point is
17 about senior management not carrying out their roles
18 effectively. The next bullet point is the board of
19 governors do not provide adequate support and
20 governance. Then there are a couple of other issues,
21 with the final bullet point being there are a number of
22 outstanding incidents and complaints which have not been
23 investigated.

24 If these sorts of issues came to light in
25 an inspection, is the process that we see here with

1 a reference to Scottish Ministers what you would expect
2 to happen?

3 A. Yes.

4 Q. Then we know that a preliminary notice was served. If
5 we go to page 1, I think we see the preliminary notice
6 there, and it sets out, if we scroll down the page,
7 various issues where there are failures, and it notes in
8 the paragraph beginning:

9 'The areas for improvement were highlighted by
10 inspectors in May 2014.'

11 The school have been given sufficient opportunity to
12 secure improvements and, essentially, they haven't, and
13 therefore an enforcement notice is justified.

14 Again, is that the approach that you would expect in
15 this case? If we contrast it with what we looked at
16 earlier, where there was a warning that was sent to the
17 principal; here we have a different type of action being
18 taken?

19 A. Yes.

20 Q. So this is what you would expect.

21 Then, I think, if we go back to your report again in
22 relation to this at SGV-000086464, on page 4, and the
23 paragraph beginning:

24 'At the time the preliminary notice was served
25 HM Inspectors were unable to provide assurances to

1 Scottish Ministers about the safety of pupils. Scottish
2 Ministers requested HM Inspectors remained at the school
3 and they remained at the school from 14 November until
4 the end of term in December 2014 to monitor safety and
5 support staff.'

6 Is that something that you're aware of ever
7 happening elsewhere?

8 A. No.

9 Q. No?

10 A. No. I'm aware of occasions where HM Inspectors will
11 remain in a school, so an example would be where
12 a school closed and, to ensure transition arrangements,
13 inspectors may stay on in the school, but not to this
14 degree or for this reason.

15 Q. Then in the next paragraph, it says:

16 'Initially Scottish Government suggested that
17 an inspector might act as interim headteacher at the
18 time.'

19 Is that something that you've ever come across in
20 any other context?

21 A. No.

22 Q. Then, ultimately it says:

23 'Scottish Government officials subsequently asked
24 HM Inspectors to identify a suitably experienced
25 individual.'

1 So it looks as though they didn't appoint
2 an inspector from the Inspectorate, but the inspector
3 was involved in the appointment of somebody?

4 A. I think they would -- from my recollection, the
5 inspectors were asked, you know, were they aware of
6 people who had experience in this sector who could act
7 as headteacher in a school.

8 Q. Then you go on in your report, and we've heard evidence
9 previously, that following the preliminary notice, there
10 were a number of action plans, there was follow-up, and
11 ultimately, if we go on to page 7 of this report, we
12 see, in the second-last paragraph there, that Scottish
13 Ministers informed the school in February 2018 that all
14 of the requirements in the preliminary notice had been
15 satisfied.

16 So that was the period of time that the preliminary
17 notice had been in place?

18 A. Yes.

19 Q. Again, have you seen a preliminary notice served that
20 has taken that sort of length of time to resolve?

21 A. No, I haven't.

22 LADY SMITH: So just to capture it in the transcript at this
23 stage, that is a preliminary notice that was originally
24 served in --

25 MS INNES: December 2014.

1 LADY SMITH: Yes, 22 December 2014.

2 MS INNES: Right, I'd like to move away from Donaldson's
3 now, please, and look at another institution and
4 information that you referred to in your main report,
5 but we'll look at the source documents.

6 This is in relation to the Royal Blind School, and
7 if we could look, please, at SGV-001033168, we see that
8 this is a letter from, I think, a grandparent to the
9 Inspectorate dated 29 January 2006, and this person
10 says:

11 'I wish to make a formal complaint to the
12 Inspectorate and bring to your attention my concerns
13 over the treatment of my grandson and incidents at the
14 Royal Blind School where he is a pupil.'

15 It goes on:

16 'On 20 January 2006, an alleged incident of a sexual
17 nature involving [the grandchild] and another pupil
18 occurred at the school. The [grandchild] was the victim
19 during this assault and the incident was [she was told]
20 interrupted by an adult member of staff. I was informed
21 by the school but it was left to me to contact the
22 police and through them the family protection unit who
23 is now investigating and has visited and interviewed
24 [the child] at home.'

25 So just pausing there, on this occasion, there's

1 an incident of a sexual nature which has been observed
2 by a member of staff and that's reported to the
3 grandparent, and then it's for the grandparent to
4 contact the police.

5 Is that the approach that you would expect or not?

6 A. No, it's not the approach. I would expect the member of
7 staff to follow the child protection procedures in the
8 school and make contact with the authorities.

9 Q. Then the grandparent goes on to say:

10 'Since 2003, when two pupils joined the school,
11 there have been other incidents of a sexual and/or
12 bullying nature involving my grandchild, one where he
13 was left with bruising on his neck. My understanding is
14 that the family protection unit was not contacted and my
15 feeling is that the school did not take these incidents
16 seriously or investigate fully. It is not clear what
17 action the child protection co-ordinator took.'

18 From what you are saying, you would expect the child
19 protection co-ordinator at the school to be involved?

20 A. Yes.

21 Q. 'I have not been given or afforded the opportunity to
22 see any of my grandchild's records relating to these
23 incidents and feel there is a fundamental lack of
24 communication, both within the school and towards
25 parents and guardians. When Mr MacQuarrie the

1 headteacher visited me last week to allay my fears, he
2 admitted that he had not been informed or knew what was
3 already on the file regarding these previous incidents.'

4 Would you expect the headteacher to be informed of
5 an incident of this nature?

6 A. Yes.

7 Q. Then if we go on to page 3, she says that she wants the
8 Inspectorate to investigate these matters:

9 '... and help me in resolving them so that my
10 grandchild can return to the school and rebuild his
11 confidence and trust as quickly as possible.'

12 You have already told us that the Inspectorate
13 wouldn't investigate themselves in relation to such
14 matters; is that right?

15 A. That's correct.

16 Q. Here, if we can move on, please, to SGV-001033548, we
17 can see a note of contact with the Royal Blind School,
18 and there's a heading, 'Action taken by HMIE'. It says
19 two days after receiving the letter, LW, who I think is
20 a member of the inspection staff, contacted the
21 principal, Tony McQuarrie, to clarify the nature of
22 complaint and action taken by the school, and you have
23 been saying in your evidence already that this is the
24 sort of thing that a link inspector would do.

25 A. Yes.

1 Q. The first thing would be to contact the headteacher,
2 would it?

3 A. Yes -- depend -- yes.

4 Q. Then it's noted:

5 'Mr McQuarrie was himself critical of the slow
6 action taken by the school. This included his Head of
7 Care delaying until 4.00 pm in responding to the report
8 by a teacher at 12 noon on Friday 27 January 2006.

9 'The Head of Care had tried contact the child's
10 social worker but she had left for the day.'

11 It wasn't reported to the on-call social worker,
12 which meant that there was no social work action until
13 7 March.

14 Then if we look down a bit, there's a paragraph
15 beginning:

16 'The principal admitted that CP [I assume "child
17 protection"] procedures had not been effectively carried
18 out. There were in place plans for child protection
19 training the following week (as part of the school's
20 response to the recent inspection recommendations).'

21 So that seems to be separate from this particular
22 incident.

23 A. Yes.

24 Q. Would an inspector ask about child protection procedures
25 and training, if faced with this type of incident?

1 A. Sorry, can you repeat?

2 Q. When it comes to light that there is an allegation like
3 this, would the inspector ask questions about child
4 protection procedures, policies and training, or not?

5 A. The inspector may ask to just to get a sense of what was
6 taking place in the school.

7 Q. Then it's said that the author of this told Mr McQuarrie
8 that his senior managers needed urgently to review the
9 action taken in respect of this case so that procedures
10 were significantly improved.

11 Then the next entry is a contact to, I think,
12 a person who works at the Care Commission, and it's
13 noted that she and her colleague planned to visit the
14 school on an unannounced inspection in February and
15 planned to follow through the incident.

16 So here, there is -- information is being passed
17 from the Inspectorate to the Care Commission, and again,
18 is that what would happen?

19 A. Yes.

20 Q. Then it was said that -- I think LW and SM are the
21 person from HMIE and the person from the Care
22 Commission, were to visit the school around Easter to
23 talk through child protection training and the review of
24 procedures following this case.

25 So do inspectors go to a school and follow up in

1 this way, have a specific meeting?

2 A. So there are occasions where inspectors, if there are
3 elements around training or policies or how policies
4 align with -- how school policies align with national
5 policy, the inspectors may go out and talk a school
6 through what is missing, what isn't missing.

7 Q. If we go on, please, to CIS-000010694, we see that this
8 was created on 26 May 2006, and refers to a meeting at
9 the Royal Blind School in relation to a child protection
10 complaint.

11 Then if we go down to the text, it says:

12 'The meeting was held at the Royal Blind School to
13 give them an opportunity for them to update me and Lorna
14 Walker from HMIE about the steps they have taken
15 regarding child protection procedures.'

16 So this is a note from the Care Inspectorate, but it
17 seems to involve the Education Inspectorate as well.

18 A. Yeah. So there are times when, if we've carried out
19 activity together and an inspection together, we may
20 then carry out joint visits together as well.

21 Q. Now, I'm going to move on again to something else, and
22 this is the issue of corporal punishment, and you refer
23 to this in your report. But one of the things that you
24 drew attention to was guidance specific to children in
25 some of the establishments that we are looking at, and

1 I wonder, please, if we can look at SGV-001033774. If
2 we can look, please, at page 10.

3 Now, this begins -- it seems to be an internal note.
4 It's not dated, but it does refer to Corsbie Hall in
5 Fife, which we know was only open in the early 1970s, so
6 it must have been from around that time.

7 It says at point 1:

8 'There are only two independent residential special
9 schools which use corporal punishment. These are
10 Corsbie Hall in Fife and Monken Hadley School in
11 Newton Stewart. Both schools keep registers of
12 punishment and both use the tawse. The cane is never
13 used.'

14 Then in the next paragraph, it says:

15 'Both schools take low ability children, some of
16 whom have been before children's hearings and have
17 behaviour problems. Not all could be described as
18 handicapped children as this term is used in special
19 schools. Unfavourable home environments and behaviour
20 problems in the day school are among the reasons which
21 might lead an education authority to place a child in
22 one of these schools.'

23 Now, if you were looking at a residential special
24 school today, I assume that you wouldn't categorise the
25 children in this sort of way?

1 A. No, you wouldn't.

2 Q. If we look down to point 4, it says:

3 'On 29 February 1968, memorandum 3/68 was issued by
4 the Scottish Education Department and it drew the
5 attention of education authorities and other school
6 managers to a statement of principles and code of
7 practice on the elimination of corporal punishment in
8 schools which had been produced by the Liaison Committee
9 on educational matters.'

10 This is a code of practice that the Inquiry is aware
11 of.

12 This document then goes on to say:

13 'The statement of principles contained the following
14 in paragraph 4. Corporal punishment should not be
15 inflicted on a pupil suffering from any kind of
16 handicap; physical, mental or (when it is manifestly
17 persistent and serious) emotional.'

18 So this seems to be a specific principle in relation
19 to certain children and the fact that corporal
20 punishment should not be inflicted on them.

21 A. Yes.

22 Q. Then it goes on to say that:

23 'This statement of principles is reflected in the
24 conduct of special schools in Scotland. In the case of
25 the two independent schools referred to there is, in

1 addition, as pointed out above, a category of child who
2 is not handicapped but of a similar category to those
3 who would be placed in List D schools.'

4 So the memo seems to distinguish between children
5 who are placed in these settings because of, for
6 example, a physical disability and those who are there
7 because, perhaps, of behavioural issues.

8 A. Yes.

9 Q. But that distinction wouldn't apply today?

10 A. No.

11 Q. Just for completeness, we can see that this memorandum
12 was issued in 1968. So from 1968, the expectation
13 seemed to be that corporal punishment wouldn't be
14 inflicted on certain children with disabilities.

15 A. That's correct, yes.

16 Q. Now, going back in this document, please, to page 4, and
17 this is a matter highlighted in your report.

18 The first entry is to HMI Mr Petrie and it asks for
19 his comments on the allegations made in a letter that
20 corporal punishment was being used at Donaldson's. This
21 was in 1976, so some time after this memorandum.

22 A. Yes.

23 Q. He goes on at the bottom of the page to say that he
24 phoned the principal of the school this morning.

25 'The situation is as follows. No girls are belted

1 in Donaldson's. No small boys, ie boys below 12 years
2 or so, are belted.'

3 Then if we go on to the next page:

4 'Senior boys are sometimes belted either by the
5 headteacher himself or by his deputy. The headteacher
6 is fairly certain that no other member of the staff has
7 used the strap in his term of office with the possible
8 exception of Mr Rae, the new principal teacher in the
9 secondary department. No record of corporal punishment
10 is kept.

11 'The situation overall is rather disappointing.
12 I have had a lengthy discussion with the headteacher on
13 a variety of topics but it had not occurred to me to
14 raise the question of corporal punishment.

15 'What I said this morning was: if the use of
16 corporal punishment was to continue, a register of such
17 punishments must be kept. This should start at once.'

18 Then going on on the page, at 2:

19 'It was generally felt in SED that corporal
20 punishment should be discontinued in special schools.

21 And 3: 'It would be advisable to discuss the whole
22 matter with senior members of staff prior to a general
23 staff discussion.'

24 I think, ultimately, the incident that was
25 complained of had happened some years prior, but

1 focusing on what the headteacher has told the inspector,
2 he said that corporal punishment is still being
3 undertaken, which seems to conflict with the memorandum
4 and expectation issued in 1968.

5 A. Yes, it does.

6 Q. Do you have any comment on what the inspector suggests
7 here; that, you know, if it's going to carry on, then
8 a register of it should be kept?

9 A. I would have expected the inspector to be aware of the
10 memo and that actually to flag up it should not be
11 happening.

12 Q. Okay.

13 Now, I'm going to take you back to your main report
14 at SGV-001033534 and page 33.

15 You talk there about hospital schools, and you say
16 that there was a lack of clarity as to the role of
17 HM Inspectors in inspections in these settings.

18 Are you able to explain that a bit further? What
19 was the issue?

20 A. So the issue was that, in hospital settings, they were
21 seen primarily for healthcare, rather than for
22 education, and they were not classed as schools, but
23 they did include school-age children, and because they
24 weren't classed as schools, then the role of the
25 Inspectorate was blurred in terms of inspection of

1 education.

2 Q. We have already heard evidence in relation to RSNH,
3 I think, that the physician superintendent was actively
4 requesting inspections to take place, as opposed to the
5 Inspectorate going out and inspecting the school.

6 A. Yes.

7 Q. Is that because of this confusion as to whether the
8 Inspectorate had a role?

9 A. That I'm not sure of, but I know there was confusion
10 about the role.

11 Q. Okay.

12 LADY SMITH: Have you any idea why the Inspectorate didn't
13 ask itself the obvious follow-up question, namely: well,
14 are children in hospitals being educated at all? And,
15 if so, who's inspecting it?

16 A. Yes, I don't know why they didn't ask that question.
17 But -- and it's still an area because children who --
18 and young people -- are registered with -- just now with
19 a mainstream school, it's a local authority
20 responsibility to provide education wherever it happens.
21 And so there is still the area predominantly -- if
22 schools are registered as a school, that that would
23 automatically fall to us to inspect.

24 LADY SMITH: I can see it might get complicated if the child
25 who is at a registered residential school is

1 hospitalised somewhere far away from the place of
2 residence when in the school, but the school, through
3 having it delegated to it from the local authority, is
4 still responsible for seeing to it that the child is
5 educated.

6 A. Yes.

7 LADY SMITH: Ms Innes.

8 MS INNES: Thank you, my Lady.

9 Just in connection with hospital inspections, we
10 have looked at material with other witnesses, but I want
11 to take you to one document. It's SGV-001033312, and
12 page 11. This is in relation to Lennox Castle.

13 This document is dated 22 December 1975 and it
14 begins:

15 'HMI Mr Dell and I attended a meeting with Mr Hill,
16 education officer with responsibility for special
17 education in the Dunbartonshire division, on 18 December
18 at which we discussed the education authority's
19 involvement in Lennox Castle. Due to a series of
20 misunderstandings and non-action on the part of the
21 division, no educational presence has been provided by
22 the division in Lennox Castle during the seven months
23 for which they have had responsibility for the education
24 of children in the hospital. It is easy to apportion
25 blame in this situation but the important thing to

1 report is that from 5 January 1976, two teachers and one
2 woman attendant will be in post at the hospital.'

3 It talks about the experience that they have.

4 So this seems to be an issue in relation to
5 a complete lack of provision over a period of months?

6 A. Yes, that's correct.

7 Q. I suppose, judging by the time, this would have been
8 around about the time of regionalisation, so a different
9 entity taking responsibility, perhaps --

10 A. Yes.

11 Q. -- for education in the hospital.

12 Now, I'm going to look at another institution,
13 Lendrick Muir, and an issue again highlighted in the
14 material that you have provided to the Inquiry. This is
15 at SGV-000133721, and at page 7.

16 This refers to a visit to Lendrick Muir by a person
17 during an election campaign, so that's the local MP,
18 I think, during an election campaign.

19 Just bear with me a moment, I'll get the date of
20 this document. This is 13 July 1979.

21 If we look down to point 4, it says:

22 'Lendrick Muir had not been inspected since I became
23 responsible for special services in 1975. It may have
24 been visited and I suspect it was, by our former
25 colleague, Mr Petrie (who is by the way presently

1 a member of the advisory committee) in 1975 before he
2 retired. There is no record of such a visit or of any
3 earlier visits or inspections in the school file for the
4 period before 1975.'

5 So I suppose you said earlier in your evidence that
6 you find it difficult to trace documents, and here we
7 are in 1979 being unable to find documents for pre-1975
8 at that point.

9 Then if we go on, please, to page 8, and towards the
10 bottom part of the page, there are various issues raised
11 in subparagraphs. There is a management problem.
12 There's issues about the balance, quality and roles of
13 the staff. There's issues in relation to inadequacy of
14 resources. There's issues about partnership with local
15 authority and community agencies. There's reference to
16 a problem with difficult girls.

17 Then going on to page 9, it says there that after
18 consultation, a team of four inspectors will go into the
19 school, and it talks about who the team will be and
20 there will be specialist colleagues.

21 So, again, we see that the reaction of the
22 Inspectorate seems to be to carry out an inspection.

23 Would you usually have teams of four inspectors for
24 an inspection?

25 A. Yes, we may have. Our teams just vary depending on the

1 situation. If it was part of a programme, we would have
2 one or two inspectors and some associate assessors,
3 depending on the role of the school, depending on the
4 specialist nature will depend how many inspectors we put
5 in. And also if it was, for example, an unannounced or
6 a short-notice inspection, it would be inspectors.

7 Q. Then, at point 9, there's a suggestion that the MP might
8 ask to see a copy of the report, and there's a concern
9 that it might be confidential, but I think that all of
10 your reports now are published; is that correct?

11 A. Yes, all of our reports are published.

12 MS INNES: My Lady, I'm actually quite close to finishing,
13 but I do have --

14 LADY SMITH: Shall we have a short break?

15 MS INNES: Yes.

16 LADY SMITH: We usually have a short break in the middle of
17 the afternoon. If that would work for you, Janie, we'll
18 just do that now.

19 A. Yes.

20 LADY SMITH: Very well.

21 (2.59 pm)

22 (A short break)

23 (3.12 pm)

24 LADY SMITH: Welcome back, Janie. Last stint, are you
25 ready?

1 A. Yes.

2 LADY SMITH: Thank you.

3 Ms Innes.

4 MS INNES: Thank you, my Lady.

5 I'm going back to the main report SGV-001033534 and
6 section 16 on page 38.

7 Now, you have referred to this during the course of
8 your evidence, but I just want to be sure that we have
9 covered all the relevant points.

10 You tell us there that a review of the approaches to
11 school inspections is underway, and you have told us
12 already that you're in the process of engaging with
13 stakeholders.

14 What's the timescale for this review?

15 A. So we haven't set a specific timescale for it yet. We
16 are in the process of gathering the views from the
17 initial feedback that we gathered between January and
18 March. Once we see the extent to that, we'll then set
19 out a firmer timescale for when we'll take that -- take
20 the review forward and when we will put different
21 elements in place as well.

22 We'll also need to take cognisance of the Education
23 Scotland Bill as well, just in terms of timescales.

24 Q. Now, obviously we know that UNCRC has been incorporated.
25 To what extent has that impacted on the Inspectorate's

1 approach?

2 A. So it will be front and centre of this review, looking
3 at the UNCRC articles, and particularly looking at what
4 I would call the lived experience of children and young
5 people in education, and it's one of the reasons that
6 I wanted to do the full scale of the school inspection
7 review, from framework right the way through.

8 Q. Is there a group leading on this work?

9 A. Yes.

10 Q. Overseen by yourself, I assume?

11 A. Yes. I have a Strategic Director and a Head of
12 Inspection leading on it, and we also have a stakeholder
13 forum, who -- is part of a group of stakeholders who
14 will help us with it, and the other area is that we've
15 been engaging with children and young people to -- and
16 they have designed some activities that we can gather
17 the views of children and young people as part of the
18 reshaping of what we do.

19 Q. Then in section 17, you go on to refer to education
20 reform, which you've already mentioned in your evidence,
21 and I think the bill is currently at stage 3 in the
22 Scottish Parliament; is that correct?

23 A. That's correct.

24 Q. When do you expect it to come into force?

25 A. I think the anticipation at the moment is autumn this

1 year.

2 Q. You say there, at paragraph 17.3, that this makes
3 provision for the establishment of the office of
4 His Majesty's Chief Inspector of Education in Scotland,
5 and, as you have already told us, that would be leading
6 the new independent Education Inspectorate.

7 Now, you mentioned in your evidence earlier,
8 I think, that there would be an advisory council. Are
9 you able to tell us a bit more about that and what's
10 envisaged?

11 A. So I can't, because it's still part of the bill. What
12 I can say is that the intention behind it is to have
13 those with an interest in education helping to shape the
14 work of the Inspectorate, and that the Chief Inspector
15 has to have due regard for that advisory council. But
16 it hasn't been set up yet or the governance arrangements
17 haven't been taken forward yet.

18 Q. At paragraph 17.4, on page 39, you note that the Chief
19 Inspector will have a statutory duty to secure the
20 inspection of relevant educational establishments at
21 such intervals and to such an extent as the Chief
22 Inspector considers appropriate, you say but that is
23 subject to any requirements imposed by Scottish
24 Ministers in regulations.

25 Do you know what sort of requirements those might

1 be?

2 A. No, I'm not aware of that at the moment.

3 Q. Okay.

4 You then say that Scottish Ministers would also be
5 empowered to require the Chief Inspector to inspect
6 a relevant educational establishment, a type of
7 establishment or a sample of a type of establishment.

8 So apart from the powers that we'll come on to in
9 a moment, it looks like Scottish Ministers could direct
10 you to carry out certain specified work?

11 A. Yes.

12 Q. But then it goes on to say, at paragraph 17.5, that
13 notwithstanding these provisions, the bill makes
14 specific provision to protect the Chief Inspector's
15 independence and, as currently drafted, or as drafted at
16 the time that you prepared this report, it said:

17 'In performing the Chief Inspector's functions, the
18 Chief Inspector is not subject to the direction or
19 control of any member of the Scottish Government.'

20 A. Yes, that's correct.

21 Q. You have already told us in evidence previously that
22 this bill is to align with the recommendations of
23 Professor Muir.

24 A. Yes.

25 Q. Do you know if there have been any significant

1 amendments to the bill to date that impact on the work
2 that you'll be doing?

3 A. So there are some amendments around -- and discussions
4 around frequency of inspection and whether that should
5 be set in legislation. There have been some amendments
6 around whether ministers have any powers related to
7 inspection as well. So there are a number of amendments
8 that will be taken through at stage 3, and there were
9 some amendments related to physical restraint, but
10 that's going to be covered under another bill that's
11 being taken forward as well. So there are a number of
12 wheels in motion.

13 LADY SMITH: I suppose, Janie, if you take frequency of
14 inspections, that might be something that regulations
15 could cover, but only to the extent of what would be the
16 minimum frequency, still leaving the Chief Inspector
17 with a discretion as to deciding exactly how often, so
18 long as that minimum is met.

19 A. Yes.

20 LADY SMITH: I perhaps have more difficulty in understanding
21 how ministers could have a power of inspection if
22 they're handing the power of inspection over to the
23 Inspectorate, but that no doubt's got to be ironed out.

24 A. I think it's intended as a safeguard.

25 LADY SMITH: Ah, right.

1 MS INNES: I think there have been some amendments to the
2 bill at stage 2, specifically referring to BSL, the use
3 of British Sign Language; are you aware of those?
4 A. Yes.
5 Q. If they become law, ultimately, how would those impact
6 on the work?
7 A. So those will impact on our work, so, in terms of
8 publication of reports, publication of inspection
9 frameworks and guidance, and it will require us to --
10 it's making our work much more accessible to people who
11 have different means of communication.
12 Q. As you have said, you anticipate, given where we now
13 are, that it's likely, perhaps, to come into force or be
14 passed, at least, by the autumn of this year?
15 A. Sorry, no, the new -- the Inspectorate is due to stand
16 up in autumn in terms of -- I don't have the precise --
17 I think stage 3 is intended to -- stage 3 to go through
18 before summer recess, as far as I'm aware, but I can get
19 back with the --
20 LADY SMITH: So you're anticipating commencement by the
21 autumn? The law in place in the summer --
22 A. Yes, at this point in time.
23 LADY SMITH: -- and then by the autumn, a go-live?
24 A. Yeah.
25 LADY SMITH: That's quite quick.

1 A. But I can get back with the latest details on that to
2 you.

3 LADY SMITH: Thank you. If you can confirm.

4 A. Yes, I can do that.

5 LADY SMITH: I don't know, you may get some information that
6 we can't pick up just from the website and it would be
7 helpful to know.

8 A. Yes.

9 LADY SMITH: Thank you.

10 MS INNES: Then you conclude your report by saying, as you
11 said in your evidence this morning, that:

12 'Education Scotland accept that it and its
13 predecessors were aware of some abuse and harmful
14 practices suffered by children in some of the relevant
15 establishments [over the period].'

16 You acknowledge that such treatment is unacceptable
17 and should not have happened, and you obviously gave
18 your apology on behalf of the Inspectorate earlier, and
19 you say that Education Scotland is committed to learning
20 lessons from the past and will continue to listen to and
21 reflect carefully on the evidence given to the Inquiry,
22 and I think that remains your position, does it?

23 A. Yes, it does.

24 MS INNES: Thank you.

25 I have got no more questions for you, Janie. Thank

1 you.

2 LADY SMITH: Janie, nor do I. I just want to thank you
3 again for coming here again and being of such assistance
4 to us. I do appreciate the work that's been put in by
5 you and your colleagues to provide the detailed evidence
6 we have now got and, indeed, the records that we were
7 looking for at an earlier stage, and I do understand why
8 some of the questions we've asked can't be answered by
9 reference to records, but thank you for looking anyway.

10 So you're now free to go, and I hope you can relax
11 for the rest of today.

12 A. Thank you.

13 (The witness withdrew)

14 LADY SMITH: Just before we formally wrap up for today,
15 there is a name I want to mention. We named a teacher,
16 Mr PMF , this morning. His identity is protected by my
17 General Restriction Order and he's not to be mentioned
18 as identified in our evidence outside this room.

19 Over to Ms Innes to confirm the plan for tomorrow.

20 MS INNES: So the plan for tomorrow, my Lady, is that we
21 will have experts from Strathclyde providing evidence in
22 relation to their report, looking at developments in
23 education, policy and legislation, essentially over the
24 relevant period that we're looking at.

25 LADY SMITH: Yes. We're already familiar with one of them

1 at the very least.

2 MS INNES: We are. Professor Kendrick will be back to give
3 evidence.

4 LADY SMITH: Thank you very much.

5 Well, that's all for today. I'll sit again at
6 10 o'clock tomorrow morning.

7 (3.26 pm)

8 (The Inquiry adjourned until 10.00 am on
9 Wednesday, 28 May 2025)

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22

23

24

25

1	INDEX	
2	Janie McManus (sworn)	1
3	Questions from Ms Innes	2
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

