Thursday, 1 May 2025

(10.00 am)

LADY SMITH: Good morning. We resume today with further oral evidence, as was trailed last night. Let me turn to Ms Innes to introduce it. Ms Innes.

MS INNES: Thank you, my Lady.

We have Andrew Murray, who is the medical director at NHS Forth Valley, ready to give evidence this morning.

LADY SMITH: Thank you very much.

Andrew Murray (affirmed)

LADY SMITH: Thank you for coming along this morning.

The first question I have for you is one I hope you'll find easy. How would you like me to address you? I'm very happy to use your second name or your first name, whichever works for you.

A. I'm happy with Andrew. That's fine.

LADY SMITH: Thank you, Andrew.

You know what you're here for and I'm really grateful to you for that. I appreciate that we're going to be asking you some history, which is before your time in your current post. But I'm sure you'll be able to help us with some of it quite well. And if you don't know the detail that we're looking for, please just say. I understand that.

If you have any questions at any time, just speak up.

A. Will do.

LADY SMITH: A break at any time will work for me, if you need one. I do take a break around 11.30 anyway in the morning, if you want to bear that in mind. I think we might still be going with your evidence at that stage.

A. That's fine.

LADY SMITH: If you're ready, I'll hand over to Ms Innes and she'll take it from there; is that okay?

A. Thank you.

LADY SMITH: Ms Innes.

Questions from Ms Innes

MS INNES: Thank you, my Lady.

Good morning, Andrew.

A. Good morning.

Q. We understand from the CV that you've provided to the Inquiry that you're currently the medical director at NHS Forth Valley?

A. Correct.

Q. You have been in that role since February 2017?

A. That's right.

Q. And we can also see from your CV, I think, that you became a consultant in 2001. You are a specialist in head and neck surgery?

A. Correct.
Q. And from 2008, you had various senior leadership roles progressing to your current role, ultimately?
A. That's right.
Q. Now, I want to ask you, first of all, to look, please, at NHS-000000047, in which the methodology is set out that was used by the board in responding to the Section 21 request, which was sent by the Inquiry. And we can see from that that an independent archivist was contracted to undertake research; is that right?
A. Yes, that's right.
Q. And this document, I think, goes on to set out -- if we scroll down -- the researches, I think, that the archivist undertook; is that right?
A. Yes.
Q. Then there were discussions, as we can see, at step four, for example, that there were discussions with the legal team as to the response to the part A and B request. Then step five was looking at the further parts. There was further material reviewed. Then, at step six, there was a further meeting with the legal team to look at some further points of clarification.
A. Yes.
Q. So it appears that the way in which the response was prepared was essentially the archivist looking at

material and liaising with the legal team; is that right?

A. Yes.

Q. Now, have you had an opportunity to review the Section 21 response and some other documentation, I think, that you were directed to have a look at?

A. Yes, I have.

Q. Thank you. Now, if we can look please at NHS.001.001.0128, this is the parts A and B response to the Section 21 request. And if we can move on, please, to part two.

So the request was focused on the Royal Scottish National Hospital, at Larbert. If we look on page 2, under question 1.1, part (i), so at the top of the page, at the end of that paragraph, we can see how the NHS was formed. Then there's reference to the hospital in the final sentence:

'The hospital was a special hospital under the aegis of the Western Regional Hospital Board.'

So I think prior to Forth Valley coming into being, it was the Western Regional Hospital Board that had oversight of and responsibility for the RSNH; is that right?

A. Yes, that's correct.

Q. Then, if we scroll down to the bottom of the page, at

question (v) it refers to the institution and it explains that it was founded or it began -- building work began in 1861 and the first block was completed in 1863. And then it refers to the Larbert estate being purchased in 1925 and:

'A colony for adults with learning disability was established to run alongside the juvenile establishment and offer whole life care for those who entered as children.'

It appears that at that stage, before the NHS became involved, that the purpose of the institution was to provide long-term care from childhood into adulthood?

A. It had that capacity to do that, yes.

Q. And then it refers to the changing names of the hospital. So, in 1948, when the NHS came into being, the name changed to Royal Scottish National Institution and then, in the 1970s, it became the Royal Scottish National Hospital and it closed in 2002; is that right?

A. Yes.

Q. If we go over the page, to page 3, in the second question on that page, question (vii), we see again that the hospital closed in 2002; why was it that the hospital closed?

A. There was a growing awareness that it was not a model which served the population it was meant to serve well.

Their experiences were documented as being poor, poor quality of life. There had been significant awareness of the need for services to be returned -- for this group of patients and people to be returned to the community. You can look back over -- and it's been a really interesting look at the archive -- the preceding decades, talking about the need for that to be, actually, the model of care and the Health Board was trying to resolve that with the fact that it had this establishment; decisions are made to reduce the number of patients that were being treated in the environment, to stop accepting referrals from elsewhere in Scotland.

I think there was a -- my reading is there's a very active process, an attempt to try and reduce, consolidate and, hopefully over the period of time in the latter part of the 20th century, really to make sure there were foundations in place to move to that community-based model that would then allow the closure to take place.

What I was a little unclear from is whether that was a gradual attrition. I think there was probably more definitive decision-making nationally around that. I couldn't see the evidence of that. I know that in the eighties, there was care in the community that was instituted in NHS England, for instance.

But there was clearly -- this was not the right model. It was not a sustainable model and the decisions were made to try and move away from that, ultimately resulting in the closure in 2002.

Q. You have mentioned the policy move to care in the community. But, also, as the name might suggest; are we right in understanding that the hospital was for the whole of Scotland and people were referred to it from the whole of Scotland?

A. Initially, that was the model. When you look at the number of people who were housed in that environment, it was disproportionate to the population of NHS Forth Valley. So, yes, other health boards could refer patients to the Royal Scottish National Hospital. But the decision was made in the mid-eighties to restrict access to any other health board and only have the population from within NHS Forth Valley.

I think there were real challenges and difficulties in finding other places for the patients to then be able to return into any kind of other environment. So it meant that there wasn't really the move through the establishment. So, therefore, there wasn't the capacity and the active decision was made in the mid-eighties to restrict referrals and acceptance.

Q. Okay.

If we look at the end of that paragraph, it also refers to the juvenile hospital being closed in 1990.

A. Yes.

Q. That's from the records.

Do you know if, after 1990, children and young people under the age of 18 were housed at Larbert or not?

A. I don't know the exact answer to that. Sorry.

Q. The next question, question (viii), asks about, essentially, the current position. There's reference to Forth Valley Health Board only having 25 inpatient beds for children. It does not provide long-stay care for children of the nature provided in RSNH.

Now, are you able to explain that a bit further?

A. Yes, so this is our general paediatric ward areas, so obviously we still do treat children who are unwell. And occasionally they do require inpatient stays, so this would be a usual component of a health board's secondary care services and infrastructure. So that's what that refers to.

As part of my kind of preparation for today, looking at some of our policies around learning disabilities especially, I noted that we have a learning disability unit, which is called Loch View and there is a capacity. But the admission policy is for over 18s only. However,

I did note on the admission policy that, under very specific circumstances and in agreement with the Mental Welfare Commission, occasionally young people, at the age of 16 or 17, can be admitted into that unit.

I've looked back and we've only had two admissions of young people younger than 18 in the last decade. And we've got a very clear policy, as I said, that is completely supported by the Mental Welfare Commission as to how we look after those young people. So that's not been picked up by the archivist there, but I thought it was probably relevant just to mention that.

Q. Is Loch View for long-stay care or respite care?

A. It's usually very focused periods of care. It's got a -- the policies -- obviously, there's an admission policy. But there's a very active discharge process, multi-disciplinary meetings, regularly looking at what would be required to enable that person to return into their homely setting.

Q. Okay. And would -- I assume that -- but correct me if I'm wrong -- that this would be for people within the Forth Valley area?

A. Yes.

Q. Now, if we can go on to page 4, please, and if we look down at question (ii) on that page, which looks at the funding position. The question is:

'Was the funding adequate to properly care for the children?'

And the answer is:

'There is no reason to think that funding was inadequate.'

It refers to correspondence concerning admissions from 1949, referring to overcrowding, need for building improvements, and then an expansion plan thereafter.

From your own review of the material in advance of giving evidence; what's your answer to this question?

A. I don't necessarily think there's evidence to support that double negative. I think there is clearly -- perhaps in the inception of the unit and the institution, there might have been -- there obviously would have been much less requirements for resources, potentially. But -- and certainly up to around about the 1950s, reading, for instance, the Education Scotland inspections, there was signs of a kind of relatively positive culture, certainly around education.

However, there's no doubt that the Chair of the board, certainly from the 1980s onwards, made it very clear that there was issues with -- I think the unions were clear on this as well -- there was not enough staff to look after and care for the children and the other patients.

There was significant concerns in and around the safety and quality of care. There were no resources within the Health Board to be able to significantly renovate or expand the buildings, if you thought that was the right model of care. And there's clear interaction between the Scottish Government of the time and the Health Board around the need. And I think it was accepted in the mid-eighties, the need for there to be specific funding provided to the Health Board to allow it to improve the conditions.

LADY SMITH: Do I have you right, Andrew: you are highlighting there evidence you are seeing of there being inadequate numbers of staff from which one can infer there wasn't enough money to employ more staff and also inadequate resources to renovate buildings to the standard that was required?

A. Yes. The Chair of the board is on record in the mid-eighties, and I think there's documentation to support that.

LADY SMITH: Thank you.

MS INNES: Okay.

If we can move on, please, to page 8 in this document now. And the question at 1.5, 'Ethos', at (a)(i), it refers to the organisation having a statutory duty to provide services to those in need of them.

Then below that, at (iii):

'What did the organisation see as the establishment's function, ethos and/or mission in terms of the service that the establishment provided to children accommodated there?' The answer is:

'The function of the RSNH was the provision of care, control, education and occupation, according to the needs of individual patients.'

Is that your understanding of its function?

A. I can see why the archivist has picked out those terms, yes. Essentially, yes, that does seem to have been what the establishment function ended up as.

Q. I suppose, given that it was a hospital, one might question the word 'control' as being an element --

A. Absolutely. It makes for very uncomfortable reading.

So I know why that word is in there. There was -- when the Mental Welfare Commission found significant levels of -- or had significant levels of concern about the quality of care in the mid-eighties, there was a quote from -- and I wasn't clear which nurse director it was -- that the -- one of the functions of the RSNH was around crowd control.

That was identified in subsequent correspondence. I think the politicians of the day were disturbed by -- that someone in a care setting would use that word.

I think, absolutely, it's a word that -- because it's there in the record, I think it gives us, unfortunately, a very troubling window into actually some of the culture that was undoubtedly present at the time.

Q. Now, if we move on again, please, to page 11. And if we perhaps -- just try to get the context of this.

So, at the bottom of page 10, the question is about whether children were working --

A. Yes.

Q. -- at the establishment. At the top of page 11, there are some excerpts from material that was found by the archivist. The first one, 1952, it says:

'We are suffering from an acute shortage of adequate paid staff and need all the assistance we can get from the patients.'

Now, in fairness, I don't think it distinguishes between adults and children, but I suppose it highlights the issue of inadequate staffing?

A. Yes, yes. I can't remember what that pertains to. Whether or not it was a specific piece of work that they were trying to achieve on the site. But, yeah, I mean, that's absolutely clear that whatever this quote is from, that they did not feel they had adequately paid staff and therefore were relying on the patients.

Q. Now, further down the same page, at (x), there is

a question:

'What was the establishment's attitude to the discipline of children?' And the first reference is from 1958, and it says:

'High numbers in restraint and seclusion due to an open-door policy as violent and impulsive patients were more likely to be restrained.'

Is it your understanding that that's a quote from the material?

A. Yes, that's right.

Q. And then it is said:

'Restraint and seclusion were used as measures to control violent children at risk of self-injury or injuring others.'

And if we could look, please, at NHS-000000168. This, at the top, is a registration of restraint and seclusion and the names of the people restrained are redacted. And there's no date of birth given, so we don't know what age these people were.

But, if we can look, for example, at the very first entry, 1 February 1955, we see that this person was 'locked in room'. It says 'reasons for use of restraint', 'violence to staff'. It's signed by a staff member. And then in 'Remarks' in the final column, it says 'all day', which would suggest that this person has

been locked in their room all day because of violence to staff?

A. Yes.

Q. And then the next example, on the same day, is:

'Form of restraint: tying of limbs.'

The reason given is:

'To prevent self-injury.'

And we can see that that seems to have been all day as well?

A. Yes.

Q. And then the same day again, another person:

'Form of restraint: padded gloves.'

And it says:

'To prevent injury to others.'

A. Mm-hmm.

Q. And then, again, that seems to have been all day?

A. Yes.

Q. I think if we look down, we see essentially similar entries all the way down this page in respect of tying of hands, tying of limbs, people being locked in rooms for these three reasons: violence to staff, to prevent self-injury and to prevent violence to others.

If we look in the final column, either it says 'all day' or 'continuous', or 'most of the time' or 'daily'; what was your reflection, having looked at this

register?

A. It makes for really uncomfortable reading. Clearly ... some of these children were in this institution not because they were unwell. They didn't actually require a hospital. They were in really unfortunate social circumstances. Under any other -- with any other support they could have, you know, flourished and had a very normal existence in life.

I think when you see the number of children at that time, if -- my recollection was it was about 10 per cent, potentially, of the overall number. So I think it was about 60 or 70 children.

So, when you think that out of that small number, three of those individuals were essentially incarcerated all day, that's a failure of being able to support those children and being able to find other ways to de-escalate issues.

The staff did not have the training, I guess. But, obviously, it's fairly abhorrent to see the extent and frequency. And the fact that people were just -- once they were secluded, there was no attempt then to revisit that for the next 24 hours.

It's clearly unacceptable behaviour.

Q. Okay. If we can go back to the Part A, at NHS.001.001.0128, at page 12, you mention numbers just

there. So, at the bottom of this page, we can see that it says in the paragraph:

'The establishment provided accommodation and care to both adults and children. The total number of patients will therefore include adults. The number in school can assumed to be children.'

And then numbers are given for certain years in the fifties. So if we look at, for example, November 1954, which is close to the date of the register that we have just looked at, there were 77 children in school. And in February 1956, there were 66 children in school.

A. Yes.

Q. And if we look at the last entry, July 1958, there were 891 patients, with 86 in school. So that's the sort of proportion that you were referring to, I think?

A. Yes, I underestimated it. But those were the kind of numbers I was working to.

Q. If we go over the page, we see numbers going into the 1960s, up to October 1963, and nothing after that. Do you know why the archivist wasn't able to provide numbers for the later period?

A. I don't, sorry. But that's information I can find out, if it's important.

Q. Okay, thank you.

LADY SMITH: I'm just wondering about the way these records

were kept and, obviously, for our purposes, it's unfortunate that there aren't clear records of how many children were there and how many adults.

Do you think this term 'in school' was used loosely to refer to children or was it people who actually were in school, as opposed to locked in their room continuously?

A. Yes. Having read descriptions, especially the -- again, Education Scotland visits around the fifties, there seemed to be attempts to categorise the children a little bit more in relation to their educational potential. So there is a breakdown within some of the documents as to those who were receiving active schooling and those who were not.

I'm going to take it that those who are in school are actually in that former group who are actually receiving active schooling. So there would be, potentially, another group of children who have not been able to access that.

LADY SMITH: I wondered if that was right. And the records don't help us?

A. No, unfortunately they are vague in that area.

LADY SMITH: Thank you. Ms Innes.

MS INNES: Thank you, my Lady.

Now, if we can move on, please, to page 18, if we go

towards the bottom of the page, again, there's a question looking at staff numbers and there's some information available from the archives in relation to staff numbers and particular ratios.

For example, November 1954, it is said that there is a ratio of 1 to 5.8. And it also notes there were part-time nurses and student nurses at the time. And then, in 1956, there's perhaps a bit more detail.

So it lists out 15 certified male staff, 30 female, 5 student nurses, 15 female -- I assume that's student nurses -- and 15 male nursing assistants and 31 female nursing assistants. Then part-time assistants. So that would be the nursing staff and nursing assistants?

A. Those ratios?

Q. Sorry?

A. Those ratios? Yes.

Q. The numbers given.

A. The numbers, yeah.

Q. And then it says there's a physician superintendent assisted by one senior and one junior hospital medical officer and a deputy physician superintendent. So that would suggest three medical staff for the hospital?

A. I think potentially four. The terms are archaic.

Q. Oh sorry.

A. But, yeah, I think the physician superintendent is the

most senior and then a small team.

Q. And in terms of four medical staff in a hospital of this nature; do you have any comment on that?

A. Where the majority of the inpatients are really fairly stable from a medical perspective, so they don't require day by day alteration of medication or interventions, then the medical component of the workforce is much less important.

The thing that strikes me about these statistics is that the dissonance really between these numbers and what's quoted in some of the later -- especially in the documentaries and in people's statements. And what I'm noticing on these ratios is that they seem to have taken the total number of nurses and the total number of patients, but that doesn't tell you about the number of nurses on shift at any time, because actually you can divide -- or you multiply that ratio by five to figure out how many of those nurses are actually -- because the shifts rotate and people are on leave, et cetera.

So, although, looking at the overall numbers, you might say there's one nurse to every five patients, in reality, broken down by shift, that probably means a nurse looking after 20 or 30 patients.

Q. And we also see a couple of notes from 1958. For example, there's a ratio given and then, in brackets, it

says:

'(1 to 19 of certificate indicated nurses).'

And then the same in November 1958, a ratio of 1 to 4.8, but 1 to 20 of certificated nurses, so there seems to be a distinction drawn between --

A. Yes. It's a recognised distinction that we would look at, that skill mix as it's described. Though that does indicate, you know, there's very few trained, certificated, as they're described there, nurses in that setting.

And what is certainly clear in the modern clinical and medical evidence is that one of the main determinants of the outcome of a patient in any setting in a hospital is the availability of trained nursing staff. And as the proportion of trained to untrained staff changes and more untrained staff are looking after those patients, outcomes are affected by that. So it doesn't actually matter what your doctor is doing so much; it's really about the quality of that trained nursing care that is critical to people's outcomes.

Q. Where do you get that information about the impact on outcomes of trained nursing staff?

A. That's well described in certainly acute hospital settings. This is obviously a very specific setting. I'm trying to extrapolate a little bit from what I know

about the importance of trained nurses.

So one of the examples was there was a major discussion, about 15 or 20 years ago, about the weekend effect. People who were admitted over a weekend were noted to have poorer outcomes. They had a higher mortality rate, and worse outcomes, and when that was actually analysed in a lot more detail, that all came down to the availability of trained nursing staff at the weekends. Nothing to do with medical staff not being around. It was all to do with trained nursing staff.

Also Mid Staffs, the scandal about the quality of care in NHS England, which resulted in lots of learning and improvements. One of their key findings, as well, was that in areas where untrained staff proportion had risen, that that was linked to poorer outcomes in those units.

Q. Okay. And have there been any recent moves? We understand there's been a recent Act of the Scottish Parliament in relation to staffing levels and reporting requirements in relation to that?

A. Yes.

Q. Has that made an impact in relation to that certification?

A. It's not made an impact as yet in the skill mix and blend because we're really at the implementation part of

that. So we're now understanding our obligations. Each board and each profession under the safe staffing legislation understands its -- the implications, the need for us to have those systems in place, the tools to support the calculations, the escalation process, et cetera.

But, in terms of a strong foundation for making sure that concerns around skill mix and staffing levels can be clearly escalated and then resolved, it's going to be a significant step forward. And the legislation is in place and we're at the point now of implementing that on a board by board basis.

Q. Now, if we can look on, please, to page 21, this talks about the governance arrangements for RSNH. In the first paragraph that you see there, it says:

'From 1948 to 1974, the overall governance for the establishment rested with the Western Regional Hospital Board, which appointed a board of management for the named institutions.'

So there was a board of management, it says, for Larbert hospitals and, above that, was the Western Regional Hospital Board; is that right?

A. Yes.

Q. And then after that, we understand that health boards were created and then there was a period when they were

NHS trusts?

A. Yes.

Q. Then it went back to the Health Board again?

A. Correct.

Q. If we can look on, please, to page 23, this is talking about the culture of the organisation?

A. Yes.

Q. And if we look down to the middle of the page, there is a question:

'When and why did any changes in the culture of the organisation come about?'

And the answer is:

'Over the period of RSNH's existence, the culture changed from care, containment and education to ideas of rehabilitation and care in the community.'

Can you explain that a bit further, please?

A. We have already talked about some of the language that was used in the eighties in relation to how the clinical leadership viewed the role of the institution and their part in that. And when we look back earlier, we can see more evidence of -- a lot of the language that's used in the documentation is deeply uncomfortable. But it helps, again, to give us an insight into how that culture saw itself in relation to looking after the people in their care.

I think we can trace a significant change in the culture of RSNH, looking through the archive. But I think, unfortunately -- I don't think that was driven by the Health Board itself, is my reading of the information. I think, unfortunately, it did require a degree of whistleblowing, it would probably be described as these days.

The Mental Welfare Commission played a key role in inspecting the institution and really highlighting, in no uncertain terms, to both the Scottish Government of the day and the Health Board, that things needed to change and that the standards were nowhere near what they needed to be.

And at that point, there is a lot of reflection at board level, a lot of discussion with the Scottish Government. And I think, from that period on, there was clear challenge to the model of simply expanding a bed base to house and contain individuals to actually what would be the best model for them.

As I said previously, there had been political moves in England to bring through legislation to support care in the community. I was particularly struck, watching the World in Action documentary from 1986, which had a section on RSNH and there was a very eloquent psychiatrist, who I've tried to look up and I can't find

her. She is -- she didn't make it into the archive of the internet. But she was very eloquent around: why would we be continuing to develop this model, this inpatient model, for these people that don't need to be here? And she was, as I said, very articulate about where the investment needs to take place into the community.

So we could see, at that point, definite signs that there was challenge to -- the Health Board's response to the whistleblowing and also to the subsequent conversations was to do exactly the opposite of that. It was to -- it was to refurbish and to develop new buildings, to be able to expand the capacity to look at the staffing levels and the training, but all really to continue with the model of institutional care.

So that was the Health Board's response, mid-1980s. But you could see there was clear challenge emerging to that. And then, ultimately, we know that significant progress was made in terms of being able to develop those models and reduce, as we said earlier, about the number of people who were within the institution over the next 15 to 20 years.

Q. If we can look on, please, to page 24, and if we look to the middle of the page, there is reference to leadership. And if we look down towards the bottom of

the page, there's a question about who was in charge of the establishment. There is reference to board members. There is a paragraph beginning:

'Physician superintendents ...'

A. Yes.

Q. We can see there that there was a Dr Clarkson, then Dr Spence, who was the physician superintendent at the time that the NHS took responsibility for hospital. Then a Dr Methven between 1954 and 1967. And then Dr Primrose from 1967 to 1985. And then it says that after he retired, there was no further physician superintendent, that the management arrangements changed, I think, after that?

A. Yes.

Q. I think we'll come back to see Dr Primrose mentioned in some of the documents that you have looked at?

A. Yes, he's mentioned.

Q. If we look down to the bottom of page 26.

At the bottom of the page, there's a report from 1952, which refers to the role of the medical superintendent:

'The medical superintendent was to have control of the whole hospital and all staff for disciplinary and every other purpose. That he was responsible for the welfare of the patients and that welfare included

everything; clothing, food, environment, but that responsibility for finance was to be in the hands of the secretary and the treasurer.'

So, essentially, other than finance, the physician superintendent was in charge of everything else in the hospital?

A. They were, yes. They were omnipotent, really, in that setting.

Q. I assume that, nowadays, power would not be vested in one person to that extent?

A. Absolutely not. I mean, again, it's an interesting description of a role, which I guess I'm relatively familiar with. But to see it set out so starkly that -- this was a very uncomfortable and unhealthy way to think about leadership culture in this setting.

Now, our approach would be very much about multi-professional, about checks and balances, about transparency. There's really nothing that would give us any assurance around how that individual would do their role in this setting, given the amount of authority that they have.

Q. Now, if we move on to page 27, there's reference under 'External oversight' to various bodies that visited the hospital. We're going to come on to some of their reports.

So, initially, the General Board of Control, then the Mental Welfare Commission, the Scottish Hospital Advisory Service. Then there's reference to a requirement on health boards to appoint local health councils to be consumer representatives?

A. Yes.

Q. In relation to that, I don't know if you've got any understanding of what the role of those local health councils would have been?

A. I'm familiar with the name. I think it's as described there. I'm not sure I can really expand on it or give any particular insights. But it was a way to try and have a local and lay input into healthcare decisions which were being made that would affect them. But I don't know how the Health Board itself interacted with the local health council, I'm afraid. I don't know if it had a seat on the board, for instance.

Q. If we go on to the next page, page 28, the first entry on that page refers to an excerpt of the patients' book and refers to visits by the Commissioners in Lunacy from 1940 to 1962. But then it says the school was inspected by HM Inspector of Schools, mentioned in 1950 and 1953, and there's reference to a letter in 1955, which says:

'We are not governed by the Scottish Education Department, but we can, on our application, be

inspected.'

A. Yes.

Q. And I think you have referred to some material from Education Scotland that you've been able to look at in this respect?

A. Yes.

Q. If we can look, please, at SGV-001033536. This is a report from Education Scotland. If we look, please, at page 76, we see the introduction to their summary in relation to RSNH.

If we move on to page 77, under section 2, there is reference to an item from 5 July 1950, which is a letter from the hospital to the Scottish Education Department requesting an inspection. If we look at the text under:

'Problems or issues historically ...'

It says:

'This letter from RSNI [as it then was] to the SED requested that the inspectors visit and report from time to time on the institution's school, noting that this school has the disadvantage of not being attached to any education authority. The superintendent comments in the letter that such an inspection would be helpful for himself and the teaching staff, although he understood that they had no rights in the matter of requesting such an inspection.'

There had been an inspection rather in 1942 and then there hadn't been any inspection since.

A. Yes.

Q. I think.

A. Yes.

Q. So this is the hospital actively requesting an inspection?

A. Yes. And I was trying to think that through, and I think it probably does reflect reasonably well on the superintendent at the time; that they were aware that they wanted to be doing the best in this unusual school setting for the children that were attending. And I guess they were looking for that confirmation from the national inspection regime.

Q. And then we see the result of that. There was an inspection in September 1950 and, again, in the body of the text, it says:

'HM Inspectors reported that the headmistress was a certificated teacher with special qualifications for teaching mentally handicapped children. However, there were four class teachers, none of whom has a recognised teaching qualification. Timetables were carefully planned and detailed records of the progress of each pupil were kept. Reading materials were often inappropriate for pupils' age and abilities,

particularly for older children.'

Then it goes on to refer to educational issues. In the final paragraph of that first section, it says:

'HM Inspectors concluded [or note] the ready willingness of the headmistress and staff to do all that they can to give pupils a sense of achievement.'

So that's a record of the inspection at the time?

A. Yes. One of the few, sort of, heartening phrases in the documentation, really, was to see that, and the willingness of the school and the teachers to try and do their best for the pupils.

Q. And then we see in the next entry, in 1952, another letter from the RSNI to the SED, again, on behalf of, I think, the Hospital Management Committee, saying that they're most anxious that there should be an inspection of the school and asking if it could happen annually.

The response to that is in the next entry, 6 December 1952. They said that they would inspect, but they wouldn't be able to arrange for an annual inspection. But they were prepared to consider inspecting triennially.

And then in 1953, there is a note of an inspection and it refers to the material conditions in the school having improved since the last inspection.

If we go on to the next page, page 79, this is

continuing the 1953 inspection. There's reference to -- in the senior class:

'It was noted that there was a number of pupils slightly above the intellectual level for admission to an ordinary special class and it was felt that their capabilities were not being sufficiently met. It was commented that these children would benefit from a more varied programme.'

So I suppose this might reflect the difference in abilities or, I suppose, it might raise a question as to the appropriateness of these children being in this setting?

A. Absolutely. And even if it was felt that for their general support, they needed to be in the institution, the fact that there's not an active discussion, nobody's thought about whether local schools might be able to provide, that was never seen as an option. I think that's a tragedy.

Q. Then the next note is a meeting from 1962, which is a meeting regarding educable children in mental deficiency hospitals, and HM Inspectors were at the meeting. And it says that this was attended by the SED, the Scottish Home and Health Department Inspectors and the Western Regional Hospital Board. And this was discussing observations where inspectors had said that

there might be a number of children in mental deficiency hospitals whose main need was for education on a residential basis of the sort provided at a special school.

So the purpose of the meeting seems to have been to discuss this very issue?

A. Yes.

Q. At that time, the doctor representing the RSNI commented that very few, perhaps half a dozen out of the 80 school-aged children at the hospital, would be likely to benefit from attendance at a special school rather than a hospital setting. But there are still half a dozen, I suppose?

A. Yes. I saw that. So that kind of sweeping statement by a medical professional wouldn't go unchallenged in any kind of modern or current discussions. The doctor is there, obviously, as a highly regarded professional, but is speaking, probably, about the educational potential, which he will have no particular expertise in. So I think, again, it's just evidence of the culture of the time, where -- and I speak as a medical professional -- medical professionals were given a lot of weight, no matter what they gave an opinion -- opined on.

I think, looking at this, that that meeting was maybe an opportunity to have helped address some of that

unmet potential of some of the pupils, and it's disappointing that the doctor was relied on to give that opinion about educational potential.

Q. And then the outcome of the meeting is noted at the end. It seems to say that it was proposed that inspectors and a medical officer should visit the RSNI, as well as other hospitals and discuss each case [going over the page] with a medical officer to determine how many children might benefit from educational treatment on a residential basis.'

So that was the conclusion?

A. That's as positive an outcome, I think, given the culture of the time, that could be expected.

Q. Okay.

Now, I'm going to move on to a report from the Scottish Hospitals Advisory Service from 1979.

We find this at SGV-001033311. If we look at page 29, first of all. We can see that this is a report from the Scottish Hospital Advisory Service of a visit to the RSNH, in 1979, over a number of days then.

If we could go on, please, to page 30, and if we look towards the middle of the page, at a paragraph beginning:

'Two of the most urgent problems ...'

So it says:

'Two of the most urgent problems at this hospital are the overcrowding and the low staff to patient ratio. There will be little chance of improvement until there is a transfer of patients from RSNH to alternative forms of care, whether hospital, hostel or home in their own area of domicile. Buildings other than replacement at RSNH would be of doubtful value as the recruitment of staff in this area is limited to the restricted pool of suitable candidates, the alternative employment available, and the isolated situation of the hospital with concomitant transport difficulties.'

So there it alludes to some of the issues that you have already referred to in your evidence; overcrowding and a low staff to patient ratio?

A. Yes.

Q. And this is 1979, but there is a suggestion at this stage that patients should be transferred to other settings or even to home?

A. Yes, it is mentioned that home is an option in their own area of domicile.

When I look at the discussion in the Health Board at the time, it was -- they saw the solution to -- certainly to the overcrowding as being -- or it being driven by the fact that other health boards were not accepting the patients back into their environment.

But, actually, there was very little in the Health Board's response to this. I think this does set out the potential for community care for home care. But the Health Board's view, my reading, seemed to be that they were looking for institutional care in other health boards. There wasn't really that active process of thinking: 'Actually, what's the person-centred approach here and how do we return them to the community?'. So it's mentioned in there.

I have to pay credit to the correspondence and documentation from the Scottish Government and the politicians involved in this. They seemed to have a clear view of what needed to happen and I think -- it resonated with me -- it was about moving into the community and resources, et cetera. And it was really that the Health Board itself, I think had got -- wasn't seeing all the potential solutions the way it was being pointed out to them.

So, yes, on here it says that there's a potential for home care. But the overcrowding seemed to be -- there's inferences -- there was more about -- and there is talk about leaning. Maybe it was a couple of years later, leaning on health boards to take patients back. But that was clearly back into institutional care, which was just perpetuating the issue, really.

Q. Yes. If we move on to page 32.

Page 32, at the bottom of the page, there is reference there about -- the paragraph begins:

'Large nursing charges had been noted.'

It says there:

'Specific mention might, however, have been made of Eck Ward. This poor accommodation contained 45 difficult male patients. There would appear to be an urgent need to replace this ward with alternative accommodation or a different form of care. Units for such difficult patients should not exceed 20 persons. No such facility exists for female patients and this should be reviewed.'

Now, we're going to see a lot more about the Eck Ward and come on to how things developed there. But I think this is the first mention of it in 1979 by the Scottish Hospital Advisory Service, indicating that there is an issue with this ward?

A. Yes, that was the earliest opportunity for the Health Board, really, to think about a meaningful improvement plan for that area. And I don't think that opportunity was taken.

Q. If we go on to the top of the next page, it begins:

'For many years the nursing staff in hospitals for the mentally handicapped have carried the major load of

providing the various services and patient support inside and outside the wards in respect of occupational therapy, diversional therapy, work and recreation, so much so that there are some 34 nurses employed in these departments.'

Then it says:

'As a result there is sometimes a tendency for nursing staff to exclude other professionals who have much to offer. This might have considerable benefit in examining the position vis-a-vis physiotherapy, occupational therapy, speech therapy, chiropody et cetera, to see if closer links could be forged and more use made of the expertise available from these disciplines.'

It says it is accepted that people from these disciplines could be in short supply. But this seems to suggest the idea of a multi-disciplinary approach?

A. It does, yes. Those key roles -- when I read it, it told me as well, though, that the patients and the children were not able to access those key forms of therapy and rehabilitation. And the inference is there's a sort of cultural element there. But, absolutely, there's a recognition that to enable the person to reach their potential, they do need access to that multi-disciplinary approach.

Q. If we scroll down the page, there is a paragraph beginning 'The booklet on violent patients'. It says:

'The booklet on violent patients is useful. Perhaps an inset containing instructions and regulations on the use of timeout rooms might be beneficial.'

A. Yes.

Q. We don't see anything more -- or a greater description of that. But do you have any comment on that?

A. My reading of that is a timeout process is -- we talked earlier about seclusion, restraint. Timeout as a form of de-escalation. So it maybe, again, infers something around the culture that de-escalation wasn't -- thinking about that comment about containment, which was in the mid-eighties, there doesn't seem to be -- have awareness of the -- the application of de-escalation techniques, would be my reading of that.

LADY SMITH: Andrew, I understand the term 'inset' to mean in-service training; do you take it as meaning that in this document?

A. No, sorry. I took that to mean -- literally I think it's probably synonymous with 'insert'. So it's something that could be put within the booklet which updates it and has a specific section on timeout rooms.

LADY SMITH: Given the reference to instructions and regulations needing to be inserted, that would make

sense.

A. I may be wrong, though. Actually, I'm now reading it with the meaning that you suggested, and that makes sense as well.

LADY SMITH: It's the sort of subject matter that might benefit greatly from an in-service training day.

A. Yes. No, I absolutely concede it. In fact, your reading of it makes more sense than mine.

MS INNES: If we can move on to page 42 in this report, there's a paragraph beginning:

'A considerable reduction in the numbers of patients in each ward will be essential if any positive and satisfactory upgrading, including the use of room dividers to give identifiable patient a territory, is to be attempted. At present the majority of wards are of the Nightingale-type and if any form of privacy is to be provided radical changes will be necessary.'

And I think, towards the bottom of the page, there's reference to 'the baths'. The final paragraph:

'The baths were in many cases not in individual cubicles and as many of the handicapped patients have physical deformities as well as their mental handicap, this can, in the case of some patients, cause embarrassment if they're not given adequate privacy when bathing.'

So this seems to suggest that there are issues around a lack of space and a lack of privacy?

A. And therefore a lack of dignity.

This type of approach to wards isn't unique to this environment or institution. This was pretty much how every general hospital was built with Nightingale wards which allowed the sister to be able to survey the whole of the ward from one vantage point.

What that meant was that no patient had privacy or dignity. But it's very stark reading it. And especially in relation to the bathing, which might have been even more open than it would be in -- even in a sort of NHS ward.

So, yes, it's clear that that's a very undignified way to have people being able to bathe themselves.

Q. Then, if we move on to page 46, this is a letter from a Dr Thom, to the secretary of the Forth Valley Health Board, dated 8 March 1979. Dr Thom appears to be with the Scottish Hospitals Advisory Service and he refers to wanting to arrange a meeting. So in the body of the letter, he says:

'I would like to arrange a meeting with the area executive group at an early mutually convenient date to discuss some aspects of the hospital which gave us cause for concern, but which I felt would be counterproductive

to discuss in the final meeting. I would also value the opportunity to enlarge on a few of the items which I did raise, but of necessity couldn't cover off in very great detail.'

Then he lists a number of major points.

First of all, the relationship between the senior members of the medical and nursing professions at the hospital:

'The situation which appeared to exist was most unsatisfactory and has not passed unnoticed by junior staff. Further polarisation could produce a dangerous situation which would not be to the benefit of patients and staff.'

So he seems to be adding to the concerns that were in the report and wanting to discuss them in detail. This one is to do with the way in which the hospital was managed; do you have a comment in relation to that?

A. Leadership culture does really set the whole ethos of the institution and, obviously, this is a fundamental issue that would need to be addressed.

When clinicians and professions have -- when relationships have broken down and behaviours start to become an issue -- and I don't know, obviously, what the incidents were -- but there's certainly enough detail there to -- I mean, this, unfortunately, can continue to

be in any large institution or large organisation. There can still be times when relationships are strained and there's mechanisms for being able to address that in the modern workplace.

But -- because -- and the reason why we obviously have those mechanisms and ways to resolve those kind of issues and build a strong leadership culture is because of that recognition of the damage this -- the breakdown in those relationships would do, not just between the professions. But we know that the effect on everybody that's trying to then care for others is compromised.

So the leadership culture, especially in healthcare, against quite a strong evidence base around civility, how we work together, how we respect each other's opinion and the lack of that translates through very clearly into poorer patient outcomes.

Q. He goes on in the letter to refer to some other points that we've already looked at: the poor liaison between nursing and paramedical professions; unacceptable overcrowding; reduction of large nurse charges.

Then at point 5, the specific unsatisfactory situation in relation to the Eck Ward is mentioned again.

A. Yes.

Q. And then there is an issue about a building or expansion

project, I think.

If we can then look back in this document to page 27, this is a Scottish Home and Health Department memo, dated 18 December 1979. There was, it appears, a discussion about RSNH, so the author says:

'Forth Valley hadn't replied to my letter of 13 March because I wanted to be kept in touch on the outcome of their meeting with the Scottish Hospitals Advisory Service following the confidential letter Dr Thom had written.'

So that's the letter that we have just looked at:

'When I telephoned the board to expedite this, Mr Eckford said he would like to come through to speak to me and I saw him ...'

Mr Eckford is a person from the board, I think. The author then goes on to say:

'The impression I obtained from Mr Eckford was that the main factor in the difficulties at RSNH lies with the medical division. Dr Primrose, the physician superintendent, is a strong personality, whilst Dr Frances Allan seems to see herself in quite subordinate position to him and whilst Dr Addison would like to break free from the directions of Dr Primrose, his judgment is not of the best and the Health Board see the need for his close supervision.

'Be that as it may, Dr Primrose deals with all admissions, all matters relating to patients' funds and medical records for all patients are kept in a room adjacent to his office. He works in an autocratic way, according to Mr Eckford, and finds it difficult to let go of the reins. There are no medical division meetings and therefore there has been no combined medical viewpoint obtained from the hospital.'

So I suppose this expands further on the leadership issues?

A. It does. And, very specific, but really quite a clear description of dysfunctional leadership culture. Obviously, individuals are named there. They will have been -- they will have been given a lot of authority. They've not been given, potentially, any oversight or asked to provide any assurance or any accountability.

And the description there of how that unit is run by the superintendent, I think is a very clear indication of an extremely unhealthy leadership culture, as we discussed and then the ramifications that that would have. That's not a situation that would be -- I hope would be tolerated. It's probably a situation, though, that we, kind of, recognise from the outline.

Looking further into -- and maybe we're going to come on to it -- the responses, so these essentially are

examples of whistleblowing and serious concerns, which I don't then see the correct response from -- subsequently from the Health Board of the day.

LADY SMITH: I was just looking back at Dr Primrose's dates and I see he was appointed in 1967, according to the response. He remained in post until 1985. Now, this letter was 1979?

MS INNES: Yes, that's correct.

LADY SMITH: So, he has certainly got his feet well under the table and his habits well-established, but he was still there for another six years after that.

A. Yes. The length of tenure of the superintendents appears to be around that time. But I guess that was what I was inferring when I was saying that the response from the Health Board was not what I would have expected it to be. These are concerns that mean there is a performance issue here. There's -- certainly the individuals who are exercising this power and authority in this setting, having seen these judgments and the evidence of how that's leading to dysfunction, that needs to be addressed by the most senior levels of the Health Board. Obviously, this is a senior individual.

LADY SMITH: Andrew, does it make you wonder, given that he'd been in post since 1967, just how long these problems had been going on without anybody speaking up

about them?
A. Absolutely. I think we have seen snippets from the other documentation to suggest that this was a worsening situation, yes.
LADY SMITH: Yes, thank you. Ms Innes.
MS INNES: Thank you, my Lady. If we go over the page, to page 28, we see there is a paragraph towards the top of the page:
'On Eck Ward the Health Board has now received proposals for upgrading the ward at a cost of 35,000 but the Health Board see this as being no more than a palliative and feel the real solution is a replacement which could not however, on current money, supply start before 1983-84 at the very earliest and this would mean the Health Board giving the highest priority to it, even though they saw other areas at RSNH equally deserving.'
So I suppose that's already saying that conditions in the ward could be improved. But, if they were going to make radical improvements, it's not going to happen until 1983 to 1984?
A. Yes. And this sort of report -- I know this was a relatively personal communication, although it does come, obviously, from the organisations. These concerns being raised would mean that the response now would be -- there would be a risk-based discussion around this

and this would clearly become very much the top priority of the Health Board to resolve in as reasonably short a timescale as possible.

When I see that, actually, the response to the need for even refurbishment of the Eck Ward was, 'We'll put that off for a few years', I don't know whether that was a negotiating tactic, but certainly it's not the response that would happen currently, with the seriousness of the allegations that were being raised. And I don't know why that would have been felt to be the appropriate response or why that would have been tolerable.

Q. If we go further down this page, there is a further discussion about Dr Primrose. So it says:

'In general discussion of the difficulties at the hospital Mr Eckford said that the board are not now accepting anything from the hospital unless it comes forward in a multi-disciplinary basis. There is a hospital tripartite, the physician superintendent, divisional nursing officer and sector administrator, which meets weekly, but views from it tend to reflect Dr Primrose's view. He certainly does not consult the other doctors in the hospital. In general he tends to adopt an uncompromising "I know best" attitude.

'Mr Eckford went on to say that if there were two

good consultants at the hospital along with Dr Primrose, there would still be difficulties, though these two consultants would no doubt better be able to stand up for themselves than the present consultants. If, on the other hand, Dr Primrose was to leave the hospital, there would be major problems as neither of the present consultants would be able to keep the hospital running in anything like a satisfactory way.'

So it appears that there were -- if there were thoughts about him moving on, they were also concerned about the impact of that?

A. Again, it's a fascinating paragraph. Actually, the responsibility to -- everyone would have the responsibility to challenge someone who is acting in an autocratic way, especially not in the best interests of the patients. So the colleagues that have been identified do have that role. But, ultimately, this is the responsibility of the Health Board to manage someone who is in such a pivotal position and is -- clearly, there's a range of views saying: 'This is not the approach that we want'. And this individual is able to set the strategic direction, by the looks of things, despite the fact that there are other options available.

So I think what this says to me is that it looks like there was a degree of -- and looking at the rest of

the correspondence as well, I don't see anything to suggest otherwise. There seems to be abdication from the Health Board in dealing with a difficult, very powerful consultant in this setting.

And I think we made the comment earlier about when his tenure actually finished. It was around the time of the Mental Welfare Commission and around the time of the World in Action documentary. And I think, unfortunately, it has taken external scrutiny for there to be changes in that key leadership role. And I think that's essentially been -- it probably wasn't uncommon in the late seventies and eighties, but it's essentially been a failure of the leadership of the Health Board, I think, to have resolved that situation.

Q. If we move on to the time that you have just referred to, if we could look, please, at SGV-001033460, on page 61. This is a letter from the Mental Welfare Commission to the Chairman of the board, on 5 March 1985. It refers, in the first paragraph, to a visit by a group of commissioners to the hospital, on 27 February 1985. It then goes on to say:

'It is no exaggeration to say that those commissioners were extremely concerned at what they witnessed there and at what they learned from consultants and others about the conditions in which

patients were living.

'The commissioners were particularly concerned about the circumstances of patients in Eck Ward, who, since Dr Primrose had left the post of physician superintendent, appeared to have been under the care of a locum consultant. While it is not to be regarded as any reflection on the capabilities of that consultant, commissioners were concerned to be told that patients there appear to be without treatment other than by drugs.

'The commissioners were given to understand that some patients in this ward have been transferred there because they were difficult or uncontrollable in other areas of the hospital, but that levels of supervision of nursing staff could be so low in Eck Ward that it was impossible at times even to maintain control of the patients. The commission understood it to be said that assaults, both physical and sexual, by patients upon other patients were so common that consultant staff and nurses were reluctant and in some cases refused to transfer patients into that ward.

'While Eck Ward gave particular concern, the visiting party of commissioners were led to believe that similar problems could exist in other parts of the hospital.'

Then it asks for the board's views. So I think that's the start of the Mental Welfare Commission's specific concern about the Eck Ward.

A. Yes. That's a damning report. We're used to receiving unannounced inspections and announced inspections, and in receiving those reports. And I don't -- it's not just because language has changed and how we relate to regulators has changed. But, actually, the allegations -- or the findings, should I say, that are made there are unequivocal, and I can't think I've ever seen a worse report from HES or from the Mental Welfare Commission.

Also noted in there, and apologies for not noting it, that Dr -- not Pickford -- Dr --

Q. Primrose.

A. -- Primrose had left at this point. But I don't think anybody can be under any misgivings that, actually, this, what the commission have found here, is his legacy. This is not due to a sudden deterioration in the standards since his retirement. I think there's been a -- that previous document that we looked at outlined that really clearly.

So although he wasn't present for the Mental Welfare Commission, I think it's clear that this is the effects of the culture that he developed and the

decision-making.

Q. If we can look on to page 70, this is a letter dated 21 February 1985, so prior to the letter that we have just seen from the MWC. This letter is from the locum consultant referred to, who is a Margaret Smith, and she is writing a letter to Dr Graham at the Health Board. She refers, at the beginning, to Eck Villa. She says:

'When I first took over this ward, approximately five weeks ago, I was aware that it would not be an easy undertaking and I do not hold out any unduly optimistic hopes of what would be possible. I did, however, hope in the time available to be able to carry out the initial assessments of the patients, institute any treatment programmes possible and generally involve other members of staff.'

Then she goes on to talk about what she's done.

What she then goes on to do is to select certain members or patients as examples of the patients that were on the ward?

A. Yes.

Q. She says in the paragraph above, profile 1:

'Each of these patients below is involved in the Wessex statistics and each is chosen for the representative nature of a group of problems. When reading these accounts remember that for each of the

patients described here, another five with similar-type problems exist and it's only recently that the staffing has been raised to four per shift. However, if the staff wish to take meal breaks away from the ward, as is permitted and advisable, two staff members remain alone. At night, two staff members supervise three dormitories.'

Then she goes into some examples of the patients and she gives some of their ages. But I think that we do know that there were adolescent boys on this ward?

A. Yes.

Q. If we could go, please, to 'Profile 2', she says:

'This patient was described as perfectly normal until the age of 9-and-a-half years when he developed an acute condition resulting in permanent brain damage.'

Then the next sentence says:

'He was also left with a degree of insight into his own disability and will react to this with a sudden outburst of violence and as a result has been placed in Eck. He also retains an awareness of other patients and their problems and will express fear to his family about patients he sees as bad and weep for other patients who he sees as worse off than himself. He has certain mannerisms which other patients find annoying and he is the frequent butt of physical abuse.'

I assume that's from other patients.

She then goes on:

'His physical disabilities put him at a disadvantage for self-defence and his family describe that he often arrives home on visits covered in bruises for which he can give no explanation. Despite his cognitive deficits, he has been able to learn the new money, but he receives no education or stimulation on the ward.'

So that's one of the profiles. It's not clear from this as to whether this patient was an adult or a child at the time that this was written. But --

A. It's really -- it's a very difficult read, especially that last paragraph and --

LADY SMITH: The one about the phone call from the mother?

A. Absolutely, yes. Really harrowing, I think, to read. And I think, overall, this is a very eloquent letter from a professional who finds themselves in an impossible situation; documenting not just these instances of individuals and their experiences, but also the overall culture and a quality of care within the institution.

And for me what's striking is this person's a locum. They've come from outside and they've looked with fresh eyes. The Mental Welfare Commission have come and looked with fresh eyes. The Scottish Health Authority

come and look with fresh eyes. Everybody is saying that there are major issues with this institution. And I go back to the Health Board's response then and the inadequacy of it.

LADY SMITH: Ms Innes, it's now 11.30.

MS INNES: It is.

LADY SMITH: I think that would be a good point to take a break. Would that work for you, Andrew, to take the break that I mentioned earlier, just now? Let's do that.

(11.30 am)

(A short break)

(11.46 am)

LADY SMITH: Welcome back, Andrew. Are you ready for us to carry on?

A. Yes.

LADY SMITH: Thank you. Ms Innes.

MS INNES: Thank you, my Lady.

We're still in the document SGV-001033460, page 71, so the letter from the locum consultant.

We had looked at profile 2. In profile 3, we see this refers to a 25-year-old who was admitted at the age of 7 years after a disturbed early life. In the next paragraph, it says:

'He has continued to be a severe management problem.

He has violent sadistic tendencies and as a child and adolescent was known to decapitate animals and birds for pleasure. With adolescence, his sadism has been directed towards sexual activities and he has become a constant danger. He was involved in one particularly violent and sadistic sexual attack on a less able patient in the juvenile hospital. This attack was deliberate and planned.'

Then:

'In the Eck Ward, he is actively homosexual and several of the stronger and more able patients complain bitterly of his sexual attacks on them during unsupervised periods at night.'

So that obviously tells us that there was an assault, a sexual assault, on somebody within the juvenile hospital and that there are ongoing sexual assaults in the Eck Ward?

A. Yes, that's clear from this letter.

Q. Then, if we go over the page, to profile 4:

'This patient, aged 19, suffers from autism as a result of perinatal brain damage.'

It then goes on in the next paragraph to say:

'He was cared for at a residential school.'

Then he went to an autistic unit, and it says:

'Prior to transfer, it was noted that if given

a quiet, predictable routine this patient would remain calm and relaxed and manageable. He reacted to the change badly and several violent episodes occurred and he was admitted to Eck. Here he became increasingly distressed by the noise and violence and began to regress to an infantile state. He lost his limited verbal ability and would lie curled up in a foetal position with his eyes tightly closed and his arms clasped around his head. He usually chose to lie in the main corridor and unless constantly supervised, he was repeatedly kicked by fellow patients. Any contact or effort to communicate with him would result in violent efforts to tear off his clothing.'

So that's a picture of a person, a young person, albeit 19, with autism?

A. Who was -- they were finding a way to help him be calm and to be managed. And due to not being able to continue with that and the change that they imposed on the individual, the deterioration in his condition -- again, it's very difficult to read -- that that was actually precipitated by the people who have that duty of care to this individual, taking actions which I'm sure they would have thought would have been somehow in the best interest.

But, even in the understanding of autism in this

case, in the eighties, change was known to be highly disruptive. So this is not a person-centred environment. And, again, the comments -- and I know this is selected by the psychiatrist to feed back to the Mental Welfare Commission. But, actually, again, the quotes from the mother of this young man, again, just add to the difficulty in reading.

Q. Then, at profile 5:

'This patient was admitted at the age of 10 years having been too aggressive and impulsive to cope at home. His IQ may be above 70, but he has always functioned below his real ability.'

It then talks about him being transferred to the Eck Ward during adolescence and it goes on to describe him as a violent and destructive influence on the ward. At the end of that paragraph:

'He dominates many of the weaker and less able and inadequate patients and demands money, et cetera, for sexual favours. He likes to humiliate his partners and is the cause of considerable aggro and emotional turmoil on the ward.'

So, again, that describes a person who is abusing other patients?

A. Absolutely. I think, for me, the description of the ward itself is coming through from all these individual

experiences and I can't think of a less caring environment to be placing individuals who are in the need of the most serious and significant support.

It's clearly been an area where patients have been deemed problematic, due to their behaviours, are put together. But there's no sense of how that is actually trying to care or nurture the individuals that are in that environment.

Q. If we go on over the page, to page 73, there is reference to profile 6 and then, below that, there's a paragraph:

'The latest admission was a 15-and-a-half-year-old boy with an IQ of 55. He has always had a difficulty in relating appropriately to people and with the onset of adolescent and sexual activity, he began to make inappropriate sexual advances to women. During his admission to the juvenile hospital, he was involved in an alarming incident and the only placement possible with sufficient supervision was Eck. He has now spent six weeks in the ward and has settled into the milieu with alacrity, forming a close and undesirable relationship with the patient described in profile 3.'

I think that was the patient who -- I'll just double check -- that was the patient who had been involved in a violent and sadistic sexual attack on somebody within

the juvenile hospital. That's the person in profile 3. So she makes specific reference to this person.

She goes on:

'This period has been positively anti-therapeutic and attempts to transfer the patient to more appropriate setting are now considerably more difficult, and the patient is more strongly orientated to deviant sexual practices.'

He required a closely supervised and protected environment.

A. But you also get a sense that they're in that -- described as 'closely supervised environment', but they're not accessing any therapy, any means of rehabilitation within that setting. So it's -- you sense the frustration of the clinicians. But absolutely, the lack of support that's given to these incredibly unwell individuals.

Q. Then if we go over the page, she says in the first substantive paragraph:

'My other concern is for the patients ...'

I think she talks about the staff and then she says:

'My other concern is for the patients who, during their time in the ward, are exposed to physical, emotional and sexual danger. There has been no thought given to what we would consider the normal needs of

adolescents and young men and with the additional complication of mental handicap, disordered personality, violent impulsive tendencies, sexual deviance and low flashpoints, the results are predictable.'

That refers to what you've just been saying about the lack of therapy?

A. Yes. What is really interesting is, again, when I was looking back through the documents, you kind of forget the context and, I guess, the culture and the paradigm of the time.

But what this tells us is that this institution, this ward particularly, the way it is being run and the way the people in that ward are suffering -- are actually the victims and the perpetrators of abuse -- without any therapeutic -- or without sufficient -- clearly without sufficient therapeutic input into those areas, that paragraph really stops me trying to normalise that and think: was that okay in the eighties? Was that okay in this decade?

Here is somebody that has come in and said: 'Here are exactly the things that we are not focusing on'. So it was known that this environment should be and could be doing much better, and I think that's the importance of that paragraph for me.

Q. Thank you. She goes on:

'The patients confined to this ward have no privacy, no identity, no future, no freedom and no models of normality. They exist in a group of highly disturbed and dangerous members and learn their social patterns from the culture which emerges. It is a fair assessment that the only therapeutic factor in the ward is the nursing contact and it is a great tribute to them that the results are not worse than they are, and that the patients, despite long periods in this ward, emerge with a kindly rapport towards the nursing staff and a continued expectation of help from them. Despite the fact that much of the care is simply custodial, there is very little of the hostility and resentment one finds among prison inmates. The magnitude of this achievement by the nursing staff should not be underestimated.'

So she makes a --

A. I'm glad you picked out that quote at the top of that paragraph, because, when I read it, I was sufficiently moved by that quote to make a note of it and I've kept that. I think that really is a very moving and articulate description of the patients' experience.

And obviously gratifying to see that actually, within that environment, there is still attempts for nursing staff and a degree of kindness still to be present in that environment. But the clear lack of

1 therapeutic input is what comes across in the
2 descriptions.
3 Q. Going on in her letter, she essentially says this matter
4 needs to be dealt with urgently.
5 We know that the Health Board carried out an inquiry
6 following this letter and the MWC letter that we looked
7 at a moment ago. And if we can look, please, at
8 page 49, we see a letter here from Forth Valley
9 Health Board to the then Secretary of State for
10 Scotland. It refers to the complaints from the MWC and
11 it then refers to the alleged serious assaults of
12 a violent nature. It says in that second paragraph:
13 'Because of the seriousness of those complaints, I
14 immediately instituted a formal internal inquiry with
15 a small committee of board members which included both
16 myself and my successor, as well as a medical member and
17 a nursing member with community mental handicap
18 experience.'
19 So an internal inquiry was set up, essentially with
20 board members involved?
21 A. Yes. Which would -- if this was a current situation,
22 that wouldn't have the level of correct governance or
23 transparency. That would be a concern if that was the
24 response.
25 Q. Then he goes on to say:

'As the Chairman of the commission [Mental Welfare Commission] has informed me that he has written to you about the complaints, I am sending you a copy of the report of this inquiry, which, after a thorough investigation in depth, did not find any evidence to support the complaints of assault.'

Then he provides a copy of the report.

A. And yet we have copious examples being able to be given. So this is an inadequate response to the Mental Welfare Commission.

And the improvement plan which subsequently came from this was equally inadequate and was pointed out by many to be inadequate. So there's really a lack of ownership being shown here by the Health Board, a lack of taking these real concerns seriously.

This is essentially -- has been -- we've got a fairly damning report. We've also got whistleblowing, very clearly, here. And, in some ways, we have come a long way in how we respond to these situations, especially around whistleblowing, but we've still got lots that we can improve on.

But this response, I think, really exemplifies why there was a need for whistleblowing legislation and why there was a need to empower individuals to speak up, and why there has been significant strengthening of

regulators in this situation as well, because, yes, this is an inadequate response to those allegations. Not a tenable outcome.

Q. If we look at some of the material in the body of the report from the board. If we move on to page 53, at paragraph 3.5, we see there it says:

'Prior to the commissioner's visit to the hospital, the locum consultant brought to the notice of the chief administrative medical officer, in a letter of 21 February 1985, some of the problems referred to in the Chairman of commission's letter of 5 March 1985.'

So that is referring to the letter we have just looked at?

A. Yes.

Q. At paragraph 3.6, they say that they took the following urgent steps, so increasing the level of nursing cover, advertising for more nurses and arranging for the immediate conversion of hostel accommodation, now not fully required for hostel purposes, to ward use to reduce the numbers by about half and to separate, insofar as possible, patients of incompatible levels of behaviour.

So that seemed to be the board's immediate response to the letter?

A. Yeah. I mean, there would be urgent steps as they have

set them out there. They have not described these as, sort of, medium term or really gone on to address the issues that arose. But nowhere in the board's response is that medium to long-term strategic approach. So these are very short-term. And when you think of what we have just read, again, I would just reiterate: completely inadequate response.

Q. If we look down to 3.7, the report starts considering one of the issues raised by the Mental Welfare Commission, which was that patients appeared to be without treatment other than by drugs and they say that they received two differing views on this while interviewing staff.

Then, at paragraph 3.9, they refer to statements from the locum consultant, one full-time consultant and the senior nursing officer, indicating that the treatment provided to patients in Eck was mainly by drugs, together with the use of seclusion programmes.

So that's consistent with the letter that we have seen?

A. Yes.

Q. And then they say, at 3.10:

'On the other hand, emphatic statements were made to the committee of inquiry by one full-time consultant, by the former physician superintendent ...'

That would be Dr Primrose, I think?

A. I assume, yes.

Q. '... and by the director of nursing services, senior nursing officer of night duty and by the nursing officer of night duty, by a charge nurse and a former acting district administrator, asserting that treatment given to patients wasn't by drugs alone, but other forms of therapy were available.'

Then, at the top of the next page, there is reference to activities that were undertaken.

I think that's not the only place in which we see that, when the inquiry was carried out, there were different views on the key issues that the MWC had raised from the locum consultant, on the one hand, and the others, including the former physician superintendent on the other?

A. Yeah. The comment I was going to make is how defensively this section reads. And I think, unless there is much more within the report, within the inquiry process, much more evidence. The Mental Welfare Commission have reached their own view. The locum consultant has reached their view. There is actually support from others within the Health Board of that view, and the individuals, who, I think, are feeling defensive with the inquiry, are those who are obviously

charged with the oversight and provision of this care.

When I look at that, that paragraph, I struggle actually to see much within that -- those programmes would actually help support some of the really challenging behaviours of the individuals that we have read the accounts of or from.

So, yeah, I don't see anything within this paragraph that really balances the allegations that were being made.

Q. Then, if we go on to page 55, at paragraph 3.25, there's reference to physical assaults. It says:

'It's evident physical assaults occurred on the Eck Ward which were basically of two types (a) minor assaults, for example jostling of patients in the ward, horseplay, biting and fighting resulting in black eyes, et cetera, and then (b) serious physical assaults resulting in injury to parents, for example fractures and lacerations.'

It then goes on to say:

'Physical assaults in Eck Ward were on average during the past eight months of 12 per month.'

And then there's an analysis of the assaults, it says, and that's at page 81.

A. Yes. So they're trying to describe their system for reporting here as well and, unfortunately, we do know

that reporting is an inadequate, again, way to really know the extent of any adverse incidents.

Looking at just the stark numbers, 12 assaults per month, just knowing what I know about the care that we try to give in some of our more challenging areas in mental health, et cetera, that's a huge culture of violence and abuse, actually. So I don't know how that can be put on the -- as part of the Inquiry.

LADY SMITH: I'm glad you said that, Andrew, before I asked you.

What about this add-on comment that Eck residents account for 2.8 per cent of the hospital population?

A. I --

LADY SMITH: Would you take that as meaning: you don't need to worry about --

A. Yes, as --

LADY SMITH: -- all these assaults because it's only Eck Ward and that's --

A. And everybody else is getting on great. It's an attempt to diminish and dismiss the allegations that were being made.

MS INNES: I think we can see the detail of the statistics referred to further at page 81, which is an analysis of accident and incident reports over a period. And, again, we see there the reference to incidents involving

Eck patients average 12 per month, 21 in January, and down to a low of 9 in July and February.

Then, again, they refer to the average figures. The accident reports account for 4.3 of the total forms submitted and Eck residents account for 2.8 of the hospital population.

And then they look at the contents. Under 'Type of injury', we see that over this period that they were analysing, there were no fractures. There were three sutures inserted, two were as a result of fighting, one was an accident. 88 'bruise, scratch and bite', and seven -- it says 'no injury', but there must have been an incident in which there was no injury.

A. Although you say analysis, actually I'm not seeing that 4.3 per cent in relation to the 2.8 per cent actually having much analysis alongside it, but it's not far off. Double the amount of incidents are happening in Eck Ward, even accepting what I've said already that incident reporting is notoriously inaccurate. But the admission of this paper, you know, we have obviously got double the rate of violence in this setting. So it's -- it actually supports the criticisms, I think, of this environment.

Q. I just would like to move on to the conclusions, particularly in relation to the assaults, so page 58.

Under 4.9, so in relation to the assaults, it says:

'No concrete evidence was submitted to the committee of inquiry who thoroughly investigated these issues with the staff concerns that there had been any serious physical assaults or any sexual assaults, except one case which had been reported earlier to the Mental Welfare Commission which had occurred on Eck Ward.'

It goes on to say that they were assured that they were recording, essentially, everything.

A. Yes. I wonder what they mean by 'no concrete evidence'. You have got testimony from individuals and you have got a whole range of evidential sources. So it's interesting that -- I don't know what they mean by 'concrete'. I would imagine it's maybe a professional saying that something's happened and has documented something. But that's not required in this situation to know that the culture needs to change.

Q. Now, if we can move to page 39, where we see a meeting between the Mental Welfare Commission and the Health Board in April 1985, this seems to be a response to what the Health Board have said. It sets out the history of the MWC's involvement.

Then, if we just look at the bottom of page 39, it says:

'I should like to deal now in some greater detail

with the points raised by my Chairman [the Chairman of the MWC] and the answers to these points entered by the committee of inquiry and I do so because it reads, the report of the inquiry seems, in looking to the past [over the page] to seek to exculpate and does not convey the sense of gravity and need to look forward and to effect change, which is the commission's main preoccupation at this juncture. Some of my fellow commissioners have also been concerned that opinions and assertions expressed by a minority of your witnesses appear to be dismissed because they are a minority view, they may nevertheless be correct.'

I suppose that's referring, again, to the whistleblowing issue?

A. Yes. That's how I read that as well. Interesting, again, that the Health Board are given yet another opportunity to accept responsibility and be accountable for what's happened through this conversation.

Q. If we go to the bottom of page 40, he's dealing there with the issues of assault and the final paragraph refers to Dr Smith, the locum psychiatrist:

'Dr Smith had told commissioners that patients are exposed to physical, emotional and sexual danger. In addition, patients had complained of sexual harassment, if not sexual assault, of which you have heard from

Dr Boyd and staff interviewed by the Chairman and myself are told of the predatory homosexual behaviour of some patients towards younger, weak or more immature patients.'

Then it goes on to refer to a staff member:

'One member of night staff said he frequently had occasion to separate patients engaged in behaviour and that he made as many as ten or so reports a month of such behaviour. Another member of staff, to whose evidence we find it difficult to give credence, said he knew of no such behaviour, had never witnessed it, and had never had any occasion to report it.'

So there the commission, I suppose, is challenging the Health Board inquiry's findings?

A. Yes. In a very clear and laudable way.

Q. If we go down page 41 to the very bottom of the page, it says:

'We are told that poor level of interprofessional co-operation in the hospital had militated against the proper examination of proposals for rearrangement or development of services. We were told that rehabilitation of patients in the hospital had been impeded and in some case stopped because of interprofessional friction or at least because of inability to resolve differences of opinion between

separate professional points of view.'

And then it says:

'It was clear to us that in spite of the action of the CAMO ...'

I think that's Dr Graham, who took control after Dr Primrose retired.

A. It was the equivalent of the medical director in the seventies and eighties.

Q. '... in assuming medical managerial responsibility for the hospital, there was a dangerous vacuum in clinical leadership in the hospital which could not but reflect adversely on patient care.'

A. Yes, as we have discussed, the culture of the clinical leadership is vital and translates into outcomes for patients in an evidence-based way.

Yeah, I feel, though, that this -- these concerns now which are being evidenced, there has been a defensive response to the allegations and the dismissing, really, of them.

Ultimately, the board is very accountable here for not resolving what it's setting out as its reasons why this was all too difficult in the past. The professionals did not get on, so what then was the response of the Health Board? It should have been to follow that through and resolve it. That is not a

situation -- it would certainly not be tolerated in modern practice and it should not have been tolerated. I think the Mental Welfare Commission are pointing out this is not satisfactory.

So there's been -- the Health Board have not delivered on their duty of care here, because part of that is making sure the professionals -- if there are issues like this, that that is resolved. They do have the infrastructure to be able to do that.

LADY SMITH: I'm trying to work out who the board thought would sort these problems out. They knew about the problems.

A. Yes. What they've ended up doing was deciding it was a financial issue, and building more estate and recruiting more clinicians was going to be the answer to their concerns. And then that became a conversation, obviously, and a negotiation with Scottish Government to say: well, actually, you need to give us the money to allow us to do this and things will improve.

But, actually, we've got a whole range of sources here saying this is not how this care should be given. It's not what's going to be happening in the future. And actually, at that point, there was significant changes being made to how this care was being given and moving away from institutions.

So the Health Board were in denial. They were stuck in a model of care that they -- obviously a very instrumental medical leader telling them: 'This is what we need to do and we're doing it well'. And they had listened to that. But they didn't have the checks and balances, they didn't have the curiosity, and they certainly haven't had the transparency around this. And I think that's evident when you see the defensiveness of the response.

LADY SMITH: Picking up on the idea: 'Well, if we can get the money and better buildings, that will sort it out'.

But, as we know, and there were themes in earlier documents we looked at, you need both.

A. Yes.

LADY SMITH: You need good staff and adequate staff working well and the right environment, the built environment.

A. And for those individuals who absolutely require that degree of inpatient care, but not applying that to a much larger group who could benefit from other models of care, I really was impressed -- I think I mentioned, the consultant, the locum psychiatrist. Not this doctor, a Dr Davies who's in the World in Action documentary, and she is aghast when she's told that the Health Board's planning -- she is responsible for these patients. She's aghast when she's told the patients --

the Health Board's planning on spending 16 million on further building, and she's very articulate and she says: 'Why would we do that? We don't need these buildings. We don't need these businesses. This is not how these people should be cared for. We should be looking at a community model'.

So the Health Board, I can understand the perspective only up to a certain point. They did not take a strategic approach. They didn't -- they weren't even really listening to or sensing the direction of travel. And I think that, for me, is one of the kind of obvious criticisms I would make of my predecessors.

I know how difficult it is, obviously, being in these situations and trying to make decisions based on complex information and not really knowing what the direction of travel is, and I think that would be one of my other reflections.

In England, in 1983, there was a Bill passed by the then Thatcher government which said this is about care in the community. I remember it as a youngster at the time.

There wasn't the same clarity given to health boards in Scotland at that point. There was no legislation. So there might have been a little bit of uncertainty from the health boards who are providing these

institutions as to what was actually going to be happening in Scotland. I don't know. I may be being overgenerous with that observation.

LADY SMITH: Thank you. It's very helpful.

MS INNES: If we can look at page 30 of this document, we see a letter from the Health Board to the Under-Secretary at the Scottish Home and Health Department, dated 13 September 1985, and in the first paragraph we can see that this letter -- it refers to a previous letter in June, where the author had written for a meeting to discuss long-term proposals for the hospital, but hadn't received a reply.

Then it keeps going, talking about long-term plans. If we go to the bottom of the page, it says there:

'It is now perfectly obvious that the results of years of deprivation of funds, a lack of adequate professional and clinical input, with a failure by the responsible staff to present specific proposals to the board, coupled with a management system which was outdated in the extreme ... have now come home to roost.'

And then, essentially, he's saying it's imperative that he has a meeting. He mentions various aspects there. First of all, the funding. But then he also goes on to refer to a lack in terms of the clinical

staff.

A. So my reading of that is that they've been aware there have been issues there, but, as I said, there's no sign that these issues were grappled with. We went back to the seventies, halfway through Dr Primrose's tenure there was clear concerns being raised.

So this is the paragraph which indicates that the board now understands and have accepted that responsibility.

Obviously, they're looking at the funding side of things. But the lack of any alternative model having come forward as to how these people might be cared for, they've identified that.

And I think this is in contrast to the initial inquiry report, which does read defensively and dismissively of the allegations that were being made. So, for me, the penny is now dropping, or as the Chair puts it: those issues have now come home to roost.

Q. If we move on to another document. SGV-001033700. At the very first page of that we see a document:

'RSNH: A Need for Action'.

Is this the plan that you have been referring to where the hospital was asking for millions of pounds of funding?

A. Yes. It's -- again, it's quite a superficial action

plan to the seriousness of allegations that were being made.

Q. I don't want to look at that in detail because we've covered the general points. In 1986, you have mentioned it already, there was a World in Action programme. I think you've had the opportunity to watch that programme --

A. Yes.

Q. -- which is available online?

You have mentioned a couple of reflections in relation to what was said by the psychiatrist that you have mentioned; did you have other reflections arising from viewing that programme?

A. I had -- I'd looked at the documentation that was provided which referenced the programme and the response from the Health Board. Although I was saying that it actually looked like the penny had dropped in that last letter, actually the reaction of the Health Board was relatively, again, dismissive of the allegations that were being made, you know: 'This doesn't happen; we don't recognise this'.

I read all that response and I thought: 'Oh, this is going to be a really interesting expose. It's going to make some serious allegations'. But, actually, as it was at the time, this was a very factual and even-handed

documentary. It was done in a very measured way, which was not what I expected when I saw the Health Board's dismissive comments of it, which, as I said, I had read beforehand.

So, within the segment itself, again, what we saw was clear documentation of very credible witnesses, who could recount, with specificity, the abuse that they had suffered in these environments. And again, that was not being acknowledged, except through the documentary.

Again, I saw it as an important piece of historical whistleblowing. And emphasises the need for why, you know, that needs to be a really strengthened strong process in all our public sector and areas of care, because you were still able to dismiss the seriousness of these allegations, and that's what the Health Board had done and, again, missed the opportunity to listen to what was actually happening on their watch.

Q. If we could look on to page 26 of this document, we'll see the press release that the board issued in June 1986. It's headlined:

'World in Action report: an unjustified attack.

'The World in Action television programme on RSNH at Larbert is an "unjustified attack on the care given to patients at the hospital", said Forth Valley Health Board Chairman, Lewis Hynd, today (Tuesday).'

And I think the Chair of the board had spoken on the programme as well?

A. He was quoted -- oh, sorry, he was on camera. Yes, you're right.

Q. It then goes on:

'Following last night's programme Without Due Care, Mr Hynd said the World in Action team could have done much to encourage the interest of the public in the needs of our patients and the challenges facing those who care for them. Instead they have chosen to present a distorted picture supported by the views of a prejudiced few.

'The opportunity to present a balanced picture of the rapid developments now taking place in Forth Valley has been ignored. The views and feelings of patients, their relatives and our staff have been swept aside in the search for sensationalism.'

So this was what you were referring to a moment ago in your evidence?

A. Yes. I can assure you there was no sensationalism that I could see regarding the allegations and the way that they were made.

There is a sense of grievance here from a board who I think feel that they are trying to do their best, but actually are -- as was said, there are significant

issues around, really, the effectiveness of their governance, their accountability, their response to earlier information, all of that. As the Chair has said: everything has come home to roost.

So this is -- this compounds the concern around the response of the Health Board to what, as I said, was a very measured view that was put forward by the programme. And clear documentation of abuse.

Q. If we go on to page 28, this is the end of the press release, it says:

'All nursing staff employed at RSNH receive instruction on how to manage violent patients. Emphasis is placed on training staff to diffuse situations so as to avoid the need for physical restraint.'

That appears to be responding to issues around restraint. Then they say:

'The World in Action team, who spent only a short time in the hospital, could not be expected to understand the difficulties of safeguarding mentally handicapped patients 24 hours a day from the incidents of everyday life with which the rest of us cope easily.'

A. That's such an oversimplistic way to dismiss when people are telling you uncomfortable truths.

I'm sure the documentary team certainly had the ability to work out when they were viewing inhumane

conditions. They might not have been experts in mental or -- certainly in disability nursing, but they certainly knew that they were in an environment that was not acceptable for the individuals there.

And I don't think we can -- I certainly would not dispute that now, having seen the documentary.

LADY SMITH: It's not the only paragraph in that statement which seems to indicate that the Board are telling the outside world to: 'Back off. We do a difficult job. You're not allowed to criticise us'.

A. Yes, and that would have been -- they would have held that belief. They would have felt that they were potentially being, I suppose, criticised or attacked by a whole range of -- as we have seen, a whole range of groups and individuals. But this is not how a healthcare -- even understanding this is -- we're in different times and different paradigm, we can see there was enough clear information being presented to the board that their response needed to be different. I think it's very reasonable for us to take a very -- for me, as a board member in NHS Forth Valley, to take a very critical view of my predecessors here and their response.

They had enough information that this was not normal in that time to respond like this or it shouldn't have

been. They had information that would allow them to take a different route and they chose not to do it because of their own, I think, sense of grievance, based on the information that we have been presented with.

LADY SMITH: Thank you.

MS INNES: Thank you. I'm going to move on from that now and take you back to the Health Board's response to Part D, which is at NHS-000000044.

A. Yes.

Q. This is where questions are asked in relation to incidents of abuse that the board had found when carrying out the initial response. At 5.1, there is a question:

'What was the nature of abuse and/or alleged abuse of children cared for at the establishment?'

At the time of preparation of this, the answer was:

'The questions in the section have been answered with reference to the known incidents at RSNH involving those aged under 18 or where the age of the victim is unknown.'

It is noted that it is possible that there are other incidents.

If we go down, there is reference to there being two incidents that were found. We need, I think, to go on to page 4 to see the detail of those.

A. Mm-hmm. I think I would -- on behalf of NHS Forth Valley, I would want to draw the distinction between what we have on record as clear examples of abuse and what we have just been discussing about the widespread abuse that was evidenced in the documentary and from some of the testimonies, the statements that have been provided as well.

So I think this is what we were able to find going through that very sort of methodical, archivist approach that actually -- that this is obviously not the full extent of the abuse that went on in the institution.

Q. Thank you. If we look at page 4, we see that specific complaints which were found -- number 1, a member of staff was dismissed for allowing patients into the boiler room in May 1943. It is said that two girls and a boy were found in the boiler room. Initially, he was only reprimanded, but the children ran away from the institution a few days later:

'After questioning, information of a serious enough nature led to the fireman being dismissed and the matter referred to the Procurator Fiscal.'

One of the girls was not yet 17. But no details of the nature of the offence were given.

A. Mm-hmm.

Q. I think in the underlying material there's reference to

the dismissal and a serious incident, but it's not clear what actually happened. Although I think the Board's inference is that it must have been an incident of abuse?

A. Yes, I would accept that inference.

Q. And the second incident is a dismissal of two unnamed Polish attendants reported in 1949, where a person has been -- a patient has been bruised. The medical superintendent was certain that one of the attendants had beaten the patient, but it couldn't be proved. No action was taken and no further outcome or response recorded.

A. Again, a clear episode of abuse. An interesting approach to it but I wasn't sure whether no action was taken but I think it starts off by saying 'dismissal', so I think the individuals were removed from the institution.

And what we see here I think is sporadic attempts to take seriously some of the concerns about this. Given the complexity of the group who were in the institute, the nature of the different staff groups as well, this is not a credible, comprehensive cataloguing of all the incidents of abuse that took place. So I think what I'm taking from this is there were individuals and sporadic attempts to take this seriously and it's

important that we do document those. But I don't think there's any -- I'm not under any illusion this is the full picture.

Q. The third incident was -- it's described as a homicide reported to the board of management in 1950, where a nurse, doing the rounds in block 1, had found a dead male patient aged 16. The death did not seem to be from natural causes and it goes on that two male patients admitted strangling the boy and were arrested. And, ultimately, they were moved to Carstairs. It says:

'A full report was given to the General Board of Control and the Procurator Fiscal, which included details of night staff, only two of whom were on duty in block 1 that night. No further outcome or response is recorded.'

A. A complete failure of duty of care.

Q. And then the final example is in relation, perhaps, to a more recent allegation made in respect of a period between 1979 and 1983. This was a person stating that they were a victim of sexual abuse perpetrated by a member of staff. He also reported physical and sexual abuse by other patients. That's another example of an allegation that the board were able to find.

A. Yes, clearly.

Q. Or were made aware of.

Now, if we can go to the board's Part B response. So this is at NHS.001.001.0128 and page 29.

Now, if we look at the first question there in relation to acknowledgment of abuse, the question posed is:

'Does the organisation or establishment accept that over the relevant period, some children cared for at the establishment were abused?'

A. Sorry, I'm not sure I'm seeing the same page.

Q. Sorry, I'm on page 29.

A. It starts at section 7: 'If the establishment was run by a Catholic religious ...'

Q. It is further down the page, yes, so under 'Current statement'.

A. Part B has now come into view. Thank you.

Q. Sorry, I wasn't clear enough. So point 3.1:

'Does the organisation or establishment accept that over the relevant period, some children cared for at the establishment were abused?'

The answer to that at the time this was submitted was no. But what is the board's current answer to that?

A. Yes. As you say, this was our initial assessment, but it was based on a lack of understanding of what had actually gone on in this institute. And we're now clear in NHS Forth Valley that there were significant numbers

of children who did suffer abuse within the RSNI.

And apologies for any confusion over that initial statement. As I said, it was based on an initial, less detailed assessment of what we now know.

Q. The next question is:

'What is the organisation's assessment of the extent and scale of such abuse?'

A. I think from what we have seen we have really built up a picture of -- certainly in terms of violence that patients and children had to endure, that there was a significant -- a significant culture in certain parts, obviously, of the institute. It -- there's -- undoubtedly there was significant levels of sexual abuse as well within some of the more challenging areas.

Overall, I think we would -- my view would be, from the Health Board perspective, that unfortunately abuse was fairly widespread in the institute over the years it was in operation.

Q. Then, at paragraph 3.2, the next question is:

'Does the organisation accept that its systems failed to protect children cared for at the establishment over the relevant period?'

Again, what is the board's answer to that now?

A. Yes.

Q. The next question goes on to ask about the extent of

those failings. But it might be perhaps helpful -- I know that we have looked at some of them, but what sort of systemic failings have you identified?

A. The board and the institute had a duty of care to everyone in that institute and that should have been -- and I think it's covered in some of the documents that we have looked at. There was a level of awareness for the staff and the managers that that was -- the ethos was that duty of care. And yet the evidence presented here and presented -- and would have been clear to the individual at the time -- it was that there was widespread failure of that duty of care.

So people were not being respected. They were not -- their best interests were not at the heart of the decision-making of the organisation and the staff asked to care for the individuals.

It was a failure of the governance of the organisation. The systems were not in place to be able to identify and react to what was an emerging, very distressing picture of the care that was being undertaken at the institute. There was a failure of governance. There was subsequently a failure of leadership, especially clinical leadership. But certainly, unfortunately, it extended across to the board leadership as well, in being able to rectify when

they became aware of the issues. So there is -- looking back at the archive, I can see the role the institute had to play in the part of how Scottish society tried to support these individuals.

And there are areas, occasionally, where you can see more positive comments. Within some of the statements there are positive comments about experience. We talked about the Education Scotland archive and the visits that were undertaken and how there were some positive experiences there.

On the documentary, there is clearly very kind nursing staff trying to look after individuals, and we have talked before about the kindness of the nurses that has been brought out in some of the documents. But overall, I think from an organisational perspective there is little that we can look at that went well in the lifetime of the institute and really culminating in the mid-eighties with that inability for the Health Board to take responsibility for what it had overseen.

Q. Then if we move on over the page, the question at 3.3 is whether the organisation accepts that there were failures or deficiencies in its response to abuse or allegations of abuse of children cared for at the establishment over the relevant period; what is the

board's response to that now?

A. Yes, there were significant failings.

Q. Over the time that you've reviewed the material, obviously the RSNH has closed and you've said that matters have moved on; do you think that there are any sort of lessons that can still be learned from that experience or things that you might take away yourself?

A. Absolutely. Actually, I shared the link to the World in Action documentary with my senior leadership team, including the chief executive. And we're going to review it. For us that's a really tangible evaluation of the culture.

There are certain comments that are made in that documentary that I think will really resonate; that will remind us, as the current leadership, of some of the pitfalls that we need to guard against. We need to have systems in place. We need to make sure things like whistleblowing are robustly upheld and investigated, and that any challenges -- any difficulties that we see in multi-professional leadership need to be addressed by us. That sits with us, as a senior leadership team. So I have found this experience very educational.

I had only heard, in passing, of the organisation, so to be able to understand much more fully its role in the Health Board that I'm in, as I've said, it's been

incredibly enlightening and I plan to take that -- the documentary and the messages from the discussions today that we've had, obviously in a general way, and in a formal. But make sure that we, as I said, as a current leadership team, understand what we need to do to mitigate against any future concerns.

Also make sure that we have, as part of that conversation, the child in the centre of that. NHS Forth Valley has recently reappointed its Children's Commissioner. We have a children's plan now coming to our Health Board and we are very much aware of the new models of care that are being discussed, making sure that the child is in the centre of every decision that's being made about it. And it's a priority, really, for our Health Board and our new Children's Commissioner is making sure that everyone in the organisation understands their responsibilities in that regard.

MS INNES: Thank you very much. I don't have any more questions for you.

LADY SMITH: Could I add my thanks. It's been so helpful to me to hear from you today and, in particular, to hear the frank and open way in which you have wanted to discuss what you have now learned and what your board has learned about the past of this particular hospital.

I'm heartened to hear that you feel able to take the

learning forward for the current work that you are doing and I wish you all the very best in doing that.

A. Thank you. Thanks for the opportunity to be here.

LADY SMITH: I'm now able to let you go. Safe journey back. Thank you.

(The witness withdrew)

LADY SMITH: I think we should just rise now for the break and sit again at 2 o'clock.

MS INNES: Thank you, my Lady.

(12.47 pm)

(The luncheon adjournment)

(2.00 pm)

LADY SMITH: Good afternoon. We turn to the next witness for today. Ms McMillan, I think you're in charge here; is he ready?

A. Yes, good afternoon, my Lady. The next witness is Mr Eric Scott and he will be speaking to the Algrade establishment, my Lady.

LADY SMITH: Thank you.

Eric Scott (sworn)

LADY SMITH: Thank you for coming along this afternoon to help us with evidence in relation to Algrade.

I'm really grateful to you for doing that. And I'm sure having, as I see from your CV, retired, you hoped that you would be able to leave all such formal engagements

to one side and I'm sorry to have interrupted that.

First of all, how would you like me to address you? Mr Scott? Eric? Either I'm very happy with.

A. I'm happy, Mr Scott's fine, my Lady.

LADY SMITH: Thank you.

I see you've got some papers with you, I'm guessing, in your briefcase there. We will be putting documents up on screen, if need be, to look at them. So you'll have them there. But, if it's easier to use your own, feel free do that.

A. I think, my Lady, what I have is probably what you have, so I'll work off the screen, if that's okay. I should be fine.

LADY SMITH: Thank you for that.

Otherwise, housekeeping, I take a break at about 3 o'clock in the afternoon, as a short breather. It enables the stenographers to get a break, of course, and the rest of us. I would be planning to do that if you're still giving evidence at 3 o'clock. But, who knows, we might get through it before then.

A. Thank you, my Lady.

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

MS MCMILLAN: Thank you, my Lady.

Q. Mr Scott, you provided your CV to the Inquiry?

A. I did, yes.

Q. And as the Chair has indicated, you are a retired solicitor; is that right?

A. I am, yes.

Q. When was it you became a solicitor?

A. 1981, I think was when I was first enrolled.

Q. Where did you work?

A. I am -- at that point while I was enrolled, it was at Campbell Smith solicitors in York Place.

Q. And I understand that you ultimately became a partner of Campbell Smith?

A. I did, yes.

Q. When was that?

A. I think that was 1984.

Q. Did you remain at Campbell Smith for the entirety of your career?

A. I'm afraid I did, yes.

Q. Now, could you tell us how you came to be involved in Algrade?

A. Yes. I think it would be the early part of 1995. I received a letter from a Dr George Morris, who I think at the time was the Chair of Algrade, who I may say

I'd never met before. And an issue had arisen amongst the trustees of Algrade, which suggested that some of the trustees may have been acting auctor in rem suam.

Q. Just for the sake of others in the room that might not know what that means: what do you mean by that?

A. Sorry, that they were acting in their own interests, which is a breach of the duty of a trustee.

As a result, a conflict of interest, or least a potential conflict of interest, had arisen amongst the trustees. And -- now, this is a very long time ago, so it's to the best of my recollection -- but I think he asked if I could assist those who perhaps had been acting in such a way and if I would see them.

Now, I had met these ladies before, albeit it was some time before that, so I was known to them. And if I remember rightly, I think I replied to the letter to say I would be happy to do what I could to help and it lay there on that basis for a few weeks, maybe months.

Q. Skipping forward: was it later then that you --

A. It was later that year. I'm sorry, I don't just remember exactly how this came about. But my recollection is that the Charities Office had indicated that they were now so concerned about the position that a judicial factor was to be appointed. And I can't remember if I was then contacted about that or if I then

contacted these ladies and said: look, you're at a stage now where you really must get proper legal advice. I don't recollect, now, just how that took place.

But anyway, they came to see me at that point, when the Charities Office had indicated they would be petitioning.

Q. I understand then, from that particular point on, you were involved with Algrade and had dealings in appointing new trustees?

A. Yes. What happened was -- and, again, it's very difficult to remember after all these years. But my recollection is, I think, the ladies that had consulted me had wanted to dissolve the trust and I was uncomfortable about that. And in fact I sought the opinion of a very eminent senior QC at the time and sought some guidance from him as to what he thought we ought to do. And his immediate advice was that these trustees ought to resign and that a new board of trustees should be put in place.

Q. Thank you. Mr Scott, we will go through the resignation process of the old trustees and talk about the Charities Office later on in your evidence.

With your involvement with this Inquiry, I understand that you firstly prepared a letter response following a Section 21 notice?

A. Yes.
Q. And thereafter, last year, the Inquiry asked for further information and, at that point, I understand you and another trustee prepared a further response for the Inquiry?
A. That's right, yes.
Q. How did you go about preparing your responses for the Inquiry?
A. I think my recollection is that quite a bit of information was asked about historic material that we simply didn't have and I knew nothing about.
Q. When you say that you didn't have it; was the material in existence?
A. I don't know, is the honest answer to that.

I think there were questions about how residents came to be cared for at Humbie and that was way beyond our knowledge.
Q. So are the documents that you prepared for the Inquiry done with your recollection from your involvement in about 1995 onwards?
A. Yes. And I think I went into -- by this time I had retired and I went back into the office to help my colleague complete this. And I did have a look through some of the files, just to sort of remind myself as to what had happened.

Q. When you mention you helped your colleague complete this; who was it that was working on it with you?
A. Helen Ferguson.
Q. Are we to understand that she's also a trustee --
A. Yes.
Q. -- of Algrade?

Currently, how many trustees are there?

A. There are four of us.
Q. Can I ask for you to have before you that letter that you prepared, back in December 2018. The reference for that is ALG.001.001.0001.

In particular, could I ask you to have a look at paragraph 3 of that letter that begins with:

'As I understand ...'

A. Yes, I have it.
Q. Are you able to see that? It says:

'As I understand it, the work of Algrade started some time in the 1960s as a Sunday school for children with learning difficulties. It transpired that this proved a popular undertaking and extended to the opening of a home for these children some time in the late 1960s or early 1970s.'

Touching on the Sunday school, that isn't something that would really require children to be in residential care?

A. No, no, it wouldn't.
Q. It was --
A. It was -- I would imagine it was something that took place on a Sunday afternoon for a few hours.
Q. Then we see that change to residential care in and around the late 1960s.

You mention in that paragraph that the premises were purchased from the Children's Holiday Fund in Humbie; do you know what that was?

A. What the Holiday Fund was?
Q. Yes.
A. My understanding is that it was purchased by another charity to provide holiday accommodation for deprived children in Edinburgh.
Q. And we see that you go on to say that:

'The work of Algrade at Humbie became a flagship for this kind of care and one of its founders, Ms Jean Macrae, was awarded an OBE. Four ladies were the driving force behind Algrade, namely Jean Macrae, Rosa Frisby and twin sisters Elizabeth Waugh and Wilhelmina Waugh.'

Again, when you say that they were a driving force behind it; can you tell us what you meant by that?

A. Again, this is my understanding of it. In fact, I found a very brief account, after I was cited for this

hearing, in a document which was actually the history of one of the Edinburgh churches. And what it said was that it did start as a Sunday school that became very popular, that there was -- I think it said 400 attending, which included families. And then a property was purchased in Middleton -- that was something I hadn't known when I wrote this letter -- and that led to the purchase of the property at Algrade.

And that these four ladies that I've named there, when I say they were the driving force, I think they were those who started this residential care. And certainly my impression all along had been that they had been the driving force behind it. They'd founded this trust with a view to providing residential care.

LADY SMITH: Mr Scott, do you have a date for when Jean Macrae was awarded her OBE?

A. I think it was 1979, my Lady. I checked that up just the other day. I didn't know that at the time I wrote the letter. But I think it was '79.

LADY SMITH: 1979. Thank you.

MS MCMILLAN: Now, the four ladies that you mention in that paragraph; are we to understand that they were the original trustees of Algrade?

A. That's my understanding, yes.

Q. Do you know if they were in charge of day-to-day

management?

A. That would be my understanding. I think the way it worked was there was probably one or two other trustees in name. But these were the four ladies that were driving the thing forward, and they were on the ground running the residential establishment.

Q. When you say that they were 'on the ground' running it; did they live on the premises at Algrade?

A. That's my understanding, yes, yeah.

Q. Now, turning to the other document that I think you helpfully provided to the Inquiry, the reference is ALG-000000001.

You mentioned part of the history, which we can see at paragraph 1.1. Stopping there, we can see that the constitution of the organisation states that:

'Its objects are to provide for the spiritual, physical and material welfare and education of the mentally handicapped and those with learning disabilities and to provide assistance to those associated with the mentally handicapped or those with learning disabilities in any way.'

As far as your understanding is concerned; were these the objectives then of the four original trustees?

A. Very much so, yes.

Q. And there's no distinction there as to whether or not

the care was residential care for adults and/or children; do you know any more about that?

A. I don't. Certainly in the 1970s, when -- early 1970s, I think it was largely children that they were looking after.

But I did come across a document the other day, and it was a list of names, which suggested -- and I don't know, I may be misreading the list -- but it did suggest that, perhaps, there were some adults living there in the early days of Humbie.

There was a person who had come to Humbie in the early seventies with a date of birth of 1945, which I confess I hadn't appreciated because I had thought it would have commenced only with children, but that may or may not have been the case.

Q. So, predominantly, the residents at Humbie would have been children, but you may have found information to suggest that --

A. Certainly the majority, I think, would be under 15.

Q. Are you aware at all of how the children came to be placed at Humbie?

A. No, not in particular. But I think most of them were placed by their home authorities. I was aware --

LADY SMITH: You mean the local authorities?

A. The local authorities, my Lady, yes.

I have it in my memory bank somewhere that some had come from the west of Scotland and I think they'd been placed by, I think it was Argyll and Bute, that authority.

Q. So this was local authorities, really, all over Scotland?

A. That's my understanding, yes.

Q. And again, subject to what you know of Algrade or Humbie; were you aware if there were any assessments done for admission to the --

A. No.

Q. -- the school?

A. No, I don't have any information about that at all.

Q. Did you find out during your course of preparation of these documents about the backgrounds of the four lady trustees that were involved --

A. No.

Q. -- and whether they had experience of working with children?

A. No, I don't know the answer to that.

One thing I did discover actually, just relatively recently -- and, again, it was just digging around trying to get some history for you -- was that Jean Macrae had started a school in Humbie and there was reference to school uniforms and things. That was about

as much that was said. And I rather assumed from that that Jean Macrae had been a schoolteacher. But I was reading between the lines a little.

I'm afraid that's as much as I know. I don't know what their history was with regard to care for this particular type of group.

Q. And when you found the information on Jean Macrae establishing a school; was that around about this particular time in the 1960s?

A. I don't know. I think that would have been the 1970s because I think it did refer to the Humbie School and I don't think they had entered the premises at Humbie until some time in the early seventies. So it must have been, I think, the early seventies. I think.

Q. Now, when you became involved with Algrade; were you aware of the routine there, the day-to-day routine?

A. No.

Q. Did you visit?

A. I visited -- well, actually, my wife and I visited Algrade -- I had forgotten about this -- we think probably in the early 1980s. And it was -- there was a big group of people there to see a sort of workshop that they'd created and they were selling -- some of them had been making bowls off lathes and things and I think they were selling those.

I have to say I'd forgotten about that. It was my wife that reminded me. But we didn't have any children at the time, so it must have been least 40 years ago. That was the only time I'd been to Humbie.

And then after the new trustees were appointed, we went out on one more occasion. And I went with the new trustees. But I was the solicitor and I was sort of standing back a bit, to be honest with you. You know, I wasn't there to do an inspection or anything or check anything out.

Q. So, prior to your involvement as the solicitor then, you were there with your wife, but you couldn't really tell us much about the routine or the care or the education?

A. I know nothing about -- no.

Q. Now, moving on then to the point where you actively became involved with Algrade. There is information that has been provided to the Inquiry that suggests that around the mid-nineties the local authority had concerns about the way that the organisation was run; can you tell us anything more about that?

A. Not really, to be honest. You know, I had an impression of what was happening.

Q. What gave you that impression?

A. At the point I became involved -- I actually don't know the exact age of the ladies, but they must have been in

their late 70s or early 80s. And, frankly, without any disrespect to them at all, it was fairly obvious to me that they were well past able to run an establishment like this. And it just seemed to me -- I've heard of an expression 'founders' syndrome', people that found this sort of charity and then won't let it go. I have to say that was my impression. It was something that really should have been handed over many years before.

That was the impression I had: these were just old ladies that, frankly, were well beyond the capability of running something like this.

LADY SMITH: I see, Mr Scott, from the response to our Section 21 notice, at the point that Ms McMillan has taken you to at this moment, you say that by mid-nineties, the Charities Office had become involved and the local MP had concerns about a lack of financial clarity; what is it that underlies you feeling able to state a lack of financial clarity as being a concern to the MP?

A. My recollection, my Lady, was the MP was sort of agitating. There was some information out there that things weren't as they should be. And in fact the Charities Office were principally concerned with the financial aspects of the charity, I think, rather than the care side.

1 And I can explain how I became involved with the
2 Charities Office and --
3 LADY SMITH: We will probably do that separately.
4 I just wondered what the lack of financial clarity
5 was that you were thinking about?
6 A. Well, my Lady, when this matter first came onto my desk,
7 there were issues about how the trustees had been
8 applying funds that the Charities Office must have been
9 aware of, and, you know, I can say more about that, if
10 asked.
11 And I think the local MP had obviously heard
12 something on the grapevine about that.
13 LADY SMITH: What do you recall being the problem in the way
14 they were applying the funds?
15 A. Well, what happened, my Lady, was -- the charity -- I
16 approached the Charities Office and they said they were
17 unhappy with the way the funds were being accounted for.
18 And there was an indication that we may have a situation
19 where trustees were failing to recognise what's theirs
20 and what belongs to the trust and that -- as it turned
21 out -- we instructed a forensic accountant and he looked
22 at all of the papers.
23 I have to say, his report was probably more critical
24 of the accountant who had been dealing with the trust
25 accounts. And in the 1990s, my Lady will know that

matters became much more regulated when it came to charities' accounts and our impression was just the regulations were almost just ignored by everybody and there was no proper paper trail about. There was properties being purchased. No minutes of why they were being purchased.

There was one property where -- what had happened was the trustees had put the money into the charity, bought property in the name of the charity, and then when I think they realised, 'Mm-hmm, we've done something wrong here', then had the money -- or had the property transferred out of the charity into their name alone.

So it was that -- the charity was almost being used -- in fact, I think the forensic accountant said: this charity is almost being used as a property development company for these ladies.

It wasn't done in a fraudulent way. It wasn't as though money was being purloined or anything like that. It was just a sort of 'granny knows best' sort of approach to the whole thing.

LADY SMITH: Thank you. That helps. Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

I think you were going on to tell us that you approached the Charities Office to assist with the

transfer of Algrade to new trustees at about that time?

A. Yes.

Q. Were there concerns at all about how the money was being spent?

A. There definitely was, yes. I mean, that was an issue.

When we instructed the forensic accountant, he basically took everything we had and did a fairly detailed report for us. And it wasn't so much how the money was being spent; it was how the money wasn't being spent that was the issue. And I think I remember we had a meeting with him, and he said: 'This is not what I was expecting. When I do this sort of thing, you normally see trustees taking money out of the trust. It's all disappearing into their pockets'.

That wasn't the case. In some respects it was the reverse. They were drawing minute salaries, hardly anything at all. And at the point I became involved, there was quite a large sum of money sitting in the account, which actually they had planned to use to refurbish the properties at Humbie. So it was almost like they were saving up to do this sort of thing, perhaps at the expense of care.

Q. I think that takes us to the point in the second page of the document we're on, it's 1.2, where you talk about how Humbie was funded.

So there appears to have been donations from -- the local authority has paid for part of it, donations and legacies. And there afterwards, there's a cafe in Pathhead which would also provide some funding to the organisation?

A. Yes.

Q. When you say there were concerns about the money not being spent, the person that you instructed who analysed the accounts; was there thought to be more costs that would be going out of the trust, for example staffing costs or costs for provisions, costs for education?

Is that something that was expected to have been seen?

A. I think, essentially, the place was being run on a shoestring.

I mean, this wasn't my area of expertise. I wouldn't have known what it cost to run something like this. But I do -- I have a very clear recollection that the forensic accountant, his approach to this was, you know, money's coming in. It's not just being spent. This is about frugality rather than dishonesty.

That's my very clear recollection of what we were faced with.

Q. And other than the financial concerns at the time of your involvement; were there any concerns that you were

aware of about the care or the day-to-day management?
A. Well, by the time I became involved, which I think was about maybe late May of 1995, the Church of Scotland had been looking after the residents since, I think, the October of 1994. And then a formal agreement had been entered into in early January 1995, and the new trustees took a very determined decision that in view of the history of all of this, they did not want the Algrade Trust to become involved in care again and that all of the care aspects of this matter should be left in the hands of the Church of Scotland.
Q. Were you aware of the various visits from social work in about that time?
A. No, I wasn't.
Q. Can I ask for you to have a look at another document? The reference is COS-000001386 and, in particular, page 2 of that document.

Now, this is a development officer's report that was dated 6 December 1994, so I understand just prior to your formal appointment.

We can see at the heading, 2, which says in the first paragraph of that:

'Nearly all of the residents came to Algrade as children and therefore have been resident for 20 years or more, a factor which will have importance in the

future planning for their care.'

Just pausing there. Is that something that accords with your own recollection?

A. It does. Yes, it does.

Q. We go on in that to see that at paragraph 2.4:

'Prior to the intervention of the board, the project was staffed mainly by volunteers, most of whom were elderly, with only 4.5 [four and a half] paid care staff.'

Again, is this something that you remember?

A. Maybe not quite exactly as that. But I'm confident that's an accurate statement, yes.

Q. Turning to the fourth page of this document, the paragraph 4.2(1), we can see that the report, in summary, recommends that each house is completely rewired to current IEE regulations, has central heating installed, has suitable ventilation incorporated, together with insulation and vapour barrier insulation throughout to combat the effects of condensation and has the water supply checked and all lead pipework and tanks replaced with plastic tanks and copper pipework.

It's fair to say from that particular paragraph that the actual accommodation at Algrade at this point seems to be insufficient?

A. Yes.

Q. From what you remember from your visit; is that something that you can tell us more about?
A. Well, you have to bear in mind I wasn't doing a site inspection.
Q. Of course.
A. My memory of the accommodation was it was a bit spartan.
Q. What do you mean by that?
A. There weren't many pictures on walls or things like that, you know. It didn't seem very homely, was my reaction to it. But that it was clean and tidy and, I suppose, we would have been visiting in the summer, because the new trustees were appointed in June, and I don't remember exactly when we went out, but it was fairly soon after their appointment. So it was probably July or August. So the weather would have been a bit better.

I should say, though, when I took over, the old trustees gave me a whole pile of architects' drawings from the firm of architects that is referred to earlier in this report. And I remember they hadn't had their fee paid, so one of the things I had to deal with was paying for that. And what I was told by the ladies was that the money in the bank was to cover this refurbishment.

Q. And if we go to the paragraph that's 4.2(3), you see

towards the end of that paragraph it suggests that there is a clear reluctance by the trustees to see this matter as anything to do with the board:

'Various attempts have been made to explain the necessity of board staff having the details of planned work, but these have been largely fruitless.'

Were you aware of difficulties between the trustees and the board when you were involved?

A. No, I wasn't.

Q. Then, towards the next page of that document, there's a paragraph 5. As you can see from paragraph 5.1, it says in the second line of that:

'There is a strong argument for working towards providing the service within more orthodox accommodation integrated into a community.'

Then paragraph 5.2 says:

'The shift in perspective from self-contained village to integration in the community is not one which the trustees would find easy to accept.'

Is there anything further you can tell us, perhaps, about that?

A. I'm certain that's an accurate statement.

In fairness, I should say that after the new board was put in place, we had a number of meetings with parents, some of which I attended, some of which

I didn't. But the trustees -- the new trustees had a number of things they were juggling and the parents or relatives of residents were a major issue. There was quite a lot of pressure coming from some of them.

Interestingly, I would say the majority, as I recollect, wanted Humbie to be refurbished and it has to be borne in mind: this had been the home of some of these people for many, many years and it is a beautiful setting. But the local authority had made it very clear to the trustees -- and, again, I can't give you the chronology of this.

But, at that time, if you were going to use this kind -- or you were going to be caring for adults like this, the property had to be registered and the local authority made it very clear they would not be -- even if the properties were brought up to scratch -- they would not be prepared to register the Humbie set-up. And I think what this is talking about here is there was a movement at this time to care in the community. And I think -- you'd need to ask the authorities this. But I think they felt this has become a sort of remote community, self-contained, that's really not interacting with the rest of the world and that's unhealthy. I think that was the view.

But I do remember early on -- and I can't remember,

it could have been the inspection service made it very clear to me -- that there was no point spending a lot of money on the Humbie properties because, even if you did, they would not be registered.

Q. This report appears to show us that around about this time, in 1994, there were concerns, however, about the accommodation and concerns about the trustees' attitude to the move to care in the community; is that something that you would agree with?

A. I can't say that's something I discussed with the old trustees. My relationship with them became very difficult, because I think they -- and in fairness, looking at it from their point of view, they came to me for help and then I became the bad guy because I was having to go to them and say, 'No, this property will need to be returned to Algrade' or 'You shouldn't have done this'. And I don't think we ever threatened litigation, but I was putting them under pressure to realise that things were not right and sums of money would have to be repaid to the trust.

So my relationship with them was pretty well soured shortly after the new board came on and -- sorry, I've lost now your question.

LADY SMITH: The start of this line of questioning was to do with the trustees' attitude to the prospect of moving to

care in the community, rather than residentially within the Algrade properties.

A. Thank you, my Lady.

I am certain that they would have been opposed to leaving Humbie. Undoubtedly, they would have wanted to leave things as they were.

In fact, I think their plan had been -- clearly it had been because they'd instructed, at some expense, architects to look at these properties and to have them brought up to standard. And I am in no doubt that their wish was: 'Yep, we'll do up the properties and everything will be fine and we'll all just be staying on in Humbie'.

Again, I say in fairness, there were a good number of relatives and parents who were keen on that idea. That was also what they wanted.

Q. And around about this particular time, I think we are to understand that there were no children resident within Algrade when you became involved?

A. Yes. I did find a document and I think it's relating to the residents who were there in 1995. And if that's what it is, the youngest resident, when we took over, was 32 and the oldest was 50.

LADY SMITH: But that doesn't necessarily tell you how old they were when they started living there; is that right?

A. It actually gave me those dates as well, my Lady.
LADY SMITH: Did it?
A. It did. Most of them would have been, I think, 12 or 13. But, as I think I said earlier, there was one or two that looked to me as though they had become residents at Humbie when they were adults. But by 'adults', I mean 20 years of age.
LADY SMITH: Thank you.
MS MCMILLAN: Thank you.
If I can ask you to look at one further report that's contained in this bundle at page 13. We can see that this is an inspection report. There have been 13 visits to the property between 3 November 1994 and 9 February 1995; do you see that at the top?
A. I do, yes.
LADY SMITH: And the report was dated February 1995 I think, was it?
MS MCMILLAN: My Lady, there's no date on it, but the assumption is that it is February 1995.
LADY SMITH: That would fit, I think, wouldn't it?
Yes. And the development officer's report, sent by the deputy director of community services, had been a December 1994 report.
MS MCMILLAN: Yes, my Lady.
LADY SMITH: So a couple of months later we have this

inspection report.

MS MCMILLAN: If I could just ask you, firstly, to turn to -- you'll see the introduction. It does appear, at the time of the report, that there were 32 residents and eight day attenders; can you tell us any more information about the day attenders?

A. No, I don't know anything about them at all. Sorry.

Q. We see in the next paragraph that the management has been transferred from the Algrade trustees to the Church of Scotland Board of Social Responsibility?

A. Yes. That would be the agreement, I think, of January '95, yes.

Q. And that would have meant the Church of Scotland Board of Social Responsibility became involved in the day-to-day management of the site and the caring commitments?

A. Yes. I think I see at 1.3 -- I have not seen this document before, but I see they say Muriel Rainey was appointed on 25 October '94, so I suspect that's when the Church of Scotland moved in.

My recollection was they'd been looking after the residents for a few months before the agreement was signed.

LADY SMITH: This is a document I think we got from the Church of Scotland, judging by the reference on it.

It's a COS reference we have.
A. Yes, my Lady, I don't think I've seen this.
LADY SMITH: I'm not suggesting you have.
I said February 1995 a moment ago. I think I meant January. If you go to the very end of the document, very end, we have got two signatories, Judy Moss and Sandra James. Then, in very small font, we have a reference that ends with 'jan95/ehd', so that might tell us.
MS MCMILLAN: Yes, my Lady, I see that reference there, albeit there does seem to be an inspection in --
LADY SMITH: There is an inspection in the February, around the beginning of 1995, perhaps. Okay. Thank you.
MS MCMILLAN: I think you had indicated that you hadn't seen this particular document before?
A. No, I don't think I have. No.
Q. Could I ask you just to look at paragraph 2.3, please, of that?
You can see here that there's mention in that paragraph of -- there were previously no management administrative systems in place:
'Therefore, from October to the present date, priority has been given to introducing basic administrative procedures.'
Is that something that you can tell us more about?

A. I don't know anything about that. But it's in line, I think, with the financial information as well. There was just a lack of process and procedure.
Q. Thank you. Moving on to the next page, at paragraph 3, it does appear from that paragraph that a number of staff have been appointed in various capacities?
A. Yes. Again, I've not seen this before. I need to explain that the new board really distanced themselves from this. I think they felt: 'No, the care now is in the hands of the Church of Scotland. We want to leave it there'.

So it wasn't something I was particularly involved with. In fact, I wasn't involved with it at all.
Q. Scrolling down to the paragraph that says:

'Resident care.'

We can see, at that point, that at paragraph 4.2, things have changed slightly. So:

'The residents and day attenders are now spontaneous and welcoming during the visits and relaxed about being in the inspector's company. This contrasts with the previous regime when contact was discouraged and the residents seemed watchful and suspicious, and were reluctant to speak.'
A. In all honesty, I can't comment on that.
Q. And at paragraph 4.4, I don't know if you're able to

comment on this at all either, but it seems to say that the choice and style of residents' clothing has also improved gradually:

'Each resident has been able to purchase new clothing and encouraged to select individual preferences in styles and colours. This has been difficult for some who, for example, think that all shirts should be white.'

Then it goes on to the next page:

'It will obviously take time to break down the effects of institutionalisation.'

Is this something that you can comment on at all?

A. The only thing I can say is that I noticed a lot of the residents were wearing the same sorts of clothes.

Q. What sorts of clothes were they wearing?

A. I remember the prominent colour was orange. Beyond that, I don't remember an awful lot. But I do remember thinking that there were three ladies actually living in Pathhead at this time and they were all dressed the same.

Q. Scrolling on, on that page, we have mention of Pathhead at 4.8, but it is the coffee shop there. I think we understand that a coffee shop was operated by the trustees, which formed obviously part of the income from Algrade; are you able to tell us anything about that?

A. Yeah, my recollection was there was three ladies who were living in those properties.

I have to say those properties were of a very high standard. They were very acceptable in terms of standard and they were still working in the coffee shop that was run by the Waugh sisters. And in fact with these properties, we had thought that perhaps we could move residents out of Humbie into these properties because I think, if I remember rightly, there were three bedrooms, but there was only one person living in each. My recollection was three rather than four, but I may be wrong. And I think the trustees met up with some of these ladies and the message that came back was: 'Well, we don't want anybody else living with us'.

But then what emerged was that the -- I think it was the inspection service felt that this was part of the problem of institutionalisation and to have residents living right next to this cafe that the Waugh sisters were running was just unhealthy.

Q. I think we see, perhaps, some of that referenced in paragraph 4.8, where it talks about the coffee shop and the residents that attend there, saying:

'They appear to be influenced by the trustees who run the coffee shop and are openly hostile to the new managers and inspectors. If manipulation of these

residents is taking place, it is not in their best interests and their employment in the coffee shop may have to be carefully considered.'

A. Yeah, I can't comment on that directly. I have a very vague recollection of being in the Pathhead properties once and I would be with at least two other trustees at the time, and I wasn't really engaging in the conversation. But my impression, to be honest with you, was that these three residents had been given quite a bit of latitude to do their own thing and now that a new regime had moved in, they were feeling it a bit restrictive. And it may well be that the Waugh sisters had some influence there as well. I suspect there's something in that.

Again, it wasn't something I was really directly involved with or concerned with. We were more concerned with what were we going to do with these properties rather -- and I think the meeting I was at, it was for me to say: 'Look, we might be moving other people in'.

I think that was the nature of the discussion.

LADY SMITH: So am I right in thinking the picture was looking as though, despite management of Algrade having been handed to the Church of Scotland, with the trustees still being the trustees of the Algrade Trust, despite that, the people who had had to hand over their

managers' responsibilities actually weren't backing off?
A. I think that's probably a fair assessment of it, my Lady.

One has to remember, these ladies had been looking after these residents for many, many years and, in some respects, it was quite quaint. But they were all -- it was Auntie Betty and Auntie Mina and Auntie Rosa. It was, I felt, almost like a 1940s model. As I say, it was very much like living with granny.

So my suspicion is that these ladies would still have quite a lot of influence over some of these residents because they'd been living with them, perhaps, for the best part of 25 years.

LADY SMITH: Oh, and the residents wouldn't have understood the change.
A. Many of them would not have, my Lady. That's certainly true. Although the three ladies that lived in Pathhead were all a bit more able and they all -- in fact one of them -- it's another story, but one of them married. But they all moved out into the community, I think, with a minimal amount of support.
LADY SMITH: What was needed here? The women who had been in charge would be told in words of one syllable, 'you have to leave', and that didn't happen or what? Do you know?

A. My Lady, again, it's just an impression one has, but I remember meeting with them and maybe being a bit taken aback at how elderly they were. And although there was a frailty about them, Betty Waugh in particular was a very, very strong character. She was a very strong character and I could imagine her -- in fact, I have to say -- and I don't want to speak ill of her unnecessarily -- but, at times, I found her quite difficult. She had, you know, a view of the world, and it was difficult to persuade her that maybe another perspective was more appropriate.

LADY SMITH: And she didn't know how to live her life any differently because she had been doing this for so long?

A. I think that's right, my Lady, yes.

LADY SMITH: Thank you. Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

Having spoken about the care and the accommodation, it's my intention now to show you a short -- or about 15 minutes of the Frontline documentary that was produced in January of 1996. Reference for the Inquiry is BBC-000000045. If I can just play that now and I'll have some further questions for you.

(Video played)

MS MCMILLAN: I'm aware of the time, I wonder if now might be appropriate for a short break.

LADY SMITH: We'll take the break just now. Thank you.

(3.10 pm)

(A short break)

(3.27 pm)

LADY SMITH: Welcome back, Mr Scott. Are you ready for us to carry on?

A. I am, my Lady.

LADY SMITH: Thank you. Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

Just before that short break, we had the opportunity to watch part of the Frontline documentary. I think we have seen you in that, perhaps talking about some of the finances?

A. Regrettably, yes, you did.

Q. There were other things that were discussed within that, such as concerns about the accommodation, concerns of the food, the standard of the food, and indeed there were, I think, allegations of abuse mentioned in it as well. So it's those that I want to turn to now.

You might have recalled, in the programme, that there was mention of a punishment of a child -- no, of a resident, sorry, who was standing in a pit of rotten fish; do you recall hearing that?

A. I do, yes.

Q. Was this anything that you were aware of through your

involvement?
A. No. No, I wasn't.
Q. Can I ask you to just have before you the Church of Scotland document again, and in particular it's page 22 of that. I think we can see the second paragraph of that and it says:

'When he said Hail Marys and Our Fathers as a punishment, she'd make us stand in a pit of rotten fish and bones, dressed only in his underpants. He said that the fish heads were covered in maggots. He said he was in the pit when it was raining and also when it was dark.'

From the bottom of that, this appears to be a note that was made on 11 December 1995; do you see that there?
A. I do, yes.
Q. I don't expect you will have seen this document before?
A. No, I haven't. No.
Q. But it appears to be a written note of what we heard in that programme?
A. Yes, it does. Yes.
Q. Looking at it, it does appear that this is some form of punishment towards a resident, albeit it's not clear if it was a child or adult at that time; is there anything you can say about that?

A. No, not directly. After that programme was broadcast, there was a sort of mixed reaction to it by parents. And I do remember there was one lady contacted me and her words, as I recollect, were 'Betty Waugh was strict, but she was never cruel', and she was clearly very sceptical about the truth of this allegation. But it wasn't something, frankly, I wanted to get involved with. We did try to keep some distance away from this sort of thing and we left it very much to those who were looking after the residents at the time.

LADY SMITH: When you say 'we'; who are you referring to, for completeness?

A. I say 'we', I mean the trustees.

LADY SMITH: The trustees. Thank you.

MS MCMILLAN: My Lady.

Now, moving on to the other references of abuse in that particular programme, we heard about a name PSB; did you have any awareness of who PSB was?

A. Yes, I did. I remember him being on the staff and I also recollect, after I became the solicitor for the new trustees, that PSB asked to see me. He made an appointment to see me. I had no idea what it was about, and he came in and said he had been accused of abusing the residents. So I immediately explained to

him (a) I was not a criminal solicitor, so this was not my area of expertise. More importantly, there was a clear conflict of interest and I couldn't possibly act for him. And that was the last time I saw Mr PSB, which must be 30 years ago.

Q. Were you aware at all at how Mr PSB ended up working at Algrade?

A. No.

Q. And in preparing to give evidence; have you seen any employment records --

A. No.

Q. -- about Mr PSB?

A. No, I haven't.

Q. I think later on you do become aware that he was subsequently convicted for --

A. I found that out through the press, I think.

Q. -- abuse?

A. I think there would be TV and newspaper reports about it, as I recollect.

Q. Other than having an awareness of his conviction or finding out through the press and the newspaper about it; were you aware of any other allegations of abuse at Algrade?

A. No, I wasn't.

Q. Could I ask you once again to have a look at the same

document that we're on, but it's page 29 of that document. We can see that this is a letter dated 14 December 2001 to David Kellock, Deputy Director of Social Work.

Just scrolling down that first paragraph; do you recognise this as a letter that you had written?

If we go to the very bottom, over the next page, it might help. You can see your name there.

A. Yes. I have to say I'm not remembering this letter. I've not seen it, but ...

Q. Just going to that first paragraph, it says:

'Now interviewed someone who had made allegations of sexual abuse. There appear to be three allegations, one of which is kissing on the cheek, the second is kissing on the lips and the third appears to amount to a case of indecent exposure. At least the first two allegations are almost insignificant.'

I trust that this is the first time you have maybe seen this letter in quite some time?

A. It is. I have to say I had completely forgotten about this.

Q. Reflecting on it now, this does appear to be a report of sexual allegations.

A. Yes --

LADY SMITH: Well, you say that in the second line,

Mr Scott?

A. Yes. I'm sorry, my Lady, I have to say this is coming back to me. I had completely forgotten about this.

LADY SMITH: Do you want a few minutes just to read through it?

A. It would be helpful if I could.

LADY SMITH: You do that and tell me when you're ready to talk about it.

(Pause)

A. Maybe if we could scroll down a little bit.

(Pause)

And the next page.

(Pause)

Yes, thank you.

(Pause)

Fine, thank you. I've read it.

MS MCMILLAN: Thank you.

Mr Scott, now having taken the opportunity to refresh yourself about that particular letter; would you agree now that first paragraph does seem to relate to an allegation of sexual abuse?

A. Yes, it does.

Q. I think you note in that final sentence of that first paragraph:

'At least the first two allegations are almost

insignificant.'

Looking back today; do you have any reflections about that?

A. Yeah. I'm desperately trying to remember who this was about. But, yes, I accept that the allegations are serious. Yes.

LADY SMITH: All three of them?

A. Yes.

LADY SMITH: Why do you think you were minded to write:

'At least the first two allegations are almost insignificant.'

A. My Lady, it must have been the impression that I had from -- the impression I got from the person in front of me. The situation with [redacted] was complicated and I can't remember how these two things came together --

LADY SMITH: We might come to that in a moment. I'm just thinking about it from the point of view of the female who has made allegations.

It must have been, from the perspective of that female, significant enough to articulate, mustn't it?

A. My Lady, yes. I think this was in the context -- and I mention this in a response -- that there was an action against Algrade by one of the former residents. And it may have been in the context of that case that I think I interviewed this person.

LADY SMITH: All right, okay. Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

Just looking at the next paragraph of that, it appears from that that you speak to or speak about the alleged abuser. The very last line, second last sentence:

'I heard the residents talk like this myself from time to time, but my impression of it all was that it was totally innocent. Some of it would fall into the realm of childish fantasy.'

And this appears to be talking about, apparently, other residents used to describe this person as a boyfriend of such.

A. Yes.

Q. Again, reflecting on it now; is it still your view that it would fall into the realm of childish fantasy?

A. I think I remember at some point in the past that the residents used to assist with various events round the city and they would sometimes -- it would usually be a church event. And I can't say I remember the specifics of this. But one of the boys would say, 'She's my girlfriend', and this sort of thing. I think that's what I was referring to there.

Actually, this is -- sorry, I hadn't anticipated this was coming up. This is beginning to come back to

me now. I think this was in the context of an action against Algrade and allegations were made against this individual. I think it may have been in the context of that case and I asked him to come and see me and he -- it's coming back to me now. He was very, very distressed about it.

And he had never -- he knew nothing of these allegations. And the person who was making -- well, that's where [redacted] fits into my letter. I think I was putting it to him that these allegations were being made and asking him for a response as part of the defence to the action.

LADY SMITH: Sorry, how does that explain [redacted]?

A. The situation, my Lady, with [redacted] is that the action -- when we took over, or when the trustees took over, [redacted] was living in one of the properties in Pathhead and he appeared to have formed a relationship with one of the other ladies at Pathhead, who was a resident. He was on the staff.

LADY SMITH: He was on the staff.

A. In fact he married that resident later on. But I do remember one of the -- in fact, I think I refer to it there, William Davidson, who was one of the trustees, went round and gave him short shrift because he was hanging around one of the residents.

It's -- unfortunately, all the papers for this case have been destroyed, because the action concluded over 20 years ago, so it's hard to remember exactly what happened. But I think, if I remember rightly, what the -- the gentleman against whom the accusation had been made thought that actually this was behaviour on [redacted]'s part that was being attributed to him. I think that was how this fitted together.

LADY SMITH: Right. Thank you.

A. But I have to confess, I'd forgotten about this incident. The action was eventually settled, so we never went into this sort of detail in court.

LADY SMITH: Do you happen to remember at what stage it was settled?

A. I remember Lady Dorrian was acting for the pursuer, my Lady, and I think it was settled on the morning of the proof or -- because I remember us marching up and down Parliament Hall with some of the trustees present.

I have to say, my Lady, my recollection of that case is -- and I have forgotten -- I had genuinely forgotten about these allegations. But the case was more to do with someone who could live independently and felt she had been deprived of life's opportunities, and she was working in the Pathhead cafe. So I have to say, my recollection of it was much more a matter of financial

loss.

LADY SMITH: Thank you.

MS MCMILLAN: Thank you, my Lady.

Just before I move off from this particular document, the allegation that is spoken about in this letter; are you aware of any timeframe for that?

A. No, I can -- I suspect it was something that appeared in a summons. And I sought this chap out and I think I would be precognoscing him with a view to preparing defences or something like that. I can't be certain.

Q. So you can't assist as to whether or not the individual who is making the allegations -- whether this may have happened to them when they were a child or an adult?

A. I'm fairly certain it was when she was an adult.

The only reason I say that is because there was some suggestion that this behaviour was -- or [redacted]'s behaviour was being imprinted onto this particular individual and they would all have been adults at the time.

Q. Thank you, Mr Scott.

Just going back to your response that you submitted to the Inquiry in September of last year, that is the Algrade reference ALG-000000001. If we can have a look at this. I think you do -- and then just scrolling down to appendix 1, which is towards the end of the document.

It's on page 12. If we can scroll to the bottom of that, at 5.10, I think we see there that it says:

'The present trustees are not aware of any civil actions which have been brought against the organisation and/or establishment relating to abuse or alleged abuse of children cared for at the establishment. A civil action was raised against the trustees for financial loss by a former resident.'

So when you were answering those questions there; is this what you were talking about?

A. I confess that was my memory of it. But, obviously, there was an allegation somewhere in the course of those proceedings, which I confess I'd completely forgotten about.

Q. It does appear from that letter that there was perhaps an allegation of financial abuse and/or sexual abuse as well?

A. Yes. As I say, my recollection of it was that we were settling for financial loss.

LADY SMITH: Ah, but that doesn't mean that that was all that was claimed for.

A. No, indeed, my Lady, I accept that. Unfortunately, my Lady, as I say, all the papers on this case were long since destroyed.

LADY SMITH: I do understand that Mr Scott and we are

talking two decades ago and more.
A. Yes.
LADY SMITH: Thank you.
MS MCMILLAN: As far as you're aware, Mr Scott, is that really all the allegations of abuse that you can at least remember?
A. These are certainly all the ones I remember, yes.
Q. We touched on this perhaps during the course of your evidence, but Algrade is no longer operating as a residential home?
A. No. The way it works now is Algrade -- all the properties were sold, four new properties were purchased, and I think there are now -- there will be about 10 or 12 residents in Algrade properties. But all we do is provide the properties and the Church of Scotland provide all the care.

And I may say, I think it works exceptionally well. I do visit there probably once a year and it's just a joy to see how well they're all doing.
Q. And when you talk about the care that the Church of Scotland provides, I understand that that just simply relates to adults only?
A. It does, yes. I think all of the residents are probably -- the youngest -- the youngest would probably be 50. They're all getting up in years.

LADY SMITH: Would I be right in thinking, Mr Scott, that the church does this through their outreach organisation, CrossReach?

A. They do, my Lady, yes.

MS MCMILLAN: Thank you, Mr Scott. I don't have any further questions for you.

LADY SMITH: Mr Scott, nor do I. I just want to thank you again for coming along again this afternoon and allowing us to mine your memory. I must say I appreciate we were asking you to go back a long time, but it's been really helpful to have the information you have got.

A. Thank you, my Lady.

LADY SMITH: Do feel free to go, with my thanks.

(The witness withdrew)

LADY SMITH: I think we should call it a day at that. But, before I leave, it will have been noticed that the McConnachie family, both a resident at Algrade and his parents, were identified in the documentary, BBC Frontline. They may be covered by my General Restriction Order, so for the time being they are not to be identified outside this room.

Thank you. Now, do we have anything to say about what's happening tomorrow?

MS MCMILLAN: Yes, my Lady. I understand that there are three witnesses tomorrow, so there will be further oral

evidence.

LADY SMITH: Thank you very much indeed. I'll rise now until 10 o'clock tomorrow morning.

(3.50 pm)

(The Inquiry adjourned until 10.00 am on Friday, 2 May 2025)

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