Scottish Child Abuse Inquiry

Case Study no. 9: Volume 5

The provision of residential care in boarding schools for children at **Merchiston Castle School**, Edinburgh, between 1930 and 2021

Evidential Hearings: 30 March 2021 to 4 February 2022

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Merchiston Castle School: former pupils, staff, chair of governors, and other witnesses

In order to provide the reader with a clear understanding of the references to applicants and other witnesses whose names feature throughout these findings, I have included quick reference tables, Table 1 (former pupils), Table 2 (former and current staff), and Table 3 (other witnesses).

Table 1: Former pupils who provided evidence to SCAI

Name	Time at Merchiston Castle School
'James'	1954–9
'John'	1958–63
'James'	1960–3
'Glenn'	1963–8
'Jack'	1965–8
'Gerald'	1966–71
'Graham'	1967–72
'Vincent'	1970–4
'John Crawford'	1970–5
Gareth Baird	1970–5
'William'	1974–7
'Mark'	1981–7
'Muir'	1986–8
'Craig'	1986–93
'Ian'	1986–93
'Andrew'	1994–8

Table 2: Former and current staff who provided evidence to SCAI, and those in governance roles

Name	Period of employment	Role(s)
'Edward'	1965–78	Teacher
'James'	1966–79	Teacher
'Antoine'	1976–85	Teacher, housemaster
'Glenn'	1976–2009	Teacher
Marion Muetzelfeldt	1979–2018	Maths teacher (1985–96), head of maths (1996–2015), deputy head academic (2000–15)
David Spawforth	1981–98	Headmaster
Peter Hall	1984–2017	English teacher (1984), head of drama (1986), house tutor (1989), housemaster (1994–9), head of junior school (1999), deputy head (2012–17)
Maria Victoria Prini-Garcia	1986–2016	Spanish teacher (1986–2016), Spanish and Latin teacher (1990–9)
Stephen Campbell	1994–2020	Maths teacher (1994–2007), head of maths (2007–11), assistant head academic (2011–15), deputy head academic (2015–20)
Nicholas Diver	1997–2000	History and politics teacher
Andrew Hunter	1998–2018	Headmaster
'Robert'	2001–5	Teacher
'Jane'	2005–20	Teacher
Gareth Baird	2014–25	Governor (2014–15), Chair, Board of Governors (2015–25)
Jonathan Anderson	2018–25	Headmaster

Table 3: Other witnesses who have provided evidence to SCAI

Name	Dates
'Diane'	Parent of former pupil (2000–5)
Marion Crawford	Inspector, Care Inspectorate (2002–13)
Iain Lamb	Inspector, Care Commission (2002–22)
'Jenny'	Parent of former pupil (2003–6)
Amanda Hatton	Executive director, Children, Education and Justices Services, City of Edinburgh Council (2021–present)

Foreword

These are the fourteenth of my published case study findings and they relate to the provision of residential care for children at Merchiston Castle School, Edinburgh.

During the public hearings in the overall boarding schools case study, I heard evidence about many aspects of the boarding provision for children at these schools that amounted to dreadful abuse. It showed that boarders and day pupils were subjected to abuse, that both the boarding and day school environments were ones where there were numerous abusive practices perpetrated by members of staff and other pupils, and that these went unchecked.

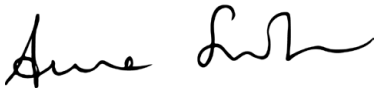
Merchiston Castle School, in common with four of the other schools in the boarding schools case study, continues to offer boarding provision, and I heard evidence about the residential care for pupils there up to the closing date of the hearings. The evidence of applicants, whilst relating to experiences within the overall period specified in SCAI's Terms of Reference – from within living memory to 17 December 2014 – inevitably extended beyond December 2014. It would have been artificial and, I decided, quite wrong to curtail it. Hence the dates specified on the cover of this volume.

I am very grateful to all who have provided evidence to the Inquiry, whether former pupils, former and current staff, or others. The cooperation and assistance of, and contributions from, all the witnesses about their experiences at the school, as well as their wider experiences, learning, and ideas in relation to the provision of education and residential care in Scottish boarding schools have been invaluable.

In reaching the stage of publication of these findings – from detailed analysis of all the evidence ingathered to the final document – I have once more had the benefit of being supported by the exceptional teamwork that has become the hallmark of this Inquiry. I am very grateful to the Inquiry counsel who led in the case study and the members of staff involved at each stage; their diligence and commitment has been remarkable.

Applicants and other witnesses continue to come forward to the Inquiry with relevant evidence about boarding schools and this will be considered as part of a continuing process.

I would encourage anyone who has relevant information on any aspect of our work to get in touch with our witness support team. We want to hear from you.



Lady Smith

Preface

The Scottish Child Abuse Inquiry (SCAI)

SCAI's Terms of Reference (ToR) require it to 'investigate the nature and extent of abuse of children in care in Scotland' during the period from within living memory to 17 December 2014 and to create a national public record and commentary on abuse of children in care in Scotland during that period.

The requirement is to investigate sexual, physical, psychological, and emotional abuse and, at my discretion, other types of abuse including unacceptable practices (such as deprivation of contact with siblings) and neglect. There is also a requirement to make findings about the impact of abuse.

SCAI is also to consider the extent to which any form of abuse arose from failures in duty by those with responsibility for the protection of children in care. In particular, SCAI is required to consider whether any abuse arose from systemic failures and the extent to which any such failures have been addressed. It is to make findings and recommendations for the effective protection of children in care now and in the future.

A copy of SCAI's ToR is at Appendix A.

'Applicant' is the term SCAI uses for a person who tells SCAI that (s)he was abused in circumstances that fall within the ToR.

Public hearings

In common with other public inquiries, the work of SCAI includes public hearings. They take place after detailed investigations, research, analysis, and preparation have been completed by SCAI counsel and SCAI staff. That stage can take a long time. The public hearings of SCAI include – importantly – the taking of oral evidence from individuals about their experiences as children in care and the reading of a selection of evidence from some of their written statements. The evidence also includes accounts of the impact of their having been abused as children in care, including in boarding schools. During and following the evidential hearings into case studies, applicants and other witnesses may come forward with further relevant evidence and such evidence will be taken into account.

Children were abused in a substantial number of institutions in Scotland and were also the subjects of an inherently abusive child migration system that resulted in many of them being abused at their destinations. It is not, however, realistic to present every institution and instance of abuse at a public hearing; were SCAI to do so, an Inquiry that is, of necessity, a lengthy one would be unduly prolonged. Accordingly, with the assistance of SCAI counsel, I will continue to identify particular institutions and matters that are representative of the issues being explored by SCAI and thus appropriate for presentation at public hearings of evidence.

Section 21 responses

Under section 21 of the Inquiries Act 2005, as Chair of this Inquiry, I have the power to require persons to provide evidence to SCAI. Institutions targeted by SCAI as part of its investigations have been issued with various section 21 notices. These notices include a requirement for them to respond in writing to questions posed by the SCAI team. These questions are divided into parts: Part A – Organisation; Part B – Current Statement; Part C – Prevention; Part D – Abuse and Response. Hereafter these will be referred to as the 'Parts A–D section 21 notice'.

Merchiston Castle School responded to its Parts A–D section 21 notice. The responses to Parts A and B are dated 28 April 2017[1] and those to Part C and Part D dated 14 July 2017.[2]

Written statements

Applicants and other witnesses can tell members of the SCAI team about their experiences as children in care. Applicants may do so at a 'private session'.[3] Other witnesses may do so at an Inquiry interview. All witnesses are supported by SCAI's witness support team. Written statements are prepared covering those matters spoken about which are relevant to the ToR. The applicant, or other witness, is asked to check the statement carefully and to sign it as being the truth if satisfied that it is accurate, but only if and when (s)he feels ready to do so.

This case study

The scope and purpose of this case study was to consider evidence about:

- the nature and extent of any relevant abuse at Merchiston Castle School
- any of Merchiston Castle School's systems, policies, and procedures, their application, and their effectiveness
- any related matters.

Leave to appear

Leave to appear was granted to the following in relation to this case study, in whole or in part:

- Merchiston Castle School
- the Care Inspectorate
- the Scottish Social Services Council
- the General Teaching Council for Scotland
- Police Scotland
- the Lord Advocate
- the Scottish Ministers

Numbers

The former pupils who have provided evidence to SCAI in relation to their time at Merchiston Castle School do not represent every person who has made a complaint over the years relating to their experiences at the school. It must also be appreciated that

1 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245.

2 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003; Merchiston Castle School, Part D response to section 21 notice, at MER.001.001.0142.

3 www.childabuseinquiry.scot/giving-evidence-applicant

many former pupils have also described the treatment they witnessed being afforded to other children. Appendices D and E set out, in relation to Merchiston Castle School, the numbers of:

- children who have boarded at Merchiston Castle School
- complaints of alleged abuse received by Merchiston Castle School
- civil actions raised against Merchiston Castle School
- relevant SCAI applicants to the dates specified in Appendix E.

Some witnesses, including former boarders at Merchiston Castle School, have provided statements to SCAI since the hearings took place, and some of them are referred to because of their relevance to other evidence I had already heard. Otherwise, these statements have been carefully considered and will be taken into account in assessing the overall picture.

Witnesses representing Merchiston Castle School

Mr Jonathan Anderson, headmaster of Merchiston Castle School, provided evidence to SCAI on two occasions: 30 March 2021 and 27 January 2022.[4] Gareth Baird, Chair of the Board of Governors, also gave evidence on the latter date.[5]

Merchiston Castle School

I find that children who boarded at Merchiston Castle School were exposed to risks of sexual, physical, and emotional abuse. For many, those risks materialised, and children were abused whilst in Merchiston Castle School's care.

This case study as compared to my findings in previous case studies

The abuse I find to have taken place at Merchiston Castle School is, in many respects, similar to the abuse I found to have taken place at other boarding schools, including Loretto School, Morrison's Academy, Gordonstoun, Queen Victoria School, and the boarding schools run by two male religious orders, the Benedictines and the Marist Brothers.[6] There were also similarities in relation to causative factors such as staff who lacked the appropriate skills and training; inappropriate recruitment policies; insufficient oversight of pupils and teachers; and unregulated, unsupervised power being given to older pupils. Accordingly, I will at times use language in these findings similar to the language used in the findings of previous case studies.

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4 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.1–104; Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.58–105.

5 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, pp.1–57.

6 Scottish Child Abuse Inquiry, Case Study no. 5: The provision of residential care in boarding schools for children in Scotland by the Benedictine monks of Fort Augustus Abbey between 1948 and 1991 at Carlekemp Priory School, North Berwick, and Fort Augusts Abbey School, Inverness-shire (August 2021); Case Study no. 7: The provision of residential care in boarding schools for children in Scotland by the Marist Brothers between 1950 and 1983 at St Columba's College, Largs, and St Joseph's College, Dumfries (November 2021); Case Study no. 9: Volume 1: The provision of residential care in boarding schools for children at Loretto School, Musselburgh, between 1945 and 2021 (April 2023); Case Study no. 9: Volume 2: The provision of residential care in boarding schools for children at Morrison's Academy, Crieff, between 1945 and 2007; Case Study no. 9: Volume 3: The provision of residential care in boarding schools for children at Gordonstoun, Moray, between 1934 and 2021; Case Study no. 9: Volume 4: The provision of residential care in boarding schools for children at Queen Victoria School, Dunblane, between 1951 and 2021.

Terminology

Many children in care were, within the period covered by SCAI's Terms of Reference, abused sexually, physically, and/or emotionally through the conduct of other children. Details of such abuse are set out in case study findings. It may have involved coercion, threats, aggression, all forms of bullying, and, typically, an imbalance of power – with that imbalance arising from a difference in age, ability, status within the institution, physical size, and/or physical strength. It often occurred in an environment where the culture facilitated rather than prevented such conduct or behaviour.

Sometimes it will have involved children specifically targeting other children. The terms 'children abused by other children', 'children who suffered abuse meted out by other children', 'children who engaged in abusive behaviour', and/or 'children who engaged in abusive conduct', and similar expressions are used in this volume when referring to such conduct and/or behaviour.

I recognise that the abusive conduct may have taken place against a background of the child who abused another child having exhibited harmful behaviour which had not been recognised and/or addressed and which may also have been harmful to that child. I also accept that, in some cases, a child who abuses another child may have suffered prior trauma. But it does not mean that the child who was abused did not suffer or was not harmed.

Many applicants described abuse of a type that could have amounted to a criminal offence. Some of it plainly did amount to a criminal offence. The language in these findings reflects the words they used in evidence. The abuse of children in boarding schools may have amounted to the common law offence of lewd, indecent, and libidinous practices and behaviour, an offence which involved the abuse, including on occasions penetrative conduct, of children under the age of puberty, then taken as 14 for boys and 12 for girls. Today, sexual offences involving children would be prosecuted under the provisions of the Sexual Offences (Scotland) Act 2009, and any penetrative conduct involving a child, be it vaginal, anal, or oral, using a penis, is likely to be described as rape.

Part V of the 2009 Act introduced a new offence of 'sexual abuse of trust', an offence that may be committed in different ways, including where a person who is responsible for looking after children under 18 in a boarding school engages in sexual activity with them.

Other terminology used in these findings includes the word 'cliping'. Cliping, or clyping, is the act of informing on another or, to put it colloquially, telling tales. A clipe, or clype, is someone who does this. Those who clipe are breaking an unwritten code of silence and may be isolated by their peers for doing so.

Summary

- Children were abused at Merchiston Castle School (Merchiston).

- Eight teachers abused children sexually. Seven were male and one was female. Conduct included voyeurism and encouraging nudity, indecent exposure and indecent assaults, and lewd and libidinous practices. In the case of the female member of staff, it included encouraging senior pupils to engage in sexual intercourse with her and actually engaging in sexual intercourse.

- Two of the male teachers who sexually abused children, Mervyn Preston and James Rainy Brown, were prolific abusers and between them harmed children over at least six decades. Rainy Brown, a former Merchiston pupil, was taught by Preston and, as a teacher, had close associations with two paedophiles who had connections with the school.

- Some children sexually abused other children. Such behaviour was not common and staff appear to have ignored it if they thought it was consensual. There were, however, times when it was not consensual; in those instances some children, including dorm captains, reported the abuse.

- Physical abuse by staff was not common and, before corporal punishment was banned, most teachers did not use it excessively or inappropriately. However, there were five teachers whose administration of corporal punishment clearly amounted to abuse, some of it particularly dreadful. Some applicants felt there was a link between this and also being sexually abused.

- Two teachers stand out as using corporal punishment sadistically, beating beyond accepted maxima and using extreme violence. One of them did so despite having pastoral responsibilities. The severe nature of his beatings was well known but the school did not stop him doing so or discipline him.

- There was physical abuse of pupils by other pupils principally as an aspect of bullying. It was and remains a consistent problem.

- A lack of school supervision over decades, particularly up to 1980, allowed a bullying culture, often combining violence and emotional abuse, to flourish amongst the boys.

- Pupils who were perceived as different in some respect and did not fit the Merchiston mould were vulnerable to being abused, and such children were often abused.

- The most obvious difference that rendered a child vulnerable was lack of sporting ability, but abuse could also arise because of social status, being thought to lack academic ability, physical differences, or between those who came from a prep school and knew the boarding system already, and those who had not arrived at the school via that route.

- For decades, differences – particularly those that made children vulnerable – went unnoticed by the school and staff. That failure allowed hierarchies to develop, in part encouraged by the supremacy of rugby, something that continued until the 1990s.

- If children fitted well into the Merchiston mould, they tended to enjoy their experience of the school.

- In their role as prefects, pupils were allowed to beat other pupils until 1974. Many applicants agreed there was a risk that prefects and staff could do as they liked when it came to corporal punishment given the absence of proper oversight or explicit boundaries.

- Records of beatings were kept; they record that corporal punishment could be – and was – given for trivial reasons such as for having hands in pockets or reading after lights out. These reasons did not justify any corporal punishment of children let alone beating them.

- Emotional abuse by pupils, usually arising from a boy being perceived to be different in some respect, was common.

- Those who were perceived as different, for whatever reason, experienced isolation, derision, and/or humiliation.

- Homophobic abuse was commonly used as a weapon.

- Two members of staff used emotional abuse to undermine children's confidence and to deliberately humiliate them.

- Merchiston was, until the 1980s, known as a somewhat austere and traditional boys' school where sport, in particular rugby, dominated.

- The Merchiston culture, where toughness in adversity was encouraged, facilitated and exacerbated abuse.

- Merchiston's expectation of resilience and stoicism supported a culture that prevented many children from speaking up, particularly about abuse by other pupils. The need to be tough drove boys to silence. Some children were able to report abuse but not always with a successful outcome.

- Fagging, in the traditional sense of a junior pupil being allocated to a particular senior boy to carry out certain duties for him, was in place at Merchiston until 1981. There was no evidence that it was used abusively by boys. However, it seems that it was also possible for boys to 'fag' for a member of staff, and one teacher was remembered for sexually abusing his fag in the 1950s. The risk of senior boys using their power in relation to the fag must have been inherent in the system.

- Merchiston was a school where rules mattered. Its regime was characterised by deference to authority, but rules were not adequately formalised or published for decades. There was no induction for pupils or staff until the 1980s.

- Merchiston's regime, leadership, and governance remained static and complacent, if not self-satisfied, until the appointment of a new headmaster in 1981.

- Boarding houses were not properly supervised and were allowed to become fiefdoms of the individual housemaster.

- That system allowed inappropriate and abusive behaviour to become normalised under Mervyn Preston (Chalmers West) and James Rainy Brown (Pringle).

- In Chalmers West, that system allowed significant sexual abuse of boys in the late 1950s by both of the supervising staff.

- Leadership improved from the 1980s. David Spawforth tried to move away from the old regime and make the experience more family-orientated. Improvements included reducing corporal punishment and publishing rules.

- Nevertheless, systems and processes remained lacking, and differences, including social standing, continued to put children at risk of being abused as the school roll expanded in the 1980s. Bullying remained a problem that was not adequately handled.

- Progress continued with the appointment of Andrew Hunter in 1998. He tried to soften Merchiston, encouraged openness, and introduced considerable structural change, including much greater oversight of the houses at many levels. Training of teachers and prefects was formalised.

- Bullying persisted but was handled differently from in the past.

- A number of policies were introduced in 1999, including those relating to child protection, and power was devolved to lighten the burden on the headmaster.

- Governance improved and became more outward looking. The first child protection liaison governor was eventually appointed in 2007.

- Despite these improvements, shortcomings remained.

- Buoyed by and content to rely on what it saw as positive inspection reports – which were, in fact, inadequate and insufficiently critical, and failed to identify inherent flaws which should have been identified by the school – Merchiston thought itself a leader in the field.

- All of that fell apart following the suicide of James Rainy Brown after he had been told he was subject to police investigation.

- A new inspection regime from 2014, including wider police inquiry, revealed many longstanding weaknesses in child protection and pastoral care. Policies and their implementation had been unsatisfactory.

- HR processes had been consistently poor and leadership weak though well intended. Concerning behaviour had been recorded, but obvious abusive trends, or potential trends, were repeatedly missed. References were badly handled and child protection concerns ignored.

- Abusers, or potential abusers, were sometimes protected by tradition, long service, or governor loyalty.

- Following a negative inspection report in 2015, Merchiston was made subject to special measures by the Scottish Government.

- Merchiston responded to that report and to the imposition of special measures – as it had to do – and was well led in that by its board of governors. Policies were revised and became meaningful.

- The school learned that an appetite for continual improvement is necessary.
- HR processes have improved.
- Andrew Hunter and Jonathan Anderson recognised that past approaches to giving references were flawed and that complete candour is in fact what is needed.
- Recent leaders have reflected and provided helpful insights into possible improvements in oversight and regulation within the boarding school sector.
- Merchiston apologised for the abuse experienced by children who had been entrusted into its care.

1 Introduction

The findings that I am able to make on the evidence presented in this part of the case study are set out in this document. I am doing so to make applicants, witnesses, and members of the public aware that I have concluded that children were abused at Merchiston Castle School (Merchiston) and how that abuse was able to happen.

Anonymity and identification

Where applicants have not wished to be anonymous, I have normally used their real names. Otherwise, in accordance with my General Restriction Order, applicants are referred to by their chosen pseudonym.

I have decided, in the meantime, to preserve the anonymity of most living persons whom I find to have abused children. I have not done so where, for example, they have been convicted of abusing children or I am otherwise satisfied that disclosure of their identity is appropriate. Also, the norm will be that where persons against whom findings of abuse have been established are deceased, they will be named.

When a current or former teacher or other member of staff is mentioned, the likely dates they were at the school, based on the available evidence, are provided.

The dates for the periods during which applicants attended the school, again based on the available evidence, are provided.

While great care has been taken to compile the information in relation to the dates that former pupils and staff were at the school, it may be incomplete or inaccurate due to the limitations of the records currently available. Where there is conflicting information about such dates, the most contemporaneously recorded source has been relied on.

Children were abused

Children were exposed to risks of sexual, physical, and emotional abuse. For many those risks materialised, and children were abused whilst in the care of Merchiston. The nature of that abuse is detailed in these findings.

The range of pupils' experiences

The evidence about their experiences provided by the former pupils who contacted the Inquiry was often very negative. However, applicants also provided evidence of having had positive experiences. As one witness who gave powerful evidence of a variety of abuses put it, 'I have mixed memories of Merchiston. It wasn't all bad. You know, I have some really fond memories of being at the school, and I feel quite disloyal saying a lot of this stuff, you know?'[7]

As explained in the Foreword, SCAI's Terms of Reference (ToR) require me to investigate not only the nature of the abuse of children who were in residential care in Scotland, including those who were at boarding

7 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.54–5.

schools, but also its extent. This includes addressing questions such as whether or not abuse was the universal experience, how prevalent it was, and whether a child who was abused also experienced positive aspects and outcomes. The fact that children also had positive experiences and that there were children who were not abused at all in no way compensates for or diminishes the dreadful reality of the abuse that occurred.

Investigations have been carried out in relation to Merchiston in furtherance of what, in terms of SCAI's ToR, I am directed to do, and, as a result of what has been uncovered, I have no difficulty in finding that children were abused at Merchiston in a variety of ways. Children were also abused by teachers whose abusive practices were such that they must or at least ought to have been obvious to those in positions of responsibility. Further, they were abused by other pupils, some of whose practices must or ought to have been obvious to those in such positions.

I have made some findings about the positive experiences of applicants and other witnesses. Some of them spoke of positive aspects notwithstanding that they also spoke of having been abused at the school and/or having suffered from having witnessed others being abused. The willingness of such applicants to do so supported the credibility of their evidence about being abused. The fact that they had some positive experiences also shows that it was possible to provide non-abusive care, thereby begging the question of why the school did not ensure that that was the standard of care consistently afforded to all children.

Evidence

In these findings, reference is made to some parts of the evidence of individual witnesses where I have found them to be particularly illustrative of the main aspects of what was happening. They are, however, of necessity, a limited selection. The fact that a particular piece of evidence is not referred to or discussed does not mean that it has not been accepted or that it has not helped to build the overall picture.

Standard of proof

In making these findings, I have applied the standard of proof explained in my decision of 30 January 2018, namely that:

> when determining what facts have been established in the course of this Inquiry, it is appropriate that I do so by reference to the civil standard of proof, namely balance of probabilities. I will not, however, consider myself constrained from making findings about, for example, what may possibly have happened or about the strength of particular evidence, where I consider it would be helpful to do so.[8]

For the avoidance of doubt, I have not applied the criminal standard of proof in making these findings. The criminal standard of proof is a higher standard of proof, namely proof beyond reasonable doubt.

The period covered in evidence ranged from 1930 until 2021.[9] All oral evidence was given on oath or under affirmation. Where the evidence relied on is drawn from a written statement prepared by the Inquiry, the statement was signed after having been

8 Standard of Proof – Decision by the Rt Hon. Lady Smith, Chair of SCAI, 25 January 2018.

9 Both written and oral evidence of witnesses ranges from the 1950s to 2021, although there are also records of minutes and inspections going back to 1930. See, for example, Scottish Education Department, Report, Merchiston Castle School, June 1930, at SGV-000000858, pp.2–9.

reviewed by the witness and confirmed as being a true account.

In describing what happened at Merchiston, I have quoted from some of the evidence of former pupils that I have accepted as establishing what happened to them and the nature of their experiences there. I do this so as, amongst other things, to ensure that their voices are now heard.

2 History and background of Merchiston Castle School

Merchiston Castle School (Merchiston or MCS) is the only independent boarding school in Scotland solely for boys.

A small school was founded by Charles Chalmers in Edinburgh in 1828, on the site of what became the McEwan Hall. In 1833 it moved to larger premises at Merchiston Tower, Edinburgh, a tower house in Colinton, set in what is now the Merchiston campus of Edinburgh Napier University.[10] At that stage it had a roll of 15 boys. Chalmers sold the school to John Gibson in 1850. By 1896 Merchiston had a roll of about 100 boarders and 80 day boys and it became what was then termed a 'public school', meaning it was a school that accepted pupils from all walks of life and including beyond its immediate neighbourhood. The school became a registered Scottish charity on 30 May 1906.[11] On 30 July 1926 it was incorporated as a company limited by guarantee without share capital and has remained so ever since.

Old Merchiston Castle, 1958

Purposes and governance

The founding Memorandum and Articles of Association, dated June 1926,[12] set out the objects for which the school was established and provisions relating to its governance, including these purposes:

1. To carry on and promote the work in Scotland of an educational institution for Boys[13] by means of properly equipped Boarding Schools or Colleges for resident pupils or scholars at Merchiston Castle, Edinburgh, at Colinton Edinburgh, or at such other place or places in Scotland as may be considered expedient for the education, training and instruction of such pupils or scholars upon sound and systematic principles in religious, classical, mathematical, scientific, literary, artistic and other branches of knowledge and generally for education and training of the highest order, and for the development of mind, body and character of such pupils or scholars in

10 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.2.

11 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.7.

12 Merchiston Castle School, Articles of Association, 25 June 1926, at MER-00000102, p.25.

13 Merchiston was established as a boys-only school in keeping with the practice of the time. It has since continued to be single-sex as a matter of positive choice.

preparation for the discharge of their duties, private and public, as citizens of the Country and the Empire, together with such provisions, if any, for the admission of day pupils or scholars and for suitable recreation in connection with such Boarding schools or Colleges as the Governing Body of the School from time to time may determine.

…

5. To build and equip on Colinton House a Boarding School or Schools for boys (with or without accommodation for day pupils or scholars) and to transfer the present establishment carried on at Merchiston Castle, Edinburgh to the new site and buildings at Colinton when completed and meantime to carry on the said School at Merchiston Castle, Edinburgh.[14]

…

8. To grant and establish bursaries, exhibitions, scholarships and prizes, and to make payment towards the expenses of pupils or scholars by way of travelling grants or for research or otherwise.

…

20. To do generally all such other things as may be incidental or conducive to the attainment of the main objects of the School.[15]

The original Articles of Association state that:

> no person shall be eligible to be a member of the school unless:
>
> (a) he is a former pupil or scholar of Merchiston Castle School … or
>
> (b) he is or has been a member of the teaching staff of Merchiston Castle School … or
>
> (c) he has subscribed to the fund for purchasing Colinton House property … or to the general funds of the school … or
>
> (d) he is the original holder of a Debenture of the School of an amount not less than £10[16]

Location and relocation

Merchiston Tower remained the site of the school until 1930 when it moved to its present location in Colinton. The relocation was 'driven by the need to improve residential care facilities, with modern kitchens, up-to-date heating and much needed space for sport and recreation'.[17]

Merchiston Castle School today

Governors and headmasters

From at least 1926, the headmaster has reported to the board of governors[18] and has been expected to carry out its vision,[19]

14 By this time, the school had acquired the Colinton House estate which extended to 96 acres.
15 Merchiston Castle School, Articles of Association, 25 June 1926, at MER-000000102, pp.25–6.
16 Merchiston Castle School, Articles of Association, 25 June 1926, at MER-000000102, p.2.
17 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.18.
18 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.83.
19 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.18.

overseeing improvements in residential facilities and driving forward the ethos of the school. The school has continued – in common with most other boarding schools in Scotland – to be managed by a board of governors.

By 1927 the system was such that there were 11 governors, the majority of whom were elected by members of the school. Five of them, however, were nominated by the University Court of the University of Edinburgh; the University Court of the University of Glasgow; the Faculty of Advocates; the Society of Writers to His Majesty's Signet; and the Royal College of Surgeons, Edinburgh.

By 2009, it having proved increasingly difficult to fill the nominated posts, the Memorandum and Articles were amended into a more modern form:

(i) The board of governors was to be composed of not less than five and not more than eighteen competent persons appointed by the Members at the AGM. At least one-third of the governors for the time being required to be former pupils and members of the Merchistonian Club.

(ii) The board of governors could appoint any person as it, in its discretion, considered suitable to be a governor, to fill a casual vacancy.

(iii) Every person wishing to become a governor may be required to sign a declaration of acceptance and of willingness to act, and also consent to become a Member, in such form as was prescribed by the board of governors from time to time, and required to make disclosures for the purposes of all safeguarding checks and registrations that may be required, by law, for governors.

(iv) Each new governor became entitled to the rights of being a governor, including, but not limited to, the right to such information and advice with regard to the activities of the company as the board of governors may lawfully and reasonably require to be furnished to it.

From 1914 to the present Merchiston has had seven headmasters, as listed in Table 4.

Table 4: Merchiston Castle School headmasters, 1914–2025

Name	Period of employment
Cecil Stagg	1914–36
Cecil Evans	1936–57
Alan Bush	1958–68
Donald Forbes	1969–81
David Spawforth	1981–98
Andrew Hunter	1998–2018
Jonathan Anderson	2018–25

The buildings

Since moving to its current location in Colinton, Edinburgh in 1930, Merchiston's purpose-built campus has comprised:

- boarding houses providing accommodation for both boarding and day pupils when they are at school
- classrooms organised according to academic department
- communal areas such as the dining hall and the Memorial Hall, which is used for assemblies and chapel services
- sporting and recreational facilities.[20]

The boarding houses, listed in Table 5, are named after individuals who feature in the school's history as headmasters or as benefactors.

Aerial views of Merchiston Castle School

Table 5: Merchiston Castle School's boarding houses, 1930 to present

Name	Year opened
Chalmers East	1930
Chalmers West	1930
Rogerson East	1930 (closed 2008)
Rogerson West	1930 (closed 2008)
Pringle House	1967
Evans	1986
Pringle III	2000 (closed 2002)
Rogerson	2008
Laidlaw House North and Laidlaw House South	2009

20 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.89.

Since 1930 improvements have regularly been made to the school buildings, including the residential facilities. In 1960, for example, quiet rooms were added to each house to supplement the day rooms. In 1967 Pringle House opened as the junior house and was subject to further development in 1990. In 1970 a study block was added to provide study accommodation for the sixth form, and in 2009 a new sixth-form house, Laidlaw House, opened. It had first been suggested in 1998, and senior boys were involved in its design.[21] Staff accommodation was redeveloped, beginning in the 1980s: 'Initially some housemasters lived in the boarding houses, others in nearby on-site houses. Under-tutors lived in the boarding houses. Under restructuring, all housemasters and families lived in purpose-built accommodation in the boarding houses.'[22]

Main entrance and classroom block

The house system

The school, save Pringle House for juniors and Laidlaw House for the sixth form, has for some time had a 'horizontal' house system, that is each boarding house contains only one age group and boys move to different houses as they progress up through the school.[23] The horizontal house system is a particular feature of Merchiston. A practical consequence of this system is that siblings, unless they are in the same year age group, do not live in the same house. There is no evidence that Merchiston had any established process or system for ensuring that such siblings had contact with each other.[24]

Each boarding house has always had a resident housemaster. Since 2003 each house has also had a residential assistant housemaster and, in most cases, a resident tutor.[25] It was not uncommon, prior to 2003, for boarding houses to have only one resident member of staff. Currently, all houses except Laidlaw House have a housemother and a housekeeper.[26] Since 1998 all full-time teachers have also been house tutors.

The school roll

In 1930 the school roll was 255 pupils, of whom 229 were boarders and 26 were day pupils. The highest school roll was in 2010, with 483 pupils, of whom 317 were boarders and 166 were day pupils. After 1960 the number of day pupils consistently increased while boarding numbers fluctuated between 250 and a maximum of 369.

Prior to the 1980s Merchiston mainly attracted pupils from Scotland and the north of England. A number of applicants referred to the common perception that

21 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 17 June 2010, at MER-000000138.

22 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-0000000061, p.151.

23 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.8.

24 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.39.

25 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.22.

26 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.54.

Merchiston was a school for the sons of farmers. 'Gerald' said: 'Oh yes, there were plenty of them at Merchiston, yeah, there was a strong contingent of boarders, farmers at Merchiston'.[27] Their fathers had also been at Merchiston. 'Mark' thought that 'a core component were gentlemen farmers from the Borders who lived in very, sort of, landed houses'.[28]

Merchiston states that, since the 1980s, it has embarked on 'a deliberate and carefully managed policy to globalise the school'.[29] An international pupil contingent now accounts for 20 to 25 per cent[30] of the boarding school roll.

In 1994 the school introduced a first form (P6) class, followed in 2001 by the introduction of Junior 4 and Junior 5 (P4 and P5), which resulted in a 19 per cent increase in the school roll between 1998 and 2008.[31]

Between 1930 and 2014 a total of 28,855 pupils attended the school.[32]

In 2022 the school roll was 379, but the number of boarders had dropped to 230. Echoing what other heads have told the Inquiry about the reduction in junior boarding, Jonathan Anderson explained: 'The proportion of boarders in the junior school is about 10 per cent boarding, 90 per cent day, and that flips on its head when you get to the sixth form, so 90 per cent boarding, 10 per cent day.'[33]

Structure

Legal status

Merchiston is a company limited by guarantee.[34] The school's Memorandum and Articles of Association set out its governance arrangements.[35] The Articles of Association were updated in 2010.

In 1906 the school gained charitable status and has held it ever since.

Governance and administration

The Articles of Association provide that: 'The affairs of the School shall be managed by the Governing Body, consisting of Governors, elected or nominated under these Articles.'[36] Accordingly, the governing body has been responsible for the operation of the school since at least 1926, when the Memorandum and Articles of Association 'provided the Governors with the powers required to carry on and promote the objects of the School'.[37] The Articles of Association are comprehensive, have been updated (as explained above), and detail the arrangements for the proceedings of governors and their powers.

27 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.28.
28 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.71.
29 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.21.
30 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.11.
31 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.21.
32 For full details and information on school roll, reference should be made to Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, pp.29–37.
33 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.11.
34 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.7.
35 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.8.
36 Merchiston Castle School, Articles of Association, 25 June 1926, at MER-000000102, p.4.
37 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.10.

Traditionally, the governors were former pupils.

Traditionally, the governors were former pupils, but candidates are now selected primarily according to their eligibility, personal competence, professional skills, and availability.

Merchiston Castle School crest

The Articles of Association stipulated that the governors would meet quarterly and that a quorum for any meeting was four governors.[38] They also conferred the ability to appoint committees 'with powers for executing any of the purposes of the School'.[39] Originally, the oversight arrangements were handled solely by the governors and one subcommittee, the Executive Committee, which met at least three times each year. The headmaster submitted a written report to the Executive Committee prior to each meeting to ensure governors were kept informed and apprised of all aspects of school life. Since 1999 the full governing body has met four times annually. The headmaster submits a 'Progress Report', and he and the bursar attend. Strategy meetings are held on an ad hoc basis.

David Spawforth described his experience of governance:

> The board of governors acted as my line manager. I was very fortunate in having a prominent judge as chairman. He visited the school twice a week and roamed freely, talking with boys, staff, and parents. We had a formal meeting once a week but I could contact or consult with him virtually at any time. He was also keen to be involved in a number of social events my wife and I ran for the boys. These included receptions for parents and former pupils, which we ran all over Scotland, the north of England, and Ulster, and overseas tours following teams and choirs. I can think of no other chairman who had his finger more on the pulse. Furthermore, when difficult decisions had to be made, he was always there to give advice. These included … supporting major expenditure in terms of staff appointments, building projects, and improving facilities early on in my time and when the school finances were not strong, advising and supporting me in relation to sensitive issues. At the end of my time he was succeeded by Neil Kilpatrick who operated a similar routine.[40]

The first female governor was appointed in the late 1990s.[41]

38 Merchiston Castle School, Articles of Association, 25 June 1926, at MER-000000102, p.7.

39 Merchiston Castle School, Articles of Association, 25 June 1926, at MER-000000102, p.8.

40 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.139.

41 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.37.

In 2005 the governing body exercised its powers to appoint committees, and several were created, namely: Finance and General Purposes; Education and Pastoral; Health & Safety and Accessibility; Development; Nominations; and Risk Management.

In 2007 the governing body formalised its responsibility for child protection with the appointment of a child protection liaison governor (CPLG). The CPLG visits the school at least once per term to scrutinise child protection records and prepares, with the child protection team, a termly report. It then reports back to the governing body. By way of an example, in 2012 the CPLG 'initiated, undertook and published a review of Child Protection arrangements at the School, with recommendations for further improvement'.[42] The school carried out all of the CPLG's recommendations.

Victoria Prini-Garcia, appointed the school's second child protection coordinator (CPC) in 2001, very much welcomed governor input, given that governors were, ultimately, 'the responsible body'.[43] She made the point that prior to the appointment of the CPLG there was no system to monitor what the CPC was doing.[44]

Following allegations of abuse and the suicide of a teacher, James Rainy Brown, the governing body was proactive. It used its powers to instruct external parties to undertake reviews of Merchiston's child protection policies and procedures in 2013 and 2014. An assistant CPLG was appointed in 2015.

In 2016 the governors again exercised their powers and formed the Child Protection and Compliance Subcommittee to 'allow for much more effective scrutiny of the work in the School and to quality assure compliance in all areas'.[45] In other words, to 'provide assurance to the Governing Body that processes are in place to ensure the safety and wellbeing of all pupils at Merchiston'.[46]

All subcommittees meet every term, and minutes and papers are fed into the agenda of the governing body.[47]

Governors are now trained in child protection; they are encouraged to attend training sessions organised for the education sector and to engage with the Scottish Council of Independent Schools (SCIS) and the Association of Governing Bodies of Independent Schools (AGBIS).[48]

Governors are now trained in child protection.

Since 2016 governors have been involved in 'Learning Walks' of the boarding houses. During these walks governors have the opportunity to see the boarding houses in action and to spend time with pupils.[49] Pupils

42 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.19.
43 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.53.
44 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.40.
45 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.22.
46 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.86.
47 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.83.
48 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.65.
49 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.87.

have the opportunity to engage with staff, governors, and pupil leaders and discuss matters that concern them.

Child protection has become much more prominent during board meetings, and board-level decisions on child protection issues must be ratified by the CPLG.

Representatives of the pupil body now also meet governors within the Education and Pastoral Committee and are asked for their views and opinions. There is pupil representation on the Health & Safety and Accessibility Committee.

Finance

Merchiston was, and is, funded principally by the fees charged to and paid by parents or guardians. In the past, some received assistance from the armed services or employers and others received contributions to fees from charitable trusts.[50] The school's other sources of income include donations, legacies, and income from investments and rental.

The school participated in the Assisted Places Scheme, which ran from 1980 to 1997, under which a portion of school fees (up to 100 per cent) was funded by government.[51]

Merchiston awards bursaries, scholarships, and rebates of fees in furtherance of its objects. Since 2006 a fixed percentage of the school's income has been devoted to awarding means-tested bursaries.

Staffing

The school register details all teaching staff employed in the period from 1930 to 2007. Merchiston does not, however, hold detailed records of domestic and catering staff, a number of whom had some responsibility for the residential care of pupils. The school has advised that as at 2017 it employed 76 teaching staff, 53 administration and support staff, and 70 catering and domestic staff.[52] Merchiston is the only school that has provided all staff-to-boarder ratios from 1930 onwards. Until the end of the 1970s the ratio was 1:10 or slightly higher. It has improved consistently since the 1980s and has been at 1:2 since 2008.

Historically, the vast majority of teaching staff at the school were male, but deliberate efforts were made to change that. In 1974 there were no female staff, but by 1993 women made up 17 per cent of teaching staff, rising to 40 per cent by 2017. There has also been an increase in the number of female staff employed in promoted positions. The first female assistant head (pupil support) was appointed for August 2016 and the first female deputy head (pupil support) for August 2017.[53]

Whilst the role of housemother has always been filled by a woman, the role known as

50 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.5.

51 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.6.

52 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.61.

53 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.63.

housemaster has been male-dominated. The first female employed in that role was appointed in August 2011 and the second in August 2013.[54]

Education, training, and qualifications

From September 2005 all teachers employed by Scottish education authorities were required to be registered with the General Teaching Council for Scotland (GTCS).[55] Since August 2017 all teachers in Scottish schools have been required to be registered with, or be in the process of registering with, the GTCS. By that time all staff employed by Merchiston were either so registered or working towards registration, but even prior to 2017 the vast majority of teachers were university-educated, and many also had a teaching qualification.

From 1 April 2010 staff not eligible for GTCS registration have had to register with the Scottish Social Services Council (SSSC), and from 30 November 2013 all staff involved in the provision of residential care to children have been required to register with the SSSC, GTCS, or any other professional bodies that have a reciprocal arrangement with the SSSC.[56]

All staff are subject to disclosure checks in accordance with the terms of the Protection of Vulnerable Groups (Scotland) Act 2007.[57]

54 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, pp.61–2.

55 The Requirements for Teachers (Scotland) Regulations 2005, paragraph 4.

56 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.58.

57 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.54.

3 The Merchiston Castle School regime

Introduction

The Merchiston regime remained largely unchanged for the five decades between 1930 and about 1980 despite the substantial shifts in societal norms during that period. Pupils progressed every year from house to house, the houses were run by housemasters and assistants, and there was little oversight from the school. Rugby was 'the big thing',[58] and many felt the school regarded it as more important than education.[59] There were some pupils who seem to have been happy at Merchiston – it is, however, likely that that went hand in hand with being sporty and outgoing. The school seemed comfortable in maintaining the same approach throughout that period. 'Antoine', who began teaching at Merchiston in 1975, found it very different 'after my teaching practices in the state sector. I would describe it as … a very macho sort of environment, austere and macho and competitive. But that's with the benefit of hindsight I'm saying that. At the time I was just rather surprised.'[60]

Matters began to alter in about 1980, when the board of governors realised change was needed, and following the appointment of David Spawforth as headmaster. He described taking on a school whose 'reputation seemed to be that of a male-orientated boarding school with a strong sporting tradition, notably in rugby'.[61] He introduced significant changes, including those prompted by the impact of the Children (Scotland) Act 1995. Those were furthered after Andrew Hunter replaced him as headmaster in 1998. Numbers grew, governance modernised, and policies and paperwork, including those relating to child protection, expanded.

> 'I would describe it as a very macho sort of environment, austere and macho and competitive.'

Despite such developments, the culture in the 1980s seems to have remained that the school gave its pupils a 'sense of arrogance' which 'Mark' felt was captured in the words of a teacher who said to him: 'If you learn to be able to quote the *Jabberwocky* verbatim and can wear your Merchiston tie, you will get any job interview you go for.'[62]

Merchiston faced some very difficult years following the suicide of James Rainy Brown in 2013. He was a former pupil and had taught at Merchiston for over half a century. Allegations had been made to the police

58 Written statement of 'Gerald' (former pupil, 1966–71), at WIT-1-000000405, p.22, paragraph 105.
59 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.26.
60 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.75.
61 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.151.
62 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.95.

regarding his conduct, and his death occurred shortly after the headmaster had spoken to him about them. The allegations amounted to him having abused children, including that he had sexually abused them. Considerable introspection within the school was triggered, as was scrutiny by the police in relation to a number of other former teachers. Inspection reports, which had been largely positive up to and including 2014, were critical, and the Registrar of Independent Schools imposed conditions on Merchiston in November 2015, focusing in particular on pastoral care.

Decision-making had been poor, and recruitment practices had been flawed. These failings were all exposed. Andrew Hunter tried to improve matters as did his successor, Jonathan Anderson, but it was plainly not an easy task to pull the school into a state it should have been in much sooner.

Constants at Merchiston

The horizontal house system

A distinctive feature of Merchiston has been its longstanding commitment to the horizontal house system where boys of the same year board together and move annually to a new house, with a fresh housemaster.

That approach was deliberately reflected in the layout of the school, with east and west wings containing the four separate houses that made up the senior school until the 1980s. An applicant who was at the school in the mid-1950s commented that this 'physical structure reinforced a cardinal rule that a boy should have no communication of any kind, except that licensed and monitored by superior authority, with a boy in a House other than immediately senior or junior to his own'.[63]

It is hard to believe that that 'cardinal rule' did anything other than reinforce the fact that the environment was austere and macho, as 'Antoine' had described it.[64]

Merchiston, in its Part A response, said that the horizontal system 'helped build a strong corporate community spirit and space on the campus for the boys to pursue interests and hobbies, without crowding each other out'[65] and 'helped to mitigate the possibility of bullying of younger by older boys'.[66]

That was the impression given by a number of applicants. 'Gerald', for example, was 'convinced it was a positive'[67] and he believed that the bullying of junior boys by senior boys, something he had previously experienced at other schools, was less likely to result.[68] Merchiston was better than his experiences at The Edinburgh Academy, which he found 'awful',[69] and a brief and largely miserable spell at Gordonstoun.[70]

Andrew Hunter was more cautious: 'The theory was that … in that cohort of 60 pupils you would find kindred spirits

63 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.58.

64 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.75.

65 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.18.

66 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.68.

67 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.52.

68 See also Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, at p.3, paragraph 9.

69 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.9.

70 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.10.

… When I arrived at Merchiston all of the staff said to me that there was no bullying at Merchiston because of the horizontal … system. I remember raising my eyebrows and thinking this is an impossibility.'[71] Insofar as he was suggesting that the eradication of bullying could never be as simple as maintaining the horizontal system, he was right. Insofar as he was questioning the assertion of there being no bullying, he was correct to do so.

Some applicants also, with justification, disputed that Merchiston was vigilant in addressing abusive behaviours when they were discovered. Evidence revealed that, just as happened with the vertical system used in other schools, inadequate oversight of the individual boarding houses by the school allowed far too much to depend on the quality of the individual housemaster. The risk of inappropriate behaviour becoming normalised within houses which had become the personal fiefdoms of their housemasters undoubtedly materialised – certainly under Mervyn Preston (Chalmers West) and James Rainy Brown (Pringle).

Merchiston still retains the horizontal house system, save in the junior school, Pringle, and (from 2009) in Laidlaw Houses North and South, they having mixed-year groups of lower- and upper-sixth boys.[72] Jonathan Anderson said:

> It allows us to focus on age and stage. So all of the boys are in one house, they are sharing that same educational experience at that same time, and you can focus on their needs as a year group. You also have a broader range of the year group within that house. In a vertical house you would divide up your year and you would have small pockets of one year group spread across a number of houses. With one year group in one house, everybody is able to find their friendship niche in the friendship group. One of the negatives of a vertical arrangement is if you are in a house with a particularly small year group and you don't get on with your friends then you can be isolated, but if you are in there with your entire peer group there is much more opportunity for you to find that right friendship group.[73]

He continued: 'We have prefects that live in the houses, so the boys do have other influences of older boys. They are in the boarding house.'[74]

He accepted that the vertical system could result in

> houses that develop their own idiosyncrasies, their own characters, their own reputation for certain things: the sporty house, the musical house, those sorts of things. One of the benefits … of … the horizontal system is that every year there is a reset, so the boys move to a new house and to a new housemaster … the downside is that they have got to redevelop that relationship with the housemaster, but actually it allows everybody to have a fresh start and re-energises the housemaster in actually getting to know the boys. But with the vertical system there is that danger … that you live in a system where you may not necessarily get on with your housemaster very well and that then persists for a number of years. You may be in a house that is sporty and you are not.[75]

71 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.43.
72 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.12.
73 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.14–15.
74 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.15.
75 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.17.

I was not convinced that any of that amounted to the horizontal system necessarily providing better protection against abuse than the vertical system.

Sport

Sport, particularly rugby, has always been of prime importance at Merchiston. As noted in its Part A response, one former pupil, pre 1930, recorded that 'the life of the average Merchiston boy was divided into work and non-work, the latter covering very little else than Officer Training Corps, cricket and rugger'.[76] Little changed for decades.

Playing fields

'James', describing the 1950s, said:

> I have a younger brother who was very unhappy at Merchiston and he used to talk about the rugger buggers, aggressively, you know, they dominated, they were the loud ones … He wasn't non-sporty, but he didn't like that. To me, that wasn't a huge issue. There were those who were good at rugby and those who weren't.[77]

However, 'John', a pupil in the late 1950s and early 1960s, described how rugby's importance as compared to education within the school was clear to him: 'If there was a percentage for either, I would say that the rugby was probably 50-something per cent.'[78]

'Glenn', a pupil during the same period, agreed:

> Even when I was there and finishing off it was still important, but I think that's not just the ethos of the school, I think that's a boys' thing … Perhaps a lot of the boys who went to the school were sent because they enjoyed games, physical exercise. Yes, it was part of the culture … If you weren't interested in sport, you might have been at some sort of disadvantage.[79]

He thought some pupils could have suffered because of the importance of rugby: 'Not necessarily through physical bullying, but perhaps name-calling … perhaps more generally … the feeling that they were not quite fully integrated … that they were being left out of certain things.'[80]

'Jack' believed sport

> trumped education fairly easily. Rugby was again part of the culture of the school. Your status inside the various pecking orders was influenced strongly by if you were a good

76 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.70.
77 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.21.
78 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, pp.41–2.
79 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.16.
80 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.17.

> rugby player. You could be fairly limited academically, you could even be from a day school … but rugby [allowed] you to shoot up the ladder of the pecking order.[81]

Not playing rugby 'made you a non-person really … if you were a good sportsman, that was very important'.[82] He added that:

> It was understood at a variety of levels … The whole school would be paraded out to watch the First team, who would be supported with the same vigour as a Premiership team in England. Your parents, your families would be encouraged to attend and it was … like the meeting of the clans where … it revolved around rugby.[83]

'Gerald' gave a similar account, describing how 'on a Saturday morning's assembly, the First XV, the rugby XV, paraded through the assembly hall to huge applause'.[84] He had no memory, however, of pupils being ostracised for not being able to play rugby well: 'There were various XVs, so rugby, for instance, I never got further than the Third XV, but I wasn't … criticised for it. I just enjoyed playing rugby but I didn't play it very well, so that was as far as I got.'[85]

'Graham' confirmed that rugby had equal status with education in the 1970s and that those who were not skilled in sport were

> viewed … as a bit of a sad case … You didn't get particularly persecuted if you couldn't play rugby. But … there was a back field at Merchiston which they hired out to a local farmer, so it was covered in cowpats, and the kids who couldn't play rugby very well, that's where they got to play. Says it all, I think … I ended up on that team at one point … that's the best rugby I've ever enjoyed in my life, because it just didn't have any of that horrendously competitive macho side to it at all … It was just fun. And the art teacher took it, because he couldn't care about it either, so it was kind of lovely.[86]

'William', from the same era, found that not being sporty at Merchiston was a distinct disadvantage, 'very much so',[87] and it seemed clear that the same was true well into the 1990s. 'Mark' said: 'Being in the First XV was the be all and end all'[88] and that

> there were boys who were quite quiet, quite studious, and Merchiston was very much sports orientated. If you weren't a star sportsman, then you were of a … lower position within the hierarchy of the school. You could be the most intelligent person on the planet, but it didn't matter. There was no recognition of that. And equally it was only certain sports. So if you were a star rugby player or a star cricketer, that was fantastic. If you were good at table tennis or good at hockey, as I was, then … you didn't matter. Even if you were at international standard, which I was at.[89]

Rugby was where the hierarchy or pecking order was most obvious: 'You were selected as a dorm captain on the basis of your

81 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.113.
82 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.114.
83 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.114.
84 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.26.
85 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, pp.27–8.
86 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.63–4.
87 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.126.
88 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.74.
89 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, pp.72–3.

position within the hierarchy and your standing within that group.'[90]

'Antoine' also thought the way Merchiston organised and prioritised rugby was liable to disadvantage boys who were not 'into sport':

> There were some boys – not many, perhaps, although … more than one might have realised – who weren't into sport in the accepted manner and suffered a bit … if they didn't make the teams, then they had to learn to touch judge or … how to distribute the oranges at half-time or whatever, there was a role for everybody. Which on the face of it sounds quite a good idea, but actually I think it rather singled them out as being not good enough for the teams. Getting in the team was what really mattered.[91]

He added: 'In fact … there was a debate about who was going to be the next school captain at one point and the joke … was we don't need a school captain because we have the captain of rugby.'[92] Overall, he felt that 'there [was] a minority, a small minority of kids who were really let down by the system'.[93]

Alternatives were provided. Applicants spoke of a range of non-sporting activities and interests the boys were offered. 'John', for example, said he enjoyed Merchiston because 'the housemaster in Rogerson East … was interested in ornithology and he would take us to the Bass Rock and other places around Edinburgh to learn how to ring the birds'.[94] But the school did not address the problems that arose from the dominance of rugby. It remained fixed well into the 1990s. 'Ian' 'was sporty, but … there was no choice … you could play [other sports] in your own time or at different times, but rugby was … it was that or nothing, really'.[95]

From 1998 Andrew Hunter 'tried to change the school and move it away from thinking that sporting achievement was the only relevant achievement'.[96] That was noticed by two members of staff from the same period. Nicholas Diver observed that 'the culture of and within the school was quite hearty … but with a growing appreciation of the need to focus more and more on the academic side of life'.[97] In the 1990s Victoria Prini-Garcia challenged the attitude of colleagues who supported the primacy of rugby:

> I remember in the 1990s getting very cross with some of my sporty colleagues, because there was a way of making a boy really suffer if they wanted to drop out of the First XV or the First XI and I just could not understand it. And I kept saying as a child protection officer: 'You're abusing this child. You can't insist that the boy has to play because of the honour of the school. It's his life. It's not yours

90 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.86.
91 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.86.
92 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.87.
93 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.89.
94 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.25.
95 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.13–14.
96 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.40.
97 Transcript, day 266: read-in statement of Nicholas Diver (former teacher, 1997–2000), at TRN-8-000000062, p.143.

or the school's to take it away.' He wanted to concentrate on his studies … so I thought that was a very reasonable request. And he did get it … but there was such a guilt tripping attached to it … I was always taking his side and arguing with whoever I had to argue about it. So I tried to save as many as I could.[98]

Sports grounds

She continued:

> It did change … because eventually the priority was academics. The priority was the choice of the boy. Basically, every term, especially when the A-levels were coming, they were meeting with parents … and they will decide what was the programme for the year … And it was very much the choice of the individual.[99]

These meetings do not, however, appear to have been introduced until 2000.[100] The evidence provided by 'Robert', who joined Merchiston in 2001, indicated that any change was not fundamental: 'I think there was a – generally quite a strong sense of camaraderie between the boys … and they were all very pleasant pupils. A good atmosphere amongst them. It was a very macho, male-oriented place. Sport was very important, and particularly rugby, and … most things revolved around that.'[101]

Rugby remains very important today, as headmaster Jonathan Anderson acknowledged: 'We are a little bit more than just rugby, but certainly we are very proud of what we have achieved in rugby.'[102]

1954–81: Alan Bush and Donald Forbes – maintaining the status quo

'James' was a teacher at the school between 1966 and 1979. He had also been a pupil there from 1954 to 1959. He returned to Merchiston as a teacher of French and German and was also appointed school chaplain. Judging by his description of the regime, nothing much had changed in the 20 years or so since he had left.[103] The system was the same, and the school remained a highly disciplined and hierarchical environment, where pupils were expected to do as they were told by those in authority, whether teachers, boarding staff, or prefects. It was also, he said, an environment where the boys appreciated that they 'needed to be each other's friends'.[104]

98 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, pp.22–4.
99 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.25.
100 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.25.
101 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.92.
102 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.5.
103 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.57.
104 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.18.

'Jack', a pupil in the 1960s, saw the same structure differently: 'The concept of privilege was encouraged … [and] the concept of bullying was encouraged because it maintained the status … [and] the order of hierarchy within the school. Hierarchy mattered.'[105] 'Graham' said: 'I think if you were friendless at a place like Merchiston, it would have been a miserable place to be. I really do. Because it was my friends that got me through. By being able to be honest with them and laugh about it.'[106]

'John Crawford' recalled

> the headmaster, Forbes, saying: 'A lot of my generation [who had fought in the war] think that you lot are soft and wouldn't rise to your country's needs, but I think you would, boys, I have faith in you'. And it smacks a bit of the schoolmaster in *All Quiet on the Western Front*. I mean, we were children and I think a lot of the philosophy of the school was to do with – to carry on traditions, that we would be obedient members of the army, and we would continue to run the Empire, what was left of it. That philosophy seemed to me to be very strong, yes.[107]

'John Crawford' was describing one of the founding purposes of the school, namely to educate 'in preparation for the discharge of their duties, private and public, as citizens of the Country and the Empire'.[108]

An aspect of maintaining the status quo was that there was no induction given to new

Senior boys' study

pupils. That meant that they were not, for example, told about or provided with copies of the school rules.[109] In the 1950s a two-week grace period, similar to that at Loretto in the 1980s and 1990s, operated to allow new boys time to acclimatise.[110] 'James' said:

> You went along with the bigger boys … and asked questions. Where is, what is. You went around the buildings, the classrooms, and you would say where's that and somebody would say that's that, that's that, that's that, but there was no official welcome in the assembly hall to all you new boys coming to this wonderful old school.[111]

It is clear that pupils were expected to just get on and learn as they went along.

105 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.113.

106 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.68–9.

107 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.28.

108 Merchiston Castle School, Articles of Association, 25 June 1926, at MER-000000102, pp.25–6, and already set out in the History and background of Merchiston Castle School chapter.

109 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.77.

110 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.55.

111 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, pp.71–2.

'Glenn' agreed that 'would be a fair way of putting it'.[112]

Some thought there may have been printed rules. 'James', as a teacher, said: 'I think I can see a wee green/beige thing, school rules, house rules, somewhere or other.'[113] 'Graham' thought 'there possibly was a booklet somewhere, but I was never aware of it'.[114] He added:

> You just were expected to know and I'd been to a preparatory school so, you know, beating, physical punishment was part of that. It was – really, to put it crudely, it was *Tom Brown's School Days* … that ethos applied, everybody was aware of it, there was no need for … the school to inform you of it.[115]

In its Part C response, Merchiston refers to The Pupils' Charter and School Guidelines 1936 and to The Leave-out Policy 1937.[116] But it is unclear whether any of these were known to pupils or staff.

Feeder prep schools

A theme of this case study has been that boys boarded at one of a number of prep schools. It was generally thought to be good preparation for boarding at senior level. For example, boys from St Mary's School, Melrose, often moved on to Merchiston. Gareth Baird, chair of the Merchiston board, was a pupil and later a governor at St Mary's, describing it from his time as a pupil there as 'a more robust environment … well, hugely different from what it is now'.[117] 'James' went there for two terms to obtain teaching experience before going on to university, an arrangement facilitated by his former Merchiston housemaster, Mervyn Preston. He thought it was better than his prep school (Crawfordton School, Dumfriesshire) had been.[118]

Children were also abused at prep schools, as demonstrated by the experiences of many boarding school applicants. Children were abused at Crawfordton School and other prep schools which are now long closed. 'James' was humiliated by staff at Crawfordton and aware of boys being bullied.[119] 'William' experienced excessive and inappropriate corporal punishment by staff and was bullied and sodomised by other pupils at Duncan House (later St Ninian's) in Moffat.[120]

Teachers

As in the case of pupils, new teachers received no induction, no formal guidance, and no written rules. 'James', thinking back to 1966, said: 'I'm not sure if that was how things had started to work yet.'[121] Instead, if

> a boy had come to me in 1970 to say they had had a bad experience from a colleague of mine, a sex experience, an attack, I would

112 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.7.
113 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.57.
114 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.88.
115 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.67.
116 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.29.
117 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, p.3.
118 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.34.
119 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, pp.62–6.
120 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, pp.112–21.
121 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.48.

> have had to work out from scratch what to do about that, and I think my answer … would have been, I must go to the headmaster and talk this through … and it's his decision after that.[122]

'Glenn' agreed and could not 'remember much in the way of inductions. You got quite a lot of assistance through … your head of department. If you'd been a resident tutor, I suppose from the housemaster too. But there was not a formal structure in place for that sort of thing'[123] and, as for school rules, teachers

> got very little. Certainly … in printed form … a lot of it was dependent on the contribution that your head of department or other colleagues or housemaster … would give you … There may have been some documentation, but if there was it was in short supply. I can't remember anything about that.[124]

'Antoine' explained:

> There wasn't a lot of support or advice available … It was more a question of trial and error … there were a couple of teachers I could speak to and they did give me advice … the housemaster of the house I was in and my head of department. But, again, they were responding to questions that I had rather than showing me the best practice.[125]

There was no induction, and many staff were aloof. He said he 'pretty soon got to know which members of staff I could speak to and trust and there were others who made it perfectly clear that … I was a newcomer and I just had to find out as I went along'.[126]

Nor were recruitment and staff training formalised. Three former pupils, 'Glenn', James Rainy Brown, and 'James', simply returned to Merchiston soon after the completion of their university studies as teachers and/or housemasters, without undergoing a formal recruitment process. 'Glenn' explained: 'I certainly had an interview … I'm not sure about the references … It may be that there weren't any requested because … they knew me, in a different capacity.'[127] Not only did the school know the three former pupils, they in turn all knew the school, which allowed the status quo to be maintained. 'Glenn' also confirmed that:

> There was no official training programme. You asked, you were told, but you also had to go and ask and you found out that way … I don't think there was any written documentation that we got that helped, that referred to the responsibilities you were going to undertake, the duties you had to perform.[128]

Teaching qualifications were not required when 'James' was appointed in 1966: 'it wasn't exceptional that I got a job in spite of not having a qualification'.[129]

Reliance on rules

Despite the apparent lack of formal written rules, there is no doubt that rules, and adherence to them, mattered greatly. Boys were expected to simply accept a given

122 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.44.
123 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.24.
124 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.24.
125 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.76.
126 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.78.
127 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.23.
128 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.25.
129 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.33.

'It was a school where you were very, very seriously disciplined. You did not talk back.'

rule, obey it, and breach it at their peril.[130] There was little, if any, room for individuality, and conformity was the norm. 'William's' housemaster summed up the ethos as 'shape up or ship out'.[131] That outlook was echoed by 'Edward', who described Merchiston as 'a well-disciplined community. Rules were clear.'[132] But, as for what would happen if they were breached, there was 'no formal printed policy for discipline or punishment'.[133] That said, from the child's perspective, according to 'Graham', 'it was a school where you were very, very seriously disciplined. You did not talk back … I can't remember anyone in the whole five years that I was there speaking back to a teacher. It just didn't happen.'[134]

A former pupil, in an essay written in adulthood, refers to the impact of the rules and the apparent contradictions within them, to the 'sheer density of the regulations and complexity of the symbolic apparatus in which they were embedded', to them measuring out their movements, and to them

> carving these two dimensions up into segments of rigorously enforced silence or noise, of presences and absences … We must run here, but never there; we could be in this place only if we had been in that place first. Absolute silence was enforced in many places, but not yelling at a rugby match drew strong reprimands. We were beaten for having our hands in our pockets if a master or prefect were within a radius of 10 yards, yet putting your hands in your pockets was a privilege which, once acquired, had to be exercised studiously.[135]

Staff responsibilities in the boarding houses

Teaching staff and boarding staff such as housemasters and house tutors were often single men. 'James' suggested the explanation for this was structural as well as institutional:

> My understanding is when the buildings were built in the 1930s … a chance to build a purpose-built boarding school, the assumption … was that most masters would be bachelors … Now, during my time – during the 1970s, that started to break down. Two of our bachelor group married and they hurriedly tried to arrange how to make married accommodation for them. And after that, the days of relying on bachelors for the boarding house supervision were finished.[136]

He continued: 'I think the expectation was that the people who were coming to Merchiston because it was their first job from university or teacher training would get

130 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.58.

131 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.154.

132 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.90.

133 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.91.

134 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.87–8.

135 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.60.

136 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, pp.38–9.

married in the next few years. While they're not married, they can be house tutors.'[137]

'Gerald' agreed that the norm was that housemasters lived in the boarding houses:

> In fact, I'm pretty sure that up until not long before I went there in 1966, even the married housemasters were expected to reside in their houses alone and their wives weren't allowed to join them. When I was there that had changed. I can think of a housemaster who married while I was there, actually, at Chalmers East House, and his wife lived with him in this little sort of bedsit flat they had on the ground floor of the house.[138]

It was housemasters, not the headmaster, who had most of the responsibility for the day-to-day management of the pupils.[139] They could influence and dictate the tone and culture of the individual boarding houses. 'William' described them as a 'kind of father figure, so to speak'.[140] Housemasters were supported by unmarried members of staff. 'Edward' married when he was a housemaster at Merchiston:

> The school was in the process of building additional staff housing within the grounds and one of these was allocated to us. This was two minutes' walk from the boarding house and we lived there until I left in 1978. I still retained the housemaster's rooms as a working office. Each of the boarding houses had resident bachelor members of staff who shared supervision duties. In my case I was on duty four nights a week and had two house tutors who covered the other nights. One at least always slept in the house overnight. On my duty evenings I would go home about 10.30 in the evening, lights out being at 9.45, having first checked that a tutor was on site.[141]

'Antoine' was a resident tutor in Rogerson East:

> [This] involved simply being the resident in the building overnight in case of emergency. I wasn't called upon often to perform duties within the boarding house, only on the odd occasion where the housemaster had a commitment of an evening and he would warn me, sometimes weeks in advance, that on a certain date he was going to be off campus … But other than that, it was merely a question of being in overnight.[142]

Prefects

Prefects were senior boys who were allocated to a boarding house, lived there, and had a role in running it. 'John' said that 'there might have been about six or seven senior prefects and they would stay in a senior prefects' room in the house, and similar in the other four … They would have their own bedroom and bathroom.'[143] Some viewed prefects during this period in a positive light. Whilst accepting that they had a role in the maintenance of order in the boarding house, 'John' thought:

> They didn't do it in a sort of really superior way … they were more understanding, in a sense, than an actual adult, being senior boys … if

137 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.39.
138 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.21.
139 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.7.
140 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.128.
141 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.89.
142 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.83.
143 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.20.

> Mr Preston happened to be away on a course, then they could stand in for him and in that case then they were allowed to administer corporal punishment.[144]

'John' did not believe the prefects abused the powers invested in them, for 'you didn't get punished unless you had actually done something and I mean it was easier to admit that you had done it and take the punishment and that was that'.[145] 'Glenn' said:

> The prefects were chosen I think because it was felt they would be good with that age group … they were picked ostensibly because it was hoped/thought they would be good in dealing with younger children … In two cases I can think of, yes, they were. The others, to be truthful, were more interested in just getting on with their own lives, but, yes, I think over the piece they were helpful.[146]

The experience of 'Jack', however, was that prefects and housemasters were a law unto themselves. Such was also the experience of 'John Crawford'. Both saw a real risk of abuse in a system where boundaries were not explicit and the houses and prefects were not properly supervised. 'Jack' said: 'Prefects, housemaster … if they didn't like you, which by and large they didn't like me or my friends, it was just another tool to inflict a bit more damage on us, really.'[147] 'John Crawford' felt that prefects, with their multiple punishments, were trying to break his spirit.[148] Prefects were allowed to beat other children until 1974.

'Graham' agreed that each house had prefects with 'huge power'[149] but did not himself experience them abusing it:

> I didn't really ever see that. Before I went, not long before I went, they were allowed to beat you, physically, but that got stopped, thankfully. That would clearly have been open to all kinds of abuse, but when I was there that didn't happen … the prefects that were in charge of me were entirely reasonable, pleasant young men.[150]

He continued:

> Luckily when we get around to talking about Pringle House … which was for the very young boys and that had just been built, there were two prefects there … and they were really, really reliable, decent young men, and I still feel grateful for them, because I think they protected us from the housemaster … because they were suddenly around a lot more. They would come and speak to us before lights out in a very friendly way, and they would make sure that they'd put the lights off and everybody was okay and in fact I think they, just through being decent young men, were kind of taking over the role of what James Rainy Brown should have been doing, which was making sure everybody was all right before they went to sleep, that nobody had any issues or problems and I remember them very kindly and very warmly.[151]

That level of responsibility was confirmed as being possible by 'Vincent', a pupil from the early 1970s:

144 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, pp.21–2.
145 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.22.
146 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.13–15.
147 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.146.
148 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, pp.36–7.
149 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.66.
150 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.66.
151 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.79–80.

> Once you were made a prefect, you were taken into the housemaster's confidence. You would have meetings … and he would ask how certain boys were doing. You then realised that you could have an influence on the way that the school behaved towards its pupils. At least I certainly thought that I could have an influence. I was making adult decisions whereas before I had just been a pupil in the school, doing what I was told. When I was a prefect, I was involved in the consultation process. I could argue the toss with the housemaster and say things like fagging and the blue paper system should be revisited.[152]

However, having such influence was not guaranteed: 'Depending on who the housemaster was, he would listen or just ignore you.'[153]

Discipline

Pupils could be disciplined by staff and by prefects, who were permitted to use corporal punishment, according to the school's written response to the Inquiry, until it was abolished in 1974.[154] The process was formalised for all forms of discipline, and, in the case of corporal punishment, an entry would be recorded by the prefect in a 'Beatings Book', which would then be presented to the head for endorsement.[155] An account written by a pupil from the mid-1950s sets out the systems used after he failed to register his absence from 'Hobby Hour' in order to meet with a teacher:

> An unregistered absence put a black mark against our name on one of the offence lists maintained by the school prefects … The first black mark – we called it a blob – earned us an imposition, usually a map. This had to be carefully traced from an atlas onto special blue paper … the complexity of the map and the number of names matched the gravity of the offence … the most drastic was Scandinavia with all its fjords … [Paper] could only be obtained from our Housemaster … [who] recorded our names and misdemeanour in the book to which he referred while composing our official reports … The third blob on each list earned a beating … numerous other infringements were 'beatable' immediately … only the end of each term wiped the slate clean.
>
> With relatively few exceptions, beatings were administered by one of the prefects … [and] were conducted with great ceremony … all the prefects assembled in their meeting room … the victim was required to bind his wrists with handkerchiefs or scarves to protect veins or arteries … one of the senior prefects delivered yet another 'scathe', a searing and wide-ranging indictment of my morals and manners. Another prefect then administered the beating … The basic beating was six strokes, three on each palm … the notional limit was ten-and-ten for prefects themselves … I never got beyond seven-and-eight. After the beating one's friend was usually on hand to untie one's wrists and provide favoured remedies such as a basinful of warm water. The matter was concluded at morning assembly when the Headmaster endorsed an entry in the Beating Book, presented to him by the Head Boy.[156]

152 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, p.16, paragraph 60.

153 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, p.16, paragraph 60.

154 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.70.

155 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, pp.49–51.

156 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, pp.49–51.

'James' experienced discipline in the form of frequent blue papers and regular beatings.[157] 'Gerald' explained the blue papers:

> I can't remember physical discipline at all at Merchiston from anybody to anybody … I don't think it happened. The blue papers were blue-coloured A4 sheets of paper which … were held by the housemaster … they had to then go to the housemaster to say 'I have this punishment', so it was being monitored by the housemaster, and the punishment was … to trace out a map onto it from an atlas … for something a bit more serious it would be a more complex map with more names on it. So you might get a political map of North America out of the atlas and there are 500 names and you need to get it done in a couple of days so to speak. That would be for quite a serious offence.[158]

A Lochgelly tawse

Beatings were 'part of the system' and were carried out by means of 'a three-fingered tawse',[159] either by prefects or by staff. 'James'

> got one for having brought food back to school. It was all to do with rationing and stuff, there were rules about it. I knew I'd broken the rules, but we all did. And the prefects searched our suitcases one night after we'd gone to bed and found my food on me so I was beaten for that.[160]

'James' believed the maximum number of blows was 'six and seven or something like that',[161] but it depended which house you were in. 'John' said: 'You went to the senior prefects' room and it wasn't just one prefect, they would all be there.'[162] He gave an example of being beaten for secretly listening to the radio during prep and considered it to be fair 'because … I knew I'd done what I shouldn't have done'.[163] 'James' thought it was just

> part of the system … every time you open a door, you had to look behind you and if there was a prefect behind you, you had to stand and hold the door and let him through first, and to this day I still do the same thing … if you didn't do it you'd get beaten.[164]

A Beatings Book for Rogerson House for the years 1952 to 1963 was provided to the Inquiry. It confirms the applicant accounts in terms of quantity, numbers, and the reasons behind the punishment. Beatings do not appear to have happened every day but they certainly happened. As to the number of strokes, 'six-and-six' seems to have been routine, often for insolence or rule-breaking. Some breaches that led to beatings, such as having hands in pockets, reading after lights out, or, in one case, possessing a toaster, cannot be regarded as justified. They were abusive.

157 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.30.
158 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.22.
159 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.77.
160 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.31.
161 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.31.
162 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.23.
163 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.24.
164 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.77.

Teachers also beat boys. If a matter was deemed too serious for the prefects to deal with, it would be referred to the housemaster. 'John' recalled being slippered four times by the housemaster. Slippering was carried out over the trousers.

Some teachers chose to beat. 'James' was one and he beat hard. He is now

> not proud of that, but that's the reality … I certainly made a beating hurt … I think the reality is it's because I was on the boarding staff and if you were a day master, you … were never where the beating offences happened. It was to do with the boarding and the houses … and the issues like smoking and drinking, which were the classic beating offences of the time. So, because I was also involved in the boarding, was on duty, found people smoking from time to time, I was involved in beating.[165]

His view was that if rules existed then they

> need to be maintained and observed. If they have been broken, then there had to be consequences. [Whether it was] as serious as a beating or not was something that was regularly in discussion, I think, amongst us on the staff, and at that stage I certainly had no qualms about beating being a useful tool in the disciplinary armour.[166]

'Glenn' made the point that whilst teachers were allowed to beat, they had to seek the permission of the pupil's housemaster before doing so, and so there was some oversight:

> You discussed the reasons why you should or you shouldn't be taking this course of action, so that was a way of giving you then that sort of information. You couldn't just beat a boy because you felt it was right to do so. You had to go through the correct channels.[167]

'I certainly had no qualms about beating being a useful tool in the disciplinary armour.'

'Glenn' confirmed that such beatings were recorded by the housemaster and by the teacher in the punishment book which was kept in the common room. He thought 'there was less corporal punishment used than I might have expected'.[168] He went on: 'I think of the first year I was at the school. I can only remember two pupils in my year group, in my house, who were beaten.'[169] 'Antoine' explained that he only gave one beating in his time at Merchiston and did so without enthusiasm, and only on the instruction of the housemaster.[170]

The experience of 'Graham', however, was that beating by teachers was common and

> it was excessive, I remember thinking. I didn't question it because I was just so accustomed to it as being part of the school routine, but I saw some beatings where, for instance, when the boys came out of being beaten, we'd run the taps until it was as hot as possible and they'd put their hands in there to try and get some relief from the pain. I mean it was

165 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, pp.54–5.
166 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.57.
167 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.25–7.
168 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.18–19.
169 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.27–9.
170 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.94.

> really brutal … The reason I say excessive is because I saw the effect that had a few times on people. It was brutal.[171]

It appears that boys could challenge a decision to beat them; some did so successfully. When James Rainy Brown was proposing to beat 'James' simply for not having shown enough enthusiasm when watching a school cricket match, he refused the punishment and went to the headmaster Alan Bush who agreed that he should not be beaten.[172]

'Edward', a teacher during that same period, described the disciplinary system as 'pyramidal'. He went on:

> The head at the top had the complete and final authority, including the power to suspend or expel pupils for the worst acts of misbehaviour. Below him were the five housemasters, essentially responsible for the conduct of pupils in their house. In serious cases of misbehaviour the housemaster would carry out a thorough investigation and refer the matter to the head, where the pupil's membership of the school might be in doubt; otherwise he would impose a punishment himself. Other members of staff observing misconduct would either refer the matter to the housemaster or impose a limited range of sanctions himself. There was no formal printed policy for discipline or punishment.[173]

Blue papers, in the view of one teacher, 'Antoine', served a purpose but were used excessively, reflecting an overly formalised use of discipline. While the issuing of a blue paper had to be approved by housemasters, there was no guidance on when to do so, and 'Antoine' said that, with hindsight, staff

> were only too willing to dish out blue papers to boys who had produced poor work or been unruly in class or whatever … I regret to say it, but it was down to stamping my authority by issuing all these blue paper punishments that gave me some kind of personality in the classroom. Looking back, it was probably a negative … and one that I certainly changed as soon as I got out of Merchiston.[174]

He regretted his approach to issuing blue papers:

> If they'd made a mistake on a French verb or tense or something like that, then I would get them to write out 20 sentences using that particular verb or tense … Looking back, it's always struck me as extraordinary that the housemasters were the ones who were issuing all these blue papers to the boys and they would have had a record of how many I'd been giving out.[175]

His evidence certainly suggests that there was inadequate critical oversight of this system which had the potential for being used to such an extent as to be emotionally abusive.

In its Part A response, Merchiston said: 'The rulebook from 1958 stated that corporal punishment may be administered only after the Headmaster's sanction has been obtained: it may be administered by prefects only in the presence of the Captain of the

171 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.67.
172 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.102.
173 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, pp.90–1.
174 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, pp.90–1.
175 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, pp.91–2.

School.'[176] I heard no evidence that any such rulebook was known about. If it was, it was not, on the evidence, adhered to.

Fagging

Boys in their first year would usually be assigned as a fag to a senior pupil. 'John' was allocated fagging duties for the year by his housemaster, Mervyn Preston, and, along with another boy, had to empty dustbins into a larger bin near the incinerator. He said: 'The bins had to be emptied and we were given the job of doing it, so we just did it … even though you didn't really like it.'[177] He did not believe the system of boys fagging for a senior boy was, in the main, abused, although 'you had to do it. That was all part of the system. You were nominated a senior … usually prefects, and you fagged for them, which means you had to look after all their kit and their rugby kit and all the rest of it.'[178] He did not think anyone checked whether the relationship worked in practice or the senior boy used his powers abusively: 'I never saw that. If you didn't do it right, you were beaten [by the prefect].'[179]

There could, according to 'Gerald', be an element of reward: 'I think when I was head of house I gave my fags some money for the tuck shop, maybe every week, that sort of thing.'[180] However, the system was lacking oversight: 'When I was fagging for one of the prefects I don't remember anybody asking me about what was going on. When I was prefect, I don't remember anybody asking me about how it was going, from that point of view.'[181] It seems that boys could be required to carry out similar duties for members of staff, and 'John' had a friend who was sexually abused whilst doing so for a teacher, Ian Robertson.[182]

'Vincent' experienced fagging and also being allocated a fag:

> I was allocated to a boy who was head of the rugby team … I had to polish his shoes and clean his rugby boots prior to matches. It wasn't an abusive relationship. It was just understood that it was what would happen. That went on until I became a prefect and I was allocated a fag. You had to pay your fag a nominal amount. I think it was £1 or something. I completely disagreed with the system. I told my fag that I'd pay him the money but that I didn't want him to do anything because I disagreed with it.[183]

David Spawforth, who was headmaster between 1981 and 1998, brought an end to fagging – it was not permitted during his tenure[184] and was not revived thereafter.

Character of the regime

Merchiston's regime was, for many years, characterised by deference to authority. Some applicants were not concerned about that at the time they were pupils. 'James' said he 'didn't have any qualms about it. Of any kind. On any area.'[185] However, he explained,

176 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.70.
177 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.43.
178 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.82.
179 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.83.
180 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.33.
181 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.33.
182 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.37. See Sexual abuse chapter.
183 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, p.15, paragraphs 56–7.
184 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.153.
185 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.48.

I've agonised about bullying over the years because in some of the schools I was teaching in later on bullying was quite a significant issue, and I've thought back and asked one or two contemporaries, and … None of us thought that we ever saw someone else amongst our contemporaries being bullied.[186]

'Glenn' was aware of there being bullying but did not think there was a problematic bullying culture, for

> we were kept apart from the older pupils, by and large. We didn't see much of them, so the opportunities for bullying probably were relatively remote. There was bullying from within the year group … [although] less than … one might think. Possibly the house system had something to do with that. But there were 50 or 60 boys crammed into a relatively small space, so you would expect there to be some barneys, for want of a better expression. But the bullying that I came across was fairly minimal, fairly minor, and fairly infrequent.[187]

These views of the past expressed by 'James' over 60 years later and by 'Glenn' over 50 years later may well, of course, have been coloured by subsequently having been employed as teachers at the school.

Another teacher, 'Antoine', was not concerned about the possibility of boys being abused, whether by other boys or by teachers, but that was because 'it didn't occur to me'.[188] He added that he did not have any sense that anyone in the school was 'thinking along those lines'.[189] That does not mean it wasn't happening.

'Graham' witnessed a frightening incident in which James Rainy Brown physically abused four boys, and experienced an incident when Mervyn Preston sexually abused him in an attempt at grooming; his concerns about these prompted him to come forward as an applicant. As to his overall personal impression of the culture and regime, he felt it was 'a pretty decent place'.[190] He thought it

> important to say that, because otherwise it's just like kind of an unbalanced rant about an establishment. I mean, I can do that if you want, but that's I don't think fair. There were the two main incidents in my time there that have always stayed with me. Most of the rest of the time it was bearable.[191]

It is noteworthy that the height of his positive comment was that the school was mostly 'bearable', which could be thought to be little short of damning by faint praise.

The school regime worked for some children because they fitted the Merchiston mould, but a 'one-size-fits-all' approach was not good enough – not all children did fit and that was not their fault.

Vulnerable children were targeted

'Graham', importantly, recalled that some boys were vulnerable:

> They were usually kids who weren't very clever, weren't very good at sports. They used to be

186 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, pp.20–1.
187 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.15.
188 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.98.
189 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.99.
190 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.96.
191 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.96.

> not so much bullied a lot, but they just used to look a bit sad and lost and … people would be mildly cruel about them. I'm saying mildly cruel. What their experience of it was probably a lot worse than that. But I don't think there were many like that. Most kids were able to deal with it. But, yes, there were always one or two who you could tell were just unhappy … No, or little, effort was made by the school to address such sad and lost children … It was just part of life. You just had to deal with it … part of the ethos, you know: toughen up. It's that whole horrible kind of masculine view of the world.[192]

'Jack' described a friction from the outset between those who had been to a prep school and knew the boarding school system, and those who hadn't. 'You could possibly term it as bullying … those that didn't know the ropes were … mocked … To a lesser extent there would be differences between boys who came from a colonial background, but that wasn't that great because they'd mainly been to prep school too.'[193] Such friction is hardly surprising given that the whole regime worked on an assumption that rules were understood by all, even when they were not.

Who could a child speak to?

Unlike other schools in the boarding schools case study, there was little evidence of Merchiston having a culture that condemned 'cliping', or telling tales. However, that did not always mean that boys spoke up about their concerns. Far from it. For example, 'Ian', describing the 1980s, said 'the culture among the boys [was] … that you don't go to teachers, you deal with it internally'.[194] He was able to talk to the chaplain about being lonely and vaguely recalled trying to talk to James Rainy Brown about bullying but was told 'something like, you know, kind of "Toughen up"'.[195] The need to be regarded as tough appears to have driven boys to silence. As 'James' said: 'You just got on with it … that was the culture.'[196]

The need to be regarded as tough appears to have driven boys to silence.

Despite that, there is evidence that some pupils were prepared to raise concerns with some people, and, when they did so, action was taken.[197] However, it is also clear that there was no organised system of reporting, as 'James' explained:

> It was not formalised, it was never spelt out to you. You would probably start by talking to those you were closest to. Now, if you were a bit of a loner, which I was, I might have more quickly gone to a prefect/a member of staff. I would have probably gone to one of my teachers whom I … liked most … [but] you worked it out for yourself.[198]

Another pupil said:

> There was nobody to talk to, no. I suppose if you asked, you could talk to [someone], but

192 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.69–70.
193 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.111–12.
194 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.27.
195 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.35.
196 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.85.
197 See Physical abuse chapter.
198 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.24.

> would they listen to you? I don't know. It never got that serious for me to effectively go and say: 'I need to talk to you about whatever', that never came across my mind at that time.[199]

'Gerald' believed that pupils would have been aware they could talk to the chaplain: 'Yes, absolutely. And of course the housemasters were very available and accessible. They were there, they were living in the houses and you could go and knock on their door any time you wanted.'[200] 'Glenn' explained that whilst a boy might feel able to talk to his housemaster, whether or not he did so would turn very much on their individual characters; there would have been some housemasters a boy might not have spoken to because he did not expect to receive a very sympathetic response from that particular man.[201]

'Edward', a housemaster in the 1970s, described how

> each boy on coming into the school had a record card kept by the housemaster and any matters of importance were recorded. This was cumulative and at the end of the year, when the boy passed on to another house, the housemaster would write a brief summary and pass it to the next housemaster … when a new group of pupils arrived in the house I would carefully read the record sheets to see if there were any important issues that I felt would be worth discussing.
>
> I then had an interview of 10–15 minutes with each of the boys new to the house to discuss any of the above matters and to assure them that they were always welcome to bring to my attention any matters they wished to discuss.[202]

As a housemaster he had some experience of pupils reporting their concerns.

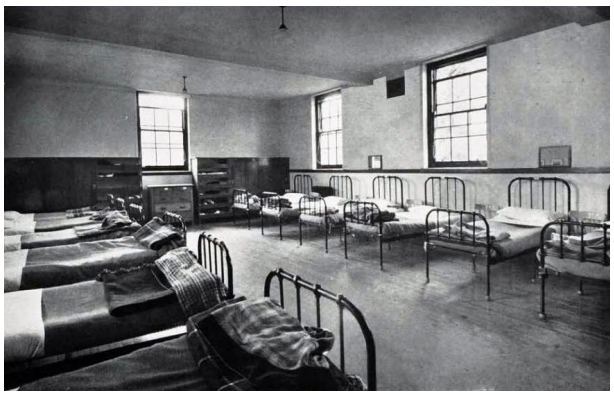
There were matrons at Merchiston, but they did not feature much in the evidence. 'James' said they were not on duty in the evenings.[203] Craig felt he might have been more likely to speak to the small number of female teachers or matrons in the school 'if I'd had to'.[204]

1981–98: the David Spawforth era – belated recognition of flaws and attempts at change

By the late 1970s it appears that real concerns existed about the future of the school. Applicants remember parental discontent because exam results were so poor that university places were lost and describe headmaster Donald Forbes as remote and ineffectual.[205]

The board's response was to find a new headmaster and a fresh direction. David Spawforth was interviewed and offered the position of headmaster in April 1980.[206] At about the same time the Chair of the Board of Governors set up a small review subcommittee of governors to make any necessary recommendations for improvement to the full board. Amongst a number of recommendations, it suggested that Merchiston's academic reputation

199 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.87.
200 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.40.
201 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.32.
202 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, pp.92–3.
203 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.92.
204 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.75.
205 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, p.4, paragraph 12.
206 Merchiston Castle School, Minutes of meeting of Executive Committee, 25 April 1980, at MER-000000298, p.16.



A dormitory in the 1950s

A modern dormitory

needed to be improved; that prefects should take a much more positive role in the establishment and monitoring of disciplinary standards; that a more comprehensive system of house tutors be introduced; and that a more formal system of tutoring should be considered throughout the school.[207]

David Spawforth sought to bring about change. He was influenced by what author John Rae[208] termed the 'public school revolution', that is 'the change from tough male-orientated and dominated boarding schools to establishments more in tune with the home, with female staff, married housemasters, closer contacts with parent, closer care and supervision of pupils'.[209] His view of Merchiston in 1981 was that it

> had not made the transformation so clearly portrayed by John Rae in *The Public School Revolution*. Pressure from parents, taken on board by my wife and me during the training time, demanded change … At the time, Merchiston's reputation seemed to be that of a male-orientated boarding school with a strong sporting tradition, notably in rugby.[210]

Minutes of the annual general meeting of 1 March 1982 record:

> At [David Spawforth's] instigation a campaign to update the accommodation was started at once and, in the Summer holidays with commendable speed, all the studies were converted into study bedrooms and the dormitories in Rogerson West were converted into cubicles. Mr Spawforth, with great energy, has initiated further changes to meet present-day problems, and these developments are continuing apace.[211]

'Glenn' described what happened:

> David Spawforth's brief was to modernise and to drag the school up in so doing, and he definitely did do that. You know, everything from improving accommodation and uniform to longer leave-out weekends, things like that … he tried to bring in younger people, but

207 Merchiston Castle School, A review of educational policy, April 1980, at MER-000000298, pp. 23–40.

208 Educator and author of, amongst other publications, the well-known book *The Public School Revolution* (1981). A modernising headmaster of both Taunton and Westminster Schools in the 1960s, he was critical of and pessimistic about the future of public schools run in the traditional manner, seen commonly in this case study. His teaching practice was at Fettes College under headmaster Donald Crichton-Miller in the 1950s.

209 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.138.

210 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.150.

211 Merchiston Castle School, Minutes of annual general meeting, 1 March 1982, at MER-000000298, pp.50–1.

> I think he also tried to bring in people with a range of interests and talents, not just the good rugby player or the academic or – you know, to widen and throw a net around a wider area, I think.[212]

David Spawforth stated his aim as having been 'to create, together with my wife, a more homely, more caring, more family-orientated school in which each individual could flourish in terms of personality and talents and to find or appoint staff to enable this'.[213]

He had a clear and, it seems, unwavering vision. 'Antoine' recalled:

> He had a phrase … 'Well, if you don't like it, you can leave'. That became a kind of a stock phrase in the common room. You know, if we were having a moan or a groan about something, then one of us would turn around and say: 'Well, if you don't like it, you can leave', because this is what the headmaster used to say.[214]

Positive changes

Corporal punishment and discipline

Corporal punishment was still in place when David Spawforth took up his post in 1981, but he revised the policy:

> I amended this to 'to be used only by the Housemaster' and, with my approval, for a serious matter such as bullying, theft, or bringing alcohol into the school and selling it to others … However I soon [in 1987] reduced corporal punishment 'to be administered by the Head only' … I felt that whilst there was a case for corporal punishment it should be seen and administered as a real deterrent; elevated therefore to be administered by the Head and very rarely. Soon afterwards I abolished corporal punishment completely.[215]

Corporal punishment had been not just reduced but prohibited, in 1987, in all state schools in the UK. Victoria Prini-Garcia, on being asked about the reaction to the change in Merchiston's policy amongst staff, responded: 'I think most of the people said: "About time". I think the housemasters might have felt a bit – it must have taken time for them to adapt to other ways of sorting out disciplinary problems within the boarding house, but that is what it was.'[216]

Rules and communication

In 1982 the school published brief school rules. The rules were sent to every new pupil.[217] The opening paragraph stated:

> These rules have been made as simple as possible and you are expected to know them. At the same time remember that they do not cover all aspects of behaviour at Merchiston. You are expected to show common sense, consideration for others, and due regard for the reputation of the School.[218]

That mixed approach of regulation and common sense was confirmed by 'Ian', who explained that on arrival at the school

212 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.34–5.
213 Written statement of David Spawforth (former headmaster, 1981–98), at WIT-1-000000557, p.11, paragraph 44.
214 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.74.
215 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.153.
216 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.10.
217 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.145.
218 Merchiston Castle School, School Rules, 1982, at MER-000000086, p.2.

in 1986 he was given a copy of the rules. However, traditions persisted and 'there was a sort of overt and covert system of rules, you know, different systems of rules that you learned from older boys or you learned from the housemasters or the other teachers … and, you know, if you put a foot wrong, then there were punishments'.[219]

Pastoral support was provided by the school chaplain. Victoria Prini-Garcia said:

> He did look after the boys a lot, so he did a lot of meetings with them and a lot of trying to guide them through the turmoil of adolescence, really, more than anything. So, for instance, he and I devised like evening classes, he in philosophy and me in psychology, to try and get them thinking about the things that are happening to them and the things that are happening … in general and why.[220]

The Scottish Education Department, in its inspection report of 1984, commented that David Spawforth 'instituted a culture change in the school's relationships with the parents and families of pupils. He introduced annual parents' meetings for all parents, posting of calendars to parents every term, and pupil report cards that included more than just academic performance.'[221] These are straightforward basics which all have potential to work to the benefit of the individual child. What is surprising is that it took until the 1980s for them to become the norm at Merchiston.

1994: staff handbook

From 1994 onwards a staff handbook was issued to all staff, pupils, and parents.[222] It contained a definition of abuse which, it said, 'could mean sexual or physical abuse. It could also be mental and emotional abuse, including all types of bullying and neglect.'[223]

The handbook sought to reinforce the position of the headmaster; although boys would change housemasters each year, the headmaster was a constant.[224] There was advice from David Spawforth about communication with parents: 'all communication with parents, especially in writing, should be clear and constructive. A member of the Common Room should not enter into "difficult" correspondence with a parent: he/she should consult with me prior to responding.'[225] The handbook had a short section on staff appraisal, referring to it as 'a continuous system of appraisal'.[226] Newly appointed staff were subject to a probationary period of one year, and all other staff were seen by the headmaster on an 'as appropriate' basis.[227]

A supplement was published in 1995 which detailed, *inter alia*, punishments that were

> mainly in the form of:
>
> (a) Detentions – recorded in the book
>
> (b) Impositions written on 'Blue Paper'

219 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.8–9.
220 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, pp.13–14.
221 Scottish Education Department, Report, Merchiston Castle School, 1984, at MER-000000141, pp.1–10.
222 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.151.
223 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.151.
224 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.143.
225 Merchiston Castle School, Staff Handbook, September 1994, at MER-000000150, p.9.
226 Merchiston Castle School, Staff Handbook, September 1994, at MER-000000150, p.10.
227 Merchiston Castle School, Staff Handbook, September 1994, at MER-000000150, p.10.

(c) Dirty jobs

(d) Loss of privileges

(e) Suspension from school

(f) Ultimate sanction – expulsion.[228]

Boarding house life in the 1980s

Despite the changes introduced into the houses by David Spawforth, houses continued to run on broadly the same footing as before and with a residential housemaster in charge of their day-to-day running. Stephen Campbell described the tutor's role as 'essentially to be an extra pair of hands on the ground'.[229] New teachers still did not receive any formal induction. Victoria Prini-Garcia said: 'In 1986, I can tell you induction was "Good luck and I'm here if you need me", so, you know, it's me identifying the need rather than "And this is what you will need".'[230]

'Mark' described the housemasters as being present but not visible. He said: 'At the back of the house there was a suite of rooms where the housemasters lived with their families, or some of them did … And they didn't really interact with you that much … No supervision. You were left to your own devices.'[231]

Boys were still not informed who they could speak with if they had a problem. 'Mark' said:

> There was no one that you could specifically go and talk to … if I was running a house and I had boys turning up, my first thing would be 'Yes, you need to get along with each other, but if any of you have any problems, you need to come and speak with me or you need to go and speak with the matron or you need to go and speak to whomever.' It's about opening those doorways and highlighting those avenues for people to actually seek support, but no, there was none of that, it was very much a case of just get on with it.[232]

His experience was similar to that of 'Craig' who was at Merchiston between 1986 and 1993, and found that there 'wasn't a system as such', and his housemaster (James Rainy Brown), about whom he had concerns, 'was the only one you could report things to'.[233]

'Antoine' offered a stark contrast between the Merchiston he left in 1985 and the arrangements he found in place at Bloxham School in Oxfordshire, the school where he had secured his next post:

> Well, first of all, the senior housemaster and the housemaster of the house I was in talked to me about what was expected of a tutor in the boarding house. And on the academic side, the head of department sat me down and talked about what was expected in the classroom … one had regular meetings with other teachers in the department and other tutors in the boarding house … the meetings between the tutor groups were frequent. I think there was a Monday night meeting …

228 Merchiston Castle School, Supplement to Staff Handbook, October 1995, at MER-000000085, p.7.
229 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, p.121.
230 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.7.
231 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.84.
232 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.91.
233 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.74.

> the four or five tutors would get together with the housemaster and every single kid in the house would get a mention.[234]

Welfare of the individual children was actively considered at Bloxham School,

> because what one would then do as the boy's tutor would be to go to the physics teacher over break time or lunchtime the next day and just buttonhole them and say: 'What about so-and-so with his physics? He's not happy, he's not had a good report', and so on, and it would turn out that another teacher would say a similar thing and then you get to focus on an issue that this particular child had that wasn't really classroom-related at all but had come up through the tutor system.[235]

Parents were also more engaged:

> That was the beauty of the system, that you'd receive a call from a worried parent saying: 'I don't know if you know, but he's having a terrible time in history, can you just look into it and see what the problem is?' And that's sometimes all the parent needed to say and the tutor would find out what the difficulty was and then report back to the parent afterwards … Drawing things from here, there and everywhere, all aspects of school life, the tutor would draw them together and analyse and take action.[236]

All of that was alien to Merchiston when he was employed there, as he had no engagement with parents and in that era it was not the Merchiston way to facilitate it. The final point 'Antoine' made was that when he joined Bloxham School, systems were already in place:

> The big difference in the culture … was that from the outset it was made plain to the children through their tutor, rather than just by accident … that this was the route to take if this went wrong … There could never have been any doubt from the moment they came as to who to speak to in the event of a problem. It was the same for staff, that we knew as staff who to speak to … There was a very good system in place for – induction is the word … in 1986 when I first went … the pathways were really very clear.[237]

Staffing in the boarding houses was not fully addressed at Merchiston until years later, in the early 1990s.

Few formal processes

Even in the early 1990s Merchiston still lacked systems to deal with problems. Instead, ad hoc responses occurred as they arose.[238] Victoria Prini-Garcia explained:

> If a boy's grandparents have died … there will be an announcement done in the common room saying: 'Look, be careful with this because this has happened, keep an eye on him. If you see him upset, don't say anything but let me know.' That is what the housemasters will say in the weekly house meetings that we used to have … some sort of a structured care … At the beginning of the term there would always be like personal news – each housemaster will speak about the house and the boys and which boys come with

234 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, pp.109–10.
235 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, pp.110–11.
236 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, pp.111–12.
237 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, pp.117–18.
238 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, pp.14–16.

Evidently a fully functioning appraisal system was not in place at this time.

> a certain problem that we need all to be aware of, be it – I don't know, a handicapped sibling or granny that just died or parents are splitting up, that kind of thing … But that is … from the time I was full time, 1992.[239]

Another example was staff appraisal. Minutes of a board of governors meeting held on 10 June 1996 enquired 'as to how teaching performance was measured and there was agreement that frequently documented appraisals would help in this monitoring process'.[240] Evidently a fully functioning appraisal system was not in place at this time, notwithstanding the section on appraisals in the staff handbook of 1994.[241]

Nicholas Diver began teaching at Merchiston in 1997, the year before David Spawforth retired and 12 years after 'Antoine' had departed for Bloxham School in 1985. By the time Nicholas Diver took up his post, processes had improved:

> We had weekly meetings of the department and teaching was observed by John [his head of department], the headmaster, and others … In my second year the new headmaster, Andrew Hunter, observed me teach, as did John again, and in my last, we had a programme of internal departmental lesson observation in which we all watched one another … As a house tutor my line manager was Paul Williams in Rogerson East and Alex Anderson in Evans. Contact with these people was frequent, with one-to-one meetings and meetings of the entire pastoral teams of the respective houses. I think that these happened at least once a week at break time … I remember a series of sessions with the deputy head, Ken Houston, when I first arrived, when I was taken through the different policies of the school, including such things as health and safety, report writing, and child protection … both Paul and Alex made a clear point of integrating new tutors carefully and I remember frequent sessions that explained my duties and how the housemaster expected things to be. I also remember … discussions about child protection protocols with these two.[242]

Nevertheless, he also observed that 'with the benefit of a modern-day comparison, my gut feeling is that there was surprisingly little formal training in the sense of a well-worked-out programme'.[243]

Prefects and pastoral responsibilities

Prefects continued to have an important but more developed function. 'Craig' said that they 'were there in a monitoring role. They dealt with issues of discipline. Their role was very much authoritarian.'[244] Blue papers remained. However, as 'Muir' noted, 'they also developed a pastoral role. They did roll calls. The ones I met were okay and I felt they

239 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.16.
240 Merchiston Castle School, Minutes of meeting of Board of Governors, 10 June 1996, at MER-000000299, p.27.
241 Merchiston Castle School, Staff Handbook, September 1994, at MER-000000150, p.10.
242 Transcript, day 266: read-in statement of Nicholas Diver (former teacher, 1997–2000), at TRN-8-000000062, pp.139–40.
243 Transcript, day 266: read-in statement of Nicholas Diver (former teacher, 1997–2000), at TRN-8-000000062, p.142.
244 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.74.

were on my side. If I got into bother then I felt they were good. I didn't know about them giving punishments.'[245]

The vulnerability of being different from the perceived norm

The drive to increase the school roll led to Merchiston accepting pupils from different backgrounds as well as actively seeking students from different parts of the world. That may have increased tensions similar to those which had been experienced by boys who had not previously attended a prep school. Certainly from the 1980s onwards being different from what was perceived to be the norm appears to have mattered more, and this sometimes led to abuse. 'Mark', who was brought up partly by a grandmother who cleaned schools, a grandfather who worked in shipyards, and mainly in Clydebank, explained some of the ways in which he was different from other boys:

> I was different because I back chatted, I was different because I came from a different social standing, I was different because I had a different experience in terms of what I would experience when I went home, at school, I was different because I had less money, I was different when we went out into town that I couldn't spend as much money as them, and that caused me to be isolated.[246]

He felt he was

> definitely looked down on … I did feel quite isolated in a lot of ways and I felt I wasn't part of … events that were going on … I remember one of the big things at Merchiston was about going to the … Highland Show every year and people having their … Range Rover there, having their picnics at the back or the same at the rugby as well. That was the perception. God, my parents didn't even own a car at that point … I remember just being treated differently.[247]

'Ian' felt it could happen due to

> any source of difference. There was a boy who was in the top year … who was given a lot of homophobic bullying. I don't know his sexuality, but … it was just words that people heard from older kids and you knew that it would annoy people, hurt people. You knew it was a bad thing, and so people used it, you know? So anything like that, you know, lack of physical ability, being sort of seen as less intelligent … at Merchiston, the boys … it was pretty wild … it's hard to find words to kind of explain the way it was, because it wasn't like there was no control, but there were a lot of things that were sort of seen as probably toughening the boys up that would be classed as bullying these days, and it probably would have then as well.[248]

'Toughening up' was a phrase regularly used by some at Merchiston. 'Diane', a parent who gave evidence about her son's time at Merchiston, recounted that:

> There is a comment from JRB [James Rainy Brown] in one of 'Christopher's' reports that he 'needed to be toughened up' … Looking back now I realise that Merchiston was actually more about regimentation and running the school with precision than it was about the needs of the individual child. The individual child was lost, because every child had to conform … I think schools such as Merchiston

245 Written statement of 'Muir' (former pupil, 1986–8), at WIT-1-000001349, p.5, paragraph 17.
246 Transcript, day 264: 'Mark' (former pupil, 1981-7), at TRN-8-000000059, p.87.
247 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, pp.70–2.
248 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.15–16.

> are fine for boys that are resourceful and can fend for themselves, but not for boys who might be a bit different, or a bit vulnerable, or boys that need extra help.[249]

'Christopher' was a pupil at Merchiston in the early 2000s.

Vulnerable boys have been bullied throughout Merchiston's history. However, the prevalence of bullying was, from the 1990s onwards, sometimes tempered by an increasingly child-centred approach. Victoria Prini-Garcia described feeling matters had improved somewhat, drawing on her own experience as a Merchiston parent as well as a teacher. One of her sons

> was a very shy boy, he didn't like rugby … but he was good at tennis … and he was a very good artist. So the school made a point of showing his art in the chapel … They didn't need to do that … they encouraged him to feel proud of that particular thing.[250]

Homophobia

Homophobic abuse was common. 'Mark' said: 'It was a slur term to direct towards someone – "Oh, you're gay" – and I can't imagine anybody … ever having felt that they could have come out if they were gay at that point.'[251] He recalled being abused for being gay, even though he was not:

> I think on one occasion, as I was getting showered, I potentially had an erection, which is not unusual for teenage boys. Another boy … because he didn't like me, then used that as an opportunity to accuse me of being gay and I was then referred to as gay quite regularly. To the extent I remember being pulled in by the housemaster and asked if I was gay.[252]

'Mark' explained the housemaster's concern wasn't how the verbal abuse was impacting on him, but more 'Oh God, you could be gay, we can't have a gay boy in amongst other boys who are straight. And when I denied it, I'm sure he didn't necessarily believe me.'[253]

That culture also extended to the experience of a teacher, 'Robert', in the early 2000s. He said:

> There was a sort of regular banter amongst both pupils and staff which very much was framed in ways where [homosexuality was] talked about … derogatorily and was definitely a place that I wouldn't have felt comfortable to broadcast – or not even broadcast, just say it …
>
> After I got the job, I discovered that a friend of mine had actually been to Merchiston and … he … told me a story about a teacher that was still present all the way through my time there who had … given an assembly to the whole school … which had made a bit of an attack on homosexuality and used some particular metaphors [to] describe it as essentially a way of destroying society.[254]

What was experienced by 'Robert' confirmed that not only did pupils use the word 'gay' as a term of abuse, but so also did some members of staff. He said: 'It was just a lot of

249 Transcript, day 265: read-in statement of 'Diane' (parent of former pupil, 2000–5), at TRN-8-000000060, pp.110 and 124.
250 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.21.
251 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.89.
252 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.90.
253 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.91.
254 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, pp.93–4.

jokes, again some mild insults that – it was just commonplace.'[255] He observed that there was 'very much a sort of laddish culture there amongst the staffroom'.[256] None of that takes account of the damaging impact of such a culture and use of language on a child who is its target.

Child protection

The Children (Scotland) Act 1995 was significant in the development of legislation about the care of children in Scotland, including residential care by adults other than parents and guardians. They were placed under a duty to safeguard the child's health, development, and welfare. It heralded a new child-centred approach being required within an overarching fundamental principle of the child's welfare being paramount. Merchiston, in common with other boarding schools, required to – and did – have regard to it.

Minutes of a board of governors meeting dated 27 November 1995 state: 'Welfare – the question of stress on boys and teachers was discussed with a possible requirement for counselling. The welfare of residential pupils will form part of future HMI inspections. New legislation covering child protection requires a school's policy to be in place.'[257]

The first child protection coordinator (CPC) was Nigel Rickard, appointed in 1999. His successor, Victoria Prini-Garcia, who was previously his deputy CPC, recalled it as being a matter of him being appointed as CPC overnight, that she did 'not believe there was any clear idea of the implications of this remit … [which] was still fairly undefined and unclear',[258] that the role was not, at that time, independent enough from the school to be effective, and its import being 'that if we saw children fighting, we had to tell him'.[259]

Some positives, but a mixed picture

Like the children of the pre-Spawforth era, 'Ian' found there were some good aspects of life at Merchiston. He said:

> It's a hard one, because … there were good things, you know, there … was hot chocolate with the junior housemaster sitting around in the evening with all the boys, your friends, and there was all of that, so there were really good things about the school, but they were sort of alongside all this other stuff.[260]

However, his friend 'Craig' was badly bullied and 'there was never anything done that stopped the bullying'.[261] Hence his reference to the 'other stuff' which was the fact that

> there's a lot that can happen until it gets to the attention of the housemaster … it was this strange unresponsive environment where you just were trying to … make friends at the beginning and then kind of keep those friends and be a good friend, but it was a … funny environment.[262]

255 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.94.
256 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.96.
257 Merchiston Castle School, Minutes of meeting of Board of Governors, 27 November 1995, at MER-000000299, p.39.
258 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.19.
259 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.19.
260 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.29.
261 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.25.
262 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.30.

'Ian' went on:

> I have mixed memories of Merchiston. It wasn't all bad … I have some really fond memories of being at the school, and I feel quite disloyal saying a lot of this stuff, you know? So there's always this kind of – it's one of the problems with it, that it tears your loyalties apart.[263]

The school's practice was, as he saw it, to react if bullying came to light, but what he felt was needed was

> a response rather than a reaction. You know, a response that was reflective and asked the question, you know, what's the function of the behaviour, why is the child behaving that way? And, you know, the thing is in those days … for the first year or two I was at Merchiston there was still beating kids, you know, corporal punishment, and I think that's the thing, is that it wasn't … ever to my knowledge dealt with reflectively. It was more … I would compare it possibly with the military where you don't snitch, you … deal with things internally, and there was no sort of higher-level sort of attempt to break that down and … and get rid of the shame and the stigma and normalise going to teachers if you need help when you're in distress.[264]

1998–2018: the Andrew Hunter era

When Andrew Hunter was appointed head in 1998, Merchiston sought continuity. He said: 'They wanted … a husband-and-wife team. That was made quite clear. That suited my wife and myself.'[265] His predecessor David Spawforth and his wife 'were very much a husband-and-wife team'.[266] Andrew Hunter continued:

> They wanted somebody who would be the equivalent – which is what happens in a school that size – of a super housemaster. That is the challenge of being a head of a school that size, because the parents also expect you to be the super housemaster and to have vast knowledge almost of every pupil in the school. But that didn't frighten me … They wanted somebody to recruit. Recruitment at Merchiston was hard and [numbers] were – I think they were 350. That wasn't low at the time, but it's very difficult to run a school that size and to actually improve it dramatically … I think we were teetering along at just about breaking into a surplus or running, you know, negatively.[267]

Andrew Hunter's tenure was certainly not without problems and failings but he is regarded as the headmaster most responsible for change and modernisation being achieved at Merchiston.

Harsh edges

Andrew Hunter was enthusiastic about taking up his appointment but felt that:

> There were just edges to the school that were a tad harsh … I remember just in very simple terms it meant the world of difference to my wife and I that we carpeted the front entrance to the school and moved away from concrete floors. That we moved dramatically on soft furnishings in houses and all over the school. Because we wanted [the school] to feel like home for these boys.[268]

263 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.54–5.
264 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.27.
265 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.14.
266 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.17.
267 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.14–15.
268 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.39–40.

He also tried to shift the outlook 'and move it away from thinking that sporting achievement was the only relevant achievement'.[269] He was to an extent surprised that he had been appointed as he had never played rugby. His goal was to make

> every boy feel he had the chance to be happy and to succeed, to find those hidden nuggets of ability. That's where it started from. We still congratulated those who were successful in sport, but remember we were also talking about sport in those days which was just team sport. So we had to even in sport diversify to individual sports and not just the team sports.[270]

Victoria Prini-Garcia said of Andrew Hunter: 'His vision was: boys must fulfil their own [vision] … parents adore him because he really fought for the boys.'[271]

Leadership: structural changes

Andrew Hunter soon discovered that the existing management model did not work for him – particularly that aspect of it which involved 'absolutely everything'[272] funnelling up to the head. Substantial changes were required. It differed from his previous school, where reporting lines were channelled through a second master. The existing system was, he thought, 'wonderfully grounded' but placed too great a burden on the head.

Accordingly, in his first academic year he restructured the school management, which included creating an academic management team and an assistant head pastoral. Nigel Rickard was appointed as the school's first CPC.[273] The intention was to free up the head to concentrate on other issues such as recruitment, admissions, marketing, and fundraising. Andrew Hunter described it as 'trying to put in place the opposite of heroic leadership and trying to put in place devolved distributed leadership, and then supporting them and … obviously giving them responsibility and then accountability'.[274] Nicholas Diver remembered the period and said: 'The feeling at the time was that the management structure had been brought up to date, with a shift away from a rather personalised approach to management under David Spawforth.'[275]

Organisational structure was kept under review. In September 2004 Andrew Hunter initiated the senior leadership team (SLT), comprising the headmaster, the director of studies, the head of junior school, and the deputy head. The SLT met 'weekly to look at day-to-day issues and had an executive decision-making role, with relevant members of staff being invited to attend such meetings where appropriate'.[276] In 2015 the school appointed a deputy head pupil support, along with two assistant heads pupil support.[277]

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269 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.40.
270 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.41.
271 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.38.
272 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.11.
273 Merchiston Castle School, Staff Handbook, 2009, at MER-000000170, p.37.
274 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.27.
275 Transcript, day 266: read-in statement of Nicholas Diver (former teacher, 1997–2000), at TRN-8-000000062, p.141.
276 Merchiston Castle School, Staff Handbook, 2009, at MER-000000170, p.37.
277 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.95.

From the outset Andrew Hunter was concerned about the

> horizontal structure – after all, even as fiction … *Lord of the Flies* is about youngsters of the same age. So we started with that horizontal house system always thinking there must be some who are in danger of falling in between the cracks. What are we going to do about this? How can we try and build in measures, support measures, as far as we can to prevent this?[278]

He went on:

> So it was a question of trying to teach the staff or all of us … to have these antennae in these houses. The presence of the housemaster if at all possible on the ground, having meaningless conversations, apparently, with every sort of boy, so that if a boy went to see the housemaster in his study because he had a concern, that was seen as normal, and it might not be seen as that ghastly word: dobbing. We had to work very hard at this. We … tried to work out which were the influential boys in each cohort and why. In the early days there was in my view an anti-intellectual ethos coming from pupils to other pupils and sometimes those who were intellectual were given a hard time, so we had to work out how to break that down. We tried many, many tactics. We never cracked it, I don't think, because you've got to carry on and carry on and carry on.[279]

Interestingly, Andrew Hunter felt there was a culture of boys not sharing information when he joined in 1998. 'I wouldn't say that was unique to Merchiston … but it was something we were desperate to crack.'[280] That led to further organisational change and the appointment of heads of juniors, middle years, and sixth form to provide greater and more consistent oversight of pupil progression through the school.[281]

Initially, Andrew Hunter had wanted to move away from the horizontal system but discovered that 'it was an area which was … how would one describe it? A no-go zone? Because it was such a – it was in the fabric of the school.'[282] However, he did achieve some verticality with the opening of Laidlaw House for lower and upper sixth formers, which he thought vital.

Written policies

'Glenn', a long-serving teacher, readily acknowledged that 'a lot of the improvements came in the last 10 years that I was there',[283] that is, up to 2009. He continued:

> Child protection would be the obvious example … There was awareness there was a lot more that needed to be done … in the way of documentation and inspections and that side of things than – policy, yes, probably sums it up … We had umpteen committees and meetings and groups and policies … Even when one was there, it was sort of hard to take it all in.[284]

Andrew Hunter used templates from his former school, and the impact of this was

278 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.42.
279 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.44–5.
280 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.47.
281 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.48.
282 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.50.
283 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.32.
284 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.33–6.

remembered by teachers of the time who were issued with a large folder containing the school's policies. 'Jane' recalled 'a big booklet, a handbook, that you got at the start and was updated every year'.[285] She spoke of policies being welcomed by the common room and that 'over time policies were increasingly discussed and consulted on'.[286] Examples included a programme of annual CPD and Review & Development introduced in 2006 for all teaching staff.[287]

Formal induction

A formal induction was also introduced for new staff, though it was more about practicalities than potential welfare issues. 'Robert' said he

> came up for two days as a sort of induction to meet more of the staff that I'd be working with … I found out my timetable in that time and had a meeting with the head of department to discuss exactly what I would choose to teach within those classes … I met the housemaster that I would be working with. I saw the flat that I would live in. But each thing was very brief, and it was all centred around 'This is … you'll be doing this so you need to know this', kind of thing.[288]

Training of staff

Staff training was formalised, with everyone trained on GIRFEC,[289] the school's staged intervention model, and child wellbeing and protection. Regular, detailed child protection training was provided to all staff working in the school, with additional training provided for staff working in the boarding houses.[290] Stephen Campbell said:

> Staff, including managerial staff, were given guidance and instruction on how children in their care at the school should be treated, cared for, and protected against abuse, ill-treatment, or inappropriate behaviour towards them from staff, other adults, or even fellow pupils. This was achieved through regular in-service training and updates, written policies, and the staff handbook.[291]

Andrew Hunter, echoing contemporaries in other schools, found that as a new head, membership of the Scottish Council of Independent Schools (SCIS) and of HMC[292] was tremendously helpful:

> Both are slightly different, but … the level of courses provided for us was of the highest order … and that's why … we always tried to make sure we were at their courses, because we were hearing things from the horse's mouth and learning from the horse's mouth … We were very blessed.[293]

Training of prefects

Training was also extended to include prefects. Minutes of a board of governors

285 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.83.

286 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.83.

287 Merchiston Castle School, Staff Handbook, 2009, at MER-000000170, p.8.

288 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.85.

289 GIRFEC (Getting It Right For Every Child) is a Scottish Government policy that seeks to improve outcomes for children and young people by placing the child at the centre. It was first introduced in 2006.

290 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.55.

291 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, p.125.

292 HMC, or The Heads' Conference, is an association of headteachers of independent schools which includes members from the UK, international members, and affiliate members who are heads of state schools.

293 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.38.

meeting dated 26 November 2007 record that: 'The Care Commission had been extremely impressed by the work carried out by MCS prefects. They had suggested that the prefects receive training in CPO [child protection officer] matters as they could be the first point of call from boys in their House.'[294]

A key development, around 2013, was to put a great deal more emphasis on prefects acting as role models and support as part of the school's updated disciplinary policy. Senior pupils were trained by the Place2Be charity from about 2005 onwards, to enhance their understanding of how best to give pupils support.[295]

Since at least 2015 all pupils in the lower sixth form have been given an introduction to child protection and wellbeing as well as a session on restorative practices. 'Prefect teams … are selected during the Lent term and there is an application form and feedback is gathered from staff and pupils.'[296] The prefect selection process is set out in a policy document.[297]

Regarding disciplinary matters, headmaster Jonathan Anderson referred to the up-to-date position: 'Our prefects are not able to give any sanctions per se. They are able to identify when a student is getting it wrong, they can take that concern to a member of staff, and the member of staff then will intervene usually through a restorative process.'[298] That means 'having a discussion, identifying what went wrong, what happened, how that behaviour can be improved in the future'.[299]

Pupil voice

The need for staff to engage in active listening has now been acknowledged and processes developed, particularly since the inspections of 2015/16. Jonathan Anderson said:

> That's something I don't think we will ever relent on … it's something that we will always be keen to improve and develop but we are always seeking opportunities for the boys to share their views, to have input, and to play their part in developing a strong community … to make sure that we are delivering the very, very best for them.[300]

Child protection policy

A particular focus of all the school's formal policies became child protection. Peter Hall said:

> Staff were given increasingly clear advice on how children in their care at the school should be treated … through the staff handbook and through the school's policies … The first formal child protection policy must have been around 1999, with the appointment of the Child Protection Coordinator with responsibility for staff training and record-keeping. It was made very clear to staff that any child protection concern must be passed on to the Child Protection Coordinator, who was responsible for taking advice from external agencies and

294 Merchiston Castle School, Minutes of meeting of Board of Governors, 26 November 2007, at MER-000000300, pp.5 and 9.
295 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.146.
296 Merchiston Castle School, Letter from Jonathan Anderson to the Inquiry, 4 June 2021, at MER-000000349, p.1.
297 Merchiston Castle School, Prefect selection policy, at MER-000000354.
298 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.28.
299 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.28.
300 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.89.

overseeing appropriate investigation, action, support and referral and keeping detailed records.[301]

> 'Staff were given increasingly clear advice on how children in their care at the school should be treated.'

A review of child protection led by the child protection governor took place in 2012. It 'found no major concerns over current processes but more time was needed to ensure that all documentation was consistent'.[302]

2013 onwards

Notwithstanding the formalisation of policies and processes, and the sense that Merchiston was performing well, the death by suicide of James Rainy Brown in 2013, the subsequent inspection of 2014, the imposition of conditions by the Registrar of Independent Schools, and finally the discovery in 2015 that a female teacher, 'Laura' (RCQ)[303], had been abusing boys all gave rise to profound shock within the school, and triggered considerable reflection. As Andrew Hunter acknowledged, 'in our processes we were too internal and did not necessarily seek advice from regulators and social services … We also learnt to adhere to the disciplinary code of conduct for members of staff.'[304] Another outcome was the realisation that greater governor oversight was required.

Minutes from 2013 highlighted that: 'procedures need to be established to keep Governors informed of serious staff disciplinary issues and ensure that the influence of the staff members of Governors can be effectively managed'[305] and that: 'It was suggested that the Child Protection Officer provides the Board with refresher training in September 2013 and biennially thereafter.'[306] Minutes from the following year reveal that it was agreed that governors should be more involved in the implementation of action plans and that 'Child Protection should be a standing agenda item on the Education and Pastoral Committee agenda as well as remaining on the Board agenda'.[307]

The board always had the power to instruct individual governors or external parties to undertake reviews of any areas of the school. Those powers were exercised in 2014 when Kate Cherry, a former inspector, was instructed to report on the child protection policy and procedures at Merchiston,[308] and again in 2015 when WithScotland[309] carried out an independent analysis of the school's

301 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, pp.151–2.
302 Merchiston Castle School, Minutes of meeting of Board of Governors, 11 June 2012, at MER-000000013, p.3.
303 In the case of 'Laura', reference is also made to the cipher (RCQ) used to describe her in Inquiry transcripts.
304 Written statement of Andrew Hunter (former headmaster, 1988–2018), at WIT-1-000000517, p.65, paragraph 180.
305 Merchiston Castle School, Minutes of meeting of Board of Governors, 17 June 2013, at MER-000000017, p.2.
306 Merchiston Castle School, Minutes of meeting of Board of Governors, 17 June 2013, at MER-000000017, p.3.
307 Merchiston Castle School, Minutes of meeting of Board of Governors, 24 November 2014, at MER-000000023, p.2.
308 Merchiston Castle School, Report on Child Protection Policy and Procedures, August 2014, at MER-000000346.
309 A Scottish governmental organisation that supported child protection practice, policy, and research across Child Protection Committees.

child protection policies and safeguarding procedures.[310]

Significant changes were made as a result of these reviews, including the development of policies entitled 'Allegations of Abuse Against Staff' and 'Child Sexual Exploitation', and revised policies on behaviour management and staff disciplinary processes. Governors also supported the formation of a Pupil Support Leadership Team and the creation of two Assistant Head Pupil Support positions within a system where Personal, Health and Social Education was becoming more prominent.[311]

Child protection is now a standing agenda item at board meetings, and board-level decisions on child protection issues must be ratified by the child protection liaison governor. More resource, in both staffing and board activity,[312] has been put in place.

Jonathan Anderson said:

> We have absolutely learned from this experience. Safeguarding is our number one priority and the wellbeing of the young people in our care, it is of paramount importance to us, and we do not want to have a situation whereby a mistaken sense of loyalty or any ambiguity comes into play.[313]

He fully acknowledged the need to continue to develop best practice.[314]

Merchiston's child protection practices now include using a management information system:

> Our mantra is 'Notice, check, and record', and that is something that we always fall back on … the key word there being 'noticing', and it is about noticing changes in behaviour, noticing unusual patterns or something that is not quite right. In terms of recording that, we have … a management information system, and in it there is a child protection wellbeing module that we have helped refine with the software company that built it, and that allows colleagues to record any wellbeing concerns that they have. Those are then flagged by housemasters and by the pupil support leadership team and addressed accordingly.[315]

Response to evidence about the regime

The response from current leaders at Merchiston suggests that they have taken on board the school's past failings and are anxious to prevent any recurrence. They certainly needed to do so. Of the 'Notice, check, and record' mantra, Jonathan Anderson said:

> That is a very important aspect of making sure that everybody is safe. You may have those students who can't find their voice and you need to find other ways of making sure that they are okay. You have students, young people, who are shy, who do find it difficult to speak out, so you are looking, you are noticing, you are checking their behaviour, you are checking their habits. If you are noticing anything that is not quite right, if they are not eating or if they are not completing their prep, you are building a picture, and it is at that

310 WithScotland, An analysis of Merchiston Castle School's child protection policy, 31 March 2016, at MER-000000339.

311 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, pp.78–9.

312 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, p.23.

313 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.103.

314 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.8.

315 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.66.

'The assertion that we were not pupil-focused and that we were not looking after the best interests of our boys was very hurtful for the school.'

> point you can then intervene and have that conversation with them to see if they are okay. In terms of having as many opportunities for students to speak up, that is very important to us, so we have a range of adults that they can speak to, but also trained students. We have a number of forums that they can come to and speak to. They have the ability to speak confidentially with our counsellor and with our medical centre staff as well. So having as many options open to every young person to speak is absolutely important, but also recognising that even then they might find it difficult to come forward, and you need to have that vigilance to make sure that you are doing all you can to support them.[316]

He said that Merchiston 'has learned not to be complacent when it comes to matters of safeguarding and well-being'.[317] Complacency is fraught with risk, and it is to be hoped he is right about that. Also, acknowledging that the school failed children in the past, he added: 'The assertion that we were not pupil-focused and that we were not looking after the best interests of our boys was very hurtful for the school, and we do not want to be there again. We will do everything that we can to make sure that that doesn't happen.'[318]

Gareth Baird agreed, very frankly acknowledging that while some applicants had

> used the phrase 'that was the way things were then' and 'you just got on with it', [it was] absolutely no excuse for how the school let these young boys down. I have discussed this aspect of how we now deal with vulnerable, quieter pupils in today's Merchiston with our Headmaster and he has given me impressive examples of how he and his team adopt a proactive approach to seek out the quieter boys and find pathways whereby they identify interests which are stimulating, enjoyable and where they find an opportunity to excel to the best of their abilities. At Merchiston we continually talk about adding value to the boys in our care and it is imperative that every boy is included in this approach. As a pupil at Merchiston I was one of the fortunate ones who enjoyed school life and I am very grateful to the school … However, I am aware of peers who did not find it such a positive experience and having listened to a witness who was a direct contemporary of mine, I have heard from someone for whom school life was at times horrific. It clearly left a negative and lifelong impact upon him.[319]

Conclusions about the regime

The Merchiston regime involved physical, sexual, and emotional abuse being suffered by pupils.

There were applicants who nevertheless had positive experiences. However, it is

316 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.89.

317 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.102.

318 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.103.

319 Written statement of Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at MER-000000374, pp.6–7, paragraph 21.

clear that the experiences of others were mixed, and inadequate supervision in the houses facilitated abuse by both staff and other boys. Inaction in the face of what must have been known as abusive beating practices by one particular member of staff also enabled the abuse to continue. The culture allowed boys who did not fit the Merchiston mould to become isolated and suffer abuse. Assumptions that the system worked despite the absence of processes or explicit rules and operating on an ad hoc basis, exacerbated such problems. Then, ironically, a different assumption – that a mass of policies and processes would somehow of itself achieve child protection – in fact allowed abuses to continue, particularly when a lack of decisiveness was the response of school leaders when 'red flags' appeared. While lessons have been learned, and governance improved, the Merchiston experience confirms the need for vigilance and review, and that it is vital to guard against operating, like Voltaire's Candide, on the basis of assumption that all will work out for the best.[320]

320 'All is for the best in this the best of all possible worlds': Voltaire, *Candide*, Chapter 1.

4 Sexual abuse

Introduction

I find that children at Merchiston were sexually abused. They were sexually abused by members of staff including two prolific abusers, James Rainy Brown and Mervyn Preston. They were also sexually abused by other children. On the evidence, children were sexually abused over a period from the 1950s into the 2010s.

Children were sexually abused by members of staff who engaged in conduct and behaviour which should have been seen as 'red flags'. Particularly in relation to James Rainy Brown and Mervyn Preston, these behaviours either were not detected or were ignored. In the cases of both those men, their longstanding service and positions of power in boarding houses rendered them virtually untouchable. Staff were aware that children were sexually abused by other children; attempts were made to address this but they were ineffectual.

Sexually abusive conduct by staff

Merchiston was, for many applicants and witnesses, a place where consistent indecency by unmarried male staff was allowed to continue for decades up to and well into the twenty-first century. It ran in a more or less continuous line from the 1950s to the 2010s, given the connection between Mervyn Preston[321] and James Rainy Brown.[322] The former taught the latter, who then returned to Merchiston as a teacher after which they worked together. Mervyn Preston was not, on any view, a good role model. He engaged in abusive behaviour, and such behaviour became normalised for generations of boys.

Similarly, teachers' associations with other abusers connected to Merchiston may have played an important part. What is clear is that abusive teachers were not adequately dealt with by the school and obvious causes for concern were missed or ignored.

> Warning signs were not adequately followed up.

That was also true of the risk of senior boys being sexually abused by a female member of staff in the 2010s. This risk was there to be seen but largely passed unnoticed despite rafts of policies having been put in place and relevant written records being available. That case is also striking as abuse went on, undetected, for a year, notwithstanding that at least some of her abusive behaviour was widely known about by much of the student body. Warning signs were not adequately followed up, and the school's approach to the member of staff's promotion and to her employment elsewhere was highly questionable.

321 Member of staff between 1935 and 1976.

322 Pupil between 1951 and 1956, teacher full-time from 1960 until 1997 and part-time until 2013. He lived on school premises until 2007.

Mervyn Preston

Mervyn Preston was a fixture at Merchiston for decades. Appointed in 1935 as a history teacher, he retired in 1976 having briefly been the interim headmaster between the departure of Alan Bush in 1968 and the arrival of Donald Forbes in 1969. He maintained his connection with the school in retirement, inviting senior pupils to visit him in the private members' club where he was living, and remained 'a frequent visitor to the School'[323] even after he moved away from Edinburgh.

Chalmers House, 1969

He was single, he lived in the school and in the late 1930s he became housemaster of Chalmers West, a post he held until 1967. When he was appointed, Chalmers West was

> the most junior house in the school, [and he] had the task of starting boys on their school careers and instilling into them the ethos of Merchiston coupled with his own very high standards. A man of very strong opinions (some would say prejudices!), he was well suited to the task.[324]

Some witnesses spoke positively of him. 'Gerald' said: 'I liked him a lot, I thought he was a very nice chap. He was a sort of portly bachelor housemaster, who seemed very committed to the house and had a military bearing.'[325] 'Edward' said:

> He was a long-serving member of staff who held most offices in the school, deputy head, housemaster, head of history, and acting head for about 18 months during an interregnum. He had a great influence at the school and was devoted to it. He was much respected for high standards and for many acts of personal kindness.[326]

Others were more negative, having reservations about him, about his lack of loyalty, and about his prejudices. 'James' recalled him having 'a pet phrase: "not our world" would be a damning phrase to describe either a pupil or a parent or a colleague, so he was a snob'.[327]

He was a powerful figure with a distinct air. To 'Graham', he

> seemed to have been there forever. He had that air … Physically very tall. He looked like a cross between … the old actor Robert Morley and the politician Enoch Powell. He had a very, very sharp brain and a very cruel, cold tongue … he could absolutely slaughter you with his

323 Merchiston Castle School, The Merchiston, Autumn 2000, at MER-000000285, p.1.
324 Merchiston Castle School, The Merchiston, Autumn 2000, at MER-000000285, p.1.
325 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.19.
326 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.98.
327 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.16.

'He had a very, very sharp brain and a very cruel, cold tongue … he could absolutely slaughter you with his tongue if he wanted to.'

> tongue if he wanted to. He was somebody that everybody was scared of, simple as that.[328]

He was 'very powerful and not respected, but feared'.[329] 'Graham' found it

> almost ridiculous, his nickname was 'Merve the Perve' … the whole school knew what he was like. I mean this is almost ridiculous that nobody then did anything about it, but that was his nickname. To give you some idea of why he got that nickname, when the young boys in Chalmers West … when we took our showers after the rugby match, he would almost invariably be there watching us all naked in the showers, getting dried and dressed, and his excuse he'd give was 'I'm just looking to see if you need an athletic support for playing rugby and cricket', you know, utterly bogus. I mean, even at 12 and 13 everybody knew it was completely bogus.[330]

It is clear that Mervyn Preston was a paedophile who actively sought out and abused some of the pupils in his house. His reputation was widely known amongst the boys, yet the risk he presented was not addressed by the school despite visible warning signs. That was either a conscious decision or due to the lack of proper oversight of the boarding houses, leaving the school in a state of ignorance.

When 'James' taught at Merchiston he was apparently not aware of adverse comments made by pupils about Preston,[331] which seems surprising in the circumstances. 'Jack', by contrast, said: 'Oh yes, it was all around you',[332] stating that 'a lot of the perversities would be brushed off or explained as … one of Preston's little quirks'.[333]

His nicknames were known throughout the school. One was 'Potter'. Another was 'Merve the Perve'. 'Jack' thought he heard 'Merve the Perve' used 'within the first few months'.[334]

'Jack' summed it up by saying 'people had a variety of experiences of Preston, which were all a variation of general perversity, really'.[335] That was borne out by the evidence of a number of applicants.

'James' recalled that Preston had to give permission if a boy wanted to leave the school:

> He always said … 'Yes, you can go' … but he inevitably was not properly dressed … We always had to go to his rooms to ask him for [permission] at night time. He would be in his room [in] a dressing gown and his hands behind his back and the dressing gown open in the front so he was totally exposed and naked … All the boys used to talk about it.[336]

328 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.83.
329 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.88.
330 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.84.
331 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.15.
332 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.118.
333 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.135.
334 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.117.
335 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.126.
336 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.93.

When asked how the boys felt about such behaviour 'James' replied: 'Mostly just … it happened. He wasn't attacking anybody … It was just the system. That was just what he was like. Dirty old man, I suppose.'[337]

'Glenn' had no negative experiences with Preston when he was a pupil in his boarding house[338] but accepted he

> did have one or two peculiar habits, one of which was on occasion, not regularly, I believe … speaking to someone whilst in his bath, a pupil, while he was in his bath, possibly around [his] door … or possibly in the same room. I don't think that happened on a regular basis … but I think some of the older students or pupils would relate to that.[339]

Gareth Baird, chair of the Merchiston board, encountered Mervyn Preston when he was a pupil in the 1970s:

> There was undoubtedly talk about [him]. Not in terms of anything gross … It's rather difficult to articulate … he was master of rugby fives and I remember straining my back one day playing and he came across and gave it a bit of a rub, which of course did absolutely no use, no good whatsoever, and it wasn't aggressive in any way, but I … was one of the fortunate ones that would just shake that off. I completely understand that some of my peers, it would have had a very serious impact on them.[340]

Preston's behaviour was so well known that fathers who had been at the school when they were children told their sons about it. 'Craig' recalled

> talking with my dad … [who was] at Merchiston between 1960 and 1964 … He … mentioned a housemaster by the name of Mervyn Preston … [who] liked what he called some of the prettier boys … Mervyn Preston would invite some of these boys up to his bathroom whilst he was having a bath. My dad said that the boys would be naked with the housemaster whilst he was having a bath.[341]

'Graham' also thought fellow staff members must have been aware:

> I just think people are intelligent and if you've been in a staffroom with somebody for all these years and you've watched the way they behave, I'm pretty sure they would have suspected it at least. Whether there was any collusion going on, I have got absolutely no evidence of that … I just think … some of them must have been, but that's just a kind of instinctive thing. I have no proof of that.[342]

I accept, in its entirety, the evidence of applicants to the effect that Mervyn Preston's conduct was sexually abusive, that it was longstanding, and that staff must, at the very least, have suspected it.

'Jack' was one such applicant, and was involved in an incident which can, in my view, only be seen as a demonstration of utter hypocrisy. He described how another pupil 'drew a pair of boobs on his knee. Not to be outdone, I pulled my penis out

337 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, pp.93–4.

338 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.8–10.

339 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.9–10.

340 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, pp.14–15.

341 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.80.

342 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.96–7.

and drew a smiley face on it.'[343] Preston, as housemaster, heard about the incident and called 'Jack' to his room to discuss what he apparently considered a grave sin. He 'just laid it on with a trowel that this was beyond the pale that could ever be imagined and I had transgressed, etc, etc'.[344] However, Preston then tried to kiss 'Jack', who described how

> he went from this almost papal outrage into a very conciliatory, weaselling approach … I was desperately unhappy, I was 13 and lonely, I wanted some reassurance. I don't know if I started crying, I suspect I probably did, and the next thing I knew, he had his arm around me and at one point he tried to kiss me … It's funny, it's a bit like being mesmerised … you're almost psychologically paralysed, then suddenly something breaks the spell.[345]

Preston's hands were everywhere and then

> were zimming up my shorts, which again was one of his party tricks. He … would do it in class, he would certainly do it in the showers, he would do it on an industrial scale. He would stick his hand up your shorts and nip your flesh. This … would be done literally on a daily basis.[346]

On this occasion, however, 'Jack' believes Preston had an acute awareness of what he had done because he then suggested that what had happened was their secret, that he understood how unhappy 'Jack' was, and that he could come and see him again at any time.[347] As 'Jack' said: 'Despite the shock of being groped by him … part of me … craved that reassurance. It was a funny feeling, because you're repelled on the one hand and felt a need for reassurance on the other. It was quite a … conflicting emotion.'[348]

'Jack' did return on one or two occasions, such was his need for reassurance. He remembers enjoying cake with Preston when the latter announced that the conversation would continue as he took a bath, upon which he disrobed, climbed into the bath, and asked 'Jack' to pass him the soap. 'Jack said: 'It was obviously premeditated, because the bath must have been run prior to my appearance.'[349]

'Jack' later learned that he was not the only child subjected to such treatment. 'Variations on a theme, but, yes, basically the same'.[350] This included Preston visiting one boy in the sanatorium. 'Jack' said: 'The behaviour of the individual … was becoming increasingly neurotic, and the amount of time that Preston was spending with him … I suspect that Preston … was increasingly worried that this would spill over.'[351] There are striking similarities between aspects of the *modus operandi* of Mervyn Preston and that of Guy Ray-Hills at Loretto School.[352]

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343 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.127.
344 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.127.
345 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.128.
346 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.128–9.
347 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.129.
348 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.129–30.
349 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.130.
350 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.132.
351 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.134.
352 Case Study no. 9: Volume 1: The provision of residential care in boarding schools for children at Loretto School, Musselburgh, between 1945 and 2021 (April 2023), for example, at p.43 in relation to Ray-Hills' abuse of Kenneth Chappelle.

Preston abused that power with 'Graham' and with other boys for his own sexual pleasure.

'Graham' was another pupil invited to Mervyn Preston's rooms:

> It was in the summer term … I got a message from a prefect during lunch … So I went up to his apartment, which was in one of the schoolhouses … [it] consisted of a study with a desk, a small loo, and a bedroom, and that was his kind of little place … I knocked on the door … and he starts telling me how clever I was and how it's a shame I didn't work as hard at history as I did in English and I could go to Cambridge and I could … be a history scholar and all this stuff and I'm sort of listening to this … Faintly chuffed, I suppose … and just kind of wishing he would get it over with so I could get out, I didn't really understand the point of this discussion. And then he said: 'Would you please go over to the window and tell me how the cricket match is going on'. That really struck me as odd … there was a cricket match going on, but it was 200 yards [away] … so I couldn't conceivably have actually seen it … but I just stupidly … went and looked out the window … and when I was standing there, I was aware of him getting up behind me and he came over and he put his hand to my bum and fondled me through my short trousers …
>
> I still remember being profoundly shocked, but not, oddly enough, surprised … I just said: 'I'll just be going then, sir', and I just skedaddled. I mean he didn't actually … do anything to me apart from touch me, and I do remember thinking: 'I really hope he hasn't locked the door', but he hadn't. I just went straight out the door, down the stairs as fast as lightning. And I think the good thing was I told my friends about it immediately … And they just laughed and said: 'Well, at least you got out' … This was the strangest thing, nobody was surprised and the odd thing was I felt sorry for him … because one way or the other, this chap – and Rainy Brown – they carried themselves with enormous dignity and respect for themselves … They thought a lot of themselves, and they carried themselves with that. And I lost all respect for him then, totally … And in a funny way I lost respect for the school … And the reason really I ended up coming here was he'd been in that school for 40-odd years. How many other boys did he do that to?[353]

The answer must be 'many'. As 'Graham' noted, Preston's position was such that it gave 'him a certain power over me that I was so grateful for his praise'.[354] Preston abused that power with 'Graham' and with other boys for his own sexual pleasure. As with many such paedophiles, he evidently well understood the power imbalance between him and the pupils, and must have been confident they would do nothing. That could extend beyond the school in the sense that the child would refrain from reporting not only within school but also to his parents because, for example, he did not want to upset them. 'Graham' explained,

> The other side of all this was … mum and dad had coughed up for this, you know … I couldn't tell them about this … I don't think they would have known how to deal with it if I had. Decent people that they were … they were too deferential to the system, like many of us were and many still are. That sense that:

353 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.90–3.

354 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.89.

> well, you just have to put up with it, you know, part of the deal.[355]

That was not uncommon. Preston must have known that boys were unlikely to report him and exploited it – hence the scale and range of his abuse.

Showers

This abuse was widespread and obvious in the communal setting of the showers. While I recognise that there may in past decades have been greater acceptance of teachers supervising shower time, Preston was well known for having an improper interest in naked boys, particularly in their genitals. 'John' explained that showers were usually daily and communal: 'Only five boys could shower at any one time, so the rest of us congregated at the sink area until a shower became free.'[356] He went on:

> And, of course, we were naked at the time … I think that's … why Mervyn Preston stood in the doorway, supposedly watching that we didn't get up to any mischief, but … what we definitely noticed [was] … he was looking at us … he wasn't looking in our eyes … He was looking at our genitals.[357]

'John' noticed that this behaviour continued throughout the entirety of that first year.

'James' said it sometimes went further than looking. In the showers there were cubbyholes for shoes and clothes, and boys would stand 'on top of the ledge with your towel to dry yourself off and Preston would come in and walk particularly on the first two rows … and he was the same height as your genitalia and would examine each boy individually, and in some cases touch them'.[358] Ostensibly he was checking whether boys' testicles had dropped, but 'James' recalled that all boys had done the cough test on joining the school whereas with Preston the cough test happened every night during the summer. Nothing was ever said about it amongst the boys. 'It was just – that was it. It was accepted the way he was … Nobody complained.'[359]

That, of course, was the Merchiston way.

'Jack' remembered that:

> In the rugby season you would … have a shower afterwards and Preston … used to make it his job to come down and supervise – 'supervise' is the wrong word, but hang around when we were showering … it was quite interesting, because people like myself and my friends would be in and out of those showers like greased lightning. Other people would linger and sort of … jape with Preston, who would engage in banter and conversation. He would regularly grab their buttocks, flick them with towels, and generally joke in a way that was actually an anathema to the likes of me.[360]

'Graham' also experienced Preston looking while in the showers. 'It was a standing joke that … he would appear in the shower rooms two times out of five in the week, and

355 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.94.
356 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.27.
357 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, pp.27–8.
358 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, pp.89–90.
359 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, pp.90–1.
360 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.119.

prowl around the place.'[361] 'Graham' said this happened week in, week out, but added that no other teacher he knew ever went into the boys' showers.[362]

Pep talks

Mervyn Preston's interest in boys' sexual development was demonstrated in other settings too, one of which was his habit of giving regular 'pep talks', as they were called, on the subject. 'James' was never present at one of the talks but understood they

> always took place in [Preston's] own sitting room … on a one-to-one basis … He would speak to all the boys about sex and some of the boys said that Mervyn Preston had asked them questions about their own bodies and whether they had erections. I suspect that some of the boys embellished their stories.[363]

'John' did get the pep talk and thought 'it was wrong, the way he did it'.[364] He said:

> You went as boys by alphabetical order of your surname, so when the last boy … came out to find me, I said something along the lines of 'What's it all about?' And the reply I got was: 'You'll find out for yourself' … we were all probably so embarrassed about what happened.[365]

'John' said that he

> expected to be told to go and sit in one of the easy chairs and [Preston] said something along the lines of 'I think we'll be more comfortable in here', and that's when he took me into the bedroom. And he sat down on his bed and told me to sit down … He explained that it was to do with the facts of life and in order to help him to explain, he started to expose himself … And then he wanted me to expose myself too.[366]

'John' went on:

> I did what I was told … I'm almost sure he wanted me to touch him and I said: 'No, I don't want to', and then he wanted to touch me and I'm very grateful that I said no, and he didn't, and that was probably the end of that facts of life talk, because … I left the room soon afterwards and I just … forgot completely about it, until I saw the article in the newspaper.[367]

He added: 'I was horrified to realise that the headmaster had retired and Mervyn Preston had become headmaster in his place. And I thought oh no, what could he have done, and what he probably did do.'[368]

'Graham' had a very different experience a decade later and found it

> so ridiculous it's risible … you went in one at a time and you stood in front of his desk and he said: 'Are you aware that your penis is for other purposes apart from urinating?' And you'd reply: 'Yes, sir', and he'd say: 'Next', that was it. It's so ridiculous it's like something out a comic sketch, you know, but that is how it happened

361 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.84.
362 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.84–5.
363 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.13.
364 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.31.
365 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.32.
366 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, pp.33–4.
367 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.34.
368 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.35.

> and again everybody I remember who went to that school will laugh about that … I can't see that he was getting any pleasure out of it.[369]

Jockstraps and boxes

Preston also found justification to examine boys' genitals in order to decide whether they required a jockstrap for rugby. Permission had to be sought from him, 'and he would look at you very closely to see whether he would give you a line to go to the … sports shop to get one'.[370] Why this was not a matter for the house matron, 'James' could not explain: 'Those were the rules and she was not involved.'[371] 'Glenn' remembered the same with boxes for cricket: 'I don't know if there was anything further than that, but that subject was brought up and that was one of the subjects I would say that there might have been some tittering about, you know.'[372]

Cricket match

The private members' club

Once he had stopped living at Merchiston, another of Preston's habits was to entertain his 'favourite' pupils at the club where he lived. 'Graham' said: 'I know he lived in a club, which made him seem faintly exotic and strange.'[373] 'James' said: 'He might have taken senior pupils, he might have taken his senior prefect or something like that … But that would have been okay … at the time …. It wouldn't arouse – you wouldn't notice it, is perhaps what I'm saying.'[374] He sometimes took 'James' there for Sunday lunch, 'currying [his] favour'.[375]

The school was not, apparently, concerned about Preston taking pupils to the club where he lived. Pupils noticed it, though, because the club visits would involve Mervyn Preston and only one boy at a time, and could entail more than just lunch.

'Gerald' said:

> Yes … these would be older boys … he always said take your swimming costume, because one learned if you got one of these invitations you got a chance to go swimming. I never got one … and of course I was quite intrigued to know a bit more about this place, because it sounded very fancy, the meal sounded delicious. So when one of my friends had been invited … I asked him what happened and he told me he went swimming and I thought to myself the last person I could imagine going swimming was Mervyn Preston. [But the friend said] … no he didn't go swimming but he did apparently sit at the poolside watching my friend swimming and that was what happened, he sat and watched him … He never took his eyes off of my friend who was swimming and he stared at him the whole time.[376]

369 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.85–6.
370 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.91.
371 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.92.
372 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.11.
373 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.97.
374 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.17.
375 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.17.
376 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, pp.40–1.

The report did not trouble 'Gerald' when he was a child, for, as he said, 'in those days we weren't actually on our guard for abusers or predators'.[377] Thinking as an adult, however, 'Gerald' said: 'Now it's obvious, yes, that there's a man who was attracted to boys, there's no doubt about that at all.'[378]

It is surprising that the school was not concerned, given Preston's notoriety amongst the pupils from the 1950s to the 1970s. It's not as though the school was incapable of taking action – when inappropriate behaviour by other teachers was discovered, it led to their immediate removal from the school. It led to their being 'sent down the drive', as it was known. That had happened to Ian Robertson, one of Preston's resident tutors, and should have been the inevitable catalyst for wider inquiry into the culture of his house. It is also striking that Robertson's removal did not deter Mervyn Preston. Instead, his behaviour, on the evidence, persisted. He must have felt he had no reason to worry, such was his position within the school.

Ian Robertson

Ian Robertson was an art teacher and choirmaster from the 1950s until 1960. He lived in Chalmers West as a resident tutor, supporting Mervyn Preston, the housemaster.

Ian Robertson was a man known throughout the school for openly touching boys in the corridors; as you walked past him, said 'James', 'you'd feel an exploring hand around your testicles'[379] and 'if there were two of you he would do it with two hands if he wasn't carrying something particular. It was common knowledge that he did it. But nobody said anything. Nobody did anything, because you didn't in those days.'[380] That was the way the man behaved, and it must have been obvious within Chalmers West and elsewhere in the school.

'James', prior to starting at Merchiston, remembered him staying overnight at the family home because 'James's' aunt and Ian Robertson had both appeared on *The Kilt is my Delight*, a TV programme about Scottish country dancing. His description of the way Ian Robertson behaved in his parents' home was of a man who was charismatic, amusing, and seemed to think nothing of shocking his parents.[381]

Ian Robertson abused 'James' in his private quarters, within the boarding house, after inviting him to see a guitar he had talked about during his visit to the family home. It was about a month after 'James' joined Merchiston and he had been taken to see the famous guitar which was hanging over Robertson's bed head. 'He asked me to get it down, which I did, and played it … and then he said: "Just put it back please" … and that's what I did, and … that's when he got me.'[382] Robertson pinned him down on the bed, 'tried to put his hands down my shorts and tried to stick his tongue down my throat'. 'James' managed to push Robertson off and after a struggle made his escape.[383]

377 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.41.
378 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.41.
379 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.96.
380 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.97.
381 Written statement of 'James' (former pupil, 1960–3), at WIT-1-000000776, p.20, paragraph 94.
382 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.98.
383 Written statement of 'James' (former pupil, 1960–3), at WIT-1-000000776, p.20, paragraph 96.

He did not tell anyone, even though he wanted to, because 'you didn't talk about it … it wasn't out of embarrassment, it was just that was him, that was the way he behaved and you accepted it, because you had nobody to talk to, nobody to tell'.[384] Ian Robertson's behaviour had become normalised within Merchiston.

Eventually, however, a boy did speak up, as 'John' recalled. A friend of his had duties that included lighting Robertson's fire and tidying his room. He was given tea and toast by the teacher, but on occasion it progressed to sexual touching, as he later reported to his classmates. The boy went to the headmaster – not the housemaster, Mervyn Preston, for as 'John' said: 'My friend knew that it would be stupid to go to the housemaster about it, because the housemaster was of like mind.'[385]

The result was immediate, and Robertson simply disappeared. He 'was in Merchiston on that particular day but the next day he was not'.[386] The incident happened in the last few days of the summer term, and the school said nothing to the pupils, although it was later discovered – because he wrote to the boy who had complained – that Robertson had moved on to a girls' boarding school in Dorset.

Despite his grooming and sexual abuse, Merchiston, as 'John' noted, simply 'appointed a new art teacher. I mean, there was no police, nothing of that nature.'[387] I infer that Merchiston provided a supportive reference which, at the very least, assisted in finding Ian Robertson new employment. Appointment to a girls' school might suggest some intention of preventing his access to boys, but the job was at Sherborne Girls' School, the sister school to Sherborne School for boys.

Ian Robertson was well regarded by Merchiston boys. 'John' described him as a popular teacher: 'He tried to be friendly and we respected it.'[388] 'James' also spoke of him warmly: 'I had quite a lot of contact with him … gained a lot from him … I am still very glad he was a teacher when I was there.'[389] However, he added that Robertson's 'use of language in choir, in art … Perhaps he talked about relationships a bit more than a teacher would normally do.'[390] If that was noticed by a pupil, Merchiston should have noticed it too. A red flag should also have been seen when the complaint made by 'John's' friend bypassed the housemaster. Instead, Merchiston chose not to follow up an obvious line of inquiry when it was presented. That was a serious mistake and a missed opportunity.

Ian Robertson died on 17 October 2009.

Eric Mackay

Eric Mackay was a Merchiston teacher for almost 30 years from the early 1950s. He died in 1980. He was described by 'Gerald' as 'eccentric, flamboyant and always padding around in his suede shoes with a "grandee" cigar hanging out of the side of his mouth'.[391]

384 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.97.
385 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.37.
386 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.37.
387 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.38.
388 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.38.
389 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.28.
390 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.29.
391 Written statement of 'Gerald' (former pupil 1966-1969), at: WIT-1-000000405 paragraph 129.

He stood out in pupils' minds for various reasons, including that:

> His classroom was like an amphitheatre … and that was quite unusual in the school … It was the standard square classroom, but he had his desk on a raised dais and he … had longer tables arranged around the walls where we all sat behind those tables … And all over the walls were all sorts of interesting pictures and posters and things like that. It was an interesting place to be … we didn't like the way he behaved, but, you know, just thought that's part of his eccentricity.[392]

He engaged in behaviour that upset the boys during film shows, when he would

> fondle boys' genitals … In the room he had blinds to pull over the windows, so it darkened the room to a gloomy state … and he would sit with his projector … and the film would be projected above his dais. I remember somebody had to sit beside him and basically had a bit of a scrum to try to avoid being [that] person … but we understood we had to take a turn … Whoever was sitting beside him, certainly on his left-hand side … and we all wore short trousers, in no time at all his hand would be on my thigh, fondling and stroking and moving up my inner thigh. I don't remember him getting as far as my genitals, he may have, but I know some of the boys referred, almost with a sense of pride, that he got as far as their testicles. It was a strange mix of we knew this was very unusual behaviour and we thought it was amusing. It never occurred to anybody this was wrong. That was the way it was.[393]

'Gerald' was clear that Eric Mackay's conduct was known to the entire class, who took a very practical approach to sharing out the abuse.[394] It is striking that no pupils voiced their concern and is a further example of the stoical approach the school expected of its pupils. 'Gerald' commented: 'In those days teachers did what the teachers did and you took whatever was coming your way, whether it was a physical punishment or a fondle or whatever. That's the way it was.'[395]

'You took whatever was coming your way, whether it was a physical punishment or a fondle or whatever.'

'John Crawford' confirmed 'Gerald's' account, remembering that the teacher's 'nickname was Dandy, he was always well-dressed, blue blazer and slacks. Nice clothes … a lovable eccentric.'[396] He remembered in one class seeing that he 'had his hand on a boy's shoulder, the boy that was on my left. I think he was stroking him as well, but he definitely was aroused … He had an erection, that was the bottom line of it.'[397]

The witnesses were describing events from the 1960s and the 1970s, and it appears likely that Eric Mackay's abusive behaviour was habitual. Police documents have confirmed that 'there would have been sufficient evidence to charge him with 2 counts of indecent assault and another of lewd and libidinous practices'.[398] The

392 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, pp.34–5.
393 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, pp.36–7.
394 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.37.
395 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, p.37.
396 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, pp.38–9.
397 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.40.
398 Police Scotland report, at PSS-000004723, p.8.

evidence referred to came to light after the man's death. Just as with Mervyn Preston, it says much about Merchiston before 1980 that abuse could carry on over decades without the school taking any action in relation to it.

James Rainy Brown

James Rainy Brown, often known as JRB, was a pupil at Merchiston between 1951 and 1956. He was employed as a teacher full-time from 1960 until 1997 and continued part-time until 2013. He lived on the school campus until 2007. Merchiston was his whole life. He was single throughout his life and his close connection with the school and its pupils continued until his suicide in April 2013. This occurred shortly after he had been told by the headmaster, Andrew Hunter, that the police were making investigations into complaints about him which were of a sexual nature.

Rainy Brown was head of Pringle House from its opening in 1967 until 1994 and was known by generations of pupils. He was a dogmatic man, and Pringle was very much his domain and fiefdom for decades, a situation that was enhanced by its physical separation from the rest of the school. He was allowed far too much influence for far too long, notwithstanding long-term concerns from some quarters about his behaviour. His longevity, the undoubted admiration some felt for him, and his devotion to the school all combined to lead to it being assumed he could be trusted and to his being allowed far more autonomy and leeway than was safe.

As one former pupil observed astutely, he

> was always quite an eccentric character. In his mannerisms and the way he would draw attention to himself in a room, he reminded me of Jimmy Savile, and I am not drawing other parallels between them but in terms of their eccentricities and mannerisms they were similar ... My parents were completely taken in by Rainy Brown. They just thought this was what an upper-class British gentleman looked like. My belief is that all eccentricity has pain in its heart. I believe that eccentricity is a coping mechanism for something.[399]

Massaging injuries

James Rainy Brown was consistently quick to touch children under the guise of treating apparent injuries. 'James' associated such behaviour with Mervyn Preston in the 1960s. It did not happen to him but that was because, unlike many other pupils, he was not sporty. He remembered both Rainy Brown and Preston saying:

> 'Let me check your hamstrings' and: 'Oh, hello there, lie on your back', and [they] would do it right there and then … [running their hands] down the leg and right down to the groin area and back down again and all this. Nothing wrong with them … it should have been referred to a matron and if it was bad, a doctor would have been called in, but that didn't happen so there was nothing wrong with them.[400]

'Mark', two decades later, experienced similar treatment from James Rainy Brown when he was massaged after complaining

399 Written statement of 'Andrew' (former pupil, 1994–8), at WIT-1-000001603, pp.17–18, paragraphs 84 and 89.

400 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, pp.104–5.

of cramp. He was told to take off his briefs as they might restrict blood flow, but that was completely unnecessary.[401]

Staff were concerned too. In 2001 a housemother whose remit included overseeing the boys' medical treatment, saw him rubbing Deep Heat ointment into a boy's leg and complained.[402] Rainy Brown was told that such behaviour was no longer appropriate but ignored it – in 2010 'Jane', a teacher in Pringle, took him to task for massaging a boy's foot in his office one evening:

> I was on duty that night and … I went past his study and one of the boys was in his study facing him and James had his foot close to his crotch and was massaging it. And it looked wrong and it was wrong, and so I pulled him up and said to the little boy … 'Time you were in your bed, it's lights out soon', and then I reported it in line with policy because I knew it wasn't right.[403]

Rainy Brown paid no heed. He responded: 'He'll go to bed when I'm ready'. That was characteristic of the man; he did not listen, would not learn, and was allowed, in effect, to do as he chose.

Inappropriate conversations

Some might say that James Rainy Brown's treatment of boys was no more than was of its time, of a different age, and because he was very sports-orientated and 'outdoorsy'. But that does not mean that it was acceptable or appropriate, and his interests appear to have been more sinister.

Take, for instance, what 'Craig' described as having happened one day

> in the changing room. There was no privacy. One time, in the older year, after rugby there was a boy who had nothing on but a rugby top … but he was certainly playing with himself … The boy pulled his rugby top down when JRB came in. It was still quite visible what the boy had been doing. I remember JRB saying: 'What have you been doing?' to the boy and the boy saying: 'Nothing, nothing'. JRB then said: 'Lift up your top'. I can't remember whether the boy or JRB then lifted up the top. JRB then stared at the boy's erection for a while before pulling the boy's top down. It seems strange to me that JRB would do that when it was quite obvious what the boy had been doing. JRB clearly wanted to see this 12-year-old boy's erection. It was more than just a 'has he been masturbating?' thing. JRB was studying the boy's genitals.[404]

Or, as 'Mark' recalled, 'somebody turning around and saying that he'd been asked by JRB how often he masturbated'.[405] And it fits with the consistent picture of James Rainy Brown encouraging nakedness in his boarding house.

Nudity in Pringle House

Police material shows that a pupil in the 1970s described James Rainy Brown as not only watching the boys in the showers

401 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.65.
402 Police Scotland report, at PSS-000005380, p.4.
403 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.94.
404 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.61.
405 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.66.

but also, on occasion, joining them, on the pretext that his own shower was not working.[406]

That was still happening into the 1990s and 2000s despite warnings from two headmasters about such behaviour, which included factoring nudity into punishments, as will be discussed further below. A former pupil told the police about 'dooking' for apples at Halloween whilst naked, about Rainy Brown pulling back shower curtains and staring at boys' private parts, and about his disciplining boys for wearing pants under their loose-fitting shorts.[407] In a statement provided to the Inquiry after the case study hearings, 'Andrew' explained how Rainy Brown would discipline boys for wearing pants under their rugby shorts, making them strip off at the side of the pitch to remove their pants, and he remembered boys talking about Rainy Brown 'dooking' for apples in the way described above.[408]

Rainy Brown's behaviour was confirmed by applicants. 'Craig' said:

> There was a general culture of making boys run around naked … Looking back I ask myself: 'Why did we have to run around naked?' Being naked in itself might have been part of the culture then. However, as an adult now, were I to go into an institution and there was a teacher making young boys run around naked, I'd have to ask: 'What is going on?' … I do recall that JRB had a propensity to watch the boys when they were naked. I remember one time that we had been playing rugby … JRB made three of us take our stuff off in the drying room itself … We then had to run naked through to where the shower was. … I don't know why we had to do it that day and why it happened only once. It doesn't make sense to me. At Halloween we had to duck for apples … in the bathroom. JRB would fill one of the baths up with water and apples. He would stand in the bathroom and make the boys … duck for apples while naked. JRB stood in a position such that he would view our naked bottoms as we bent over. We would have got undressed in the locker room next door. I do remember bending over and JRB watching me … standing there in nothing but a skimpy towel watching us. It was quite a small towel.[409]

A teacher saw such nudity in 1998, four years after Peter Hall had replaced Rainy Brown as housemaster of Pringle. However, at this point, Rainy Brown was still living on the school campus and playing an active part in the life of the house. Stephen Campbell remembered an incident when he

> was on duty in the Pringle boarding house one evening. In those days, Scripture Union was a weekly activity run by James Rainy Brown. It took place in the day room after lights out and it was well attended. Whilst patrolling the corridors, as duty tutors were expected to do, I became aware of a commotion in the day room and a child ran out of the door carrying his duvet. The boy was naked … I immediately reported what I witnessed to the housemaster, Peter Hall, who intervened to bring the Scripture Union meeting to an end … I heard nothing more of it … Around about the same time … I heard allegations surrounding James

406 Police Scotland report, at PSS-000005316, p.6.

407 Police Scotland report, at PSS-000005316, p.1.

408 Written statement of 'Andrew' (former pupil, 1994–8), at WIT-1-000001603, p.17, paragraphs 85–7.

409 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, pp.69–70.

> Rainy Brown and 'naked apple dooking' … Clearly, if that behaviour was going on it was pretty inappropriate.[410]

Thinking back on matters he said:

> I passed it up the chain as I was supposed to do and I heard nothing further about it. Obviously James Rainy Brown wasn't fired. In hindsight, from the perspective of this day and age, he should probably have been fired. It probably wasn't right that he was allowed to remain at the school.[411]

Interestingly, the same or a similar episode is described by 'Ian' who remembered a former prefect telling him years later that the headmaster had told Rainy Brown:

> 'You can't do this stuff', and it was acting out a Bible scene where he'd essentially humiliated and shamed a young boy into taking his clothes off, even after the young boy had said he didn't want to, and the prefects had become aware of it and written a joint letter … to the headmaster saying that their opinion was this was completely inappropriate.[412]

There was no satisfactory response to these complaints; a combination of inadequate oversight prior to the early 1990s and inadequate responses thereafter meant Rainy Brown's inappropriate behaviour – or worse – continued unchecked. Some pupils certainly thought it was the latter. 'Ian', for example, said: 'I believe James Rainy Brown was sexually attracted to children. Personally, I don't have much doubt in my mind about that.'[413] 'Muir', in summarising Rainy Brown's conduct, described him as

> voyeuristic and devious. The voyeurism involved him exposing himself or encroaching on your privacy. He made lewd and inappropriate comments. He was corrupt in the sense that there was this toxic culture which was of his own fashioning. He created the culture and operated within it. It was based on free and easy movement between undressed 11-year-old children, having punishments that were not appropriate, and day trips.[414]

He set out a variety of scenarios in which that culture could be seen.

> There was coercive behaviour. If you'd done something wrong then you were on the cold bath list, on the noticeboard in Pringle House. Rainy Brown had you report to the shower room at a certain time of day … He was the only adult there … in his rugby kit with his whistle. I was told about the cold bath and thought: 'What the hell is that?' People said you just go in the bath and it is cold water. What they don't mention is that Rainy Brown has you strip naked and stand in a line with other naked pupils, waiting your turn … Rainy Brown shoved you down to your shoulders and you'd to wait there a minute. He made sure you were down all the way. Then you got out and went in the shower. That was a punishment and everyone felt awkward. Rainy Brown had a bit out the back called the Secret

410 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, pp.129–30.
411 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, p.131.
412 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.51–2.
413 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.50.
414 Written statement of 'Muir' (former pupil, 1986–8), at WIT-1-000001349, pp.10–11, paragraph 43.

> Garden … a walled garden with an outdoor pond. In the summer, you could have it out there, that was the option. Rainy Brown said: 'Why don't we make it fun and go into the Secret Garden?' We undressed in the garden and he had us lined up naked outside. I had two cold baths inside and one outdoors. I can't remember what I did to get those … In law, I don't know what the behaviour is but I think I'm describing sexual abuse there.
>
> I had moved into a dorm at the front of the building. There were only three of us in it … and there was a bit more privacy … I was in there one day, having a shower after a game of rugby. Rainy Brown wandered in. He was naked and wearing just a towel. He hung his towel up and made a lewd remark to me. It was something like: 'Oo, that's a very hard one.' He was describing the shape of what he saw in front of him. The remark was not appropriate and I wondered if I was hearing right. He was comfortable wandering into an area where an 11-year-old boy was showering and start bantering with you … I switched off the shower and got the hell out.
>
> We went in a school mini-bus with Rainy Brown on trips to the countryside to a reservoir. It was an opt-in thing and you weren't compelled to go. He was the only adult on the trip. Once you were there, he had everyone strip off, skinny dipping. Rainy Brown was naked too. He'd say to have a run up and down the bank and see who's fastest. We were running up and down, 11 years old and bollock naked. At that point, with the cold bath as well, I was thinking this guy was obviously a creep. That's as far as it went and Rainy Brown wasn't physical with me.[415]

'Andrew' had mixed emotions about Rainy Brown because he was 'very warm and nice to me as an individual. He could see that I was struggling with homesickness … [and] to fit in. He took an interest in my happiness. That said, I do believe that Mr Rainy Brown was sexually attracted to children.'[416] The personal experience he remembered in particular was a night he had to spend in Pringle House before a party of boys were to go to an outward bound camp at Ru'a Fiola. He was the only boy there, and the only member of staff was Rainy Brown. The remainder of the party were due to join them in the morning:

> I was fairly comfortable in the environment and I knew where everything was. I chose a bed and got settled in for the night. Then Rainy Brown came in and he said that he was going to sleep in the bed next to me. Out of all the beds in the dormitory, let alone the whole boarding house, he chose the one next to me. Then he said, 'I hope you don't mind but I sleep naked.' He left that hanging in the air waiting for a response. It was almost as if he was waiting for permission from me for whatever was going to happen next. To my eternal credit, alarm bells started ringing in my head. I made sure that I said nothing at all, so the moment passed. But it was still me and Rainy Brown in the room by ourselves.
>
> After I failed to say anything about him sleeping naked, Rainy Brown said: 'Look out the window.' The dormitory looked out onto a playing field at the far end of which was an oak tree. He said: 'A lot of boys, for a dare, get up in the middle of the night, sprint round the oak tree naked, and sprint back to their room. What do you think of that? Should we do it?' Again, he just left that hanging and again I said nothing. He didn't push it further and we went to sleep. It was only after Rainy Brown died that I looked

415 Written statement of 'Muir' (former pupil, 1986–8), at WIT-1-000001349, pp.11–12, paragraphs 44–8.

416 Written statement of 'Andrew' (former pupil, 1994–8), at WIT-1-000001603, p.8, paragraph 42.

> back on that incident and thought it really wasn't okay.[417]

In his written evidence David Spawforth plainly sought to defend himself against criticism for not having had concerns about James Rainy Brown possibly abusing children. Whilst accepting that he had some concerns about the man, they were, he stated, on the lines of a 'muscular Christianity and Boy's Own Paper style', encouraging adventure with 'limited adult supervision and consequent risks'. He described Rainy Brown as being, in some respects, 'set in what he saw as a golden age … a Mr Chips in many respects, an eccentric perhaps' who wished to protect boys in a 'time capsule'. David Spawforth said that, in his time at the school, he did not regard naked swimming, or boys not wearing underpants or jock straps for sport if under 16 years old, as odd.[418] But James Rainy Brown's behaviour went far beyond that and, moreover, insofar as David Spawforth was relying on the 'Boy's Own Paper style' as support for his views, its publication ceased in 1967, some 14 years before he became headmaster of Merchiston.

Skinny dipping

Nude swimming, or 'skinny dipping', with pupils is something James Rainy Brown did consistently. Even if it was not so odd in the early days of his teaching career, he would not stop nude swimming despite changing attitudes. Being a particularly stubborn man, as a number of witnesses said he was, he was no doubt reluctant to change his practices, but the evidence of Gareth Baird is telling. He did not recall nudity being the norm either in the boarding house at Merchiston or on three occasions when he was at school camp at Blakerston in Berwickshire. He agreed that camp could be described as 'Boy's Own stuff' but there was no skinny dipping, as the other teachers present 'would not have tolerated that in any way'.[419] He was talking of events in the 1970s, yet in 1999 a complaint was received about naked swimming at Blakerston involving Rainy Brown which led to correspondence from Andrew Hunter, emphasising how unacceptable such a practice was.[420] In the early 1990s, when no experienced teacher was present, Rainy Brown instigated skinny dipping with pupils in the Pentlands, as seen by a young trainee teacher, 'Mike', who told Andrew Hunter and others about it after Rainy Brown's suicide:

> I witnessed this once or twice. One instance I remember particularly well: we were a group of boys mountain biking in the Pentlands. We stopped at a reservoir; it was a very hot day, the boys were hot and sweaty. The boys wanted to swim, but had no trunks. I had just been invited to come along; I was not at this point in paid employment. [Rainy Brown] led the way: 'If you want to swim, this is how we do it.' He stripped down and dived in … and we all followed suit. It was a fun, innocent, spontaneous moment – afterwards we all got dressed and rode back to school.[421]

Rainy Brown also permitted 'Mike' to shower with Pringle prefects – in their late teens – after they had been on a run together.

417 Written statement of 'Andrew' (former pupil, 1994–8), at WIT-1-000001603, p.16, paragraphs 80–1.

418 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, pp.164–5.

419 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, p.11.

420 Merchiston Castle School, Letter from headmaster to James Rainy Brown, 12 October 1999, at MER-000000286, p.49.

421 Merchiston Castle School, Meeting between Andrew Hunter and member of staff, 3 May 2013, at MER-000000293, p.9.

'Mike', then in his early twenties, said that he 'assumed this was the norm'.[422] He went on: 'I was not aware this was not acceptable. I was a young trainee teacher and I followed [Rainy Brown's] lead. I thought this was what went on here; this is the MCS I came into.'[423]

It was not in fact the Merchiston way but it was certainly Rainy Brown's way, which Merchiston allowed to continue and should have stopped decades before his death. His behaviour consistently pushed boundaries but was never effectively checked, and it is noteworthy that following investigation, the police concluded: 'If Rainy Brown were still alive today he would be charged with 6 counts of sexual offending.'[424]

James Rainy Brown's associations

A discrete area of concern about Rainy Brown was his friendship with two men who had very different associations with Merchiston.

Torquil Johnson-Ferguson

A former pupil of Merchiston and a long-term friend of James Rainy Brown,[425] Johnson-Ferguson was the owner of Ru'a Fiola Wild Island Exploration Centre and Solwaybank Farm Camp, both Outward Bound centres where a number of schools sent parties. He was convicted in 2015 of three charges of lewd, indecent, and libidinous practices and behaviour dating from the 1970s and 1980s, albeit not in relation to any pupil from Merchiston. Then, in 2019, after an examination of facts (conducted because he was unfit for trial), two similar charges from the 1990s, involving fondling, were found to have taken place.

Both his camps were popular and an annual fixture for many schools. As Gareth Baird, speaking as Chair of the Board of St Mary's, Melrose, said: 'It was almost a rite of passage that the senior pupils … would attend the camp at Ru'a Fiola … We always sent a member of staff with them, but when question marks around Johnson-Ferguson's behaviour arose we ceased sending pupils to the camp.'[426] When he joined the Merchiston board in 2014 he was not told of any concerns about either camp. He did 'remember having concerns when I heard that JRB was a friend of Johnson-Ferguson' but that was only because of what happened after Rainy Brown's suicide and the discovery of 'the structure of ownership at Ru'a Fiola and … at Solwaybank'.[427]

Merchiston had, however, received earlier complaints of inappropriate nakedness at Torquil Johnson-Ferguson's camps and of staff being present when boys showered. The first was made in 2007 regarding Ru'a Fiola, and the second, concerning camp staff being in the vicinity of pupils showering at Solwaybank, in 2012.[428] The 2007 concern was picked up by the Care Commission during an inspection when it was mentioned in passing by staff. The inspector, Iain Lamb, described the behaviours complained

422 Merchiston Castle School, Email from Peter Hall to headmaster, 2 May 2013, at MER-000000293, p.4.

423 Merchiston Castle School, Meeting between Andrew Hunter and member of staff, 3 May 2013, at MER-000000293, p.8.

424 Police Scotland report, at PSS-000004723, p.9.

425 Merchiston Castle School, Letter from Andrew Hunter, 27 May 2013, at MER-000000289, p.16.

426 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, p.17.

427 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, pp.19–20.

428 Merchiston Castle School, Letter from Andrew Hunter, 27 May 2013, at MER-000000289, p.17.

of as 'bizarre in this day and age'.[429] He pushed for a child protection incident to be raised, and the school met and shared the concerns with Johnson-Ferguson. His reply was remarkable. He wrote: 'Please would you accept my firmest assurance that there will be no nakedness at any of the activities on Merchiston's courses in the future,'[430] thereby accepting the allegations about nudity and giving rise to Andrew Hunter's understandable response: 'My reaction … was: what about the other courses?'[431]

He was quite right to be concerned, but Merchiston did not alert other schools at the time, nor did it make any link between Johnson-Ferguson's longstanding relationship with Rainy Brown and the culture of nudity he had fostered. Those pennies only dropped in 2014 with the police involvement after Rainy Brown's suicide. That should have happened long before but, instead, Merchiston continued to send boys to Ru'a Fiola until 2013, when visits stopped after an English school publicly raised its concerns.

Merchiston continued to send boys to Ru'a Fiola until 2013.

As Andrew Hunter asked, far too late in the day, in an email of 10 January 2014: 'Why would you send your pupils to a service which is providing a lower level of service in child protection than yourselves?'[432]

Reg Woodward

The second of James Rainy Brown's friends to cause concern was Reg Woodward, a Church of England minister born in 1919 and so probably almost 20 years older than Rainy Brown. The evidence did not disclose how the men met. Woodward was employed at The King's School, Grantham between 1953 and 1979, as a language teacher and, latterly, as head of its lower school. He had 'a novel way of teaching languages',[433] was a freelance lecturer, and became a regular visitor, certainly annually but at times termly, to Merchiston – to Pringle House in particular. As 'Glenn' said: 'He came regularly until about a year before he died … his visits became sort of permanent fixtures.'[434] 'Glenn' believed Woodward was introduced to Merchiston by Rainy Brown, and did not warm to him as 'I found him … slightly "unctuous" … he wandered around the house, he sort of saw the [boarding] house as the extension of his own house'.[435] 'Glenn' added: 'There was no time when I felt this person shouldn't be here, that he was a danger to children or anything like that. But he – perhaps he was just a little bit too cosy with them.'[436]

Woodward appears to have been a fixture for decades, yet both David Spawforth and Andrew Hunter had concerns about him. In 1990 Spawforth wrote to Rainy Brown, firmly making the point that Woodward was not an accredited language expert, was not there at Merchiston's invitation, and should not

429 Merchiston Castle School, Summary of conversation with Iain Lamb, 9 November 2007, at MER-000000307, p.26.
430 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.128.
431 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.129.
432 Merchiston Castle School, Email from headmaster, 10 January 2014, at MER-000000189, p.59.
433 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.56.
434 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.56.
435 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.56–7.
436 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.58–9.

Merchiston had carried out no checks in relation to an older man who was a regular visitor.

be giving the impression, as he was doing, that he had official status in the school.[437] Despite that, he consistently gained access to boys in lectures and in the house while staying with Rainy Brown, either in the lodge belonging to Merchiston at the school gate at a time when Rainy Brown was first moved out of Pringle, or in his house in Colinton. Andrew Hunter had refused to allow him to stay with Rainy Brown in Pringle House and was uneasy about the whole state of affairs and about what he saw as the fervent and 'evangelical Christianity of Reg Woodward and James Rainy Brown … I felt that Reg Woodward was – I had no evidence, but I felt he was a part of this muscular Christianity, and that worried me, with boys'.[438] He was also aware that there was at least one suggestion that Woodward was engaging with the boys in Pringle, and that a boy had emerged, naked, from a Scripture Union meeting before running back inside.

Andrew Hunter thinks that he may have banned Rainy Brown from Scripture Union but recognised that nothing else was done as regards Woodward. The casual nature of his presence at the school and the high risk of allowing such a person easy access to children should have caused greater concern and action at Merchiston as well as other schools, including Fettes, which he visited. Merchiston had carried out no checks in relation to an older man who was a regular visitor and who, by all accounts, held sway in the environment inhabited by James Rainy Brown. Subsequent investigation by the police revealed a report that he was seen by a member of staff at Merchiston cuddling a nine year old, and that in relation to an English school – The King's School – he was known to shower and wrestle with pupils. It seems likely, given the 20-year or so age gap between them, that Rainy Brown saw Reg Woodward as something of a role model.

The recent Makin Review into the conduct of John Smyth QC also revealed that the most appalling abuse took place in what seem to have been similar circumstances, under the guise of Church of England '"fun" trips with a "manly and muscular" nature but having an ulterior motive of abuse and grooming, and drawing them into his close circle'.[439]

Andrew Hunter should have followed his instincts and recognised the high risk inherent in allowing Reg Woodward a free rein. Instructing that Woodward was not to stay overnight in Pringle House was nowhere near enough. He recognised, in evidence, that the evangelical Christianity of the two men was a warning signal and expressed regret that: 'We just didn't seize – get a grip of the elephant in the room. It is interesting that my predecessor also tried to do it, but it didn't work … If I had my time again, I just would have dealt with all of these totally differently.'[440] He should have done.

Reg Woodward died on 18 July 2009.

437 Merchiston Castle School, Letter from headmaster, 20 December 1990, at MER-000000311, p.2.

438 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.134.

439 Independent Learning Lessons Review John Smyth QC by Keith Makin, 18 October 2024, p.59, paragraph 11.3.91.

440 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.135.

'Phil'

Another inadequate response to a teacher's abuse was demonstrated by Merchiston leadership in 1977 when 'Phil', an English teacher, was 'sent down the drive'. 'Edward' said that 'Phil' had been

> appointed to the English department in the early 1970s. He shared the sixth form teaching with me and with another colleague. He was very well-read and knowledgeable about his subject. Pupils had a respect for him and enjoyed his lessons. There was an incident at the end of the Easter term of 1977 which brought his career … to an abrupt close.[441]

'Phil' had been drinking with two senior boys who had visited his rooms after they had returned from a night out. When one boy left the room, 'Phil' made brief sexual contact with the other. When the first boy returned and saw his friend looking distressed, he punched 'Phil' and then forcibly took him to the headmaster's house. This happened on the last day of the Easter term. 'Phil' did not return for the next term, having been dismissed for 'misconduct' by headmaster Donald Forbes. The matter was not reported to the police.[442] 'Glenn' thought 'that was entirely typical of what happened in schools at the time … there was an extent of shovelling things under the carpet there'.[443] He went on: 'I'm not trying to say Merchiston got it right, probably they didn't, in fact, but I think that was more or less the norm, that course of action, really.'[444]

From the evidence of other schools, the Merchiston approach was indeed normal for the time, although there was a limited attempt to notify the Scottish Education Department (SED). This, however, had significant shortcomings. Donald Forbes wrote to the SED in April 1977 advising that he had dismissed 'Phil' and in the expectation 'that his name may be added to your List 99'.[445] The SED responded in May 1977, saying:

> It is not however the Department's practice to enter a name on the list of unsuitable teachers until a person who is alleged to have been guilty of misconduct has been given an opportunity to comment on the allegations … I should therefore find it helpful if you would provide me with details of the circumstances which led to ['Phil's'] dismissal.[446]

Donald Forbes replied in July 1977: 'in writing to your Department in the first instance I was doing what I thought was the correct thing, in informing you. I have no wish to pursue the matter further.'[447] The matter ended there.

Forbes also provided 'Phil' with positive references in relation to non-teaching jobs. Those references were not candid. In at least one reference he wrote: 'Although I could not recommend him for a teaching post, I can see him thoroughly suited for the post for which he is applying, and recommend him accordingly.'[448] The post was an administrative one. However, details

441 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.99.

442 Police Scotland report, at PSS-000004723, p.5.

443 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.47.

444 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.48–9.

445 Merchiston Castle School, Letter from headmaster to Scottish Education Department, 1977, at MER-000000296, p.2. 'List 99' was a list that many heads believed was held by the SED and was thought to contain the names of teachers deemed unfit to teach.

446 Merchiston Castle School, Letter from Scottish Education Department to headmaster, 1977, at MER-000000296, p.3.

447 Merchiston Castle School, Letter from headmaster to Scottish Education Department, 1977, at MER-000000296, p.5.

448 Merchiston Castle School, Letter from headmaster, 17 September 1977, at MER-000000296, p.6.

of the reason for 'Phil's' dismissal were omitted, and it was simply said that 'as a teacher [he] was becoming too involved with his charges'. Moreover, it suggested that 'Phil' left the school of his own free will: 'He left … for personal reasons' without further explanation.[449] The outcome was that, potentially at least, 'Phil' could have tried to return to teaching, despite having demonstrated he could be a risk to children.

Prosecution was considered in 2015 but was not pursued.

'Antoine'

'Antoine' was employed at Merchiston as a French teacher. In December 1985 he suggested to a pupil that they should meet for an extra lesson. The pupil went for the lesson with 'Antoine' but became acutely embarrassed when 'Antoine' stood up, because the man had 'a large split in the crutch of the tight jeans that [he] was wearing'[450] and 'all was obvious, hanging down through a split in jeans, though contained in underpants'.[451] The pupil refused to participate in the lesson, telling him he would not do so while 'Antoine' had those trousers on, and thereafter made a formal complaint to headmaster David Spawforth. 'Antoine' did not dispute the facts but maintained he was unaware of the problem. It was not the first report of such behaviour, as a similar complaint had been made in 1983. Spawforth took the view that 'it is all a question of how these facts are interpreted and because they are a carbon copy of the situation which arose two years ago they have to be seen in that context'.[452] He met with 'Antoine' and advised him 'to seek a fresh start elsewhere either in or outside teaching as I believe that rumours would continue, that further incidents could occur, and that he himself would feel both sour and bitter with his relations now within the school'.[453] He also confirmed that if 'Antoine' 'wished to take this to the governors' or if he 'did not accede to my request' then 'the matter would in any event have to go to the governors for a full enquiry which I felt would not be in his best interests or those of the school'.[454]

The outcome was that 'Antoine' resigned, though he did not accept that he had done anything wrong. The governors were not informed, and Spawforth made his views clear in a letter written in November 1986:

> The decision made that he should resign (rather than be sacked) saved the School from adverse and unpleasant publicity and consequences. It was felt right that appropriate tribute should be paid to his past contribution to the School, both in his teaching and games coaching … To have omitted mention of 'Antoine' in either would have drawn attention to a problem most people were unaware of.[455]

449 Merchiston Castle School, Letter from headmaster, 17 September 1977, at MER-000000296, p.6.

450 Merchiston Castle School, Summary of complaint against and discussions with 'Antoine', 18 December 1985, at MER-000000291, p.14.

451 Merchiston Castle School, Summary of complaint against and discussions with 'Antoine', 18 December 1985, at MER-000000291, p.14.

452 Merchiston Castle School, Summary of complaint against and discussions with 'Antoine', 18 December 1985, at MER-000000291, p.14.

453 Merchiston Castle School, Summary of complaint against and discussions with 'Antoine', 18 December 1985, at MER-000000291, p.14.

454 Merchiston Castle School, Summary of complaint against and discussions with 'Antoine', 18 December 1985, at MER-000000291, p.14.

455 Merchiston Castle School, Letter from David Spawforth, 10 November 1986, at MER-000000291, p.1.

'Antoine's' conduct was not reported to the police nor addressed by way of any formal internal process.

Such focus on protecting the school's name and reputation is familiar territory. It also happened at other schools in this case study. The approach taken by Merchiston was lamentable and wrong, and was exacerbated by the lack of candour in the references Spawforth provided for 'Antoine'. That was a further leadership failure. The primacy of child protection is such that schools have a responsibility to be open and honest about their employees including in relation to the reasons for their departure.

> The approach taken by Merchiston was lamentable and wrong.

Following police investigations of past conduct at Merchiston subsequent to the death of James Rainy Brown in 2013, proceedings were commenced in the sheriff court against 'Antoine' almost 30 years later, in 2015. After trial 'Antoine' was found to have committed three offences of indecent exposure but the sheriff, though satisfied he had committed the offences, was of the opinion that it was 'inexpedient to inflict punishment'[456] and granted him an absolute discharge. Accordingly, no convictions were recorded against him, as is the norm in any case where the disposal after a guilty verdict is one of absolute discharge. Initially, he had been charged with public indecency but those charges were withdrawn and replaced with charges of indecent exposure. As he was advised by his lawyer, although that was a lesser form of offending and he had apologised for it, an offence had still been committed. The sheriff had been provided with a positive reference from the school where he had taken up employment after leaving Merchiston. The sheriff expressed the view that after 30 years of unblemished service at that school, he was not a danger to anyone and he hoped that 'Antoine' would get back to teaching as soon as possible, which would not have been possible if he had been recorded as having any conviction for offence against a child.

The Reverend Allan MacPherson

Allan MacPherson was a member of staff who carried out repeated acts of voyeurism directed towards boys at the school, including during 1999 and 2000. This was sexual abuse of children.

He was a member of staff at Merchiston when Andrew Hunter joined as head in 1998. In August 1999 three teachers raised concerns with the CPC about his behaviour. They had observed him deliberately positioning himself in order to look up boys' kilts and shorts.[457] This happened at social and recreational functions both in and out of school. Allegations of a similar nature were made in a report in February 2000 by a fourth teacher, Victoria Prini-Garcia, while in March 2000 one of the original teachers made reference to further earlier incidents in 1997 and 1998. Victoria Prini-Garcia explained in evidence that he was

456 See Criminal Procedure (Scotland) Act 1995, section 246(3), which provides: 'Where a person is charged before a court of summary jurisdiction with an offence … and the court is satisfied that he committed the offence, the court, if it is of the opinion, having regard to the circumstances, including the nature of the offence and the character of the offender, that it inexpedient to inflict punishment … may without proceeding to conviction make an order discharging him absolutely'.

457 Police Scotland reports, at PSS-000004461, p.1 and PSS-000005550, p.1.

'behaving in a most peculiar way' so that she was 'completely blown away. I honestly could not understand what I was seeing.'[458] In her report to the school, she said: 'There were a number of incidents and all of them had two points in common, namely the boys were relaxing (lunch breaks, evening drink, during coach transfers) and they were wearing either the kilt or shorts.'[459] She described incidents during a school trip to Durham and Hexham when she saw Allan MacPherson positioning himself so that he had a direct view up boys' shorts and, at one point, saw him looking up a boy's kilt.[460] She 'thought what [he] did during that trip was inappropriate and unprofessional and not nice. You just don't do that! It was unusual … the boys were so innocent … even now it causes me annoyance. He was a man in a position of trust and his behaviour was so unbecoming.'[461]

In early March 2000 Andrew Hunter wrote to Allan MacPherson informing him of the allegations, advising him that 'we should hold a disciplinary hearing at the earliest possible course'.[462] A meeting between them, with the child protection officer acting as note taker, took place in the morning of 3 March 2000, and there was agreement they would all meet again later in the day. Both meetings were highly charged, with Allan MacPherson vigorously denying the allegations and denying there having been any impropriety. After the morning meeting, the child protection officer met with the four teachers who had complained. Minutes record that: 'At the end of those meetings all four accusers have said that they feel they are now content that their accusations have been listened to and been dealt with thoroughly and that they would not wish for a disciplinary action to follow at this point.'[463]

The fact that statements were provided by the teachers who complained, that a child protection process began, and that all paperwork, including minutes, was kept, might suggest good policies and transparency on Merchiston's part. It would, however, be a mistake to think that. In fact, there were significant shortcomings. While the records make clear that there was uncertainty about what to do after the complaints were first made and that guidance was sought from the City of Edinburgh Child Protection Services[464] and from the Scottish Council of Independent Schools, the reality seems to be that the headmaster and the child protection officer found it extremely difficult to face up to the reality of the problem and to address it properly.

Victoria Prini-Garcia, for example, found the response 'was very blank … he said: "Well, I'll talk to him about it, but I don't think that's true, I think probably you are misinterpreting the situation", and that sort of thing'.[465]

She said that Allan MacPherson

> had a long career and was well liked and I found myself completely disbelieved … at

458 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.26.

459 Merchiston Castle School, Email from Maria Victoria Prini-Garcia, 1 March 2000, at MER-000000283, p.22.

460 Merchiston Castle School, Email from Maria Victoria Prini-Garcia, 1 March 2000, at MER-000000283, p.22.

461 Police Scotland report, at PSS-000005519, p.3.

462 Merchiston Castle School, Letter from headmaster, 3 March 2000, at MER-000000283, p.4.

463 Merchiston Castle School, List of teachers who had made complaints, at MER-000000283, p.5.

464 Merchiston Castle School, List of teachers who had made complaints, at MER-000000283, p.14. It is disappointing to note that the Edinburgh child protection officer responded that she had been told not to cooperate with independent schools.

465 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.29.

> that time after my report the school did not know how to deal with any concerns. I had a very uncomfortable time … I remember I had to meet with Allan MacPherson in a room with the CPO … He denied my concerns and said I was wrong [and that I had] misinterpreted.[466]

Demoralised, and made to feel by the head that she was the one with a dirty imagination, she was nonetheless determined to volunteer for duty if Allan MacPherson wanted to join any choir or school trips, so that she could keep an eye on him.

In the summer of 2003 a further report was made, but this time by a parent after 'she had been called to the School … to a kilt fitting … with Allan MacPherson and a pupil. When she arrived, she found the pupil only clothed in his underpants and Allan MacPherson appeared to be very flushed. She indicated that her early appearance for the kilt fitting caused flustered reactions.'[467] A report was made to 'Glenn' and another member of staff, and Allan MacPherson was made aware of events[468] but no formal process seems to have been followed. The matter resurfaced in May 2006 when the same parent heard that he 'was to accompany the imminent Pipe Band Tour … She felt this was not appropriate and that he should not be left alone with children.'[469] Without any investigation, Andrew Hunter determined that the matter should be reported to the 'Child Protection Officers and that another member of staff would have to be found to go on the Pipe Band Tour'.[470] Allan MacPherson retired the same year, when he was in his late 60s.

The Merchiston Pipe Band

Merchiston's approach throughout was contradictory and inconsistent, and had the matter been properly investigated in 2000, further causes for concern could have been avoided. It may be difficult when an allegation is made against an otherwise popular and well-liked member of staff, but that is exactly when child protection ought to be the paramount consideration, as the risk of it not being prioritised is at its highest, as needs to be recognised. As Andrew Hunter acknowledged in evidence, in 2022, he had made mistakes. On reflection, he thought his 'style at times was too trusting. Too inclusive. I found it difficult to stand back at times.'[471] He agreed that 'we should have done this differently and better by obviously notifying my chair, notifying the regulators, the police, and then the disciplinary process'.[472]

It emphasises beyond doubt that concerns touching on child protection must be

466 Police Scotland report, at PSS-000005519, p.3.
467 Merchiston Castle School, Headmaster's note of meeting with parents, 22 May 2006, at MER-000000283, p.1.
468 Merchiston Castle School, Letter to headmaster, 18 June 2003, at MER-000000312, p.5.
469 Merchiston Castle School, Headmaster's note of meeting with parents, 22 May 2006, at MER-000000283, p.1.
470 Merchiston Castle School, Headmaster's note of meeting with parents, 22 May 2006, at MER-000000283, p.1.
471 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.103.
472 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.101–2.

'Glenn' spanked a child, in clear breach of the school's policy on corporal punishment.

appropriately reported and investigated properly.

Police documents, created during the investigation post 2013, state: 'These matters caused concern to the staff members … the view held is that if MACPHERSON were still alive today, he would be charged with a number of incidents of sexual breach of the peace.'[473]

'Glenn'

'Glenn's' behaviour as a teacher brought him into conflict with the school's policies on at least two occasions. The first was in 1995 when he spanked a child, in clear breach of the school's policy on corporal punishment. The child, he thought, was 14 years old and he explained it was simply loss of control: 'because of my exasperation at the time, I punished him by putting him over my knee and smacking him on the bottom'.[474] He did not report the incident, but it was made public, 'and the headmaster and I had sessions with the parents, both solo and together. We apologised. I got an official warning letter.'[475] When asked if it happened on other occasions, he chose not to answer. He acknowledged that he perhaps should have thought about anger management 'because it was a loss of temper, but it wasn't characteristic'.[476] No one else thought about it either, but they should have done.

The second occasion was in February and March 2009 after it came to light that 'Glenn' had repeatedly breached the school's policy on the acceptable use of computers and the internet. The related policy stated explicitly that 'All internet activity should be appropriate to staff professional activity.'[477] The school's IT systems flagged up inappropriate computer use as 'Glenn' had accessed – or tried to access, since some were automatically blocked – a number of websites with 'references to "spanking", "schoolboy", "schoolgirl", and a number of other sexually explicit references'.[478] 'Glenn' explained that it had been another 'one off' and that he thought the material was legal. However, he sought out the material on multiple days, not on a single day, and, acknowledging his wrongdoing, he accepted that 'it was bad misjudgement'.[479]

Shortly before the computer matter came to light, 'Glenn' had announced his retirement, planned for July 2009.[480] He was subsequently allowed to proceed with his retirement following a meeting with the headmaster. Andrew Hunter 'put a file note on his file to protect myself and the school'.[481] The matter was not reported

473 Police Scotland report, at PSS-000004723, p.2.
474 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher 1976–2009), at TRN-8-000000063, p.60.
475 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher 1976–2009), at TRN-8-000000063, p.60.
476 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher 1976–2009), at TRN-8-000000063, p.62.
477 Merchiston Castle School, File note, March 2009, at MER-000000294, p.141.
478 Merchiston Castle School, Disclosure Scotland file, at MER-000000294, p.15.
479 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher 1976–2009), at TRN-8-000000063, p.64.
480 Merchiston Castle School, Reference from headmaster, 7 January 2010, at MER-000000294, p.153.
481 Letter from headmaster, 19 March 2009, at MER-000000202, p.140.

through the school's disciplinary policy, nor to any external body including the board of governors. Such inactivity is a matter of real concern because it did not adequately reflect the gravity of both episodes, particularly when viewed together. The headmaster did not draw any connection between them at the time. But any headteacher in his position should have done so as it had implications for child protection. Moreover it had significant impact in terms of the references written for 'Glenn'.

'Laura' (RCQ)[482]

'Laura' taught at Merchiston for seven years in the early 2000s. She made good career progress within the school, becoming a residential assistant tutor, and an assistant housemaster, once in Laidlaw and twice in Rogerson. She was enthusiastic and actively engaged with boys. Concerns about her style of dress and behaviour were raised, noted, and should have been addressed promptly but were not. Instead, her ambitions were repeatedly met and she became PSHE coordinator, then deputy child protection coordinator, and ultimately child protection coordinator. When she moved on to another school it was with a reference from Merchiston that supported her application 'without reservation'[483] yet the school had good cause to have reservations.

Her abuse did not come to light until four months after her departure, when Victoria Prini-Garcia met old boys visiting Merchiston for a reunion. They told her that a teacher who had recently left had been having sex with senior boys. She was horrified and incredulous until a mobile phone was produced and she was shown a WhatsApp video of the teacher stripping off her upper garments in a sexualised manner. The video did not show her full face but it was not difficult to identify her. A child protection investigation was immediately launched, and an inquiry that took place over the next two days within the school revealed that all senior boys from S3 upwards had seen the video. It had first been shared over a year before, and another similar video existed. It also became apparent that 'Laura' had been engaging with pupils on social media, contrary to IT policy, and had encouraged senior boys to use her flat as a means to enter and leave the school out of hours, in contravention of the school's residency policy, a copy of which 'Laura' had signed. Further, she had had sexual intercourse with a number of boys in her flat. The headmaster promptly contacted the social work department and the police, as well as 'Laura's' new school.

She was interviewed under caution by the police but declined to answer questions. Her case was reported to the Crown in December 2015 in respect of a possible contravention of section 42 of the Sexual Offences (Scotland) Act 2009 (sexual abuse of trust) but ultimately it was decided that there were to be no proceedings.

The General Teaching Council for Scotland, however, rapidly made 'Laura' subject to a temporary restriction of fitness to practice, and two years after the initial reporting 'Laura' consented to her removal from the Register of Teachers. She admitted, for the purpose of those proceedings, that

1. whilst employed as a teacher at Merchiston Castle School, Edinburgh, (hereafter referred to as 'The School') in the knowledge that pupils were not

482 In the case of 'Laura', reference is also made to the cipher (RCQ) used to describe her in Inquiry transcripts.

483 Merchiston Castle School, Reference from headmaster, 9 February 2015, at MER-000000290, p.24.

permitted to leave The School premises, you did repeatedly permit the pupils to leave The School premises through your residence at The School and in so doing you did breach The School's residency policy;

2. you did on school premises repeatedly engage in sexual intercourse with male pupils who were aged between 17 and 18 years of age;
3. you did repeatedly send by electronic means, videos of a sexually explicit nature to a male pupil;
4. on a Facebook group established by pupils and entitled 'Organised Bullying' you did
   a. Communicate with pupils in this group, and in so doing you did breach The School's Acceptable Usage Agreement for Computer and Internet Use
   b. Fail to bring the existence of this group to the attention of the Senior Leadership Team[484]

Disclosure Scotland also confirmed that 'Laura' was listed and was barred from regulated work with children and adults, as defined in Schedules 2 and 3 to the Protection of Vulnerable Groups (Scotland) Act 2007.[485]

All of this happened not long after Merchiston's experience of investigation and oversight following James Rainy Brown's death and shocked the entire school. As Andrew Hunter said: 'I felt that whatever I thought about systems in place, in that instance they didn't seem to work. And that completely rocked my confidence in what we were doing. I think it rocked everyone's confidence.' He realises now that he was 'too trusting as a human being and as a leader'.[486] He was not thinking the unthinkable, nor was the school's senior leadership team, yet that is what any school which aspires to be serious about child protection has to do.

'Edward'

One applicant talked about 'Edward', a married teacher who lived at the school with his wife and children, in particularly critical terms. 'John Crawford' said that when he got injured during a football match 'Edward' fondled him and was known as someone who prowled the pitches 'fondling boys who were off with injuries on the pretext it was a medical examination'.[487] He also suggested that 'Edward' would beat boys as an excuse to feel their bottoms, though he conceded he had never himself been beaten by 'Edward', and stated that 'Edward' asked him about his masturbatory habits. Police made inquiries of nine former pupils, whose names were provided by 'John Crawford', but they did not support his account. 'Edward', in his statement to the Inquiry, refuted the complaints entirely and instead described complaints received from other pupils about the habits of 'John Crawford'. Having reviewed the evidence, and applying the standard of proof explained above, I am unable to find the allegations about 'Edward' to be well founded.

Sexually abusive conduct by pupils

Children were sexually abused by older boys and by those of a similar age. It was not rife, but it was a problem and so long as the school deemed it to have been consensual, it appears to have been unconcerned.

484 General Teaching Council for Scotland, Removal with consent order, 21 April 2017, at GTC-000000079, p.16.

485 General Teaching Council for Scotland, Letter from Disclosure Scotland, 26 December 2017, at GTC-000000079, p.17.

486 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.51–2.

487 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.35.

The horizontal system of houses employed at Merchiston was adopted partly as an attempt to prevent younger boys being subjected to sexually abusive conduct by older boys. To an extent that may have worked. However, it did not eliminate sexual conduct between boys in the same year group within which, in any school, there can be a marked disparity of physical development, maturity, and potential for abuse. A pupil in the mid-1950s described 'seshing' – mutual masturbation – taking place within house dormitories. Although 'certainly frowned upon … no very serious attempts were made to prevent it'.[488] Nor, it seems, were any attempts made to find out whether or not it involved exploitation such as in the case of the 'insatiable boy who offered hard cash' referred to below. The risk of such a practice involving abuse is obvious.

The same pupil explained that: 'Dealing with boys caught seshing was a very occasionally tiresome chore for the Housemaster. If it was sufficiently disruptive there might be a beating, or more likely just a scathe designed to inform the miscreants they were vermin', but the 'most notorious case I can remember … an utterly insatiable boy who offered hard cash for his pleasure, was simply given counselling'.[489] He went on: 'I vividly recall an unusually candid conversation … with a master, who observed that if you had to do it, then for God's sake do it with a coeval.'[490] That message – that sexual conduct with another boy of the same age was acceptable – was a dangerous one in terms of child protection. It could give the impression that whatever the circumstances, including abuse, it did not matter.

'James' confirmed that sexual behaviour deemed to be consensual was accepted by the boys in the 1950s:

> I never knew anything more than interfering with each other's private parts for mutual pleasure … You weren't sent to Coventry. Was it acceptable? Perhaps it was, perhaps it wasn't. I think it was a grey area … I don't think, if you indulged in that kind of sexual activity, that that would interfere with you being part of the crowd.[491]

He also agreed that the attic floors of the house where kilts were kept was a recognised area for such behaviour. 'It was out of bounds … so you wouldn't be interrupted.'[492]

Another pupil knew it was going on in the 1960s:

> It was happening up in the attic where the kilts were all stored and the action used to take place allegedly on a Sunday night, when the kilts were taken and put up in the loft on their hangers, you know, put your kilt and all the equipment that went with it … It was well known – put it this way: it was quite well known amongst the troops that that was what was going on amongst certain members – boys.[493]

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488 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.60.

489 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.61.

490 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.61.

491 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.18.

492 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.19.

493 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.108.

'Gerald' remembered a housemaster instructing a prefect that if two boys were found together in the kilt room, it was a matter for the housemaster, and that they were 'aware that because of its isolated location, the kilt room could be used for consensual sexual encounters between boys'.[494] But if housemasters were aware that the kilt room could be used for sexual encounters which they assumed to be consensual they should also have been aware that there was a risk of it being used for sexual behaviour which was abusive.

Direct evidence of boys being subjected to sexually abusive conduct by other boys came from a teacher, 'Edward', who described two episodes from the 1970s:

> The first was in 1973 or 1974 when two of the dorm captains in the house came to see me … They were of the same age as all of the others in the house but were picked out as responsible and reliable young men who would raise with the housemaster any matters of concern they had for pupil well-being. The two who approached me explained that there was considerable anxiety over the excessively sexualised behaviour of a member of the house … He had repeatedly talked about masturbation when in the showers with other pupils, boasting about how frequently he masturbated, displayed an erection, and started to play with himself. This had caused considerable distress to his contemporaries. He also boasted how he had used the house telephone to call the local newsagents in Colinton to ask if they could reserve copies of Masturbators' Monthly or Wankers' Weekly. The two dorm captains said that the other boys were very disturbed by this … I interviewed [the pupil] and put these concerns to him … He made no attempt to deny them and just said that he thought it was a joke. I referred the matter to the head, giving him full details, and he … suspended the boy for the remainder of the term [about six weeks].
>
> The second matter was in about 1975 when a boy, A, in the house came to see me in some distress to say that he had been assaulted in his dormitory the previous night by another boy, B. The allegation was that some time after lights out, boy B, who was a member of the same dorm, had come to his bedside and started to fondle him. Boy B had then got into boy A's bed and proceeded to masturbate him. He then left him and returned to his own bed. I interviewed boy B and he admitted that A's account was essentially true.[495]

The latter example appears likely to be the case referred to by Merchiston in the Appendices to its Part D response.[496]

These children evidently felt able to complain about the behaviour of other pupils to dorm captains and to a teacher but that was happenstance and not because of any organised system.

494 Transcript, day 263: 'Gerald' (former pupil, 1966–71), at TRN-8-000000058, pp.23–4.

495 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, pp.93–5.

496 Merchiston Castle School, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.27, paragraph 5.9.34.

5 Physical abuse

Introduction

I find that children at Merchiston were physically abused. They were physically abused by members of staff. Abusive corporal punishment was not a widespread problem at Merchiston, but some teachers did beat pupils excessively and inappropriately. One member of staff really stood out as engaging in deliberate and extreme brutality, which was all the more remarkable given that his was a pastoral role. He provided oral evidence, and what was also remarkable was his ability to reflect critically on his behaviour. His zeal for beating was well known, but he was never stopped.

Children were also physically abused by other children as part of a wider problem with bullying which was consistently referred to in the evidence.

Physically abusive conduct by staff

'James'

'James' was a pupil in the 1950s and was employed as a teacher and chaplain from 1966. In March 1979 'James' wrote to the then headmaster, Donald Forbes, requesting a sabbatical. He offered several reasons, one being 'the whole matter raised by this unhappy business with [a pupil]. Living in close quarters with these undisciplined and ill-at-ease senior boys is very wearing, and a break might very well be the best solution.'[497] The request was not granted; instead, Forbes suggested that it would be best for 'James' to leave Merchiston. In early April 1979 'James' replied, saying he would 'leave Merchiston … I have no idea what to do next as I had not expected a career within Merchiston to be closed to me. I would like to thank you – though we have been light years apart professionally we have been able to get on so well personally.'[498] It is clear he was moved on from Merchiston.

One of the reasons behind this seems likely to have been the perception, if not the knowledge, that 'James' was someone 'who liked to beat boys very hard'.[499] 'James' acknowledged this himself: 'I am not proud of that, but that's the reality … Yeah. I certainly made a beating hurt would be … one way of putting it. I didn't like the idea of a nominal beating … don't do it if you're not going to do it properly.'[500]

He had been reflecting on the subject prior to giving evidence and said:

> Why was I ever involved in beating at all was the question I've been asking myself,

497 Merchiston Castle School, Staff file for 'James', at MER-000000157, p.19.

498 Merchiston Castle School, Staff file for 'James', at MER-000000157, p.18.

499 Merchiston Castle School, Addendum to Part D response to section 21 notice, Specific complaints, at MER-000000248, p.2.

500 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, pp.54–5.

> and I think the reality is it's because I was on the boarding staff and if you were a day master, you know, you lived with your family outside the school and you would be in in the daytime, your contact with the pupils would all be classroom and sport and extracurricular activities. Those were never where the beating offences happened. It was to do with the boarding and the houses and stuff, and the issues like smoking and drinking, which were the classic beating offences of the time. So, because I was also involved in the boarding … I was involved in beating.[501]

He acknowledged that he beat 'responsibly in the sense that I did it properly, which may have not been responsible. Yeah, I've thought about that for a long time ever since.'[502]

Pupils did not think it 'responsible' but viewed it as excessive, inappropriate, and abusive. 'John Crawford', for example, said: 'What really caused a lot of waves was his beating of people with the tawse, which were so severe they stuck out even then.'[503]

He continued:

> The prefects used to tell us in those days that the housemaster's greatest fear back then was that one of their pupils would get a girl in the family way, and I think this influenced a lot of the behaviour then. But the incident, which happened … where I think it was … boys invited … girls to their study. Now, there was never anything suggested that it was just anything other than drinking coffee or listening to music … but the fact these girls had been in that room set off alarm bells.

'James's' response was to administer brutal beatings:

> They … were strong rugby-playing boys … they were 18 or so, and they were in tears. And it was so bad that even the Christians at the school said that they'd gone to 'James' and asked him to tone it down, because people were starting to regard Christianity with contempt because of him.[504]

'John Crawford' thought that 'James' did calm down a bit after the incident, but he was 'a scary guy' who did not have 'a serious rival'[505] when it came to administering beatings.

Memorial Hall

One of the boys involved in the incident provided written evidence after the hearings. His description of the approach that 'James' took to corporal punishment is chilling:

> The sort of things that corporal punishment was used for were someone being late for roll call, fighting, disobeying rules, like going into town when you weren't supposed to, drinking, and smoking. Smoking was the big

501 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.55.
502 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.56.
503 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.30.
504 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, pp.31–2.
505 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.32.

> one. Smoking was seen as the most heinous crime that you could commit at Merchiston. It was ['James's'] big bugbear. He would patrol the grounds, trying to find smokers. He would no doubt say that it was to stop them going down a wicked way, but our view was that it was because he could beat people once he had found them smoking.[506]

He went on:

> Every year … there were girls from St Denis's, St George's, and St Leonard's schools … and there was a break at half time.
>
> I think it was around October 1973 when I was 16 or 17. During one of the breaks [we] organised to go back to our study and, along with two or three girls, have a cup of coffee and listen to some music. We hadn't been told that we couldn't do that, but I'm fairly sure we knew that we shouldn't do that. It was a bit of a showing off thing about our musical tastes. We would take the girls back to our study and play Genesis or whatever it was and relax in a more informal way. It was completely innocent …
>
> I think it was the next day that ['James'] called … me to his room, which was in Rogerson East. He said that he'd been told about us bringing the girls back to our study. He said that it was outrageous and a breach of trust. He said that he was going to beat us both and that we should go away and get our rugby socks. The socks were used to bind boys' wrists … There was a sort of expectation about what would go on. There was a numbering system. You always got the same number on each hand. A minor thing would result in three-and-three. Five on each hand was something pretty serious. The worst that either of us had heard of at the time was six-and-six and that was for smoking. When I was outside the study, I was counting and thinking about how many I would get. There seemed to be a long time between each of the strikes … There were a lot of tears and shouting coming from the room. That wasn't unexpected because ['James'] was known as a savage beater … [and] that he would hurt you as much as he could. I do recall that I counted twelve strokes … There was quite often a long gap between strokes … [he] told me subsequently that it was because he was telling ['James'] that he couldn't take any more. When I discussed [it] … later, he said that he had seven on one hand and then effectively collapsed. He got five on the other hand before he was in such a state that ['James'] stopped the beating.
>
> I went in, expecting that I was going to get six-and-six. ['James'] … was in his shirt with the sleeves rolled up. He was sweating because of the effort he'd already expended … I'd never been beaten before so I didn't quite know what to expect … He immediately said that I had to hold my hands out straight. He positioned me in the middle of the room. He took about two paces back so I received a running jump. He went to the side of his room, next to his sideboard, took two paces and then brought the tawse down with incredible force. It was quite a thick piece of leather. He used all of his might. It was incredibly painful … ['James'] was basically giving as much force as he possibly could to administering this beating. I remember thinking that it was the most painful thing I'd felt in my life, but I was determined not to let [him] see that he was hurting me … I knew that the man was a sadist because of what he had done to other people …
>
> I was determined that he wasn't going to see that it was hurting me. I kept looking him in the eye and I kept holding my hand up, but it became harder and harder. I was holding my hand out, but it was gradually going lower.

506 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, p.17, paragraph 63.

> I remember putting my left hand under my elbow to try and hold my right hand up … When he got to six, I put my right hand down and held my left hand up. ['James'] said: 'Keep your hand up.' I thought that was strange. I ended up receiving nine-and-nine, which was unheard of. It was a record in the school. It was ludicrous … I didn't cry because I was determined that this sadist was not going to get the better of me. I kept looking him in the eye. I wonder whether he went up to nine because he was trying to break me and he wasn't achieving it.
>
> I came out and there were a lot of senior boys around … They were all waiting and running the washbasins with cold water. My hands were in a terrible state. They weren't bleeding, but they were massively puffed up. I was in the rugby team and I couldn't play rugby for about a week after the beating. My hands were just such a mess. They were bruised and swollen. I can remember the senior boys asking how on earth I'd put up with it and … I recall one saying: 'He's gone too far this time'.
>
> There was a school protest after we were beaten. It was organised by senior boys to signal to ['James'] that he was out of line … there was a Sunday evening service shortly afterwards. I wasn't aware that it had been organised … ['James'] was conducting the service. We used to sing hymns. The organ was playing away and nobody sang. The only people in the school who sang were the choir … I remember ['James'] shouting at one point: 'Sing, sing!' They didn't sing because of what had happened.
>
> …
>
> My father came home from work and we discussed it. My parents were both absolutely outraged by it. My father said that he wasn't having it and that he was going to go to the school and complain about it. He made an appointment to see the headmaster. He told the headmaster that he wanted ['James'] to be in the room when he made the complaint … to explain why he had behaved in such a barbaric way … but the headmaster told him that wouldn't be helpful and assured my father that the complaint would be brought to ['James's'] attention and acted upon.[507]

As regards 'James' having a practice of beating boys who were late for roll call, whatever were the norms of the time, it cannot have been appropriate. Further, the corporal punishment inflicted by 'James' described above was beyond excessive; it was appalling. The description of his behaviour as sadistic is understandable. Since permission to beat should have been given by the housemaster, permission to do what he did either was not granted or had never been sought. If it was somehow granted, there was wholly inadequate oversight of 'James'. I accept that one of the fathers complained to the headmaster, Donald Forbes, and that nothing was done. It is known that 'James' remained in post until 1979. He should not have been allowed to do so and Forbes' inaction was deplorable, remembering that the injuries inflicted must have been known about as they prevented the boy from playing rugby.

What makes matters worse, and emphasises how weak a leader Forbes was, is the follow-up, which suggests 'Vincent' was victimised by the headmaster as a result of complaining:

> I had an interview at Newcastle University. I was interviewed at the law department there by one of the tutors … he was looking at my UCCA report, which contained something written by the school headmaster … He said

507 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, pp.17–24, paragraphs 66–86.

> that my headmaster clearly didn't like me … He read it out … I had been a 'pernicious influence within the school'. The tutor asked me what happened. I told him that all I could think of was that there was a disciplinary incident that my parents complained about and that, secondly, I'd made a point as a prefect of trying to reform some of the practices at the school … I still remember the tutor saying, 'Oh, schoolboy politics. Never mind.' I was offered a place.[508]

Why Forbes thought it appropriate to write the UCCA report in such terms is unfathomable.

Eric Mackay

Another teacher known to beat pupils was Eric Mackay. 'James' liked him but in relation to his beatings said he 'just would suddenly do it. And be absolutely calm … He just did it. I never saw anybody do anything wrong … I don't know why he did it … As far as I was concerned, it definitely was random'.[509] 'Glenn' said: 'He did have a habit of putting hands on shoulders, hands on knees when he was going round and looking at work. Never beyond that. But … I would say it's more that he was a character, a flamboyant character, rather than a fear or dislike of him or anything of that sort.'[510]

James Rainy Brown

A boy at Merchiston in the 1980s saw a connection between those who beat excessively and those who sexually abused: 'The master who liked to touch us, or in one case summon us for consultation while he lay in the bath, also liked to whack us.'[511] It seems likely he was thinking of Mervyn Preston but the same point could be made about James Rainy Brown, who beat boys with gusto, even from his early days.

'Jack', referring to the period when James Rainy Brown was Mervyn Preston's assistant in Chalmers West, said: 'Preston wasn't the greatest beater or flogger … a lot of the dirty work was left to Rainy Brown. The actual thrashings.'[512] He added that:

> many people thought he was a sadist … a nasty piece of work … but, you know, in fairness … if you came from the Borders and you played rugby, he was something of a hero … they would certainly speak very highly of Rainy Brown … If you didn't like the school, he was your own worst enemy. He fanatically upheld what he thought were the principles of the school.[513]

'Jack' recalled one particular occasion when he was beaten by James Rainy Brown. A vulnerable boy had been beaten up by some of 'Jack's' friends

> but I was deemed to be the ringleader, and I was taken out under a pretence by Rainy Brown and thrashed … there was beatings and beatings, but this was something else. It was almost psychotic … on a good day a beating would be a punishment and there would be

508 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, p.25, paragraph 91.

509 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, pp.81–2.

510 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.12.

511 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.63.

512 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.122.

513 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.137–8.

> an element of force … but this … frenzy … I can remember it was over six, which was – I think there was some ruling that you couldn't go over six.[514]

'Graham' also recalled an occasion of sadistic beating in Pringle:

> It was just before bedtime so everybody was in their pyjamas and there was a long corridor outside the two dormitories that was linoleum, so it was slidey, so what we did was we got a sports sock and rolled it up into like a kind of woollen puck and we used to kick it back and forwards just with our bare feet … and we would have two- sometimes three-a-side, and we would just play first to five won … The two other teams were playing when Rainy Brown came around the corner and saw them doing this and he immediately summoned all six of them to his study and we thought what's this for, because it was not something that had been forbidden … And he took them to his study … But when these four lads came back, it's hard to describe this. It wasn't simply that they were crying. Can you imagine what hysterical tears are? Something that's beyond tears. They were really, really, really in pain and they were utterly, utterly shocked. And that shocked me to see that, and that's one of the reasons, not that James Rainy Brown wasn't permitted in his position to beat people, he was, but he was not permitted, I believe, to beat them that hard or that sadistically, and that never left me because I just thought – at that moment something went up my spine which was like a survival instinct. I thought: okay, this is not safe, this is a dangerous place to be.[515]

To have had that effect on junior pupils can only demonstrate that the beating was excessive and utterly inappropriate in the circumstances. As 'Graham' noted: 'They were beyond speech … It's embarrassing to be made to cry when you're a wee boy at that age … and … they'd been pushed right beyond that into a state of, you know, utter despair. I remember them going to sleep still crying with the lights off.'[516]

'John Crawford' admired James Rainy Brown and described him as 'the only human being in my life that I would consider a saint … [because] he seemed such a good, kind man and free of flaws. He never swore, he never lost his temper, he seemed wise, calm, compassionate … he was a good man.'[517] Nevertheless, 'John Crawford' remembers being belted by Rainy Brown because he had not followed a prefect's instructions. It was

> savage … because of the intense pain. I don't think I got 12, my recollection is it was three on each hand with the tawse, and it was agony. I just collapsed in pain and tears, and I can remember him picking me up afterwards like a lamb and probably putting me in a chair or a bed or something, but it hurt for probably a couple of hours afterwards. I don't know if I'd have seen it in those terms then, but looking back at it now, certainly brutal. Brutal, yes … this was beyond reasonable force, definitely.[518]

514 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.136–7.
515 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.74–5.
516 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.77–8.
517 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.19.
518 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, pp.20–1.

James Rainy Brown continued to beat pupils into the 1980s. 'Ian' recalled it was still with the tawse, although the cane was also used occasionally in the senior school. Rainy Brown was considered, amongst the range of those teachers who gave beatings, 'as quite fierce, if I remember correctly'.[519]

Corporal punishment officially came to an end at Merchiston in 1988 though it had been administered less frequently since David Spawforth's appointment as head. Nonetheless, two examples of its use after it had supposedly been abolished were covered in evidence. One was by 'Glenn', in 1995,[520] as noted above. The other, perhaps inevitably, was a beating given by James Rainy Brown in 1990, after which David Spawforth issued him a formal verbal and written warning for beating contrary to school policy.[521] The giving of both formal and written warnings would suggest that this was not an isolated incident but a repetition of previous conduct for which he had been disciplined.

Loss of control

It appears that most of the Merchiston staff managed to remain calm when dealing with boys. 'James' and James Rainy Brown were notable exceptions, with multiple accounts of such behaviour. 'Glenn', by his own admission, lost control in 1995 and 'Ian' recalled a language teacher who picked up a child by the neck, lifted him off the ground, and held him against a blackboard. It was a one-off and out of character, but, aged 11, 'Ian' found it frightening.[522]

Physically abusive conduct by pupils

At Merchiston physical and emotional abuse by children towards other children seemed to go hand in hand. 'Bullying', as described by pupils, could mean either or both. In whichever form it often focused on ways in which the child who suffered abuse was different in some respect.

> 'There was certainly a lot of violence there, but there was quite a lot of psychological bullying.'

'Jack' thought that:

> bullying was part of the institution. It was almost encouraged … at the top of the pecking order would be those who were dorm captains on their way to having privileges, who are very good at sports, et cetera … and one of the ways of reinforcing that pecking order is to bully. Now, it can be psychological, it can be physical, it could be a combination of things, but it's part of the institution.[523]

He went on:

> There was certainly a lot of violence there, but … there was quite a lot of psychological bullying. People would comment about their parents, their parents' lack of wealth or the physical attributes, and it was constant. It was really, if you weren't on the way up and being what the institution expected you to be, you were fair game for ridicule and contempt.[524]

519 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.77.
520 See 'Glenn' in Sexual abuse chapter.
521 Merchiston Castle School, Letter from headmaster, 19 November 1990, at MER-000000311, p.1.
522 Written statement of 'Ian' (former pupil, 1986–93), at WIT-1-000000560, pp.26–7, paragraph 87.
523 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.112.
524 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.116.

He described the culture effectively when he said: 'I can remember vividly one time when [a] vulnerable boy … had been particularly tiresome, he'd got himself beaten up by a couple of my friends.'[525]

'Graham' said:

> Yes, bullying happened. Not, I would say, any worse than probably any other school in the world. I think unfortunately children are cruel. The biggest thing that I have regrets about is I didn't actually get bullied, I was just too crafty, I always made sure to stay clear of the guys who were … a bit violent or whatever, but I did witness some things [and] I did nothing to intervene … and I still feel bad about that.[526]

'It wasn't an unusual experience for the older boys to grab some of the younger boys and literally hang them from their underpants from hooks.'

He was less certain about the prevalence of bullying and when asked about it said:

> That's a hard question. It didn't bother me so for me it wasn't, but I think for some kids it probably was, you know. Yeah. I mean there was – bullying did happen, but … it was just taken as part of the deal. Nobody thought that you could complain about that or – you know. However, I did think I could have intervened. I would have got beaten up if I did, though. I mean it's that horrible survival thing that starts to operate in these situations.[527]

The fact he was unwilling to intervene for fear of physical retribution is telling, and his evidence also suggests that oversight and supervision by prefects and staff was not as meaningful as it should have been. The exception, from his experience, was Pringle House where he thought two prefects 'protected us from the housemaster'.[528]

In the 1980s bullying remained common and was, on the evidence of 'Mark', if anything, more violent. 'Mark' had experienced bullying elsewhere, including at a services school abroad, 'but not anywhere like I experienced at Merchiston'.[529] It began at Pringle House when he first joined and unhappiness at home was picked up on. As he said, he both stood his ground and 'was quite easy to flash'[530] which resulted in fights and being hung from coat hooks by his underpants. This

> was an experience not specific to me … I did experience it, but it wasn't unusual. Around the main dining hall up in the main school there was a long, long row of coat hooks and it wasn't an unusual experience for the older boys to grab some of the younger boys and literally hang them from their underpants from these hooks until your – you actually hoped that your underwear would give way.[531]

No one was supervising and no one intervened. Prefects were, he thought, probably part of it.

525 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.136.
526 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.64–5.
527 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.65.
528 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.65–6.
529 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.55.
530 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.80.
531 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, pp.80–1.

For boys who were in Pringle, there was an awareness that James Rainy Brown was always in the background and that helped. But when 'Mark' moved on from Pringle,

> you really didn't think anybody was around, so things … just happened and you had to deal with them yourself … My parents bought me a bike and I hadn't used it for a while and I went to get it and the wheels were missing and I found another boy … putting my wheels off my bike on his bike. I never said anything. There was no way I could tell the teachers that I'd had my wheels stolen off my bike … because I would have been beaten within an inch of my life, my life would have been made absolutely hell … by that particular boy and … I remember he was a couple of years older than me.[532]

He was also assaulted after being cheeky to a senior boy at the athletics arena. The older boy took off his running spikes and used them to beat 'Mark's' legs until they bled. No master was aware of that assault but when 'Mark' was assaulted by another boy in his year

> we were doing prep … we were arguing with each other and then he just literally laid me out and I was spark out on the floor … I ended up in hospital with a split lip and the punishment for him … was, yeah, two weeks' loss of dorm captaincy.[533]

532 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, pp.81–2.

533 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.85.

6 Emotional abuse

Introduction

I find that children at Merchiston were emotionally abused.

Some teachers, remarkably, over decades indulged in emotionally abusive conduct towards the very children they were meant to protect. They appeared to delight in humiliating and belittling boys.

Also, bullying by other children was rife. It involved violence or psychological abuse or both. The emotional abuse suffered by children could be harmful and long lasting. Being different in some respect, including a simple failure to fit into the norm of the Merchiston mould, as it was perceived by others, could trigger atrocious and cruel behaviour.

Emotionally abusive conduct by staff

Sexual and physical abuse inevitably also involved associated emotional harm. A number of teachers also behaved towards children in a manner apparently designed to undermine their confidence and emotional wellbeing.

'Jack', as well as being groomed and sexually abused, was also emotionally abused by Mervyn Preston. He learned from his friends that Preston was encouraging fellow pupils to avoid him. The effect was profound:

> Yes … that shattered me, really. That was probably the most hurtful thing he ever did to me. You could take the thrashings and – they were painful. You could take being groped. But that, I … with little alternative, had placed my trust in this person. I suspect I was desperately seeking to place trust in someone, and I had given my trust and he was betraying it almost in the same breath. It wasn't as if something had happened to change his mind … It was all part of a premeditated strategy … even then at the age of 13 that became crystal clear to me … that's when I first started to hate adults.[534]

He continued: 'If … the first time you've ever placed your trust in another adult and the very first time you do it, you're trashed, not just by default but trashed because it was designed to trash you, that leaves a pretty big scar.'[535]

The other teacher who stands out for his emotional abuse of boys was James Rainy Brown, in terms not only of the unpredictability of his behaviour, but also of the humiliation he introduced into punishments. 'Ian' said of him: 'There were so many things we could be punished for. They were all presented as these massive moral failings. There may have been a logic for choosing between the different punishments, but I don't know what the logic was.'[536] He continued: 'It was arbitrary … to

534 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.131–2.
535 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.147–8.
536 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.37.

go to that person about bullying … when the housemaster is actually beating your friends, it's a bit of a contradiction … it seemed like the arbitrariness was dependent on mood and dependent on the personal values of the housemaster in Pringle.'[537]

'Ian' thought Rainy Brown

> had a presence and he sort of held himself in a certain way and it was quite intimidating. He could be kind as well, but it was very unpredictable … So what that means is losing control of his emotions and I honestly don't know how much of it was him losing control and how much of it was him kind of putting on a bit of a show, if you like … But I found it very difficult. I would say afraid … I was anxious when I was around him because of the unpredictability … A lot of the teachers were … decent human beings with a sense of empathy, and I think with Rainy Brown it really was a bit different and he had this kingdom to himself in this junior boarding house … two years of the most vulnerable kids … in this sort of distant … almost segregated bit of the school … You could argue maybe it was safer for the young kids being separate from the older kids, but I don't think it was and I don't think that's what it was about.[538]

Other pupils felt the same way but expressed it differently. 'James' recalled Rainy Brown as being known for having 'an acid tongue'.[539] 'Mark' stated: 'You almost felt like he was looking down on you. And I think you almost felt like he was looking down on everybody, everybody was beneath JRB … That would be my perception now, reviewing what it was like at that time.'[540]

'Ian', who became a psychiatrist, was struck by how much Rainy Brown humiliated boys. He said:

> In Pringle you got sent to the bench, which was outside JRB's office, and … ultimately it was humiliating. I don't mean that it had this permanent scarring effect, but … I don't know what the goal was other than to kind of say: 'You're bad, you've done something bad and we're going to let you know and we're going to let everybody know because they can see you there' … I don't think the shame and humiliation side of it when it came to discipline was unique to Pringle … Rainy Brown probably took it further than most housemasters. I remember him making quite devaluing comments, pejorative comments about people … I can't even remember a specific one because there were … just so many, but, you know, something like a boy would say something and … he would just say contemptuously: 'Oh, stop being such a sissy' or, you know, something like that. So the humiliation was just a kind of inseparable – like a core part of … the whole experience, I think.[541]

That was also true of Rainy Brown's use of cold baths, over and above the presence of a sexual element. 'Mark' said that Rainy Brown 'would come into the dorm and wake us up earlier. He would parade a group of boys into the shower room. We would all be naked and we would have to take turns to sit

537 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.37–8.
538 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.38–40.
539 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.103.
540 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.58.
541 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.41–2.

in a claw foot bath which was filled with ice cold water.'[542] 'Mark' found it 'a very strange situation. It was a punishment for some misdemeanour, but he'd almost created an environment … a group of boys and quite a lot of us would actively try and commit the misdemeanour to be part of that group, to be treated specially.'[543] 'Mark' believed that on these occasions Rainy Brown 'used to wear very, very short running shorts a lot of the time … Incredibly short'.[544]

'Craig' gave evidence of the horror of Rainy Brown's cold baths, confirmed by his friend 'Ian' who experienced it and considered it another example of the latter's arbitrary approach. 'Craig' said:

> I think it only happened once to me. The cold bath thing is the thing that is most alarming to me. I have no idea how it came about that I was to be placed in the cold bath. The cold bath was presumably a punishment for something. I have no clue as to what I had done. It took place early in the morning … It was done whilst everyone was asleep … I believe that I took off my pyjamas in the dormitory … I think the bath was already filled. JRB was there … He was naked apart from the towel … There was quite an atmosphere of sternness and coldness … I then had to get into the bath. I can't remember how long I sat in the bath. My recollection is feeling really cold and numb. I was shivering. I was vulnerable and naked. I wasn't enjoying the experience. I wanted to be let out. I recall begging: 'Can I get out now?' And was told: 'No, you have to stay in'. Obviously I hadn't been punished enough because, for whatever reason, I wasn't allowed to get out. Presumably after what had passed I was allowed to get out. I remember getting out, shivering, and going to the locker room to get my towel. Looking back on this as an adult, I believe there was a power relationship between him and me as an 11 year old. I wasn't physically touched nor was I made to touch him. However, I do believe that there might have been a sexual element. It is kind of hard for me to justify why I think this, but I believe he quite enjoyed having a naked 11-year-old boy beg for him. I think he enjoyed the power he had over me.[545]

Impact of abuse by staff

The impact of abuse by members of staff has been varied. 'John' explained that the details of Mervyn Preston exposing himself had been coming back to him in the four and a half years before he gave evidence to the Inquiry. They were memories 'which the psychiatrist helped me to try and get out of my mind. I mean, I didn't even tell my parents. Ever.'[546]

'Jack' said: 'I didn't trust anybody in authority, I didn't trust any adult. I was nihilistic. And, yes, I generally rebelled about anything and everything … there was an underlying sense of nihilism that I inherited from my experience at Merchiston.'[547]

Mervyn Preston's behaviour caused 'Graham' to lose faith in and respect for the school:

> I mean I was struggling anyway a lot of the time … because I wasn't naturally given to

542 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.62.
543 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.62.
544 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.63.
545 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, pp.72–3.
546 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, pp.34–5.
547 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.147.

that kind of establishment where everything was so tightly run. A lot of the education, although it was good, it was very formal … but yes, it did break something that might be called trust between me and the organisation. And actually, ever since I've struggled with institutions.[548]

Response to evidence of abuse at Merchiston

No child should be abused as they were at Merchiston. There are past and current staff in leadership roles at the school who have, to their credit, been reflective and candid, and have given serious thought to what is required to improve child protection.

Andrew Hunter undoubtedly cared deeply about the school and its pupils. It was clear, when he gave evidence, that the failures he acknowledged weighed heavily on him. He apologised in these terms:

> Over the years of 1998 to 2018, whilst there were many, many happy pupils at Merchiston, any number of unhappy pupils, and now unhappy adults, is unacceptable.
>
> Our procedures did not protect pupils to the utmost and we let down those pupils. We failed to prevent them being abused. Then we did not react correctly when such abuse came to light. Dots were not joined and warning signs were missed.
>
> We know that there is very little we can say or anything we can change or anything that will make the feeling of former pupils go away. I say sorry, and I accept that there are some actual lives which have been changed beyond repair. I am very aware of the harrowing evidence and testimony. I know that there is very little I can say or anything that will change or that anything will make that go away.
>
> …
>
> What we can do is ensure the overwhelming majority of children and vulnerable adults who come into contact with the school do so in a safe way … When our best was not good enough, and it wasn't on occasions, we did our best to improve and ensure that the welfare and safety of the pupils was the central overriding priority at Merchiston.[549]

Jonathan Anderson was equally open. Whilst the scrutiny Merchiston was placed under in the 2010s was hard to bear

> that pales into insignificance compared to the experience of the people who were most severely affected by shortcomings in the past … And to take ourselves from a place where there was the … assertion that we were not pupil-focused and that we were not looking after the best interests of our boys was very hurtful for the school, and we do not want to be there again. We will do everything that we can to make sure that that doesn't happen.[550]

He was present, along with Gareth Baird, Chair of the Board of Governors, throughout the Merchiston hearings, and the impact on him was clear to see. He said:

> The experience that I've had over the last three weeks of listening to all of the evidence, I think it's perhaps – two things. I think it's made me think very, very carefully about what we currently do and go back and check what we currently do. Again, there was a lot of talk about our reputation as a school for sport and it's had me question: do we – are we still

548 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.98–9.
549 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.146–7.
550 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.103.

> getting it right? Are we getting that balance right? And to be prompted to ask those questions has been very, very powerful and very useful.
>
> I think the other thing that I take away from the last three weeks is that if we don't get it right, it can have such a profound and damaging effect on a person's life. It's an experience that they take with them forever. And I don't think you really understand that until you … hear it, if you've not been in that position yourself.
>
> I think every decision I make, particularly around safeguarding and well-being, will always be phrased and couched in the context of: how will this impact the individuals involved? If I get this wrong, what might this look like in 30 years' time? I think that's a very, very powerful salutary lesson that I've – that I've learned.[551]

I turn finally to the evidence of David Spawforth, the headmaster who made the first efforts to change the direction of travel at Merchiston. His written statement to the Inquiry was blunt and realistic.

Of his time at Merchiston, David Spawforth said:

> There is no foolproof system to detect if a child is being abused at home or at school at the time it occurs. All I can be confident about is that I, together with my colleagues and governors, were very mindful indeed of all aspects of child protection including physical, mental, sexual abuse both through formal policies and procedures and informal procedures … I would wish to add the following, which I hope will be regarded as helpful.
>
> As I have already stated no system is foolproof and I believe this to apply to child protection too. Therefore in addition to established vetting procedures one has to rely on matters which cannot be legislated, among which I would see as valuable … keeping an ear to the ground in respect of pupils, all staff, parents, and outside sources for information, warnings, or hints. Operating an open-door policy which would be one route for whistleblowers and to try and secure the confidence of staff, pupils, and parents. Have key personnel to whom people will voice concerns, without wishing in the presence of the head to point a finger, such as the chaplain, medical staff, and even my wife. In my time all these were privy to confidences.
>
> Unfortunately, to have a suspicious mind and to be prepared to think the unthinkable.[552]

On that last matter, he is absolutely correct. Maintaining, if not a degree of cynicism, at least a belief that the worst can happen, is fundamental. There are too many examples of abuse having occurred because of false optimism and assumption, both at Merchiston and elsewhere, to do otherwise.

Emotionally abusive conduct by pupils

Differences

'Jack' said that the explanation for emotionally abusive behaviour could come from any number of differences, for example wealth, status, or physical appearance. He also spoke of the distinction between those who knew the ropes, having been to a prep school, and those who did not, and those from home and those from abroad.[553] That was borne out in the evidence of others

551 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.103–4.

552 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, pp.172–3.

553 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.111–12.

which only confirms the variety of reasons behind abusive conduct.

'Jenny' described her son's relief at leaving Merchiston. 'Once I promised "Marcus" that he wouldn't have to go back he told me that the main reason he hated school was because the other boys had been ridiculing him about his penis because he was circumcised.'[554]

'Ian' described the way in which labels were used to emphasise difference:

> The only alternative to rugby for the first four years … was a thing that we called 'veg swimming', which is very politically incorrect but that's what it was called. Basically to get into that you either had to be injured and essentially it was a rehab … or you had to just be so absolutely terrible that … it was sort of more of an embarrassment and an effort for them to have you on the rugby field than to send you to the pool every day … it was a pejorative label, obviously the name itself was … it was just another thing that marked people out, I suppose, as a bit less than other people. You know, it's just another thing that could be used as a taunt for bullying.[555]

Homophobia

Homophobia, manifested by boys using the term 'gay' pejoratively, was a common means of emotional abuse and it was not addressed by the school for decades. The way the term was used was hurtful and offensive.

'Ian', who was 11 at the time, still vividly remembered 'Mark', an older boy who was in fact heterosexual, suffering such abuse:

> On one occasion I remember waiting outside the dining hall for dinner. A few kids his age, who seemed like adults to me, piled onto him verbally with all this stuff. Some of the younger kids joined in … it would have been, say, 15 minutes, maybe longer. But for a significant portion of that, he was just getting it. You know, again and again. It wasn't just one insult … I don't know if there was someone who was specifically there to supervise the boys or not … There were no staff present at that point … From my memory, nobody tried to stop it … but I mean I look back on that and I feel really sorry for the guy … because I just think … that stuff affects people … for their whole lives in some cases.[556]

'Mark' explained that a boy who just did not like him repeatedly referred to him as 'gay' so as to hurt him. The abuse went on for a long time and was known about by staff – he was even 'pulled in' by his housemaster and asked if he was gay.[557]

'Ian' also recalled the abuse of 'Craig', who was 'a quiet, introverted kid, who was smart and just wanted to be left alone'.[558] He too was bullied for being gay; it was alleged that he looked at boys' penises when in the shared showers. 'Ian' said: 'Yeah, you have a shared shower but you're not allowed to look at penises. It's just – it's ridiculous.'[559] 'Craig' was a technologically gifted child but

554 Transcript, day 265: read-in statement of 'Jenny' (parent of former pupil, 2003–6), at TRN-8-000000060, pp.130–1.
555 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.13–15.
556 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.17–20.
557 Transcript, day 264: 'Mark' (former pupil, 1981–7), at TRN-8-000000059, p.90.
558 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.21.
559 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.20.

that did not protect him from abuse because of his perceived difference. As 'Ian' said of a piece of technology 'Craig' invented:

> It … was incredible because he built it from scratch, all the electronics, and the idea, but … he was a quiet … kid who would have got on really well with adults, but he didn't defend himself or he didn't know how to – you know, the banter. I mean … he hated rugby. He was in the swimming group, so I mean that didn't help in terms of how other boys might have seen him, if they were, you know, wanting to bully.[560]

The Merchiston culture – facilitator of bullying

A number of applicants commented on the way Merchiston's regime made bullying worse. 'John Crawford' thought such behaviour

> was more psychological and verbal, but the – there would be physical beatings … I don't ever recall a master breaking up a fight, to be quite honest. I think the philosophy in those days, they used to talk about character building, and I think that was seen as part of it. The only time I can really remember a master doing anything was … the housemaster of Chalmers West praising me for hitting a smaller, weaker boy, just saying, 'Don't make so much noise about it.'[561]

'John Crawford' accepted that he had been the bully on that occasion but had not been taken to task for it.[562]

'Ian', two decades later, thought teachers and housemasters must have been aware of at least some of what was going on but did not intervene:

> My overall feeling … was that a lot of the bullying was kind of – there was a threshold where below that threshold or up to that threshold it was seen as something that, you know, would toughen us up and it was something that you just had to not complain about and all of that.[563]

Either way, he understood that 'there was never anything that stopped the bullying … and to my knowledge … it wasn't stopped … there wasn't an effective response'.[564] 'Craig' agreed: 'The culture at the school in general was very much "man up". You couldn't show emotion. That was my observation of the culture in general. You couldn't show weakness. I'd almost say that the culture was normalised and became more normal as you went up through the school.'[565]

> 'The culture at the school in general was very much "man up".'

It is troubling that so little seemed to change at Merchiston for so long. 'James', one of the oldest applicants, used language very similar to 'Craig'. When asked whether the school did anything to address the 'inevitable unhappiness' for some boys of being away from home, he said: 'No. You get on with it … You're growing up. It's a tough experience.'[566]

560 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.21.
561 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.44.
562 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.45.
563 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.25.
564 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.25–6.
565 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.82.
566 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.24.

Childhood should never be 'a tough experience' to that extent.

The school's failure to intervene normalised bullying. Those who were being bullied were failed by the school. The bullies were also failed by the school; they were not given the guidance they badly needed and were not taught, before moving on into their adult lives, that such behaviour is quite wrong. These were systemic failings.

'Ian' made an apt observation:

> In order to have changed that, there would have had to have been a response rather than a reaction. You know, a response that was reflective and asked the question, you know, what's the function of the behaviour, why is the child behaving that way? And, you know, the thing is in those days … there was no … sort of higher-level sort of attempt to … normalise going to teachers if you need help when you're in distress.[567]

Some teachers did try to respond, as 'William' explained. He had left a football game after both teams had verbally abused him for being so poor in goal, ignoring the fact that he had not wanted to play in the first place and, moreover, that without his glasses he could not see the ball. His departure was reported to a PE teacher whose instinct was to seek permission from the head to beat 'William'. However, that did not happen because 'William' had the courage to explain what had happened and, to his credit, the teacher then tried to do something about it:

> He tried to go and set things up for … me to do weight training and … the headmaster found out about the bullying, because there is a specific mention in one of the headmaster's termly school reports to 'a little bit of name calling', as he sort of downplayed it.[568]

Nevertheless, what happened next was disastrous. The bullies themselves were not taken to task, and the abuse of 'William' continued. He spoke to his housemaster – without using the word 'bullying', although he did refer to his inability to cope and the fact he was getting into fights and was worried about that. Nothing was done. The chance to help 'William' and stop the bullying was missed. He explained: 'It all came to a head in the summer term … it was 1977. I was 16 years old. I remember I was going to go to see my housemaster to tell him again that I wasn't coping.'[569] However, before he managed to do that, 'William' became involved in a fight and used his penknife as a weapon, resulting in the other boy needing stitches. William then cycled more than 40 miles home. His father took him back to the school and, together, they 'tackled the Rogerson East housemaster and got absolutely nowhere with him'.[570] It was suggested that there should be somewhere 'William' could go when stressed to remove himself from the situation, but the housemaster's response was: 'To quote: "No boy gets special treatment here. It's like it or ship out". And I was shipping out that term anyway. It was my last term.'[571]

'William's' experience casts the Merchiston of the 1970s in a very poor light. Whilst

567 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.27.
568 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.135.
569 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.140.
570 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.141.
571 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.142.

pupils could report concerns and some did so, these concerns were not effectively addressed. Indeed, as in his case, it could be that nothing was done. Change was desperately needed.

Improvements

The appointment of David Spawforth led to changes being implemented, and by the twenty-first century Merchiston was a different place in terms of its response to pupil abuse. Emotionally and physically abusive behaviour has not stopped, though – far from it. Many documents provided by Merchiston have shown it is a constant that continues to have a profound effect on those who suffer it, and that it remains often triggered by perceived differences. It seems that there are still children who fit the Merchiston mould well and others who do not and suffer for it.

What has changed, however, is the school's response to the problem. In 2005, for example, the school set out the anti-bullying systems in place in a letter to a pupil's parents.[572] As well as demonstrating that Merchiston had anti-bullying policies in every house, that staff and prefects received training, and that there were weekly house meetings to 'discuss and reiterate expectations', the letter also made reference to a dedicated postbox in every boarding house for pupils to send confidential notes to the housemaster, and to 'weekly common room meetings to highlight issues/need for feedback with regard to certain pupils so that all staff are aware of areas of concern'. It demonstrates that any 'tough it out' mentality of the past has disappeared, and Merchiston, like other boarding schools, now uses a variety of additional means to identify pupils who are vulnerable to abuse.

The appendices provided with the school's Part D response set out specific examples of both physical and emotional abuse and Merchiston's response from 2000 on.[573]

Physical abuse included nipple twisting, an organised fight, and an allegation of physical bullying resulting in the complainer needing stitches. Investigations in the last case led to the conclusion that the injuries were accidental. This did not satisfy the parents of the injured child, who removed their son from the school.

Emotional abuse remains more common, and, judging by records covering the first two decades of the century, has often involved long and ongoing campaigns of abuse against individual pupils. Merchiston described, for example, persistent verbal bullying over several years of a sixth-form boy, who was ultimately withdrawn by his parents.[574] In the same year a first-form pupil was similarly withdrawn after months of alleged verbal, emotional, and physical bullying, notwithstanding a variety of measures and interventions by the school.[575]

In other cases, bullying behaviour led to suspensions, on occasion followed by withdrawal by parents, including in one case where Merchiston initially suggested that a child would be better suited to being a day pupil.[576] It is striking that in that same

572 Merchiston Castle School, Letter from headmaster, 3 March 2005, at MER-000000286, p.40.
573 Merchiston Castle School, Appendix to Part D response to section 21 notice, at MER.001.001.0180, pp.26–33.
574 Merchiston Castle School, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.31, paragraph 5.9.49.
575 Merchiston Castle School, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.31, paragraph 5.9.50.
576 Merchiston Castle School, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.31, paragraph 5.9.56.

case, all support materials were shared with the child protection officer in his next school, which suggests greater openness than was demonstrated with some teachers who moved on from Merchiston around that time.[577]

What does all this show? It demonstrates that Merchiston is now aware of the potential for abuse in many forms, that it genuinely wants to help resolve and prevent it, and that in some cases resolution seems not to be possible.

But it also demonstrates that abuse continues, that systems and good intentions are never enough, and that schools must never lose sight of the potential for abuse or assume that their systems will necessarily, of themselves, identify and address it. Letters from the parents of the pupils bullied in 2001 remain apt today as they demonstrate how profoundly upsetting and destructive such behaviour can be.

The father of the sixth-form boy wrote: 'What I have no doubt about is that [he] has been mentally bullied for a considerable part of his stay at Merchiston'.[578] The father of the first-year pupil expressed concern that telling prefects made matters worse because they simply shared what he had said with his abusers, and that there was little point in telling tutors as nothing changed. He went on:

> He also appears to be experiencing all three of the classic types of bullying that Merchiston has defined in the 'School policies' booklet in varying degrees. Namely: 1. Verbal – name calling and teasing 2. Emotional – intimidation and threatening behaviour 3. Physical – from taking personal effects and being pushed about. But what is now very worrying to us is that there seems to be a slow but definite escalation from the verbal through to the emotional. The physical type at the moment is few and far between but in [his] mind is always lurking in the background.[579]

Impact of pupil bullying

The impact of such behaviour on decades of boys was profound. 'James' remembered the way his brother fled in the 1950s to escape the robust culture that he did not fit into by seeking refuge with model planes: 'He spent his whole life down in this aeronautical society room and that was his way of fleeing the horrors of boarding school … It kept him afloat.'[580] 'James' was aware of other boys who sank. He also referred to three boys who ran away because they were unhappy, without giving any other details. He said that they were brought back 'and settled'.[581] Whether, despite that perception, their unhappiness was resolved is not clear from the evidence.

As 'Ian' observed about boarding schools generally,

> the thing is … the bullying could just happen in so many different contexts. I mean … you'd be walking to class, you'd be in the classroom waiting for the teacher … you'd be in there with the teacher during the class, there'd be the evenings, the early mornings, the meal times … there were so many opportunities where … you just almost kind of couldn't get

577 See Staff management, recruitment, and references chapter.
578 Merchiston Castle School, Complaints (1998–2009), at MER-000000203, p.1373.
579 Merchiston Castle School, Complaints (1998–2009), at MER-000000203, p.1382.
580 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.23.
581 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.23.

'I remember him crying himself to sleep at night in the dormitory in the first term, aged 11.'

> away, and some of the kids I think who were badly bullied … they must have suffered because they just couldn't get away, really.[582]

He is quite right.

'Ian's' description of the scale of such behaviour and the impact it had on 'Craig' is worth repeating.

> I remember him crying himself to sleep at night in the dormitory in the first term, aged 11 in form 2 in Pringle, and being sort of made fun of in the dark by one of the boys in the year above. I remember him being bullied in other years … I remember going in the car with him one day down the back driveway of the school and him telling me about bullying from some of the rugby players, and so this was in 6A, which was the final year of the school. And it was a specific boy who had been doing it, I think there were two of them, and they had been calling him names and sort of … but he was really upset by it.[583]

582 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.24.

583 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.22–3.

7 Reporting

Boys did not routinely report their concerns at Merchiston. Many chose not to do so, particularly pre-2000. There were many reasons for this.

The reasons why 'James' did not speak up about the abuse he suffered at the hands of Ian Robertson in the early 1960s were common:

> I wanted to, but I had nobody to talk to. I didn't feel I had anybody to talk to … I didn't think I would be believed … Apart from the head, there was no one in place to … I wouldn't have felt able to trouble the headmaster with things like that … I couldn't talk to my father about it. I felt that, definitely, no point because he would have just said – effectively it was a one and one. I could be lying and he could be lying, which one's telling the truth?[584]

'James' first felt able to report what had happened to him 'when this whole abuse opened up, that's when I contacted the police'.[585] That was in 2019, after almost 60 years of silence.

Not wishing to upset parents

Some children felt they would upset their parents if they reported what was happening to them and did not want to do that. 'Graham' explained:

> It was very difficult to tell them the truth, because you were so aware of the fact that they'd worked really hard to give you this privilege, as they saw it. I was getting a very different view of it, but I still couldn't tell them the truth … they were nice people, my parents, they weren't horrible at all, and they really thought this was the best thing they could do for me. And so as a young boy you want to reward that by going along with it and that puts you in a very invidious and difficult psychological position … I never spoke to them about it at all. Honestly, it was just – you know, my dad would drop me off and he'd say: 'See that you stick in' and I'd say: 'Yeah', and that was it … Just at that age, at that time, you didn't question what you were being put through. You just went with it … You just accepted what went on around you. It's just the way it was. Luckily things are improving, I think, in that regard.[586]

Merchiston's culture did not encourage reporting

Some children did not realise that reporting to the school was something they could do because 'there was no formal complaints system, whether for pupils or parents'.[587] 'Graham' was clear that he did not think he could tell anyone other than his friends: 'We'd laugh about it together and talk about it together, but we didn't do anything about

584 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.100.
585 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.101.
586 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, pp.60–1.
587 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.91.

it because we didn't think we could.'[588] It did not cross his mind to tell anyone:

> It just didn't. Who would I have told? … I mean there were two or three teachers who were pleasant, intelligent men … I just can't imagine how the conversation would have gone. It's just you were so much part of that system. It was one thing to laugh about it with your friends and to acknowledge this man and his nickname, Merve the Perve. I mean nobody had any illusions about what the guy was like. But the system was so kind of rigged and set up and we were so kind of ingrained in that you don't tell tales, even on the people that have told you not to tell tales. It's just ridiculous now, the way it was.[589]

The Merchiston regime had an adverse impact on 'Graham' and it persists. He was not bullied, but he was aware of other boys being targets of cruel bullying and still feels bad about not having intervened:

> Bullying did happen … it was just taken as part of the deal. Nobody thought that you could complain about that … However, I did think I could have intervened. I would have got beaten up if I did, though. I mean it's that horrible survival thing that starts to operate in these situations.[590]

'John Crawford' thought the Merchiston culture when he was at the school in the early 1970s, a culture that could be traced back to the 1940s, was responsible for boys' silence:

> I think it could be described as: don't yell and don't tell. In the public school code you're meant to be stoic or Calvinistic, if you like. You just did nothing about it … I think it was very much the time, going back to the 1940s, which carried on: you don't correct your elders. Nobody takes children seriously. Or didn't back then.[591]

He also thought the expectation that boys would rely on the chaplain for spiritual support and guidance was unrealistic, since the latter was 'Merchiston establishment – he was part of the problem'.[592] In common with the two housemasters of Pringle and Chalmers West 'he'd been there as a pupil, done his time at university, and come back to be part of the system'.[593]

'James' experienced Mervyn Preston exposing himself whenever he went to ask for permission to go into Edinburgh. He couldn't speak to anyone about it:

> You have to … remember that these things were going on all the time, but it was never discussed by anybody anywhere. It was all hushed – covered up … we go through hell with this for years … You couldn't talk to anybody … There was no counsellor … there was nothing. It was just that was it.[594]

'Craig' made the point that within 'Pringle' matters were made worse as there was really only one person to report to: 'All of the pastoral care was done by JRB. If there was

588 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.68.
589 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.95.
590 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.65.
591 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.42.
592 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.43.
593 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.43.
594 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.95.

a problem then JRB was the only one you could report things to. There wasn't a system as such. JRB was the only one you could speak to by virtue of him being the only one there.'[595] That was an obvious problem but the school does not appear to have realised that. 'Craig' thought 'the house system tended to encourage very institutionalised people. By virtue of them being institutionalised they wanted to be in the institution. The system was a bit incestuous in that way.'[596] The school had needed not only to recognise that abuse did and could happen but also to have an effective system under which boys could report concerns:

> I definitely think there should be a way to allow boys to speak to people other than the housemaster. However, I don't think that would be enough because of this culture of 'nothing happened'. It would be easy to put in place someone or some sort of grievance process. However, without the underlying change in culture to encourage boys to talk, any person or process would be no good.[597]

'Ian' said:

> I would compare it possibly with the military, where you don't snitch … you deal with things internally. So the boys, the culture among the boys was that you don't go to teachers, you deal with it internally, and there was no … sort of higher level sort of attempt to break that down and say … get rid of the shame and the stigma and normalise going to teachers if you need help when you're in distress.[598]

He added:

> I didn't feel that there was necessarily … a clear person that you could go to where there wouldn't be potentially huge judgement or just the … response of: 'Well, just toughen up' … [My] memory was the boys … dealt with it on their own … It was very isolated and cut off, and if you were badly bullied, it was not easy to get out of it.[599]

'Craig' reflected on the impact of the Merchiston culture:

> When I talk about the things that happened I feel quite conflicted. There is still a strong voice within me that says: 'It is nothing. Stop being a wimp. Stop complaining about it'. That is interesting in itself. To my mind I think that I wasn't properly abused. However, the stuff that did happen has affected me. If the things that happened occurred now then I think that parents would be upset. They wouldn't view it as acceptable.[600]

He added: 'It was possible that I could have spoken to people in the school, but actually doing it was a different thing. I think I probably could have said something but the culture was "don't" … It was all the "stiff upper lip" kind of stuff.'[601] He remembered

> a boy in my dorm … crying quite loudly. It was the first night of term. I remember thinking: 'He's very upset so I shall go to the housemaster and tell him.' I remember going to JRB. He was still up in his study. I remember

595 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.74.
596 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.83.
597 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.83.

598 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.27.
599 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, pp.35–6.
600 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.66.
601 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.68.

> JRB shouting at me for being out of bed. He told me to get back to bed. I think I was then really upset and frightened. I went back to my bed. The boy was still crying. I have a recollection of pulling the covers over me and hiding away.[602]

That was an act of kindness on the part of 'Craig', but rather than earning him the praise it deserved, it taught him to say nothing in future.

In 'Antoine's' experience, it would not have occurred to boys that they could or should complain: 'The boys didn't want to talk about it anyway. They wouldn't see the opportunity to say: "Can I have five minutes to talk about this or that, sir?" Because – you know, that just wasn't part of their thinking.'[603] 'I don't think anybody ever came to me with a grievance or complaint. I wasn't told where to record a complaint or who to speak to if someone did complain.'[604]

David Spawforth, who was appointed midway through 'Antoine's' time at Merchiston, began to introduce change in the 1980s and 1990s:

> The procedures were laid down in the rule book I introduced and sent with the joining papers to every new pupil. In effect, formal complaints generally came directly to me from pupil, parent, a member of staff, governor, general public or anonymously. I operated an open-door policy. Informal complaints came mainly from boys, usually via social evenings or anonymously, for example using the pupils' notice board … a clear complaints procedure was laid down enabling any pupil, parent, member of staff to make a complaint formally and there were also many informal routes … As to be expected, there were a number of formal complaints on a wide range of matters and there were also a number of informal complaints on a wide range of matters. All complaints were recorded in my file on any relevant teacher or boy. Serious complaints were reported to the full board of governors. As well as … teacher, housemaster, and myself, house matrons, particularly in the junior house, and female members of staff were clear sources to take your troubles to. In the case of chaplain or medical staff, total confidence applied unless the problem presented a danger to any other individual or the school. This was clearly understood and was the route chosen by the boys with worries about home and about school. I had meetings twice a week with medical staff and also with the chaplain. It was also made clear to the pupils, parents, and staff that they could raise any complaint or concern directly with the board of governors. This happened on occasions, but none concerned any form of abuse.[605]

David Spawforth introduced rules in 1982 and a handbook in 1994. The school also has a complaints procedure policy dated June 1994.[606]

Nicholas Diver, a teacher in the last year of David Spawforth's headship, confirmed this but with a caveat. He said:

> Each pupil had a tutor who was a pastoral and academic figure in the life of the boys. Pupils were encouraged to feel free to speak to tutors about concerns if they had them. That said, the tutor was probably often a rather

602 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, pp.68–9.
603 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.97.
604 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.97.
605 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.142.
606 Merchiston Castle School, Complaints Procedure Policy, June 1994, at MER-000000328.

> distant figure in the daily existence of a boy when compared to the presence and the role of the housemaster.[607]

If the tutor was a distant figure, how much more distant must David Spawforth's 'open door' have seemed?

Merchiston did acknowledge that:

> The principle of universal promotion of wellbeing was not established strongly enough historically to allow the pupils or staff to question with confidence behaviours which they found of concern … It appears that historically the culture was not sufficiently open for the young people to feel that they could come forward and some may have felt that they could not speak out about the abusive and inappropriate behaviour … There also appears historically to have been a mistaken sense of loyalty to the peer year group, to the school, to other staff … Historically, it can be identified that there was a lack of consistent objective scrutiny from the Governing Body.[608]

Pupils' limited understanding

Another reason for children remaining silent was more fundamental than a lack of systems or a culture of reporting. It was simply that they did not realise or would not have understood that they were being abused. As 'Craig' said, remembering James Rainy Brown's cruel use of punishment:

> I'm pretty sure I wouldn't have had anything to say if someone had come up to me and asked. Maybe I would have said that I had had a cold bath, but I wouldn't have seen anything untoward happening in and around the incident. At the time it was normal and I didn't feel as if I had anything to mention. At the time it was sort of pushed down. There was very much a culture of pushing down things. The environment was such that if you had been told not to say anything to anyone then you probably wouldn't have.[609]

However, these are circumstances of which abusers will take advantage and they militate against child protection.

'James' said:

> You have to remember, at age 8 and 13 you're not very worldly wise. Sex was a thing that was never discussed. That was just horrific. Nowadays an 8 year old will tell you stuff that parts of the people in this room have never heard about. It's unbelievable … We didn't get any sex education at all. It was all: 'Oh, don't worry about it'. It was just farcical if you think about it, but that was the era: 'Oh, you don't talk about that.'[610]

Some reporting

Some children did report abuse, with varying consequences and outcomes. Their evidence reaffirmed that children must be actively listened to if they speak up but also,

607 Transcript, day 266: read-in statement of Nicholas Diver (former teacher, 1997–2000), at TRN-8-000000062, p.146.
608 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, pp.108–9.
609 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.76.
610 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.114.

importantly, they may communicate through their conduct and behaviour.

Some told their parents about being abused, and their parents, in turn, contacted the school. In the 1970s this was not, on the evidence, successful. Reputation appears to have mattered more to the headmaster than resolving the problem, given the experience of 'Vincent' who suffered because of a dreadful beating by the teacher, 'James'. That inability to resolve complaints continued to be problematic, as evidenced by the failure to respond to a parent's concerns about 'Graham' in 2003, although it should also be noted that in 1995 a better result was achieved when complaints about 'Glenn' were made public. Records provided by the school show that pupil and parental complaints were raised and dealt with fully at other times, especially as regards bullying, but not until after 2000.[611]

It is also clear that pupils did report to housemasters over the decades. An example is that the concerns of pupils about the behaviour of a fellow pupil were raised with 'Edward' in the 1970s. That said, it seems inevitable that the report of indecent assault was kept in school and not reported more widely.[612] 'Glenn' described Mervyn Preston, his housemaster, as sympathetic: 'I remember being tearful and he calmed me down, if you like.'[613] He thought the matron was sympathetic too, and that the 'house prefect, if he was good, would, in one way or another, help the situation by talking to the boy who was distressed or upset or worried'.[614] 'Glenn' accepted that whether a child spoke with a housemaster or matron or prefect very much depended on individual characters.[615]

Nevertheless, even when matters were reported the responses often demonstrated serious shortcomings by the school.

Reporting over the decades

'James'

'James' is an example of a child who did not report directly but chose to write down what was happening both to him and to other boys. He would write stories of what was happening 'to me and others that had told me what was going on and also the allegations that were going on generally of the behaviour of some of the teachers and staff of the school'.[616] He did so because 'I was sick of it and what I thought was going on'.[617] Somehow, some of 'James's' writings, which included reference to peer abuse, were found hidden down the back of a radiator by prefects. They shared what they had found with staff, whose only response was to inform 'James's' father, who in turn criticised his son. No effort was made to make inquiries directly of the boy.

'William'

'William' was badly bullied. As referred to above, he made efforts to report – he had tried, albeit without using the word, to tell his housemaster in September 1976. He did

611 Merchiston Castle School, Appendix to Part D responses to section 21 notice, at MER.001.001.0180, pp.26–33.

612 See Sexual abuse chapter and Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.95.

613 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.31.

614 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.31.

615 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.31.

616 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.106.

617 Transcript, day 262: 'James' (former pupil, 1960–3), at TRN-8-000000057, p.106.

say that he 'couldn't cope and one of these days things were going to get really serious, which, as it turned out, proved exactly the case'.[618] 'William' described how he kept losing his temper and getting into fights, and thought housemasters must have known 'something of what was going on in their own house … they couldn't be blind to it'.[619] After all, he had already told a sympathetic PE instructor about the bullying. He believed this teacher had reported the matter to Donald Forbes, the headmaster who had made reference in a termly report to 'a little bit of name calling'.[620]

Nothing changed, however, and in 1977, as predicted, 'William' lost his temper and struck another pupil with a penknife, which led to the other boy needing hospital treatment. He told his housemaster what he had done, then fled the school and cycled 40 miles home. On being brought back by his father, 'we tackled the Rogerson East housemaster and got absolutely nowhere with him'.[621] 'William's' father asked if there was a bolthole, a safe place 'William' could retreat to if life at Merchiston became too much for him, but was told: '"No boy gets special treatment here. It's like it or ship out". And I was shipping out that term anyway. It was my last term.'[622]

The outcome was that 'William' was to go home, returning to school only to sit exams. The police were not informed, and 'William' believes that some agreement was reached with the parents of the other pupil. Further, 'it would appear that … the rest of the boys had been told in no uncertain terms: leave him alone, because nobody came near me. I suspect it was big shock time for the school.'[623]

'William's' account is a good example of Merchiston not wanting to face up to issues and prioritising damage limitation over resolution. As 'William' fairly observed: 'They did absolutely nothing',[624] instead compounding the problem when 'William' contacted the school in 1996 to complain about the bullying he had suffered and the school's failure to recognise his dyslexia, which had been diagnosed later. He stated that a curt and defensive reply came from the then headmaster which suggested bullying was not an issue at Merchiston and the school had been given a clean bill of health following inspection. William added: 'And you don't have to be Brains of Britain to know that in an environment like that, you can't stamp it out, you can only deal with it when it starts. And he tried to make out that they didn't have it in the first place.'[625]

His view was similar to 'Ian's' observation that in order to change

> there would have had to have been a response rather than a reaction. You know, a response that was reflective and asked the question, you know, what's the function of the behaviour, why is the child behaving that

618 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.138.
619 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.139.
620 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.135.
621 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.141.
622 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.142.
623 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.145.
624 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.151.
625 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.152.

> way? And, you know, the thing is in those days … it wasn't ever to my knowledge dealt with reflectively.[626]

'Laura' (RCQ)[627]

Merchiston's failure to spot 'Laura's' inappropriate behaviour and the subsequent abuse she committed also revealed concerning aspects about staff willingness to report in the 2010s. By that stage, with better processes and efforts to encourage reporting, it might have been assumed that her overtly sexual behaviour or the breach of well-understood rules would have come to light much earlier.

Reports were made by former pupils after her departure from the school but it is disturbing that, although most senior boys had seen her sexualised videos on social media and many residential prefects were aware that her flat was used as a shortcut during the day and as a means to exit and enter the school after hours, none of them appear to have felt willing or able to report it at the time.

Much more troubling, however, is that when the school carried out an investigation into and review of its student culture, it became apparent that two other members of staff had known about the daytime use of her flat, even if not what it was being used for at night. As Andrew Hunter said in his statement to GTCS, 'Laura'

> had been allowing some of the residential prefects … to use her flat as a shortcut … during school time. The prefects would do this singly, in pairs, or as a group of three … It is not permitted for pupils to use residential staff flats as short cuts. The staff who reported this had seen this happening on roughly a dozen occasions and accepted that they should have reported this at the time.[628]

It was a clear breach of the Merchiston Residency Policy and staff would have known that.

Another example of staff not understanding the need to report openly can be seen in the aftermath of James Rainy Brown's death. As discussed, 'Mike' was candid about his experiences with Rainy Brown when a student teacher, but the response of others was anything but. One member of staff is recorded as saying that if 'Mike' had spoken to him like this about swimming naked or showering with boys, he would have told him 'to zip it and never speak about the matter again. [Andrew Hunter] made a mental note to ask [the child protection officer] to speak to [the member of staff] about this approach … It is important to note that [the member of staff] was in a state of some distress.'[629]

It is hardly surprising that there was no culture of reporting established amongst pupils when staff were so willing to disregard school policies or to refrain from telling the truth about practices that clearly had implications for child protection. Processes may have been put in place, but in practice they were not being adequately implemented or overseen. It is not known whether the staff who failed to report were disciplined.

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626 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.27.

627 In the case of 'Laura', reference is also made to the cipher (RCQ) used to describe her in Inquiry transcripts.

628 General Teaching Council for Scotland, Statement of Andrew Hunter, 27 October 2016, at GTC-000000079, p.13.

629 Merchiston Castle School, Notes of phone calls and meetings, 4 May 2013, at MER-000000293, p.13.

Response to evidence about reporting

Complaints and reporting systems have undoubtedly become increasingly formalised, but it appears that only in the recent past has adequate thought been given to implementing them more successfully in practice. Stephen Campbell explained that:

> There was a complaints or reporting process in place if any child in the school, or any person on their behalf, wished to make a complaint or report a concern. Everything was outlined in policy handbooks, which were shared with pupils, parents, and members of staff. The processes surrounding that became more robust in light of advice and instructions given by external bodies following inspections. That was particularly so following the inspections undertaken between 2014 and 2017 subsequent to the concerns being raised surrounding the suicide of James Rainy Brown and the conduct of others.[630]

He continued: 'Pupils knew where they could go to if they required help. Pupils could go to any housemaster, tutor, member of staff, or their parents if they wanted to speak about any worries they may have had about the behaviour of other children, staff, or others towards them.'[631]

Jonathan Anderson was frank about Merchiston's failings. In relation to the experience with 'Laura' (RCQ), he said:

> It is absolutely explicit and very clear that students should not be entertained in staff accommodation. And indeed there is an expectation on the part of the boys to know that they shouldn't be entering staff accommodation and there are places that are acceptable to have meetings. I suppose what has also changed is the mindset. When I first started as a housemaster, you would have had groups of boys in your house accommodation. My wife would have been there. It might have been a reward or a birthday party or something like that, and that was absolutely acceptable. You never had an individual in your house on your own. So I think the understanding of those requirements has evolved and changed within the profession, and I think housemasters and house staff now know that it is of paramount importance that they keep their own private spaces to themselves and the boys are not allowed in them.[632]

He continued:

> Our policy makes that very clear … It is part of their induction to the house, and when they arrive at the house one of the things the housemasters will do is they will give them a tour and show them where they are and are not able to go. There are very few places they are not able to go; those places are staff accommodation.[633]

If a child were in distress, he said, 'there is a way of raising the housemaster that means they don't have to go into the accommodation'.[634]

More broadly, he described the online management system now in place as 'Notice,

630 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, p.134.
631 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, pp.134–5.
632 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.94–5.
633 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.95.
634 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.95.

> ‘I do think that schools now are much more receptive and encouraging of pupil voice and that's a really positive thing.’

check, and record’.[635] The key word is ‘noticing’ – looking for changes in behaviour, unusual patterns, or something that is not quite right.

Victoria Prini-Garcia described it in operation:

> If a boy is someone who is sociable, suddenly you see him – you know, why is he suddenly very upset, looking upset and alone and … you would pass it on. But sometimes it would be passed on by a [member of] kitchen staff that saw him in the fields … and it will pass on to the CPC, to the housemaster, to everybody … I thought it was a good thing.[636]

Nevertheless, she also expressed reservations, for she thought

> that 17- and 18-year-old boys have the right to be upset without the whole world knowing about it … They may have quarrelled with a girlfriend … and I think, in my experience, 17-year-old boys are very private and they don’t particularly want the world to know. So I wasn’t that enamoured of that complete openness. I thought it had to be a bit … discretionary.[637]

That is of course inevitable and may explain the reticence displayed by senior pupils in relation to ‘Laura’ (RCQ) but, as that case demonstrates, if child protection is to be effective, a culture of openness has to be maintained and encouraged.

Conclusions about reporting

Jonathan Anderson said:

> I wouldn’t wish to be too stereotypical here, but my experience at Merchiston has been that … the boys are very open and honest. I think I’ve talked before about the approach of sort of growth mindsets, where they will think about what they do well and reflect on what they can do better, and that’s often the response that you’ll have from them. You’ll often have a two-phase answer to a question that you ask them. It will be about what they’re enjoying and what they’re looking to enjoy better, or what they do well and what they want to do more of. And that’s something that I didn’t think that I would experience in a boys’ school and I was – and I think it was one of the reasons why I took the job … I suppose I’d allowed myself to fall into the stereotypical view that boys’ schools are perhaps alpha male and stiff upper lip, that sort of negative connotation, and I was really pleasantly surprised to see that wasn’t the case when I first arrived at Merchiston.[638]

He added:

> I think young people have become more willing to share their experiences. They’ve become more open … there’s still work to be done in encouraging those that don’t speak up to find their voice or to give those that find it difficult to speak up an opportunity to share.

635 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.66.
636 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.58.
637 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.58.
638 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.90–1.

> But I do think that schools now are much more receptive and encouraging of pupil voice and that's a really positive thing.[639]

I hope he is correct, and that both staff and pupils better understand the need for openness as regards any concerns they may have. The need to do so is ever present, as is the need to avoid assuming that if processes exist, all must be well. There appears now to be a shift in that direction in the Merchiston culture.

639 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.91.

8 Reflections

Applicants offered thoughtful reflections, as did some members of staff.

The school's experience of James Rainy Brown's suicide and the subsequent years of inspection as well as police investigation also led to highly relevant and useful reflections.

Applicants

Sharing experiences

Former pupils provided evidence of abuse and, in doing so, revisited painful experiences suffered when they were pupils at Merchiston. Some explained why they had come forward. 'Graham' was an example of that:

> I remember thinking … what happened to me isn't that severe, what's the point? But then I thought one of the teachers … had been there for probably 40 or 50 years … well, if he did that to me, maybe he did it to other boys. I honestly don't know if he did or didn't, but I thought maybe this might help corroborate their evidence if anybody else has come forward and given evidence. That's the real reason I came forward.[640]

For 'Vincent', the prompt was reading in the transcripts that 'James' gave evidence which he knew was wrong. 'James' suggested that there were never any complaints about his beatings, but 'Vincent' knew that there were. 'James' suggested that he never beat 'with gusto' when he certainly did. And 'James' also suggested that the maximum number of blows permitted was greater than was, to 'Vincent's' knowledge, in fact the limit. 'Vincent' wanted to set the record straight and explain that 'James' was known as a sadist.

> 'If he did that to me, maybe he did it to other boys.'

Some had very personal reasons for their engagement. 'Jack' said:

> I would like to think that the governors … of Merchiston have got enough decency to wholeheartedly apologise for what went on under their watch, because the thing … that deeply irks me is that my parents weren't particularly wealthy and had a fairly frugal and fraught retirement, and when I think of the money that they invested to that institution and the consequences for them in later life, and people just took the money and allowed people like Preston and co to carry on regardless. You know, that is not acceptable, and at the very least what they should do is acknowledge that.[641]

640 Transcript, day 263: 'Graham' (former pupil, 1967–72), at TRN-8-000000058, p.71.

641 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, p.149.

The school has now acknowledged its past failings, and it is to be hoped that 'Jack' and others have found that to be of some reassurance.

The standards of the past may have been different, but 'Ian' had justification for commenting: 'Things change, times change, but I do think that it could have been significantly better than it was in those days.'[642]

'Craig' now sees how he had been adversely affected by the macho Merchiston ethos for a long time, as a result of which he had stayed silent:

> What intrigues me about the stuff I experienced at Merchiston is that I am left with the feeling that I am very much wasting people's time talking about it. I think part of the reason I feel that way is because of the ethos of the school. The ethos was to be a man, stiff upper lip, hide your emotions and all that type of thing. Those things have coloured the way I see things. The ethos has created a culture of not wanting to talk. I feel that I am breaking that ethos now. That is part of why I want to talk now.[643]

He was not wasting our time, and it was clear from those witnesses who were in leadership and governance positions today that he was not wasting their time either.

To some extent all of these reasons were echoed by John Edward, who, as the then director of the Scottish Council of Independent Schools (SCIS), attended the evidential hearings in relation to the first seven boarding schools in this case study. He said:

> I think we've sat here for every 61 or 62 days of evidence. It has been … enormously difficult to listen to but enormously important to be here. I'm glad that we have been here, if nothing else, to bear witness. There have been times when myself and my colleague have been the only [people] in the public gallery and I am just so grateful that we have been there to hear what has been said, knowing full well that the world we are in now may be different from the world that some of the situations were in before, but that those people who came to the Inquiry and were able to do so, I see it to a certain extent they came into this room to unburden themselves, perhaps for the first time ever.[644]

Childhood vulnerability

Children, by definition, are vulnerable, particularly when living away from home, in residential care, including at a boarding school. They may mask their feelings, and staff may fail to allow for their vulnerabilities and be unaware of what is going on in their minds, as 'James' very frankly volunteered:

> If you wanted to know what's going on in a boy's mind, I think the other boys know better than the teachers. Certainly as I grew older as a teacher … I felt I had less and less of a clue as to what was going on in pupils' minds as they sat at their desks in front of me than in the early years, when I felt they were still thinking the same way as I did when I was a youngster.[645]

642 Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.28.

643 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.81.

644 Transcript, day 272: John Edward (former director, Scottish Council of Independent Schools, 2010–23), at TRN-8-000000067, p.144.

645 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, pp.5–6.

He did come to realise just how out of touch he had been, but this came far too late for the children he had beaten so ferociously.

Those responsible for the care of children in residential settings must strive to understand them and that involves, amongst other things, being in touch with their world. Staff cannot cling to their own world, seeing it as the only one that matters, and boarding schools need to realise that. 'James' realised it too late, after three to five years of resisting change. As he admitted: 'I was disapproving. I was going to put the brakes on.'[646] He did come to realise just how out of touch he had been, but this came far too late for the children he had beaten so ferociously.

The importance of being in touch with the world of pupils was also mentioned by Gareth Warren, former rector of Morrison's Academy:

> The world for children is constantly evolving, as it is for ourselves, and you cannot presume that you have safeguarding measures in place which are fine and work. There constantly has to be an understanding of what a child's life encompasses, encounters these days. I always talk about walking in the shoes of the child, think through what they are experiencing. With my own children you get areas of understanding, but there is a world which they know of which I do not.[647]

'John' summed it up: 'The pupils should be protected. They are vulnerable. If a school is acting on behalf of a parent, which they are, then they should be thinking of the pupils, look after them.'[648]

In doing so, schools must also accept that if they cannot protect a particular child then that school may not be the right place for them. As 'William' recognised:

> Some kids will thrive in that environment, especially a school like Merchiston … where sport was a particular thing of theirs. I was one who should never have been sent to a boarding school. I recognise that now. I would hope that … boarding schools in general wouldn't be like it was when I was there … But they were very neglectful at that point, certainly of me.[649]

'William', reflecting on how he felt about his Merchiston experience, said he favoured a school which was 'much more inclusive rather than exclusive, if that definition makes much sense'.[650]

The culture

The culture of Merchiston held it back for decades, and being not only macho but also insular did not help. As 'Craig' said:

> The culture at the school in general was very much 'man up'. You couldn't show emotion … You couldn't show weakness. I'd almost say that the culture was normalised and became

646 Transcript, day 266: 'James' (former pupil, 1954–9; teacher, 1966–79), at TRN-8-000000062, p.7.
647 Transcript, day 228: Gareth Warren (former rector, Morrison's Academy, 2015–21), at TRN-8-000000019, pp.73–4.
648 Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.47.
649 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.154.
650 Transcript, day 264: 'William' (former pupil, 1974–7), at TRN-8-000000059, p.155.

> more normal as you went up through the school … the culture of the place was very insular. Some of the teachers used to be pupils at the school … There was an attitude that we shouldn't mix with people, like those who went to the local high school, outside of school. There was a feeling of 'we are the institution' going on … I could see that if cases of abuse were to happen it would mean that it would be kept within the walls. You wouldn't want to say anything against the good name of the school.[651]

That was the way for far too long at Merchiston.

Routes to reporting

There need to be alternative and independent routes that children can access to report concerns, particularly in a school where, as in the case of Merchiston, the culture was so insular for so long.

School counsellors may help. 'John Crawford' explained that in his time at Merchiston children didn't have anyone to go and speak to about problems save for 'James', the chaplain, who was seen by the pupils as part of the Merchiston establishment, and therefore 'was part of the problem so I could never have done that'.[652]

Similarly, 'Vincent' thought there had to be a culture that encouraged reporting, because of his experience of the difficulties in raising concerns. He thought

> the fact that my father complained prejudiced my position … I know that there was a board of governors at Merchiston, but we never had access to them at all. The headmaster was a very remote figure and you would never go anywhere near him. Your only route was to go and see your housemaster. I think that there would always have been a concern about that because you'd be seen as someone who was kicking against the system. I think that a lesson to be learned from that is that people should be encouraged to raise concerns that they have, rather than being frightened to raise concerns.[653]

To achieve that requires proper support arrangements and these need to have a degree of independence. It must also be understood that some confidences may have to be shared, such as in instances where a child may be at risk. Victoria Prini-Garcia recognised this and made an interesting point. She felt that

> clearer independence between the CPC appointment and the school needs to be reinforced, probably by law or by the inspectorate or by someone … I think there is a conflict there between what the CPC can do in terms of exposing something, say, and the interests of the school at large, and I think that is not … healthy … And it shouldn't be. It should be a collaborative, really, but the truth is the day-to-day business has to be taken into account as well, so it's not … easy to create that independence.[654]

Taking care of staff

Adequacy of numbers

On the evidence covering the period from the 1950s to the 1970s there were not enough staff with responsibility for the care

651 Transcript, day 265: read-in statement of 'Craig' (former pupil, 1986–93), at TRN-8-000000060, p.82.
652 Transcript, day 264: 'John Crawford' (former pupil, 1970–5), at TRN-8-000000059, p.43.
653 Written statement of 'Vincent' (former pupil, 1970–4), at WIT-1-000001229, p.30, paragraph 110.
654 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.64.

of boarders; they were stretched in a way that was not in the interests of the children. 'Jack', who was later a governor at his own children's school, observed:

> I was part of a team that got new builds at two new schools and … went from an A to C rate of 5 per cent to an A to C rate of 75 per cent, so it was a job worth doing, but what it taught me was that the amount of pastoral care, the amount of backroom staff, which you don't really see in a school, is enormous and I reflected on what was there at Merchiston. I thought at first, like many institutions, it had been hollowed out, then I realised that it hadn't been hollowed out because it had never been there in the first place.[655]

Capability and capacity

Merchiston staff from more recent decades also spoke of the problem of being too busy. Lack of capacity is inevitable if staff are too busy and that, in turn, carries risks, including the risk of failing to notice signs of abuse. 'Antoine's' reflections captured it this way:

> It's a strange thing looking back with the benefit of hindsight, but I was just wrapped up. The system, if you like, had got a hold of me. I think because through the style I was adopting in the classroom, which was getting good academic results, and the fact I was fully involved in the rugby coaching and learning to referee, I didn't stop to take a look at how I was doing and what I was achieving. If you like, there was no appraisal situation at all. No incentive to review one's own style or actions.[656]

Victoria Prini-Garcia made a similar point. She was a full-time teacher and the school's careers coordinator, and was appointed child protection coordinator in 2004. Then, in 2008 she was appointed assistant housemaster of Laidlaw House, at which point she 'started saying, "Hey, this is getting too many things, too many hats", and I started making noises about maybe not being able to carry on.'[657]

Lack of capacity is inevitable if staff are too busy and that, in turn, carries risks, including of failing to notice signs of abuse.

Similar issues may have been at play in 2015 in relation to 'Laura' (RCQ). After her abusive behaviour was discovered, Andrew Hunter audited her staff file and was struck by the comments of her line managers during her final year. Inconsistency and a downturn in her performance had been recognised 'in part due to the extra responsibilities she adopted as Child Protection Coordinator and then Acting Deputy Head Pupil Support'.[658] Such concerns underscore the risks that may be created by adding layers of responsibility to the existing workload of a member of staff. Too often, in this case study and others,[659] the evidence has indicated that too much has been asked of staff without adequate

655 Transcript, day 263: 'Jack' (former pupil, 1965–8), at TRN-8-000000058, pp.148–9.

656 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.98.

657 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.34.

658 Merchiston Castle School, Letter from headmaster, 30 October 2015, at MER-000000290, p.42.

659 For example, in the evidence in relation to some of the 'approved schools' and assessment centres – such as Larchgrove, where overcrowding and staff shortages were serious issues for a long time and an inspection in 1968 (SGV-000007242) reported that chaotic conditions were causing stress to staff – as explored in the Secure Establishments case study.

consideration of whether they have the requisite skills, capacity, or are coping with their existing workload.

Considering the capability and capacity of staff is a key aspect of what is required for effective leadership of any school, including a boarding school. In turn, its head requires to be properly supported by a skilled senior leadership team and governors, working together within a structure that has been designed to meet the particular needs of the school and the children. It is striking how, in all the schools in this case study, such support was often lacking throughout much of the twentieth century and so heavy a burden was repeatedly allowed to fall on one person. That remained the position at Merchiston to a large degree until the appointment of Andrew Hunter, following which progressive changes in management structure began to happen, albeit slowly.

Nevertheless, as discovered by the many investigations after James Rainy Brown's death in 2013, it was also a period of repeated leadership failures and, in evidence, Andrew Hunter frankly accepted that they made mistakes, they failed to protect children, the upshot was that they failed to prevent them being abused, and they had to improve.[660]

Training in leadership and management, and the need for suitable experience

Andrew Hunter had been a housemaster elsewhere before his appointment as headmaster at Merchiston and, on reflection, recognised he had a significant lack of management experience. He said:

> In those days it was still happening that housemistresses and housemasters graduated to headship … but … the learning curve could not have been steeper. Despite a year of being appointed and watching everybody in management at Bradfield, and they were very generous to me … there's a world of difference between being the head and training for it.[661]

Bradfield College was a bigger and very different school and 'one would never expect to become the head of a school like Bradfield without maybe having been the head of two other schools first'.[662]

His successor, Jonathan Anderson, agreed that experience mattered:

> When I was at Christ's Hospital … I remember the head at the time advising me … [to] get a deputy headship first … he was very keen to encourage anybody going up the ladder to go through the steps, and in going to Worksop to become the senior deputy head there, I do feel that served me well.[663]

It meant that he was

> exposed to areas of leadership and school management that as a housemaster I simply wouldn't have had sight of those … as a deputy head I was involved with a restructuring process, involving conversations around redundancy. I was also involved in disciplinary processes, where I was either

660 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.146.
661 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.13–14.
662 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.16.
663 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.60.

> the investigator or indeed the chair of the investigation. And as a housemaster I wouldn't have had that experience.[664]

Headmasters: support and decisions

Andrew Hunter came from a school that was more mature in its structure:

> In terms of reporting lines, at Bradfield as a housemaster I knew that the second master looked after us all as housemasters and housemistresses … So we would go to [him] about anything that was worrying us in the house. We would meet the head for his two housemasters' or houseparents' meetings twice a term. So it was quite sophisticated, whereas at Merchiston it was wonderfully grounded, but everything funnelled up to the head, absolutely everything.[665]

The degree of support for the headmaster at Merchiston was limited in 1998 'by the size of the school [and] … by financial resources. It was a fact. And gradually, with confidence, I grew those resources.'[666] Andrew Hunter, on appointment, was given access to a mentor through The Heads' Conference (HMC), but that apparent support was unrealistic since the mentor was the head of a competitor boarding school and said bluntly: '"Don't worry, Andrew, I'm not going to bother knifing you in the back, I'll knife you in the front", so I decided there's not much point, really, in asking that mentor to help me … So I didn't have a mentor.'[667]

The result was an unfortunate combination of lack of experience and lack of resource, with too much falling on the shoulders of one person. As 'Glenn' said:

> [Andrew Hunter] wanted to … know about, not necessarily to be involved, he wanted to know about everything that was going on. Put in the hours. Not always in the best possible way, because I think sometimes he got very tired and he still dashed off emails and things, which might have been better left to the following day. Very good with parents in terms of the amount of time he spent with them. Main weakness in general terms would be a volatile temperament. He lost his temper on occasions when – on his own admission too, I think – he shouldn't have done.[668]

The headmaster had too much to do and was trying to do it all without adequate support. It was high risk on many fronts.

Andrew Hunter's own management style exacerbated matters. There is no doubt that he always wanted to do the right thing, but he lacked resolution and decisiveness, as a number of his staff remembered. According to Victoria Prini-Garcia, his 'greatest problem … is that … he really wants to be good to everybody … he has a heart of gold, but he finds [it] really hard to make difficult decisions … I think the head wanted to believe the best of everybody … So if you were clever, you would be the last person to speak to him.'[669]

664 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.60–1.
665 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.10–11.
666 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.26.
667 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.33.
668 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, pp.44–5.
669 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.38.

'Robert' echoed that.[670] He met the head regularly after he had, much to his surprise, been elected as head of the common room: 'Often you'd have a good conversation about something and feel like, okay, everyone will be happy that we've come to a result of this, and then either nothing would happen or it would swing the other way.'[671] In short, he was indecisive and wanted to please everyone, which is simply not achievable.

The head was indecisive and wanted to please everyone.

The need to accept help

Andrew Hunter accepted that support was required and that a head must not be heroic and take on too much. He accepted change, and recognised improvements following the appointment of Nigel Rickard, first as child protection coordinator and then as deputy head (pastoral), and of 'Glenn' on the operational side, saying: 'It was also part of trying to put in place the opposite of heroic leadership and trying to put in place devolved distributed leadership, and then supporting them and then of course obviously giving them responsibility and then accountability.'[672] He recognised too that a fresh pair of eyes was required to avoid assumptions and prevent practice becoming habitual: 'I learnt that when you brought somebody into leadership and management in the school, their wonderfully fresh antennae spotted immediately what needed to improve in a school.'[673]

This was crucial as regards child protection, and he admitted that while Merchiston

> always thought about the interests of the pupil … we were inconsistent for a period of years in automatically seeking advice from regulators outside of the school and external agencies such as Social Services, HMIe or the Care Inspectorate. If there was an incident then why did we not automatically place such a member of staff in the staff disciplinary process? I do not really have an answer to that except that the leading team of staff running this school to start with was very small. Looking back, possibly I took too much on my plate and my PA did as well. She was my executive PA and she was also in charge of HR. At that stage, we could not afford the extra function of HR.[674]

He added:

> What I needed to do was to learn how to stand back, and when I had absolute confidence in a deputy head or senior deputy head, let him or her ascertain the facts and the issues and the directions of travel, and then say: 'These are my recommendations, Andrew'. That meant … I would never have been involved in the nitty-gritty and doing pastoral conversations with people who'd made these mistakes, which I was doing.[675]

Andrew Hunter, having reflected on his own experience, added one more piece of advice: 'Every head of any experience level should have access to a professional executive coach. That is very different to having access to a mentor … I believe that also chairs [of governing bodies] –

670 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.98.
671 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.99.
672 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.27.
673 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.28.
674 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.54.
675 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.137–8.

I think it would be interesting for them to consider this.'[676]

Capacity and flexibility

As the evidence of many staff displayed so clearly, a lack of capacity is a danger to child protection, since so much that matters may go unnoticed. There have been examples of this in all the schools in this case study. Andrew Hunter's experience at Merchiston is one.

Encouragingly, Merchiston does appear to have learned how to act differently on a number of levels. As Jonathan Anderson recognised, teaching at a boarding school can be intense, and he likened it 'to being on a submarine or on an oil rig, where you are working intensively for a period of time and then you come up for air or you get the chance to breathe'.[677] This requires constant management. He gave two examples: 'With our teaching housemasters, we do give them timetable reductions, and they have a support team around them as well to make sure that they are not solely carrying the entire housemastering load.'[678] At management level, he went on, 'the deputy head wellbeing's other responsibilities can be reallocated to allow them to focus on any child protection issues demanding their full attention'.[679]

More broadly, he explained:

> In terms of staffing resource, we have actually reduced the number of individuals on the school leadership team, but we have reconstituted some groups differently. So, for example, the pupil support leadership team now includes the school counsellor [and] also includes a representative from the med centre as opposed to just being the academic pastoral leaders, as it were.[680]

Such flexibility, if properly managed, is a real step forward to allow staff to carry out child protection work properly and is a welcome change from the practices of the past. It is something that governors at Merchiston have had to recognise through bitter experience. Gareth Baird, Chair of the Board of Governors, was asked about failings in the 2010s, in particular whether Andrew Hunter tried to take on too much and was allowed to do so without adequate oversight by the board, either of him or of what he was having to deal with. His reply was frank: 'Yeah, I think that's a fair comment.'[681]

Lessons learned

Isolation in leadership of a school, as Andrew Hunter candidly accepted, is positively unhelpful. It is essential that a head has colleagues (s)he can talk to and discuss ideas with, as well as the ability to reach out and ask for help when necessary. Merchiston seems to have learned that, given Jonathan Anderson's description of the current leadership structure:

> It is a little flatter now. There's no longer a senior deputy head. We have a deputy head wellbeing, who is responsible for the pastoral

676 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.141.
677 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.68.
678 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.68.
679 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.69.
680 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.78.
681 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, p.44.

> side of the school. We have a deputy head academic, responsible for the academic side of the school, and assistant head on either side. Also on the leadership team we have the bursar and the head of … admissions … I see my leadership as quite consensual. We talk a lot about decisions that we're going to make. We make decisions where we can as a team. I like to hear input from my colleagues on the leadership team before we make decisions … on any matters, but particularly those critical matters that sometimes arise.[682]

He also emphasised how crucial good lines of communication are:

> I think having a team that is connected to the next level down is important and that that next level down, whether it be heads of departments or housemasters, they are empowered to do the job that they do, but equally they know that there's support for them, should they need it.[683]

Working with others

Collaboration goes beyond the individual school, and Andrew Hunter spoke positively of the value, particularly from the child protection perspective, of combined learning when schools share their experiences. It is so obviously sensible that it makes the past culture of isolation and professional aloofness all the more remarkable a folly. Andrew Hunter talked of his early years at Merchiston where it was 'very, very difficult to share with competitor heads who are in the same recruitment pool for boys, as I was in'[684] but also of how that changed,

> much to the credit of the heads who were in position, because … we were all in the same boat. We were running boarding schools, we were trying to do our best. We became much more collaborative. We shared with each other good ideas, and it was a metamorphosis compared to the beginning … I felt that I tried my hardest to drive it. Scottish HMC meetings, I tried to share with other heads ideas rather than keeping them in my back pocket. I would always keep back 10 per cent, because I had to run a school that had pupils in it, but it was just a sign of – a vision that was just beyond one's own boarding school in Scotland. It was a vision to do with the good of the pupils, the good of the colleagues, the good of the parents of the pupils in all these schools.[685]

He was right to do so.

SCIS has also played a vital role in that development and, like all recent heads who gave evidence, Andrew Hunter was positive about the organisation: 'I think SCIS, under Judith Sischy and then obviously John Edward, they drove … forwards a superb professional development programme for all aspects of all people in schools. And if you opted out of it, I would have thought that was quite unwise.'[686]

682 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.64.
683 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.65.
684 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.36.
685 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.37.
686 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.38–9.

Jonathan Anderson agreed about the value of SCIS. While Merchiston, having been through the mill, had been willing to share its experiences and lessons learned with other schools, he found that other schools had not been 'directly receptive … Generally, yes. Specifically, no.'[687] Instead, he said, everyone talks to SCIS who, thankfully, 'have been very good at pulling together experiences and learnings'.[688]

Boarding house leadership

Appointing the right people to be housemasters or mistresses is crucial to ensuring the protection of children who board. The evidence throughout this case study has demonstrated how individuals can inspire their pupils as well as being role models for younger teachers. In the same way, the burdens of the role, when allied with busy teaching responsibilities or insufficient staffing, have sometimes allowed abuse by others to flourish unchecked, or for housemasters themselves to abuse over lengthy periods and without restraint.

Jonathan Anderson gave distinct evidence on the subject, which suggests that a change in approach may now be underway in Scotland, following the examples of England and Australia[689] where house parenting, without teaching, is now seen as a distinct vocation. This could be of benefit to all schools. He explained that Merchiston has

> explored non-teaching housemaster roles, recruiting one housemaster to role from a social care background … I've had experience of the non-teaching housemaster in both previous schools. One of the houseparents at Worksop was from a military background, had come from the social care aspect of military education, and they became a housemaster – houseparent – at Worksop, and similarly at Christ's Hospital we had a member of staff who was involved in childcare but hadn't been a qualified teacher, who then went into housemastering.[690]

He continued:

> I think the sector is turning to this approach increasingly. I think the role of housemaster is becoming more specialist. On one hand there is I think an expectation from a parental point of view that housemasters are academics … that they will be able to nurture your child in the academic sense … it's not changing radically, but I think the focus on the breadth of the role means that those with skills in care of young people, specific care of young people, people who have a professional background in that area, I think they are becoming increasingly sought out by schools.[691]

A single point of contact: child protection and the 'LADO'

One of the major concerns about Merchiston during the period of multiple inspections was its inconsistent approach to reporting possible child protection concerns. As Andrew Hunter admitted:

> I never found it easy working out who I was supposed to contact when. Whether it was the registrar's office for independent schools Scotland, HMIe or Education Scotland or the

687 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.74.
688 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.75.
689 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.67.
690 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.66.
691 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.67.

> Care Inspectorate or the Scottish Social Services or the police, I never really – and we tried our hardest to do road maps. So eventually I told them – I used to go to every single one of them, because I was so frightened by then of making mistakes.[692]

'I never found it easy working out who I was supposed to contact when.'

Uncertainty about who to contact or seek advice from has been a regular theme in the boarding schools case study. Some schools, particularly those situated in remote locations, such as Gordonstoun, seem to have had open and clear lines of communication with the local police, at least prior to the formation of a national force. The same was true of Queen Victoria School in terms of dealing with the local authority. Nonetheless, all current heads wanted to have a point of contact who could provide advice and guidance on what to do when child protection matters arose, and those with prior experience in England spoke positively about the benefits of having local authority designated officers (LADOs).[693]

The LADO is a statutory role provided by local authorities, with responsibility for oversight of concerns, allegations, or incidents involving individuals working with children and young people, for seeking to ensure that concerns are handled fairly and that a child's welfare is safeguarded, while at the same time also ensuring that individuals are not unfairly treated during the process. The LADO does not investigate but can provide oversight and guidance on safeguarding and employment law procedures.[694] Inevitably, much will turn on the quality of the individuals involved, but having such a provision, distinct from the usual inspection points of contact, is viewed as a real help by boarding school heads.

Andrew Hunter thought that:

> having one point of contact would be much, much easier for independent school heads, because what I see from the state sector is in effect they have that. Because if they have a problem in their school, they may not have LADO, but at least they can go to central office, HR, and say, 'I wish to report this issue, please.' So personally, and when I speak to heads south of the border – and there's different levels of LADO, where you can put a

692 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.138.

693 A LADO is a local authority designated officer appointed, in England, in implement of the authority's duties under and in terms of sections 10(8) and 11 of the Children Act 2004 and *Working Together To Safeguard Children*, guidance published by the Secretary of State in 2015 and most recently updated in December 2023. The latest version sets out at p.160: 'Local authority designated officer (LADO) – County level and unitary local authorities should ensure that allegations against people who work with children are not dealt with in isolation. Any action necessary to address corresponding welfare concerns in relation to the child or children involved should be taken without delay and in a coordinated manner. Local authorities should, in addition, have designated a particular officer, or team of officers (either as part of multi-agency arrangements or otherwise), to be involved in the management and oversight of allegations against people who work with children. Any such officer, or team of officers, should be sufficiently qualified and experienced to be able to fulfil this role effectively, for example, qualified social workers. Any new appointments to such a role, other than current or former designated officers moving between local authorities, should be qualified social workers. Arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer, or team of officers, without delay'.

694 See, for example, Andrew Hewston v Ofsted [2025] EWCA Civ 250, where a school reported an incident involving a pupil and an Ofsted inspector to the LADO. The LADO provided the school with a short report giving advice to the effect that the employer should investigate internally with a view to raising awareness of professional boundaries, provide training, and ensure that the employee be made aware of the referral to the LADO (which did not happen). The Employment Appeal Tribunal was critical of the failure to share the LADO's report with the Ofsted employee.

> phone call in about concerns … they find this an amazing crutch, a support.[695]

Jonathan Anderson agreed, although he also recognised that progress had been achieved with the advent of school link inspectors. He thought he was 'certainly seeing an improvement in the relationship that we've now got with our link inspector at the Care Inspectorate, but … there is capacity for that to grow even further'.[696]

The key issue in his mind, which made real sense, was the need for an ongoing advisory relationship between the school and the outside agency. Jonathan Anderson had experienced that in his previous school and thought that:

> a LADO-style appointment has the ability to develop into that … At Worksop … we did have a very strong and regular contact with the LADO, not because we were constantly dealing with crises but we were just keeping them apprised of what we were doing and they wanted to know, and we were fortunate that we did have a good LADO in that particular part of the country. I know that some other schools in other parts of the country don't have that same experience … It largely fell to the strength of the relationship between our designating safeguarding lead and the LADO at the time.[697]

His last point is crucial and emphasises the need to build relationships and to keep communication open. He thought the scheduling of regular contact between the school, particularly the child protection coordinator and a LADO or similar would be beneficial:

> I think that would be a great step forward, yes … when you are faced with some very complex, complicated safeguarding matters, the more information you can have from trusted sources and from listening ears, the better. It can only help … there are informal structures there. Boarding heads, boarding pastoral deputy heads. They have working groups where they do share best practice and they bounce around ideas, but actually having a formal structure in place I think would be a great step forward.[698]

I agree. Powerful support for the concept came from Amanda Hatton, now Executive Director, Children, Education and Justices Services at the City of Edinburgh Council, during the Phase 8 hearings.[699] A former social worker in England, she supported the introduction of the LADO scheme to Scotland and revealed that budget proposals for Edinburgh in 2025 included funding a LADO-type role for the city. As she said:

> It won't have the statutory standing that it has [in England], but in my experience, it's just really helpful to have that single point of contact that deals with all allegations against people in a position of trust. So they deal with allegations against partner agencies as well … The issue that we've talked about a lot today about not seeing patterns, not seeing consistent issues, a LADO makes it less likely that you're going to miss that. It's never

695 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.138–9.

696 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.73.

697 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.71–2.

698 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.72–3.

699 Transcript, day 518: Amanda Hatton (Executive Director, Children, Education and Justices Services at City of Edinburgh Council, 2021–present), at TRN-12-000000151, pp.98–190.

> going to be a perfect system, but it's another effective check and balance.
>
> Some large authorities have more than one, so you have to be really careful then that they work as a unit and you don't have things that fall between them, you know, and if you're in a large authority, one person – it's a lot for one person to do it. But it goes with a system and a process around LADO that means that all the information is in the same place, it's all stored in the same format.[700]

Implementation of policies

In the early part of the twenty-first century Merchiston was fixated with introducing new policies. That was understandable because its processes had previously been inadequate, and addressing this was expected of the school. However, I have the impression that at times so much effort was expended in the introduction of these policies that whether they actually achieved their purpose in practice was not always adequately considered.

Jonathan Anderson made a helpful comment in that regard:

> I think with any policy that you are introducing to a new school you need to demonstrate how it is going to work on the ground and review it regularly, certainly in its earliest implementation, to make sure that you are refining best practice and the policy that you are applying is working. There is no point … in having a policy if it is not going to work.[701]

To achieve that aim Merchiston now has

> a compliance officer who helps oversee the maintenance of our policies and they keep regular contact with the authors of those policies, the people who have ownership of those policies, and they're also ensuring that staff training is kept up to date and people are continually apprised of changes in their … areas of responsibility.[702]

That is not enough, however – as Jonathan Anderson agreed, to have an effective review of how a new policy is working, good relationships with and amongst the staff implementing it are crucial. They must be able to be honest about whether a policy actually works and feel able to suggest revision as required.

Plain English

Jonathan Anderson also observed: 'I think it would be helpful for all concerned to use the plainest and most simple, straightforward language to avoid any ambiguity.'[703] I agree. Furthermore, his observation applies equally to policies and guidance produced by government which have often not been user-friendly and involve a language that parents may not understand.

Outsiders

One of the consistent themes of the Merchiston case study was the unhappy experience of those who did not fit the mould and as a result were treated as

700 Transcript, day 518: Amanda Hatton (executive director, Children, Education and Justices Services at City of Edinburgh Council, 2021–present), at TRN-12-000000151, pp.172–3.

701 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.71.

702 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.77–8.

703 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.74.

outsiders. It remains a problem given the recent documentary evidence provided of the school's ongoing efforts to address individual cases. Andrew Hunter, having – correctly in my view – stated that you need to show the pupils that you care for them, added this suggestion:

> To make sure it happens for everyone, you must always look after the outsiders and the non-participants. I would go so far as to say that it would be very wise in any school that there is a register kept in the year groups of which pupils appear to be outsiders or non-participants … because they don't feel successful. Then we've got to help them: where can you find success? And then they're no longer outsiders and non-participants, because they get that feeling of: yes, I've done that well.[704]

The appropriateness of keeping a register of outsiders and non-participants may be debatable, but the underlying purpose of finding a way to ensure that staff know who these children are makes sense if they are to be properly protected.

A final thought

David Spawforth, whilst suggesting that no system is foolproof, offered advice in relation to the recruitment and management of staff to the effect that:

> One has to rely on matters which cannot be legislated among which I would see as valuable, such as keeping an ear to the ground … for information, warnings or hints. Operating an open-door policy, which would be one route for whistleblowers, and to try and secure the confidence of the staff, pupils, and parents. Have key personnel to whom people will voice concerns, without wishing in the presence of a head to point a finger, such as the chaplain, medical staff, and even my wife. In my time, all these were privy to confidences. Unfortunately, to have a suspicious mind and to be prepared to think the unthinkable.[705]

I would not take issue with any of this advice. Had it been consistently followed at Merchiston in the past, children may have been protected from at least some of the abuse that occurred.

704 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.143–4.

705 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, pp.172–3.

9 Staff management, recruitment, and references

The evidence about children being abused by staff at Merchiston highlighted the consistently poor approach to the management of James Rainy Brown and many other teachers, along with deficiencies in recruitment and the provision of references over decades. Some have already been considered, such as Ian Robertson and 'Phil' in the 1960s and 1970s respectively, and 'Graham' and 'John' in the twenty-first century. Such issues remained consistently problematic throughout Merchiston's periods of modernisation from the 1980s onwards, demonstrating inconsistent and, at times, poor leadership, particularly during times of stress. This was seen most clearly, and had particular impact, when the school was exposed to multiple inspections, as well as police inquiries, between 2013 and 2016. Lessons were not learned.

James Rainy Brown

Both David Spawforth and Andrew Hunter experienced real difficulties with James Rainy Brown, but never fully dealt with them. While Spawforth sought to introduce change to Merchiston, which was accepted by most staff, Rainy Brown remained resistant. He was

> [a] reluctant convert to the new system, [for] it has to be remembered that [he] had been a pupil at Merchiston in the 1960s. Brought up in the old tradition he initially resented female involvement to ultimately accepting and welcoming females providing he approved of them … My concerns about [James Rainy Brown] were on the lines of a 'muscular Christianity' and 'Boy's Own Paper' style. He encouraged adventurous activities and challenges with limited adult supervision and consequent risks. These would have been accepted and revered historically but were now seen as risky and hazardous. He felt that life was challenging and you should be prepared to rise to a challenge. It will be seen from his file that issues on which he was taken to task, reprimanded, or formally warned came into this category … He was always tempted to sail his own ship, following his own charts, and independent of the course or orders of the fleet. The admiral needed to signal him back into line.[706]

The difficulty, however, was that no matter how much he was warned – and his staff file is voluminous – he would not change, and no one adequately challenged him. Part of this was because in many respects he had real strengths and was thought of by many as caring and kind. He was popular with some boys, with some staff, with governors, and with many old boys. More fundamentally, perhaps, he was regarded as being tremendously useful to the school:

> His great value and contribution lay outside the classroom as a Housemaster, rugby and athletics coaching, and camping. He pushed himself very hard, physically and mentally for what he considered important for the boys in his house, in the school as a whole, and

706 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, pp.164–5.

'Where I went wrong was not then looking at that member of staff's file with a fine-tooth comb.'

> for Merchiston itself, setting himself high standards of dedication for the job.[707]

He remained in the school's employment until his death in 2013, aged 75, albeit latterly in a reduced role and on a reduced salary. As is clear from the totality of the case study, running a boarding school is hard, particularly when resources are limited, and there is an understandable reluctance to risk losing a member of staff who does so much and is ever-willing to take on extra tasks. That was very clear from Andrew Hunter's candid evidence about James Rainy Brown. He knew from his handover with David Spawforth that Rainy Brown was a problem but, like his predecessor, did not take adequate action:

> I just remember that he said that he had problems – there were problems managing him. And where I went wrong was not then looking at that member of staff's file with a fine-tooth comb. Because I was given the heads up that, you know, things were not plain sailing, despite that member of staff's huge strengths with pupils, that there were aberrations as well.[708]

He continued:

> His staff file was huge, so eventually I said to other staff that we could not see clearly what was happening with this member of staff so could we prepare an audit of 'double asterisk issues', as in instances of inappropriate behaviour … On the training courses one was told there were two ways to do it. Don't … go through every single file, or do it. I really regret that I did not go through every single member of staff's file … I now realise how I should have dealt with them better. So I was already seeing what I call double asterisks. I was also then seeing a double asterisk repeating itself three years later. Whereas if I had analysed that file from day 1, I would have been ahead of the curve.[709]

The school also failed to provide proper HR support, which, although it was plainly badly needed, was, from 1998 to 2013, carried out by Andrew Hunter's untrained PA. Protection of James Rainy Brown by governors was also 'a huge problem for me, because … my first chair and him were clearly close friends, they'd been at school together. Other governors on that board, I don't think they'd been to school with James Rainy Brown, but their children had maybe been looked after by James Rainy Brown.'[710] Andrew Hunter felt under pressure and that if he tried to take Rainy Brown on he would meet with resistance:

> I didn't discuss it with any of my board. I didn't have a mentor. It was just a very … lonely time, really. I obviously discussed it with my wife, which obviously people may think is strange, but why did I not discuss it more? Because I did have some co-leaders. I was very fearful of discussing it with my chair. I honestly

707 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.166.
708 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.20.
709 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.22–3.
710 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.31.

> thought that, you know, I was going to fail my probation.[711]

Matters improved with his second chair in the early 2000s as he 'just felt I could relate to him. But even then I didn't have the courage to go near this elephant in the room.'[712]

He agreed it was made harder because James Rainy Brown would work the shifts and weekends which others didn't want to take on:

> It was a real, real conundrum. I remember in my early days I insisted that he moved off the school campus to his own house, because I didn't want him depending so much on helping, in particular, Pringle, and it was very difficult for the leaders of Pringle because what would we have done without his help, which was huge? … We moved slowly in trying to remove this dependency on the school. But the leaders of Pringle did need his help. Or we should have found another way of providing it, which would have been an expense. And that's what we should have done.[713]

He acknowledged that an opportunity to solve the problem was missed, as 'my bursar and I were just too slow in seizing that opportunity before the compulsory retirement age was taken away. We were too slow in our footwork. Because that was an avenue for me apart from, obviously, disciplinary avenues.'[714]

It is clear that Andrew Hunter and others were aware that there was an ongoing problem with James Rainy Brown, but it is remarkable what was still missed. Andrew Hunter said:

> The penny dropped at some stage that an act of inappropriate behaviour would happen and we'd then find out that this was a return to the same act of behaviour from three years earlier. And this must have happened, I think, on – boys swimming naked at Blakerston. I think it may have happened with apple dooking … So that's how I think we began to make the connection, which is why then again we were adrift because we didn't have an accurate audit from the beginning of his career right up until then.[715]

'The penny dropped at some stage that an act of inappropriate behaviour would happen.'

These problems were spotted in the late 1990s in the first years of his headship, and were repeats of similar issues recorded under the previous head. Yet nothing changed, just as nothing was done about other red flags. For example, it was well known that James Rainy Brown treated Pringle House 'unequivocally'[716] as his house, that he resisted the intervention of others, and that complaints were still being received about him showering with boys.[717] Moreover, efforts to move him out of the house in April 2003 did not succeed until over four years later, in June 2007.[718]

711 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.31–2.
712 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.33.
713 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.104–5.
714 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.106.
715 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.106–7.
716 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.110.
717 Merchiston Castle School, Incident log, at MER-000000289, p.59.
718 Merchiston Castle School, Incident log, at MER-000000289, p.61.

So what lessons can be learned from Merchiston's experience of failing to deal with James Rainy Brown? Andrew Hunter highlighted one:

> The emotional dependency by him on the school was extremely alarming, and again in a sort of learning lesson, as it were, for any practitioner going forwards, 'which members of staff are too dependent on the school, and why?' would be a rhetorical question as a leadership team or a management team.[719]

Another is a need to be absolutely objective and resist the tendency to rely on the apparent loyalty of a long-serving member of staff who is popular. The potential risk to children must always take priority. Andrew Hunter was troubled by a file entry he had written on 1 May 2013 after reviewing James Rainy Brown's file. He wrote he had concerns which were 'combined with some outdated practice but I never felt boys were in danger of physical or sexual abuse, I never felt boys were at risk. We have audited his file and I can provide a summary of the incidents in it.'[720] As he properly conceded in evidence in 2022, 'I don't quite understand why I wrote that, because I knew it wasn't clear cut. I'd been dealing with him, with these recurring challenges, since September 1998.'[721]

Finally, in the same vein, governors need to remember that their role is to prioritise the protection of children in their care even if it means there may be adverse consequences for long-serving staff.

The final point is schools must not rest on their laurels if they receive positive inspection reports. Matters at Merchiston were made worse by repeated positive reports[722] such as the report of the Care Inspectorate in 2013, in which they stated that they had 'no concerns, we are confident in, and of, all of the school's child protection processes'.[723]

Buoyed up by such positivity, Merchiston did not follow its own processes; in these circumstances, they allowed themselves to refrain from doing so because of 'the nature, personality, challenge of the member of staff and his relationship with board governors'.[724]

It was a perfect storm, and Andrew Hunter was correct when he said that, even with meticulous record-keeping what still needs to happen is

> forming the links on a member of staff's record, i.e. a member of staff could keep his slate clean for a period of time, during which time a previous transgression can be forgotten. The links were not made with JRB's disciplinary record. So, the tracking of staff misdemeanours must be even more highly effective.[725]

'Glenn'

Merchiston also failed to link instances of aberrant behaviour in the case of 'Glenn', notwithstanding the fact that they were

719 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.112.
720 Merchiston Castle School, Incident log, at MER-000000289, p.64.
721 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.116.
722 See Inspections chapter.
723 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.120.
724 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.122.
725 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.123.

14 years apart. The common theme of the abusive physical punishment of children was clear but not noticed. In 1995, seven years after corporal punishment had been abolished, 'Glenn' had beaten a child. Then, in spring 2009, when using his school computer, he had accessed or attempted to access pornographic websites using searches including '"spanking", "schoolboy", "schoolgirl" and a number of other sexual explicit references'.[726] 'Glenn' had already announced his retirement – planned for July 2009[727] – and was allowed to proceed as he had intended, though Andrew Hunter put 'a file note on his file to protect myself and the school'.[728] He took no immediate steps directed at child protection. There was no disciplinary process and the matter was not reported to any external body, not even to the board of governors.

The headmasters wrote positive references for 'Glenn' and they failed to make mention of his conduct.

While that was a failing, what is, perhaps, of greater concern is that the headmasters involved on each occasion wrote positive references for 'Glenn' and they failed to make mention of his conduct. In 1997 'Glenn' applied for a management position at another school, and David Spawforth provided a reference that did not refer to his loss of control and spanking a child only two years before.[729] In evidence, 'Glenn' accepted that mention of that event should have been included in the reference.[730]

'Glenn' also agreed that Andrew Hunter should not have written the references he did after 2009. Following retirement, 'Glenn' applied for a position with the English Speaking Board (ESB) as an assessor of the oral communication skills of children and adults.[731] The role was one that would take the successful candidate into schools, working closely and unsupervised with students of all ages, as the ESB made clear in an email to Andrew Hunter requesting a reference. Yet Andrew Hunter's reference made no mention of either the beating in 1995 or the discovery of pornography in 2009.[732]

Andrew Hunter was shocked to be reminded that he had written:

> Moreover his relationships with pupils, staff, and parents were excellent. At the same time, he had high standards and this was reflected in his expectations of the pupils, while retaining a sense of compassion and understanding – he is a good judge of character. In my view, [he] is ideally suited to the role of Assessor/Examiner for the ESB.[733]

Andrew Hunter said:

> I regret that … failing to let the regulators know, failing to let the police know … We

726 Merchiston Castle School, Disclosure Scotland file, at MER-000000294, p.15.
727 Merchiston Castle School, Reference from headmaster, 7 January 2010, at MER-000000294, p.153.
728 Letter from headmaster, 19 March 2009, at MER-000000202, p.140.
729 Merchiston Castle School, Reference from headmaster, 20 February 1997, at MER-000000294, pp.159–61.
730 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.67.
731 Merchiston Castle School, Letter from ESB requesting a reference, 22 December 2009, at MER-000000294, p.152.
732 Merchiston Castle School, Reference from headmaster, 7 January 2010, at MER-000000294, p.153.
733 Merchiston Castle School, Reference from headmaster, 7 January 2010, at MER-000000294, p.153.

> did do an extensive risk assessment with the director of IT … I didn't even let his fellow deputy head know … again one can see quite clearly, whichever way one does it, this would have been a suspension without prejudice.[734]

He went on: 'Again, I just think I was just utterly astounded, but that doesn't excuse the litany of mistakes, which is then compounded by the reference.'[735]

There certainly was a litany of mistakes, and they included failing to see any potential link between the instances of misconduct by 'Glenn' until 2017. The fact that 'Glenn', like Rainy Brown, had some pre-existing personal links with the school may also have influenced the way matters were dealt with. Andrew Hunter accepted that went

> back to … the inspection of staff files. 'Glenn' was never mentioned to me by my predecessor as a person of concern, and … it was only when we did the equivalent of the double asterisk exercise of this file that we had two issues. And I very much hope I supplied an addendum reference then.[736]

He did send one. However, what had happened exposed flaws in the Merchiston system which led Andrew Hunter to recognise, albeit belatedly, in evidence: 'I think the ongoing filing procedure and process has to be exemplary, with systems. We tried to do that at Merchiston. In my latter years I remember we had a special form that went inside the file, which was red, I think.'[737]

Unfortunately it came too late, and it appears likely that Merchiston made the mistake of viewing child protection as a need to protect Merchiston pupils only. The school and its pupils were rid of 'Glenn', they protected his interests but they failed to consider or protect the interests of other children he may have encountered in any new role. In relation to the 2009 matter, Merchiston also took a subjective approach to dealing with child protection issues. It opted for a 'dignified closure'[738] for 'Glenn', because of his long connection with the school, rather than following a disciplinary process.

'Antoine'

David Spawforth's flawed approach to staff and references was also seen very clearly in the case of 'Antoine'. This provides a good example of both the right and the wrong approach to take to references. 'Antoine' had left Merchiston in 1985 following a number of complaints about him dressing in a manner that involved indecency. David Spawforth advised him to seek a fresh start elsewhere either in or outside teaching as he believed that 'rumours would continue, that further incidents could occur and that he himself would feel both sour and bitter with his relations now within the school'.[739] He was even clearer in an internal letter written in November 1986 in which he said:

> And the decision … that he should resign (rather than be sacked) saved the School from adverse and unpleasant publicity and consequences. It was felt right that

734 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.82–3.
735 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.84.
736 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.84.
737 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.85.
738 Merchiston Castle School, Possible Child Protection Issues, 2009, at MER-000000294, p.143.
739 Merchiston Castle School, Summary of complaint against and discussions with 'Antoine', 18 December 1985, at MER-000000291, p.14.

The headmaster's aim was to protect the school, just as his predecessors had done.

> appropriate tribute should be paid to his past contribution to the School … To have omitted mention of 'Antoine' in either would have drawn attention to a problem most people were unaware of.[740]

In short, the headmaster's aim was to protect the school, just as his predecessors had done.[741] 'Antoine's' alleged conduct was not reported to anyone, nor was there any formal internal process. David Spawforth wrote to the father of the pupil who had last complained: 'The man in question has resigned from staff … I hope, therefore, you will feel the matter you raised has now been dealt with satisfactorily and that you would not wish it to be taken to the Governors.'[742] David Spawforth said: 'In these cases, parents were not informed as neither case, at that time, could be deemed suitable for prosecution and the school could have faced charges of wrongful dismissal.'[743]

Damage limitation was the key priority and that was typical of the approach of many schools at the time. 'Antoine' said his departure from the school 'was managed … The sabbatical was Mr Spawforth's suggestion.'[744] He confirmed that he was encouraged to resign and that 'provided that I made no mention of the incident, I would get very good references'.[745] He was also clear that David Spawforth understood that he would be looking for a new position in education, as a teacher.

Following his time at Merchiston, 'Antoine' applied for positions at Bishop's Stortford College and Bloxham School. David Spawforth provided written references for both which made no mention of the circumstances behind 'Antoine's' departure.[746] However, he did also telephone the heads of the respective schools and explained the full background, though he was clear that he was loath to put in writing what he was prepared to say orally.[747] That was unsatisfactory on a number of levels.

Good leadership and a much more appropriate approach was demonstrated in a letter the head of Bishop's Stortford College sent to 'Antoine'. It makes a powerful case for transparency in references:

> Your visit was much enjoyed by the staff who met you and your credentials as a teacher and as a man equipped to add enormously to the life of any school in a variety of ways are undoubted.
>
> It is the more disappointing that I shall have to say that I am not able to offer you the post of French teacher at Stortford. The decision is, inevitably, connected with the incidents which contributed to your resigning from the

740 Merchiston Castle School, Personal letter, 10 November 1986, at MER-000000291, p.1.
741 Merchiston Castle School, Personal letter, 10 November 1986, at MER-000000291, p.1.
742 Merchiston Castle School, Headmaster's letter to parent, 7 January 1986, at MER-000000291, p.12.
743 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.157.
744 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.101.
745 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.101.
746 Merchiston Castle School, Reference from headmaster, February 1986, at MER-000000291, p.6.
747 Merchiston Castle School, Letter from headmaster, 28 February 1986, at MER-000000291, p.4.

> staff of Merchiston. Whatever the rights and wrongs of the situation may have been, I as a Headmaster have an overriding duty to my parents and pupils. I gave you the opportunity to give your side of events as soon as we returned from our tour of the College. I told you that I had spoken to Mr Spawforth and then pointedly asked you to explain your reasons for leaving Merchiston and applying for Stortford. That you did not mention the full circumstances of your leaving was unwise and did not give me much option though I decided to let you continue with the interview rather than conclude things at that point in order to see how things developed.
>
> I am sad to have to tell you all this. I can only advise, in your own interests, that you level with the Headmaster who next interviews you. He is bound to enquire of the circumstances as he is bound to be told the outlines by your previous Headmaster – not easy for him either … I hope you will accept this letter – however disappointing and even hard it may sound – in the spirit in which I write it. I shall tell my staff you have withdrawn your application.[748]

'Antoine' accepted that advice, shed the Merchiston mentality of silence, and was entirely candid at interview at Bloxham. He secured a teaching position and remained there until retirement. He was again candid in relation to being prosecuted for public indecency in 2015,[749] and whilst the details were properly shared with the Disclosure and Barring Service in England, that did not impact his position.[750] He described the approach of the head at Bishop's Stortford College as:

> Very good advice. I mean, I'd previously written back to the headmaster of Bishop's Stortford expressing my horror at the way it had worked out and I said that I had absolutely nothing to hide and the reason I had not gone into the details of why I'd left Merchiston was on the advice of Mr Spawforth.[751]

David Spawforth remained resistant to sharing the full facts and wrote to Bloxham, saying:

> I am pleased that you are considering 'Antoine' for a post at Bloxham after I had given you over the telephone a factual account of the reasons for his leaving Merchiston. In support of ['Antoine's'] application I am enclosing a report which refers to an incident (the details of which you know). I would not, though, be happy to provide a written report of that incident which would be seen by eyes other than yours: I am sure you will agree this is right and I hope it in no way prejudices ['Antoine's'] application. He is a very good French teacher.[752]

It was, however, wrong. It did not consider the wider interests and protection of children, and, as can be seen from the appropriate approach of English schools, was entirely outdated and reflective of a practice that should never have been seen as acceptable.

'Robert'

There was a complete failure to adhere to a proper recruitment process when 'Robert' was appointed in 2001. He was an

748 Merchiston Castle School, Letter from headmaster of Bishop's Stortford College, 1 February 1986, at MER-000000291, pp.10–11.

749 See Sexual abuse chapter.

750 Disclosure and Barring Service, Final decision letter, 19 January 2018, at WIT-3-000000554.

751 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.104.

752 Transcript, day 266: 'Antoine' (former teacher, 1976–85), at TRN-8-000000062, p.105.

Oxbridge graduate who received a letter from a senior teacher at Merchiston inviting him to apply for a teaching post whilst still an undergraduate.[753] He had no teaching qualifications, nor did he have any teaching experience. He was known to the school through connections between Merchiston staff and the university. Two days after sending his CV he was invited for interview. About two weeks later, Andrew Hunter phoned and offered him the job, despite the fact he was still only 20 and had yet to graduate. 'Robert' remembered that during the course of the call the offer expanded. For the first time, a role in a boarding house in addition to the teaching role was raised. It was a casual mention:

> 'Maybe we could look at providing you with accommodation as well, which would mean this', and it just kind of spiralled as we went on with more and more information about what would be required or asked/being given in this one phone call … I remember across this call, as more and more details came in of what it was requiring, this growing sense of panic in me, and I was just about to ask for time to think about it when he said: 'I know this is a big decision and you'll need time to think about it', and I remember the relief at that point and going: 'Thank you so much, when would you like me to let you know by?' And he said: '4 pm'.[754]

Andrew Hunter acknowledged that they were concerned about how close in age 'Robert' was to senior pupils.[755] Yet obvious risks were not adequately considered, including that 'Robert', who had no formal training, would be teaching classes of 18 year olds and, as a resident tutor, would have to supervise and care for a houseful of 13 to 14 year olds. Andrew Hunter accepted that criticism and agreed that Merchiston was thinking about what immediately suited Merchiston rather than what may, in hindsight, have been better for pupils or, indeed, 'Robert'. He said: 'One can see that he should never have been offered the option of working in a house, simply because of his tender age.'[756]

Merchiston was thinking about what immediately suited Merchiston.

In fact, the potentially adverse consequences entailed in taking these risks did not materialise, but that is not the point. Some concerns arose after 'Robert' left the school, when a governor made a complaint about his sexuality, in a remarkable example of how not to conduct himself in such circumstances. The governor's behaviour was out of order. Initially, he demanded that 'Robert's' housemaster come to speak to him.[757] As Andrew Hunter said, their procedures were 'way, way below the acceptable' and the governor, who was a powerful man, 'should never have had that sway and influence'.[758] He agreed that members of the board cannot go off on frolics of their own. But the man did. Without reference to his fellow board members and without giving thought to whether it was appropriate for him to pursue his own complaint in a way that took

753 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.78.
754 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.82.
755 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.67.
756 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.67–8.
757 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.70.
758 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.68–9.

advantage of his position as a governor, he did just that. And Merchiston's response was weak and wrong. No report was made to any authority and no investigation was carried out. 'Robert' meanwhile remained in complete ignorance of the allegation – later confirmed as wrongly made – as a letter advising him of the complaint was drafted but never sent.[759]

Instead, and in a manner which was to be repeated a decade later with two other teachers in the fallout after James Rainy Brown's death, the leadership response can best be described as misconceived, if not irrational, and driven by panic. 'Robert' was sent conflicting messages by Andrew Hunter, who was already troubled by an online blog 'Robert' had posted but then removed after being asked to do so. He was first told he could not attend a school leavers' ball for his former pupils, was then told to leave the school immediately when it was discovered he was visiting a colleague, and then, finally, was told he must come to a wedding at the school, at which Andrew Hunter made much effort to speak to him.[760] 'Robert' said he was, unsurprisingly, 'bewildered'[761] by this course of events which made no sense until SCAI contacted him in 2021 and revealed the existence of the complaint. Andrew Hunter apologised for the behaviour of the governor and for the school's procedural failings.[762]

'Mike'

Merchiston repeated similar mistakes in 2013 and 2015. 'Mike' joined the school as a student helper and teacher[763] in 1991, when in his early twenties, and remained on temporary contracts until 1994. He spent much time with James Rainy Brown. He admired and learned from him, at a time when Rainy Brown's behaviour was not being managed by the school. In 2009 he returned with his family and took up a full-time post which included housemaster duties at Pringle. He remained friendly with James Rainy Brown and was very upset by his death.[764] Staff inevitably discussed his life and 'Mike' acknowledged to others, including 'Jane' and then Peter Hall, that in the early 1990s he had swum naked with Rainy Brown and boys. He also revealed that after a run with prefects they had showered communally, which 'as a young teacher he had assumed … was the norm'.[765] He said Peter Hall had asked

> if I was aware of any instances when [James Rainy Brown] had swum naked with children and I was honest about what had happened then. I would not do so nowadays – it is a different world. I was not aware this was unacceptable, I was a young trainee teacher and I followed [James Rainy Brown's] lead. I thought this was what went on here; this is the MCS I came into.[766]

'Jane' reported the conversation, after which the matter was formally investigated by the school and thereafter by the police, who did not take matters further. While the reporting and investigation were appropriate, the manner in which the school managed 'Mike' was not. Andrew Hunter summed it up

759 Merchiston Castle School, Draft letter from headmaster, 8 June 2006, at MER-000000295, p.40.
760 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, pp.108–9.
761 Transcript, day 267: 'Robert' (former teacher, 2001–5), at TRN-8-000000061, p.110.
762 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.68–9.
763 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, p.169.
764 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.100.
765 Merchiston Castle School, Email to headmaster, 3 May 2013, at MER-000000293, p.4.
766 Merchiston Castle School, Email to headmaster, 3 May 2013, at MER-000000293, p.4.

candidly. The result had been 'awful'[767] and, having done so little with Rainy Brown, the school's response went too far the other way. 'Mike' was suspended without prejudice and then asked to leave, despite essentially 'self-reporting' and notwithstanding that the school did not consider him any risk to children.[768] While suspended he and his family were put under curfew in their own home, although it is to be noted that Merchiston did resist pressure from the Care Inspectorate to remove him from the campus altogether.

Andrew Hunter described a most unhappy time:

> That period of first of all one member of staff committing suicide, then the suspension without prejudice of another ['Mike'], and then an external report conducted on behalf of the governors checking what the school had done in terms of safeguarding child protection with those two members of staff being conducted, and we made the decision that we had to cease the employment of ['Mike'].
>
> We were also under huge pressure from audiences everywhere. With the suicide of the one member of staff, I had supportive parents … I had those who were the complete opposite, I had distressed pupils, I had very angry alumni, I had distressed alumni.
>
> With the issue of ['Mike'] … we were under pressure from a member of the alumni who lived locally. That member of the alumni felt that Merchiston had not got it right with James Rainy Brown and ['Mike']. [He] is a very able person, a former headteacher, felt that our processes led by John Robertson were not [impartial] …
>
> This member of the alumni – we shouldn't have done it – put us under pressure to suggest that at the very least we would supply a reference that did not have the details in the reference. The 'us' who were put under pressure was my chair and myself. We should still not have done that reference as we did it.[769]

The reference he spoke of was part of a somewhat tortuous compromise agreement used to remove 'Mike'. Despite legal advice that any reference should be simply factual[770] it was felt that a fuller and positive reference should be included, as without it further employment for 'Mike' would prove very difficult. Whilst understandable in the particular circumstances, an entirely frank reference, setting out the full background, including 'Mike's' behaviour in the early 1990s, should have been provided instead. That would have allowed matters to be properly considered by any subsequent school. Instead, Merchiston's response was an example of trying to keep everyone happy whilst being pulled in all directions. That approach cannot work in such circumstances. What is required is openness and transparency so decisions can be made in the full knowledge of all the facts.

The case of 'Mike' is also a good example of the need to resist external pressures and

767 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.78.

768 Merchiston Castle School, Audit trail of meeting, 3 May 2013, at MER-000000293, p.6.

769 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.76–7.

770 Merchiston Castle School, File note, 30 September 2013, at MER-000000293, p.27.

make decisions objectively, having regard only to relevant factors.

'Jane'

'Jane' was to experience similar issues in December 2015 when an inspection by the Care Inspectorate raised concerns about pupils being sent to sit on a bench outside Pringle House as a form of punishment. 'Jane' recalled that she was at restorative training when her

> phone kept ringing or an email kept pinging on my iPad … which, as I was in a training, I ignored … but it became … repetitive, so I checked it and the headmaster was trying to contact me, saying: 'I need to talk to you, please excuse yourself from training and come to my study' … Must have been after 4.30, 4.45-ish … I went … up the stairs to the headmaster's office… [he] asked me to come in and sit down and handed me a letter to read … and my world almost fell apart. … I was being suspended without prejudice and I should leave the campus … with immediate effect pending an investigation … somebody had said something about the bench and the Care Inspectorate had instructed that I had to be suspended pending an investigation.[771]

The suggestion appears to have been that, contrary to the rest of the school, Pringle was failing to use restorative practices and instead was punishing children by having them sit outside on the bench. Investigations, which lasted a week, confirmed this was not the case, and 'Jane' was allowed back to the school.[772] While the bench was used for time out when children needed to calm down, it may be that James Rainy Brown's past use of the bench for punishment and humiliation[773] was picked up on and misunderstood. However, the manner in which 'Jane' and, as a result, the children in Pringle House were treated both by the Care Inspectorate and by the school was heavy-handed and unsatisfactory. 'Jane' was not allowed access to the building, her colleagues, or the children in her care, which was her greatest concern as she was to have been the overnight cover in Pringle that night. An email simply advising of her suspension without prejudice was sent to parents.[774]

Such rigid adherence to policy inevitably reflected the response to criticism Merchiston had experienced in earlier inspections, but it displayed a disappointing lack of balance, first by the Care Inspectorate, and then by school management. The obvious first step for both would have been to communicate properly with 'Jane' and establish what the position actually was before leaping to a conclusion that could only be disruptive and potentially very upsetting for the children at Pringle.

Andrew Hunter was again frank about the impossibility of the position he found himself in:

> It was horrendous. This was one of my co-leaders, I had the highest of respect for her. She was not perfect, none of us are, but she … really galvanised that part of the school. It was on an upwards curve. Dynamic … I felt that I was stuck between two axes, the pastoral and spiritual heart and then this other route, and I could not see my way through.[775]

771 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, pp.109–10.
772 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.114.
773 See, for example, Transcript, day 265: 'Ian' (former pupil, 1986–93), at TRN-8-000000060, p.41.
774 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.115.
775 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.94.

He continued:

> Everything about me in my bones says you do not do what I did do, but I felt that because I had been criticised for being pastoral and spiritual and not adhering enough to standard policies, process, standard operating procedures, that I had to move to that side. And I hated it.[776]

Knowing that, Andrew Hunter should have been firmer, but there was also a case for common sense and balance which seems to have been lost sight of. As 'Jane' herself asked: 'What message were we giving to those young boys by not telling them why I wasn't there or to the parents, not checking that I was okay? Be kind, say thank you, do it the right way. It's actually really, really easy. Life isn't difficult. We make it difficult.'[777] She was right to be concerned.

There was a case for common sense and balance which seems to have been lost sight of.

'Laura' (RCQ)[778]

If 'Mike' and 'Jane' caused Andrew Hunter concern, they were as nothing compared to his experience of 'Laura', which is a further example of staff concerns not being properly addressed. Around September 2011 concerns were first raised by another teacher who felt that the content of a sex education lesson 'Laura' had given to pupils reflected 'an amoral or even immoral attitude to sex'.[779] The topic was the sending of sexual photographs by mobile phone, and it was reported that 'Laura' had spoken in suggestive terms to pupils, had used sexual innuendo, and had engaged in titillation.[780] Andrew Hunter said at the time: 'I will raise with SLT but the challenge then will be to address the matter with the teacher without appearing to spill the beans.'[781] This should not have been a challenge for him, as headmaster, to address, nor should he have felt there was a need to tiptoe around the details, particularly as the Merchiston child protection policy at the time was clear:

> The following principles should be adopted by all staff:
>
> …
>
> (vii) Never make salacious, suggestive or demeaning remarks/gestures
>
> …
>
> Staff interaction with Pupils: Ways in which inappropriate/abusive behaviour may be manifested
>
> Sexual: Inappropriate touching; Suggestive remarks; Suggestive gestures; … Innuendo[782]

Instead of the concerns being properly addressed at the time, shortly thereafter, in 2012, 'Laura' was promoted into the role of deputy child protection coordinator,[783]

776 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.96.
777 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.122.
778 In the case of 'Laura', reference is also made to the cipher (RCQ) used to describe her in Inquiry transcripts.
779 Merchiston Castle School, Email to headmaster, 28 September 2011, at MER-000000290, p.17.
780 Merchiston Castle School, Email to headmaster, 28 September 2011, at MER-000000290, p.17.
781 Merchiston Castle School, Email to headmaster, 28 September 2011, at MER-000000290, p.17.
782 Merchiston Castle School, Child Protection Policy, at MER-000000170, p.14.
783 Merchiston Castle School, Letter from headmaster, at MER-000000290, p.18.

and received a further promotion to child protection coordinator in 2014.[784] It is clear that 'Laura' was able, keen, good at job applications, and impressive at interview, but the appointments perplexed other staff, including Victoria Prini-Garcia who was shocked and thought it a 'bizarre idea that she could be' CPC.[785]

It appears that repeated red flags were missed because of a combination of the school's failure to look for or see a bigger picture allied with a desire to fill posts when resources were not unlimited, and there being an available member of staff who was ambitious. As Peter Hall said: 'We were urgently needing extra support to bring in improvements following an inspection and "Laura" showed an interest in this area and had an aptitude for the technology needed to improve the tracking of pupils and the sharing of information more effectively.'[786]

'Laura' had been the subject of repeated further concerns, which included warnings she had received on several occasions 'with regard to professional dress and appearance'.[787] Some members of staff considered the way she dressed as too suggestive for someone working in a school with teenage boys. Victoria Prini-Garcia said:

> It wasn't her fault that she was rather tall and rather Amazonian looking, but it was her choice to use very tight-fitting clothing and revealing clothing … I thought in my genuineness … that she wanted to attract other male members of staff … and I remember going to speak to her and saying: 'Please, you have to tone it down.'[788]

It also appears that there was a fear of a counter-complaint of sexism being made if the matter was pressed. Victoria Prini-Garcia spoke to 'Laura's' head of department, who said:

> 'Sorry, I'm going to be accused of sexism, I'm not going there … I understand what you're saying, I agree with you, but I'm not touching it, I just … don't wish to burn myself with that one.' So I decided to do it myself, and I went to speak to her and I said: 'Look', you know, and she gave me the big tears and: 'This is me, I have to be myself, if I'm not myself, what is the point?'[789]

Victoria Prini-Garcia added:

> On paper, she's a very able, very talented, very articulate lady who can – who's very intelligent, so she can absorb documentations very easily, and in fact, as far as I understand it, when we had all the investigation that you mentioned after the suicide of JRB, the investigating team was quite impressed with her.[790]

'Jane' thought 'Laura's' dress sense was 'bright, gregarious, exposing, not in keeping with working in an environment with – with anyone, actually. It was more of a sort of what you might wear maybe going out … Not professional. Not to my mind, no.'[791] She continued: 'You're a teacher, you're in a classroom leaning over desks. You need to be dressed in such a way that you're

784 File audit, at MER-000000290, p.1.
785 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.63.
786 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.166.
787 Merchiston Castle School, Correspondence from headmaster, 2015, at MER-000000290, pp.21, 24, and 42.
788 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.62.
789 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, pp.61–2.
790 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.63.
791 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, pp.102.

not causing concern to people around you or distraction … Any young boy in a lesson would be distracted. I was distracted in meetings.'[792]

It appears that these concerns were raised and she was spoken to about them, but nothing changed.[793]

More worrying still was a report made 'in the academic year 2009/10 that ["Laura"] had not been appropriately dressed when she was entertaining boys in her flat … until the late hour of 1 am'.[794] No notes of the report were retained in 'Laura's' personnel file. That, in common with her behaviour in 2015 when she invited senior pupils to use her accommodation as a means of exiting and entering the school, was contrary to explicit school policy about the use of staff accommodation.

Concerns about her behaviour continued to be reported by staff members. For example, in 2015 a complaint was made that she allowed her class to watch 18-certificate films such as *The Wolf of Wall Street*[795] and the stand-up performance *Kevin Bridges Live* which contained sexual swearing.[796] It was also discovered that she had befriended current pupils on social media platforms following her departure from Merchiston.[797]

What is most alarming, other than her abusive behaviour itself, is the fact that throughout 'Laura's' career at Merchiston, and notwithstanding all that could have been said, Andrew Hunter made no proper mention of the school's concerns when he repeatedly provided enthusiastic written references to other schools from January 2014 onwards.[798] In one, for example, he wrote: 'She has an excellent rapport with the boys and she manages her relationship with them in a wholly professional manner, whilst still being approachable to them when they need support.'[799] In another, while there was no mention of 'Laura' showing 18-certificate films, the fact that she had needed advice about professional dress and appearance on several occasions did feature, although in a low-key manner, and the reference concluded: 'I support [the] application without reservation.'[800]

In evidence, Andrew Hunter accepted he had made mistakes. In his statement he said: 'With hindsight, we believed we had possibly missed a potential sign of attracting interest from pupils and potentially grooming them. Her way of dressing her upper body revealed far too much and was wholly inappropriate in a school setting.'[801] He rightly agreed that there had to be absolute clarity and honesty in references and said: 'If you do

792 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, pp.102–3.
793 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.102.
794 Merchiston Castle School, Letter from headmaster, at MER-000000290, p.42.
795 Merchiston Castle School, Email to Peter Hall, at MER-000000290, p.32.
796 Merchiston Castle School, Email to Peter Hall, at MER-000000290, p.33.
797 Merchiston Castle School, Email to Peter Hall, at MER-000000290, p.34.
798 Merchiston Castle School, References from headmaster, at MER-000000290, pp.22, 61, and 66.
799 Merchiston Castle School, Reference from headmaster, at MER-000000290, p.70.
800 Merchiston Castle School, Reference from headmaster, at MER-000000290, p.24.
801 Written statement of Andrew Hunter (former headmaster, 1988–2018), at WIT-1-000000517, p.85, paragraph 258.

give them the full information, they are more informed at interview. They can do a risk assessment.'[802] However, he also agreed that he did not do this with 'Laura' and that 'a member of staff can never have a new start without all the information being divulged'.[803] That was unsurprising given that in an internal file audit document he wrote: 'On reflection we acknowledge that we should have put a number of these file issues into a more disciplinary process.'[804]

Andrew Hunter was the headmaster who formalised policy and procedures at Merchiston but never adequately ensured that they were adhered to. He either tried too hard to be fair to everyone or lurched to extremes having been stung by previous experiences, as demonstrated by his varied approaches in the treatment of 'Mike', 'Jane', and then 'Laura'. I do not underestimate the very significant pressures under which he was operating, especially in the fallout after James Rainy Brown's death, but his experience emphasises the need for systems of staff oversight to work properly and to be considered objectively and calmly. I can understand why Andrew Hunter said: 'You can imagine with the staffing issue of ["Laura"], that I felt that whatever I thought about systems in place, in that instance they didn't seem to work. And that completely rocked my confidence in what we were doing. I think it rocked everyone's confidence.'[805] Ultimately, though, because systems were not followed, the needs of the school were put before the need for child protection; sometimes a head simply has to be firm.

Certainly, while Andrew Hunter had many strengths, the impression given by his colleagues is that he was simply not decisive enough and that had harmful impact.

Improvements in recruitment

Recruitment practices at Merchiston were, for decades, a mix of the formal and informal. While documents provided to SCAI suggest that formal processes were followed for headmaster appointments,[806] that was not always the approach with other roles, including teachers, well into the 2000s. As Iain Lamb observed:

> One of the things that surprised me when I started inspecting boarding schools was that people would just turn up and get a job in the school without any checks having been done or references being asked for. Also, that you could teach in a Scottish boarding school without being a qualified teacher.[807]

Examples include the recruitment of a cricket coach[808] and the recruitment of Victoria Prini-Garcia who accepted her 'appointment was extremely ad hoc … I didn't apply for anything, I received a call and I was told: "Would you like to come to work for us?"'.[809] 'Robert's' appointment, described earlier in this chapter, is another such example.

802 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.91.
803 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.88.
804 Merchiston Castle School, Internal file audit, 2 November 2015, at SGV-000064717, p.5.
805 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.51.
806 See Merchiston Castle School, Minutes of meeting of executive committee, 26 May 1936, at MER-000000297, p.24, regarding the appointment of Herbert Evans.
807 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.39.
808 Merchiston Castle School, Letter from headmaster, 9 February 1982, at MER-000000298, p.66.
809 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.13.

It is clear that the approach to staff employment steadily improved, and a report from 2014 confirmed that:

> Recruitment procedures have been enhanced to ensure more rigour. After appointment, mentoring is carried out by line management and Senior Management when on probationary period. Professional Review now includes references to any concerns and complaints as well as praise. There is an 'in post' policy to move people on in their career in the school and not allow individuals to retain the same post over long when holding pastoral responsibilities.[810]

However, it is striking that staff in earlier periods thought recruitment was rigorous when, in fact, as inspection and experience demonstrated, that was not always the case at all. For example, Peter Hall said:

> I had a very good knowledge of recruitment policy and practices and, from 1999, as a member of the SLT, helped in the strategic development of policy and practice in this area … [including] the need to incorporate national guidance and learn from best practice in other schools. At least two written references were sought from referees. There was a questionnaire the referee was required to complete, covering a wide range of issues from professional competence and experience in the classroom, to any disciplinary issues and, above all, any child protection issues. All interviewees met with a panel of pupils from about 2005 onwards and their views fed into the decision-making process. Governors were increasingly involved in the interviewing of senior staff from about 2010 onwards.[811]

Stephen Campbell said that after 2007:

> The school took both written and verbal references for each candidate for new roles. When I was head of department, I was responsible for verbal academic references from referees … As far as I am aware, all referees were actually spoken to … There were a variety of panels which candidates were interviewed by during the recruitment process … It was a tough process for candidates. Each candidate would have four or five interviews covering all the areas that each panel was assigned to cover.[812]

However, recruitment was not always rigorous and provoked a great deal of concern in multiple inspections from 2014 onwards. An obvious flaw was the lack of skilled human resources support, and it was only in 2013 that finances were found to fund it. Prior to that, it had fallen to the best efforts of the headmaster's PA, using guidance from SCIS, to look after such matters.

Andrew Hunter described how the process improved:

> I and others always endeavoured to speak to the referees as well before the interview. I believe this happened the majority of the time from 1998 onwards and often we also phoned somebody whom we might know from the candidate's past employment record who was not named as a referee. We felt this gave the referee the chance to say something that he or she might not wish to put in writing. In time, once we had established an HR function, verification phone calls happened to the referees on the written reference after the actual interviews.[813]

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810 Merchiston Castle School, Report on Child Protection Policies and Procedures, August 2014, at MER-000000346, p.20.

811 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.142.

812 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, p.123.

813 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.89.

Merchiston now properly understands the concept of child protection being the paramount consideration.

He added:

> Any gaps in the CV were always explored by asking prospective members of staff to explain [them] … In time, we also developed a declaration form which had to be signed by prospective employees indicating whether they had been the subject of any disciplinary offences or safeguarding and child protection issues. I cannot remember the date when the declaration form was devised. We did this as part of good working practice as instructed by regulators.[814]

He agreed that it was unsatisfactory to leave things open to chance, with the possible employment of an unsuitable candidate simply because of reticence on the part of a referee or an interviewer. When asked how to stop that happening, his response demonstrated that he now understands the critical importance of candour: 'Systems. The tick-box form. And absolute clarity and absolute honesty.'[815]

He continued:

> I think that for whatever reason, it's been hard for heads to develop a skill that I would call 'critical candour' or 'courageous authenticity' … Sometimes I don't think it's in our nature, that's why we have to learn that that comes first, the critical candour and the courageous authenticity.[816]

Currently the process is as confirmed by Jonathan Anderson, with reference to Merchiston's section 21 responses:

> The school maintains a separate register of child protection issues so that the headmaster can ensure that any reference written will divulge any relevant information in this area.
>
> The revised disciplinary process and draft 'Allegations against Staff' policy both also highlight to staff what sort of information will be included in future references including: 'Any record relating to a breach of Child Wellbeing and Protection Policy and Guidance will be retained indefinitely.'[817]

He confirmed that 'any record' meant even minor child protection concerns would be shared, but

> put in the context of the training and the work that has been done to address any issues that were there. Particularly if the member of staff has continued in the school's employment, employers will want to understand how and why that happened and how that could happen. So they would want to be satisfied that there was a correct process followed. So it is about honesty, but also about putting any concerns that you have in the context so that you are being fair to everybody.[818]

814 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.57.
815 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.90.
816 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.93.
817 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.47–8.
818 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.49.

He also explained that if a settlement agreement was used in relation to making a member of staff redundant, if there was any concern around child protection then Merchiston would not accept any restriction on what they could say about the employee.[819]

These are descriptions of an approach that indicates that Merchiston now properly understands the concept of child protection being the paramount consideration.

Improvements in references

As has been seen throughout this case study, both the giving of references and responding to requests for them have been problematic for all the boarding schools involved. The main difficulties have stemmed from a desire to be loyal to a member of staff, the fear that 'if you're open and honest, they would never get the job',[820] and that 'as a head, you do walk a difficult line between your child protection obligations, which absolutely come first, but there is employment legislation as well which means sometimes you have got to be very, very careful about what is put into a reference'.[821]

Andrew Hunter described how the process developed at Merchiston:

> We sought written references wherever possible before interview. The referee was asked about and expected to cover suitability to work in a boarding school, academic qualifications, teaching qualifications if applicable, interests outside the classroom, and the character and personality of the applicant. In time, I seem to remember 2013 onwards, presumably with the inception of the HR staff, I specifically asked the referee a question which I was told was potentially not correct in terms of employment law but the question was 'could you tell me if there is any reason, please, as to why this prospective member of staff would wish to work in a boys' school and seek refuge in a boys' school?'[822]

'Why would this prospective member of staff wish to work in a boys' school and seek refuge in a boys' school?'

When asked why, he replied: 'My sixth sense and my nano moments were just saying to me I feel that I need to ask this question.'[823]

He came to accept, albeit late in the day given the issues with 'Laura' (RCQ), that heads have to be candid and open in references: 'In an ideal world, yes, they are, they are, scrupulously honest. I think there have been developments, there has been a huge improvement in that area, there needed to be an improvement. I also needed to improve in some instances.'[824] That was echoed by Jonathan Anderson, who said:

> Anything regarding child protection should go into a reference … the best place is to be open and to be frank and to be honest with anybody who you are providing a reference to, and sometimes that means picking up the phone

819 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.50–1.
820 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.90.
821 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.43
822 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.59–60.
823 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.60.
824 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, p.75.

> and having a further conversation with that person … any issue that involves significant or serious breaches of child protection must be referred to in references, and if there have been occasions where that has not happened that is not good enough.[825]

He described his own learning experience and acknowledged that in the past Merchiston's approach to giving references had not been perfect. He then went on to explain that, given the range of child protection issues, heads sometimes

> walk a difficult line between … child protection obligations, which absolutely come first, but … you might have a member of staff who feels that an issue has been dealt with in the past and has been addressed and there is no need to refer to it, because they will perceive that as having a negative impact on their future employment prospects … I could probably refer to an incident at my time in the school.[826]

He did so after the Merchiston hearings had concluded, providing details of an event early in his tenure. A member of staff, in respect of whom there were no disciplinary concerns, became unable to continue residential duties for medical reasons. Children would have been put at risk by him doing so. In subsequent positive references for day teaching jobs elsewhere no mention was made of the medical issue. However, in a similarly positive reference for the post of boarding housemaster at another school, the matter was only referred to in the written reference as having been discussed in a phone conversation between the two headmasters. It was stated that Merchiston did not feel it would prevent the teacher from carrying out the role he had applied for, yet it was a role for which he was not obviously suited because there would be risks to children.

While one can understand the tensions at play, neither approach was satisfactory. To put the interests of children first, all of the references should have openly mentioned the matter, including the risk to children that the teacher's medical condition might pose, in order to allow future employers to understand and properly assess for themselves whether they considered that any potential child protection issue might exist. The failure to keep a record of the telephone call was also unsatisfactory, and increased the danger of an important matter simply disappearing from view. As the experience of 'Antoine' in the 1980s shows, candour from a good teacher does not prevent the candidate being successful in a job application. Jonathan Anderson explained the importance of transparency:

> When we have somebody coming to us we like to verify references over the phone, and at least one of the references. Members of staff leaving us, it is not always the case. Occasionally heads will contact you. And it depends sometimes on the post; if it is a pastoral post, more often than not they will pick up – and I have seen a trend in recent years of heads going back more than one employer … I … have taken that advice forward, so the next time we make a pastoral appointment I will be doing something similar.[827]

The process at Merchiston is now formalised and features the following points:

825 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.43-4.
826 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.43-4.
827 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.44–5.

- Our reference requests now include questions on any instances of a member of staff being involved in any child protection investigation and we confirm this in our telephone verification of the reference.
- References are taken up before interview so that any 'issues' can be fully discussed during the interview if necessary.
- Self-declaration form must be completed as part of the application process and any 'issues' can be discussed at interview if necessary.
- Additional questions added to reference requests try and understand if the employee has left previous role as part of a settlement agreement.
- Telephone verification of the detailed reference to check the identity, explore the responses to disciplinary issues and ask question of suitability to work in a boys' boarding school. Telephone verification of any reference also takes place even when the detailed reference is not received.[828]

As for references for teachers who are moving on, 'The school maintains a separate register of child protection issues so that the headmaster can ensure that any reference written will divulge any relevant information in this area.' Jonathan Anderson agreed that 'anything regarding child protection should go into a reference … So the best place is to be open and to be frank and to be honest with anybody who you are providing a reference to, and sometimes that means picking up the phone and having a further conversation with that person'.[829]

Conclusions about staff management, recruitment, and references

Merchiston, it appears, is now in a better place, with processes that are clear, understood, and followed, although it has to be recognised that it has taken them a long time to achieve that. As Jonathan Anderson acknowledged: 'We feel that honesty has always been the best policy, and I think parents will respect the fact that we have been open, we have been candid, and that we know our school.'[830]

A recent and positive development is that, in June 2017 the school adopted an Allegations of Abuse against Members of Staff and Volunteers policy. That included a commitment to learning lessons. It provided that:

> If an allegation is substantiated, the School Leadership Team and Governors will review aspects of the case to learn from decisions made and how they were acted upon. This will include whether there are features of the organisation that may have contributed to, or failed to prevent, abuse occurring. Merchiston has a continued commitment to review recruitment policies and the measures in place to ensure ongoing vigilance. In some cases a Case Review may be appropriate – this is where the case is reviewed to consider whether there are any lessons to be learnt and actions to be taken that should be shared more widely, so as to improve practice.[831]

That displays a growth mindset, as is required in all schools.

828 Merchiston Castle School, Appendices to Part C response to section 21 notice, at MER.001.001.0117, p.2, and Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.44–6.

829 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, pp.43–4.

830 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.20.

831 Merchiston Castle School, Allegations of Abuse against Members of Staff and Volunteers, Procedure for all Staff and Governors, at MER-000000353, p.12.

10 Records

Merchiston Castle School: records available

Merchiston does not have a comprehensive archive of policies and procedures, nor one of teaching staff or pupil records. There are no detailed records of domestic and catering staff between 1930 and 1983.[832] The school has not retained copies of the contracts it established with parents or guardians for most of the period under consideration, and there is no detailed archive of school prospectuses.[833]

Record-keeping and retention improved significantly from the late 1990s onwards.

Staff

Only 10 staff files exist for the period 1930–70,[834] but files were provided for teachers thereafter, a number of which were voluminous. For example, the staff file for James Rainy Brown ran to hundreds of pages. Some records were kept in the school's register, such as information about teaching staff in the period up to 2007–8.

More detailed records on domestic, catering, and medical staff, and housemothers, are available for the period after 2008.[835] There are records of staff training from 2000 onwards[836] and staff Professional Review and Development records are held from 2006 onwards.[837]

Pupils

In the main, the school does not hold records on the backgrounds of pupils or their experiences at the school for any periods prior to 2002. From 2002 more detailed pupil records are available,[838] and pupil files are now retained once pupils leave school.[839]

Rules

It is unclear when the first School Rules were issued. It appears that rules for the session 1853–4 provided instruction on the boys' daily routines and expected conduct and punishments, although it is not stipulated how boys would be punished or by whom.[840] School Rules for the years 1937[841] and 1982[842] have been made available. The

832 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.52.
833 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.10.
834 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.52.
835 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.54.
836 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.48.
837 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.49.
838 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.37.
839 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.12.
840 David Murray, *Merchiston Castle School: 1855–58*. Glasgow: James Maclehose and Sons (1915).
841 Merchiston Castle School, School Rules, 1937, at MER-000000087.
842 Merchiston Castle School, School Rules, 1982, at MER-000000086.

former include guidelines on dress code for pupils and the 'leave-out' policy.[843]

Policies

Merchiston does not have a reliable or complete record of its policies prior to the 1990s.[844] An early example is the 1936 Pupils' Charter and School Guidelines which 'were shared with the whole community and with parents. They were designed to keep pupils safe and underpinned the school's ethos, laying down very clear boundaries and expectations.'[845] Others are referenced in inspection reports, for example, the Scottish Education Department inspection of June 1984[846] which states: 'Policies with regard to teaching and learning programmes were variously expressed and documented, but seldom in any detail or in a form which made specific reference to learning objective, teaching methods or the assessment of pupil performance.'[847] Despite this, the school asserts that 'school policies and guidelines reflected the national legislation' and 'the School gave effect to any relevant policy/guidance'.[848] Furthermore, the school said staff files 'hold records of any breach of policy'.[849] That may demonstrate that staff were held accountable if they failed to comply with these policies.

Prior to 1998 policies were compiled by the headmaster and, from 1994 to 1999/2000, were largely set out in a Staff Handbook.[850] By 1996 HM Inspectors noted that a 'good range of policies were in place'. A supplement[851] to the Staff Handbook[852] provided some useful guidelines on the welfare and protection of pupils[853] and was described by the inspector as 'commendable'.

After Andrew Hunter took up his appointment as headmaster in 1998, considerable formalisation of both policies and procedures occurred. Their compilation 'involved senior delegated members of staff, such as Deputies and the Bursar'.[854] Inspections encouraged further development and reassurance. HM Inspectors in May 2000 said: 'Overall arrangements for care and welfare in the school were good. The clear child protection policy had been supported by good staff development and procedures were well understood. The school also had good procedures for dealing with incidents relating to pupils' health and safety, including incidents of bullying.'[855] The report of

843 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, pp.18 and 29. The leave-out policy 'sets out the permissions needed by the School where a parent wishes to invite out one or more of the boarding pupils, to ensure the school fulfils its legal duty of care for the pupil during the School term time'. Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.32.

844 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, pp.1, 24–5, and 41.

845 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.22.

846 Scottish Education Department, Report, Merchiston Castle School, 1984, at MER-000000141.

847 Scottish Education Department, Report, Merchiston Castle School, 1984, at MER-000000141, pp.1–10.

848 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, pp.4 and 6.

849 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.27.

850 Merchiston Castle School, Staff Handbook, September 1994, at MER-000000150.

851 Merchiston Castle School, Supplement to Staff Handbook, October 1995, at MER-000000085.

852 Merchiston Castle School, Staff Handbook, September 1994, at MER-000000150.

853 Scottish Office, Education and Industry Department, Letter to Merchiston Castle School, Summary of the outcomes of the HM inspection in March 1996, 10 June 1996, at SGV-000011786, p.7.

854 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.40.

855 HMIs, Inspection of Standards and Quality in Merchiston Castle School, 16 May 2000, at MER-000000179, p.23.

17 June 2003 demonstrated the wide range of available material:

> Each house had produced an anti-bullying charter which gave clear guidance to pupils. Teaching and non-teaching staff were familiar with the child protection policy and were confident in implementing child protection procedures. Prefects had received training in child protection issues to prepare them for contributing to the pastoral care of boarders … Helpful house handbooks provided clear, consistent guidance about boarding schools and school rules … Support for new boarders was very good. Each house provided a comprehensive induction pack and pupils received clear guidance about how they could access help and advice within and outwith the school … The school had developed and implemented very effective policies and procedures for the care and welfare of residential pupils … All residential staff had had their work reviewed under the school's scheme for staff review and development.[856]

Similar views can be seen in a joint report dated 25 October 2005.[857]

Since the early 2000s school policies have been disseminated to all pupils, parents, staff, and governors in a booklet entitled 'School Policies and Guidelines'. This booklet is regularly reviewed, and changes can be tracked through each new edition. Copies of the booklets have been retained by the school.[858] Peter Hall recalled that 'there was a major review and rewriting of policy in 2015, accompanied by intense INSET for staff and training sessions for pupils. Further updates followed: Edinburgh and Lothian updated child protection procedures in the autumn 2015.'[859] The school said it redrafted its key policies in 2016 'with the focus on establishing a more strategic overview which connects all policies and reflect the key drive to ensure an atmosphere of dignity and respect in all areas of the pupils' lives'.[860]

Since 2005 school policies and procedures have been held electronically.[861] The School Policies and Guidelines booklet is now available on ParentNet, the school's intranet for pupils, parents, and staff. Each boarding house also has its own published House Handbook, Code of Conduct, and House Values.

Prior to 2014 there are no records of specific policies in relation to volunteers at the school. During the tenure of Andrew Hunter an unwritten policy evolved which took into account guidance provided to the school to ensure that safeguarding processes, such as PVG (Protecting Vulnerable Groups), were undertaken for all volunteers.[862] Since 2014 the school's policy has been held in an 'electronic folder within HR'.[863]

Retention of records

Retention of school records was not regulated until the early 2000s. The Pupils' Educational Records (Scotland) Regulations 2003 gives parents the right to see their

856 HMIe, Inspection of the Care and Welfare of Residential Pupils, Merchiston Castle School, Edinburgh, 17 June 2003, at SGV-000007417.

857 HMIe and Care Commission, Joint Inspection of Merchiston Castle School, 25 October 2005, at MER-000000133.

858 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.41.

859 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.151.

860 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.112.

861 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.11.

862 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.60.

863 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.61.

child's educational record and requires that educational records 'shall be preserved by the responsible body for a period of five years following the pupil having ceased receiving school education'.[864] Educational records are defined as records of information that:

> (a) are processed by or on behalf of the responsible body;
>
> (b) relate to any person who is or has been a pupil at the school;
>
> (c) relate to the school education of that person; and
>
> (d) originated from or was supplied by any of the persons specified in paragraph (2).[865]

Persons specified in paragraph (2) are teachers, other school staff, the pupil, and his or her parent. There are no similar regulations governing the retention of child protection records in schools. However, in 2011 SCIS informed its members that: 'The Scottish Child Law Centre has advised that child protection records should be kept until the 26th birthday of the individual concerned in line with NHS guidance.'[866] In 2014 SCIS considered how long records relating to allegations against staff should be kept. After reviewing guidance issued by the Scottish Council on Archives and its equivalent in England on the retention of documents, the Information and Records Management Society, SCIS concluded that, where justified, schools should keep staff records 'until the person's normal retirement age, or 10 years from the date of the allegation whichever is the longer'.[867] Retention of staff records until normal retirement age may not be sufficient given the number of investigations of allegations of abuse by staff and prosecutions of staff in recent years taking place long after the retirement of the alleged abuser.

Record-keeping systems

Merchiston believes that teachers and housemasters produced written reports on each pupil for parents and guardians from 1930 to 1969. From 1969 termly reports were produced. David Spawforth introduced half-termly report cards that covered more than just academic performance.[868]

The 1996 HMIe inspection report notes that pupils' academic and medical records were well organised[869] and that 'good records were kept of communications with parents, disciplinary actions, accidents, and other incidents'.[870] A reasonable conclusion is that records were maintained and that a system of record-keeping was in place. David Spawforth's evidence supports this, and he said of record-keeping generally:

> Detailed records were kept. The housemasters kept a file on every boy. This was comprehensive and included home details,

864 The Pupils' Educational Records (Scotland) Regulations, 2003, reg.4.

865 The Pupils' Educational Records (Scotland) Regulations, 2003, reg.3.

866 SCIS, *Child Protection Guidance* (October 2011), quoted in SCIS, *Retention of Child Protection Records in Schools* (December 2013, revised October 2014), at LOR-000000112, p.1.

867 The Information and Records Management Society, *Toolkit for Schools*, quoted in SCIS, *Retention of Child Protection Records in Schools* (December 2013, revised October 2014), at LOR-000000112, p.2.

868 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.40.

869 Scottish Office, Education and Industry Department, Letter to Merchiston Castle School, Summary of the outcomes of the HM inspection in March 1996, 10 June 1996, at SGV-000011786, p.10.

870 Scottish Office, Education and Industry Department, Letter to Merchiston Castle School, Summary of the outcomes of the HM inspection in March 1996, 10 June 1996, at SGV-000011786, p.8.

> academic information, including four weekly report cards, interests, achievements, health issues, disciplinary matters, and dealings with parents, etc. Heads of department and staff within departments kept records of performance, results, and pupil confidence. The head kept a file on each pupil from entry to the end of school career. This included end of term reports, involvement and dealings with parents, any confidential matter, any complaint or concern, achievements, serious disciplinary issues, CV and applications to university, etc. The head also kept a file on each teacher. I did not have an official handover from my predecessor. Both sets of files were kept intact, on depart either of boy or teacher, for a minimum of five years and stored so that reference could be made on any point, mainly to provide references. Staff and boys' files were generally comprehensive. After five years the files were reduced to key details and stored.[871]

The HMI report of 17 June 2003 also confirms that: 'Staff kept good records of any incidents, including incidents of bullying, and records were readily accessible to appropriate staff. There was very effective liaison, both formal and informal, amongst staff to ensure that relevant information was shared.'[872]

As with policies, record-keeping has been formalised at Merchiston. Currently, each pupil has a Child's Plan prepared in consultation with parents. Information on pupils is shared with staff through a secure management information system (MIS), and in it there is a child protection wellbeing module that the school helped refine with the software company that built the MIS. Jonathan Anderson said that this 'allows colleagues to record any wellbeing concerns that they have. Those are then flagged by housemasters and by the pupil support leadership team and addressed accordingly.'[873]

The MIS is kept under review, and the school takes account of inspection feedback in the review of its systems. In October 2015 Education Scotland inspectors were told by pupils that sanctions issued by prefects and staff 'such as "blue papers" and "sides" were not routinely recorded within the school's overall summary of sanctions'.[874] The report continued: 'While the school records the number of incidents of bullying and racism harassment, the senior leadership team recognise that a more strategic approach is required to collecting and scrutinising the data to improve practice and outcomes for children.'[875] From March 2016 there has been improved recording of behaviour management events in the school's MIS. Documents are held on the system and relevant staff receive alerts as well as having access to the associated Child's Plans or Support Plans to best support each pupil.[876] The school keeps records of accidents and incidents, and these are routinely audited by the Health and Safety Executive Committee.

Recording of children's concerns

Prior to 1998 the school did not have a formal system in place for the recording of complaints and the actions taken in response

871 Transcript, day 267: read-in statement of David Spawforth (former headmaster, 1981–98), at TRN-8-000000061, pp.160–1.

872 HMIe, Inspection of the Care and Welfare of Residential Pupils, Merchiston Castle School, Edinburgh, 17 June 2003, at SGV-000007417.

873 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.66.

874 Education Scotland, Record of Inspection Findings: Merchiston Castle School, October–November 2014, at SGV-000064946, p.1.

875 Education Scotland, Record of Inspection Findings: Merchiston Castle School, October–November 2014, at SGV-000064946, p.6.

876 Merchiston Castle School, Letter from headmaster to SCAI, 4 June 2021, at MER-000000349, p.3.

to complaints, and recognised that 'incidents were not always logged in sufficient detail and dealt with in a prompt manner with sufficiently firm decisions'.[877] Notwithstanding this, HM Inspectors concluded in 1996 that 'pupils had good knowledge of the school and boarding house rules, disciplinary procedures, sanctions, and complaints procedures'.[878] Moreover, there is evidence of recording of complaints and outcomes on pupil and/or staff records[879] which again demonstrates that staff appear to have been held accountable if they failed to follow policy and procedure.[880] Since 2011 the school has had a more systematic complaints process that is signed off by the school leadership team and checked by a governor on a regular basis. As an example, minutes of a meeting of the board of governors dated 17 September 2012 record that 'CMA Lugton updated the Board on his review of the school Complaints Log and that whilst all was in order it was important that all paper trails are maintained and that email communications remain professional at all times'.[881]

Currently, any record relating to a breach of the Child Wellbeing and Protection Policy and Guidance will be retained indefinitely.[882] Tracking of staff disciplinary issues has also been improved, and staff files are checked at least once a year by the Chair of the Child Protection and Compliance Committee.[883]

When a member of staff has had an allegation made against them, the outcome determines what record-keeping is required.[884] Records of substantiated child protection allegations of any severity will be kept on file and will always be included in any reference provided.[885] Instances in which an allegation is found to be false, unsubstantiated, unfounded, or malicious will not be included in employment references unless specifically requested on a reference form.

Recollections by pupils

Pupils of all eras recalled that punishments were recorded and that there was formality even with the use of blue papers to the extent that the paper had to be issued by a teacher.[886] A copy of the Rogerson House Beatings Book 1963–7 still exists.[887]

Recollections by staff

'Glenn' agreed that when he started teaching in the mid-1970s matters of discipline were recorded but thought that for other aspects: 'There was far less of it than there should have been, you know, with the value of hindsight.'[888]

877 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, pp.107–9.

878 Scottish Office, Education and Industry Department, Letter to Merchiston Castle School, Summary of the outcomes of the HM inspection in March 1996, 10 June 1996, at SGV-000011786, p.8.

879 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.5.

880 Merchiston Castle School, Part C response to section 21 notice, at MER.001.001.0003, p.27.

881 Merchiston Castle School, Minutes of meeting of Board of Governors, 17 September 2012, at MER-000000014, p.3.

882 Merchiston Castle School, Appendices to Part C response to section 21 notice, at MER.001.001.0117, p.13.

883 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, p.81.

884 Merchiston Castle School, Appendices to Part C response to section 21 notice, at MER.001.001.0117, p.23.

885 Merchiston Castle School, Appendices to Part C response to section 21 notice, at MER.001.001.0117, p.24.

886 Merchiston Castle School, 'Sex, Violence and a Good Education', anonymous author, Appendix to Part D response to section 21 notice, at MER.001.001.0180, p.51, and Transcript, day 262: 'John' (former pupil, 1958–63), at TRN-8-000000057, p.22.

887 Merchiston Castle School, Rogerson House Beatings Book, 1963–7, at MER-000000181.

888 Transcript, day 268: 'Glenn' (former pupil, 1963–8; teacher, 1976–2009), at TRN-8-000000063, p.35.

'Edward' said:

> Each boy on coming into the school had a record card kept by the housemaster and any matters of importance were recorded. This was cumulative and at the end of the year, when the boy passed on to another house, the housemaster would write a brief summary and pass it to the next housemaster.[889]

Stephen Campbell said: 'In my experience as a senior leader, from January 2015 onwards processes surrounding record-keeping were always robust. I am unable to comment fully on what happened before 2015. I know from my experience of working with Andrew Hunter that he was very meticulous in his record-keeping.'[890]

Marion Muetzelfeldt said: 'I interviewed all of the staff members to discuss progress and future plans. Everything was documented and held by the school.'[891] She continued: 'I was responsible for recording the academic progress of each student. My recording was thoroughly inspected by inspectors and was praised. I was not involved in record-keeping about abuse. As with most schools, record-keeping improved over time.'[892]

Peter Hall summarised the evolution of Merchiston's record-keeping including complaints:

> The headmaster kept the formal complaints file, which from around 2000 was scrutinised by a governor, who reported to the educational and pastoral committee. The complaints file was also scrutinised as part of external inspections by Education Scotland and the Care Inspectorate. Post 2000, pupils knew they also had ready access to the Child Protection Coordinator and his or her deputy. Parents and pupils could also complain to the governors and to the Care Inspectorate … There was a difference between formal complaints and more informal concerns. The latter was used regularly by pupils, particularly if they felt unjustly treated. Informal complaints were recorded by housemasters and more formal complaints by the headmaster. The headmaster's complaints file was retained, whereas the housemaster records would not necessarily have been kept after a pupil left. Any concerns raised to the child protection department would have been carefully recorded, acted upon and the records kept … Pupils were encouraged to speak to housemasters, to tutors, a trusted friend, the headmaster or his deputies … It was made very clear to staff that any child protection concern must be passed on to the Child Protection Coordinator, who was responsible for taking advice from external agencies and overseeing appropriate investigation, action, support and referral, and keeping detailed records.[893]

Peter Hall continued:

> I recall policy on record-keeping for staff was documented in the staff handbook. With regards to the historical position as regards record-keeping, from what I saw on the taking up of employment, the records were paper-based and not readily available to all staff. Significant improvements were made with electronic report-keeping from 2015 onwards, making it much easier to share information with colleagues, whilst protecting confidential information. I had access to child protection

889 Transcript, day 265: read-in statement of 'Edward' (former teacher, 1965–78), at TRN-8-000000060, p.92.
890 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, pp.126–7.
891 Transcript, day 268: read-in statement of Marion Muetzelfeldt (former teacher, 1979–2018), at TRN-8-000000063, p.127.
892 Transcript, day 268: read-in statement of Marion Muetzelfeldt (former teacher, 1979–2018), at TRN-8-000000063, p.131.
893 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, pp.148–52.

records as senior deputy head and I felt these were thorough and showed children did report abuse, ill-treatment or inappropriate conduct. There were definite improvements to staff record-keeping post-2013, in particular to help with an overview of any disciplinary issues or concerns about staff. There had been a tendency to deal with staff issues on a case-by-case basis, with details of previous issues buried in a file, making the connection between behaviours over a period of time more challenging. Red flagging of concerning behaviours in files was introduced post-2013, together with the requirement to report staff concerns to the governors' child protection and compliance committee, established in 2016, considerably improved practice in this key area.[894]

Conclusions about records

It is clear that Merchiston is a school that for very many years did have policies and procedures, and kept some records, including details of past disciplinary action. Its practices in relation to these matters has improved considerably over the last quarter of a century, including better records retention, with greater use of digital material as well as an MIS.

Nonetheless, it is striking that despite having, at times, such voluminous records, Merchiston failed to see visible trends which could have alerted them to the risks that certain individuals posed to children. An obvious example is Andrew Hunter's failure to read staff files on taking over as head and in later periods. Given the scale of the task he faced, particularly in 1998, that may not always have been an entirely realistic expectation, but it demonstrates the need to instruct regular audit of such files, as he subsequently learned.[895] Keeping good records is not enough; they must be used properly and with child protection in mind.

894 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, pp.154–5.

895 See, for example, Merchiston Castle School, Internal file audit, 2 November 2015, at SGV-000064717, p.5.

11 Inspections

Introduction

Evidence relating to inspections has played an important part in all of the boarding schools case study, but none more so than in relation to Merchiston. Following the death of James Rainy Brown and subsequent concerns about child protection overall, the school was subjected to repeated inspections with very different results. The impact on Merchiston was profound and shattered the school's belief, supported by a run of highly positive inspection reports, that it had been getting it right and was an exemplar of good practice. Instead, after a negative report, special measures were imposed on the school by the Scottish Government and the Registrar of Independent Schools. Merchiston responded well but the experience revealed serious flaws in both the inspection regime and the school's approach to it. The whole experience provides useful learning.

Inspection of boarding facilities: background and framework

Until Part V of the Education (Scotland) Act 1946 came into force in 1957, there was no statutory control of either the setting up or the running of independent boarding schools by private individuals, organisations, or religious groups.[896] Thereafter, and until 1995, the regulation that did exist afforded the state little oversight of how independent boarding schools operated, or any real power to provide effective protection of children resident there.

While there was no formal requirement to inspect independent schools prior to 1946, archived Scottish Education Department files released to SCAI confirm that inspections of boarding schools were taking place regularly from at least the 1920s. At Merchiston, there are confirmed inspections from 1929 and these continued regularly until 1943 ostensibly under the Secondary Schools (Scotland) Regulations 1923 and in accordance with the provisions of section 19 of the Education (Scotland) Act 1878.

Education (Scotland) Act 1946

The Education (Scotland) Act 1946 introduced a number of significant changes to the inspection of schools generally and, in particular, to the oversight of independent schools. Section 61 of the 1946 Act placed a duty on the Secretary of State for Scotland to arrange for the inspection of every educational establishment.[897] The Secretary of State had discretion as to the frequency and focus of such inspections.

Section 62 of the 1946 Act allowed independent schools to request an

896 Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from Their Parents (November 2017), p.318.

897 Education (Scotland) Act 1946, sections 61 and 62.

inspection, with the cost of the inspection being met by the school. Whilst section 61 theoretically applied to both state and independent schools, in practice it was section 62 of the 1946 Act that applied to independent schools.[898]

Part V of the 1946 Act also required independent schools to register with the newly created Registrar of Independent Schools in Scotland; failure to do so was a criminal offence. However, it was only with the Registration of Independent Schools (Scotland) Regulations 1957 that the relevant provisions came into force. The 1957 Regulations detailed the registration procedure and the information required. Whilst the 1957 Regulations did not establish standards for the care or education of pupils, they bolstered the inspection provisions outlined in Part V of the 1946 Act, by bringing into effect a complaints mechanism. As Professor Kenneth Norrie stated, this

> added teeth to the inspection process that had existed by then for the previous 10 years. Under this mechanism the Secretary of State could specify in a Complaint shortcomings that required to be rectified (having presumably been identified at inspections), in terms of the efficiency and suitability of the education being provided; the suitability of the school premises; the adequacy or suitability of the accommodation provided; the Secretary of State could also conclude that the proprietor of the school or any teacher was not a proper person to be such proprietor or teacher.[899]

The Secretary of State or the Scottish Education Department could strike a school off the register or disqualify a proprietor or teacher. No further details were provided as to the criteria to be applied when considering whether or not to do so.

The 1957 Regulations remained in place until their revocation by the Registration of Independent Schools (Scotland) Regulations 2005, which were in turn replaced by the Registration of Independent Schools (Scotland) Regulations 2006.[900] The 2006 Regulations continue to apply.

Merchiston Castle School has been registered as an independent school since 1958.[901]

Education (Scotland) Acts 1962 and 1980

Section 61 of the 1946 Act was replaced, unaltered, by section 67 of the Education (Scotland) Act 1962, which in turn was replaced by section 66 of the Education (Scotland) Act 1980.[902] Section 62 of the 1946 Act was not repeated in the 1962 Act. This meant that, from 1962, independent schools were no longer able to request an inspection themselves, and – like state schools – were subject to inspection only at the discretion of the Secretary of State for Scotland.

898 NRS ED48/1377, Registration of Independent Schools: General Policy, 1953–1967, Minutes, 6 October 1955, at SGV-000007325, pp.41–2.

899 Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from Their Parents (November 2017), p.319.

900 The Registration of Independent Schools (Scotland) Regulations 2005; The Registration of Independent Schools (Scotland) Regulations 2006.

901 Scottish Education Department, Notice of Merchiston Castle School being registered in the Register of Independent Schools, 15 July 1958, at SGV-000000848, p.34.

902 Education (Scotland) Act 1962, section 67; Education (Scotland) Act 1980, section 66.

The 1980 Act remains in force today, though substantially amended. One significant amendment was made by the Children (Scotland) Act 1995. It altered section 125 of the 1980 Act, making it a duty of local authorities and schools' managers or boards to safeguard and promote the welfare of children and young people whilst resident at a school.[903] It also gave HM Inspectors of Schools (HMIs) the power to inspect a school in order to determine whether pupils' welfare was being adequately safeguarded and promoted. Until 2001 it was the responsibility of HM Inspectorate of Education (HMIe) to inspect the boarding facilities within a school.

Other significant amendments to the 1980 Act were made by the Standards in Scotland's Schools etc. Act 2000 and the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004. The 2000 Act introduced new grounds for refusing registration of a school and new grounds for complaint.[904] The 2004 Act restructured the registration rules found in the 1980 Act, and for the first time included the criteria for the granting of registration.

Inspections at Merchiston Castle School

Inspections of Merchiston's educational provision continued to be carried out by HMIe until 2011, when Education Scotland was formed and took over responsibility for the inspection of schools. Education Scotland first inspected Merchiston in October 2014[905] and its last inspection of the school took place on 15 November 2016.[906] The last HMIe inspection of the school was on 25 October 2005. Its boarding provision was inspected by the Care Inspectorate at the same time.[907]

The Care Commission and the Care Inspectorate

The Regulation of Care (Scotland) Act 2001, section 1, provided for the establishment of the Scottish Commission for the Regulation of Care (the Care Commission).[908] On its establishment in 2002 the Care Commission took over the regulation and inspection of care services, including boarding facilities at independent schools. The first *National Care Standards* were published in 2002.

In 2011 the Care Inspectorate took over the functions of the Care Commission, the Social Work Inspection Agency, and the child protection functions of HMIe. The Care Inspectorate, accordingly, became responsible for the regulation and inspection of residential facilities at boarding schools in Scotland. The *National Care Standards* were replaced by the *Health and Social Care Standards* in 2018.

The Care Commission had, and the Care Inspectorate had and has, the power to make recommendations and to set out requirements. Recommendations are, of their nature, neither mandatory nor enforceable. Requirements, on the other hand, are, when

903 Children (Scotland) Act 1995, section 35; Education (Scotland) Act 1980, section 125A.

904 Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from Their Parents (November 2017), p.323.

905 Education Scotland and Care Inspectorate, Joint Inspection of Merchiston Castle School, October and November 2014, at SGV-000064946.

906 Education Scotland, Inspection of Merchiston Castle School, 15 November 2016, at SGV-000064556.

907 HMIe and Care Commission, Joint Inspection of Merchiston Castle School, 25 October 2005, at MER-000000133.

908 Regulation of Care (Scotland) Act 2001, section 1.

issued, both mandatory and enforceable. The care service provider must make the required improvements within a given timescale. The registration of the service may be cancelled if a requirement is not met within that timescale. The Care Inspectorate can apply to the Sheriff Court for emergency cancellation of a service's registration if it believes that there is a serious and immediate threat to life or wellbeing.

The Care Inspectorate has developed several quality frameworks to apply when evaluating care services. To do so, it has drawn on the *National Care Standards* and, since 2018, the *Health and Social Care Standards*. In 2021 the Care Inspectorate published its quality framework for evaluating boarding schools in Scotland.

Prior to the development of the frameworks referred to above, the Care Commission and the Care Inspectorate applied certain themes and statements in the course of their inspections. For example, in 2005 the inspection team that carried out the first integrated inspection of mainstream school care accommodation services used HMIe quality indicators in *How good is our school?* and the *National Care Standards*. These were: climate and relationships; pastoral care; personal social development; leadership; and self-evaluation.

The process of inspection has evolved and become more specialised, as Iain Lamb, an experienced inspector, explained in his statement:

> The team for the inspection of independent boarding schools was put together and registered with us in 2005. Since then, it has been carried out by a sub-team of inspectors, initially drawn from teams across the country … When we started in 2005 there wasn't any regulation of boarding schools. Education Scotland would do an academic inspection, during which one of their inspectors may have taken a walk around the boarding house, but that was all. There wasn't anybody going in to check on pupil wellbeing. All the inspectors were asked if they wanted to participate in this. People came in and out in the first two or three years … We were organised into geographically based teams back then, so in 2005 I was part of the team in Ayrshire. I volunteered for the boarding school team.[909]
>
> …
>
> There weren't specialist teams for everything. All inspectors had a generic case load, which included lots of childminders, nurseries, some residential children's services, adult care services, care homes for older people … There weren't specific people who had a lot of knowledge of boarding schools within the organisation. It was felt that it would make sense to have one team covering boarding schools rather than having many inspectors from many different teams all over the country. It was also felt that the organisation of boarding school inspections should be coordinated by one team manager, rather than a mix of team managers from the geographically based teams from all over the country. The benefit was to get consistency across the country. There weren't that many boarding schools. It was felt that it made more sense to have the boarding schools, since they were fewer, coordinated by one person and one team … The specialist teams, as we are now, were introduced about five years ago. After the introduction of specialist teams, the inspectors for independent schools have all come from the two teams which inspect services for children

909 Written statement of Iain Lamb (former inspector, Care Commission, 2002–22), at WIT-1-000000364, p.3, paragraphs 15–18.

and young people, and these inspectors have operated as a sub-team, which has met regularly and attended shared training and information sessions.[910]

…

For the last two years we have been meeting annually as a large group of inspectors, together with the head of schools in a meeting organised by SCIS. It is a whole-day meeting where we look at the inspection programme for the coming year and discuss any areas we may be emphasising on and looking at closely. It gives us the opportunity to discuss how the inspections are done and the quality framework we work to, with the relevant heads of boarding in boarding school. The meetings include a bit of training and discussion … It is also an opportunity for issues to be shared and discussed. We learn about what schools are thinking and any changes to the way they operate and also allows us to describe … our inspection process.[911]

…

In the past year we have begun to use a new quality framework which is closely linked to the Health and Social Care Standards. The quality framework for independent schools is available on the Care Inspectorate website. The new quality framework is linked to the Health and Social Care Standards for all different types of services, not just boarding schools. They are very much about the quality of the outcomes of the people who use the services, so in boarding schools that is about the boarders feeling safe, comfortable, receiving warmth and nurture.[912]

…

It was later decided that the frequency would change and schools which had achieved grades of very good for all quality themes and were of a low risk for the safety of service users would be inspected on an unannounced basis once every three years. Those schools which did not achieve those grades would be inspected annually on an unannounced basis. As an organisation, all our inspections of all services are carried out unannounced unless there is a specific reason to provide very short notice of our arrival … All residential services such as boarding schools are inspected on an unannounced basis. It is part of our remit to look at the child protection processes that schools have in place, see examples of how they have carried it out and to give advice on it.[913]

The Care Inspectorate appears to have good intentions regarding frequency, but these are not always achieved.

Inspection records

In its section 21 response, Merchiston stated that the school has been routinely inspected by HMIe and by the Care Inspectorate as well as by their predecessor organisations. Details of inspections carried out by the various bodies are more fully set out in Tables 7–10 in Appendix C. Reports of recent inspections are a matter of public record.

Merchiston's boarding provision has been inspected by the Care Inspectorate on a regular basis, most recently on 1 December 2021.[914] Until late 2014, as can be seen from Appendix C, the inspection reports were

910 Written statement of Iain Lamb (former inspector, Care Commission, 2002–22), at WIT-1-000000364, pp.3–4, paragraphs 20–6.

911 Written statement of Iain Lamb (former inspector, Care Commission, 2002–22), at WIT-1-000000364, pp.5–6, paragraphs 31–2.

912 Written statement of Iain Lamb (former inspector, Care Commission, 2002–22), at WIT-1-000000364, p.6, paragraphs 36–7.

913 Written statement of Iain Lamb (former inspector, Care Commission, 2002–22), at WIT-1-000000364, pp. 8–9, paragraphs 51–3.

914 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 1 December 2021, at CIS-000011050.

essentially positive and praised the school and its leadership.

Inspections following the death of James Rainy Brown in 2013

Merchiston reported the allegations against James Rainy Brown, of which the police had made them aware, to regulatory bodies including the Care Inspectorate. As a result, and despite the school being evaluated in October 2012 as 'excellent' against all quality indicators assessed, the Care Inspectorate decided to carry out a medium-intensity inspection in September 2013 'due to the issues of a child protection nature that the school had faced last term'[915] and because they 'were concerned'.[916] The inspection was unannounced and 'focussed on a review of the School's current safeguarding policies and procedures'.[917]

Once again, Merchiston was evaluated as 'excellent' against all assessed quality indicators, including 'pastoral care and support' and 'management and leadership'. As Peter Hall said, the Care Inspectorate

> focused on child protection arrangements and awarded the school a grade 6, excellent, for the quality indicator relating to child protection and safety. The report noted a review of all child protection arrangements in the autumn of 2012, led by the child protection governor and that improvements had been put in place following this review.[918]

The inspection report noted the following points:

- The School's outstanding pastoral care and support for pupils by staff and by senior pupils.
- The School's high-quality leadership from the Headmaster and the School's Senior Leadership Team.
- The care and support for pupils was exemplary.
- The staff teams, ably led by the School's Senior Leadership Team, provided high-quality care and support for pupils.
- We reviewed the audit that the School had carried out of historical child protection issues. We were satisfied that any lessons learned from this audit will be taken forward by the school in its action plan. The Headmaster confirmed that lessons learned would inform any further amendments to the current robust policies and procedures already in place. We noted that, throughout the child protection concerns, the School had co-operated fully with external agencies, including the Care Inspectorate.
- The School was continuing to review and develop its safeguarding of pupils. The School's child protection policies and procedures were known and understood by staff. Appropriate child protection training was in place for all staff. They understood their responsibilities to report.[919]

Marion Crawford, lead inspector for Merchiston in 2012 and 2013, said that in 2012 she had gone 'over the child protection policies and procedures with a fine-tooth comb and also … all their incidents that had been reported and how they had dealt with them, and so I was confident at that time

915 Care Inspectorate, Inspection report, Merchiston Castle School, 4 September 2013, at CIS-000000089.
916 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.125.
917 Care Inspectorate, Inspection report, Merchiston Castle School, 4 September 2013, at CIS-000000089, p.7.
918 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.153.
919 Care Inspectorate, Inspection report, Merchiston Castle School, 4 September 2013, at CIS-000000089, p.24.

that they were being addressed properly'.[920] However, she also admitted that she was unaware of any incidents involving James Rainy Brown dating back to 1998.[921] She explained:

> The reality is when you go to do an inspection, you're inspecting from the last time an inspector was out until when you go, so you're only looking at documents etc. from the last six months or the last year. And so, you know, something like that, that was historic, wouldn't have necessarily been flagged up to us because it would have been dealt with previously … If it had been shared, yes. It is the big thing, if it had been shared.[922]

Quality of management and leadership was also assessed as 'excellent'. Marion Crawford said that in 2013 she and Iain Lamb

> initially gave … 'very good' … and we had a very long and lengthy discussion with the senior management team during feedback as to whether or not it should be 'excellent'. But I think you have to put it in the context of we were grading what we found on the day, or the days, and also in the last six months – well, since the previous inspection … And that the fact that they didn't deal with things appropriately historically couldn't really come into the grade that we gave at the time for the inspection. There's a phrase in the Care Inspectorate: 'You can't go on a fishing expedition, you have to inspect against what you've said you're going to inspect against'.[923]

Against the conclusion that 'Merchiston Castle School continues to provide a high-quality boarding experience which takes account of individual pupils' development and health needs [and] … is led in an exemplary way'[924] it is easy to understand why staff, governors, and parents found the criticism in subsequent inspections hard to understand. In addition, Merchiston had also tried to ensure that its processes were in order by instructing two separate independent audit reports in 2013 and 2014, given anxieties about the fallout from James Rainy Brown's death and ongoing police inquiries into his alleged behaviour.

The first of these, 'Report on Independent Investigation into Issues in Merchiston CS', dated 17 June 2013, was produced by John Robertson, former rector of Dollar Academy. In it, he reviewed past child protection procedures and noted

> positive moves throughout the 1990s, during the headship of David Spawforth, to create a procedurally secure and yet caring ethos … The current Child Protection policies of MCS are very clear in this area. The Care Inspector who has been involved with MCS in the past two years was involved throughout the creation of the current CP policies, as was a member of the MCS Governing Board. The Care Inspector, when interviewed, stressed that she was entirely au fait with the School's intention and approach, and volunteered full approval of the School's observance of procedure.[925]

The second, 'Report on Child Protection Policy and Procedures', was produced by

920 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.116.
921 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.116.
922 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, pp.120–1.
923 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, pp.132–3.
924 Care Inspectorate, Inspection report, Merchiston Castle School, 4 September 2013, at CIS-000000089, p.4.
925 Merchiston Castle School, Report on Independent Investigation into Issues in Merchiston CS, June 2013, at MER-000000192, p.99.

Kate Cherry, a former HMIe inspector, in August 2014. Her report was also positive:

> The School since 1998 has developed and enhanced the range of policies and procedures related to children's care and welfare. At intervals over the period of 1998 to 2014, the school has had endorsement of the suitability of these procedures through inspections by HMIe and, from 2012, the inspection of school care accommodation services [boarding facilities] by the Care Inspectorate. At each inspection, there have been no major concerns raised over the appropriateness of the policies as relevant to the inspection period … Expectations in the care and welfare of children have increased nationally and been made public through legislation and guidance from the Scottish Government. All schools have had to reflect these expectations and ensure legislation and guidance is put into practice … it is shown that Merchiston Castle School's practices have developed accordingly … A significant improvement to the overall arrangements has been the designation of a Governor (in 2008) who has a key remit for Child Protection liaison in the school. This Governor has had a positive influence in the Child Protection arrangements and in providing professional expertise. This is evident, in particular, in the major review of procedures conducted in 2012 which also highlighted aspects needing further improvement … The approach was commended by the Care Inspectorate for the rigour of the self-assessment to improve quality of care.[926]

She continued: 'Hard lessons have been learned in the School and the current comprehensive arrangements are as effective as any can be in the constant vigilance of the young people in the school's care. The honest and self-searching process by staff has resulted in these current high-quality systems.'[927]

On the face of those reports and the positive statutory inspections it enjoyed prior to 2014, it is understandable why Merchiston might have felt reassured that all was well. Unfortunately, that was not the case, and it says much about the reality of the systems, processes, and lines of communication in inspections of that time that inherent flaws were not seen by anyone. Not only did inspectors fail to look further back than the period since the last inspection, but the system appears not to have allowed for any critical thinking. No doubt a process must be followed to achieve consistency, but surely flexibility must also play a part if inspections are to be effective in protecting children? Otherwise a school could, for example, choose to delay telling inspectors about incidents of abuse on the assumption that such information would not feature in the report because it had occurred outwith the preceding six months.[928]

With allegations of historical abuse, the suicide of a long-serving teacher, police involvement, and a response from the school that acknowledged Rainy Brown's prior conduct and concerns about him that dated back to 1998, inspectors should have asked what might have been missed and sought further information.

I have no doubt that Merchiston genuinely believed it was following the recommendations of past inspections and was trying to act properly. It would have provided documentation as required.

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926 Merchiston Castle School, Report on Child Protection Policies and Procedures, August 2014, at MER-000000346, p.19.

927 Merchiston Castle School, Report on Child Protection Policies and Procedures, August 2014, at MER-000000346, p.22.

928 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.137.

However, it remained unaware of ongoing and past serious failings which had meant that an over-generous approach to staff improprieties had been allowed to pass unnoticed and to continue unchecked. They were encouraged by receiving complimentary reports repeatedly prior to 2013, but in fact those reports provided false reassurance to both staff and inspectors that the school had been doing the right thing, even when it had not. All of that was to change abruptly.

The October/November 2014 inspection

A joint short-notice care and welfare inspection was carried out in October/November 2014 by Education Scotland and the Care Inspectorate. The reason for the inspection lies in the fact that after the HMI link inspector visited on 3 September 2014 he voiced concerns about 'the capability of the school leaders in making the range of improvements that were necessary'.[929] The visit had taken place against the backdrop of the school having notified the Registrar of Independent Schools in August 2014 that it had received an allegation of historical sexual abuse against 'John', who was, at that time, a member of the teaching staff. The allegation related to a period in 2002, when 'John' was employed at a different school.[930] The link inspector had visited Merchiston to gather more information about child protection practices.[931] Marion Crawford stated that 'they must have had concerns that he [Andrew Hunter] wasn't going to make the changes that they required … which, to be honest, did surprise me because any other time when we made suggestions … he did take them on board and he did implement them'.[932] In fact, Andrew Hunter, having discovered that 'John' had allegedly abused a child at a previous school, ended the latter's employment at Merchiston and expressed frustration that previous referees had failed to mention the incident, although Merchiston was not without fault in the matter – it also transpired that 'John's' failure to answer questions posed by Merchiston about his fitness to work with children in the employment process had passed unnoticed.

The 2014 inspection also introduced a new lead inspector and a significant change in approach on the part of the inspectors more generally, which led to very different conclusions in 2014. While recognising Merchiston's strengths, the report found the following:

- The school is aware that important changes are now required to ensure that policies and procedures in relation to safeguarding, including child protection documentation, are maintained to the highest standards and consistently implemented by all staff.
- Human resource (HR) systems have not always been used effectively enough in staff recruitment processes and in dealing with staff disciplinary matters.
- The Governors and the School Leadership Team must now take immediate action to strengthen governance arrangements and professional leadership, and improve support and challenge in these areas.
- Overall, the school relies too heavily on informal approaches and now needs to consider where more formal systems for improvement are needed.

929 Merchiston Castle School, Timeline of Education Scotland Engagement, at SGV-000064539, p.1.
930 Merchiston Castle School, Timeline of Education Scotland Engagement, at SGV-000064539, p.1.
931 Merchiston Castle School, Timeline of Education Scotland Engagement, at SGV-000064539, p.1.
932 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.149.

- As a matter of urgency, they now need to implement a clear strategy focused on prevention, supported by robust quality assurance and monitoring systems including:
  - clarifying and strengthening the roles and responsibilities of key staff involved in safeguarding pupils
  - improving procedures relating to staff recruitment, training, and disciplinary matters, building on best practice in relation to equalities and safeguarding legislation
  - reviewing the PSHE programme
  - strengthening leadership at all levels in improving safeguarding practices.

The Care Inspectorate made the following recommendations:

- The provider should support the Child Protection Coordinator to ensure that the proforma documents developed to make the school's child protection systems as effective as possible are always used to report child protection concerns.
- The provider should ensure that the School uses its HR systems effectively and that employment applications are consistently audited to ensure they are complete before being considered.
- The provider should review its staff disciplinary procedures to ensure that pupils are safeguarded in the event of allegations being made.

The Care Inspectorate made the following requirement:

- By 31 March 2015 the service provider must demonstrate to the Care Inspectorate that all decisions made in the course of the business … are made in accordance with its safeguarding policies and procedures.[933]

The October 2014 inspection marked the start of a two-year period of repeated inspections by the Care Inspectorate and/or Education Scotland, which many staff felt was overwhelming. Stephen Campbell said:

> In hindsight, I think that national policy moved on and Merchiston didn't perhaps keep pace with that. Quite rightly, areas concerning child protection became higher in profile. Looking back, trying to be as unbiased as possible, things had moved on and the school had perhaps not moved on fast enough.[934]

The inspections of 2015

The report of the October/November 2014 joint inspection is dated 20 January 2015.[935] On 27 February 2015 the school's HMI link inspector carried out a support visit to the school.[936] A joint follow-up inspection followed in May 2015.[937] Conclusions are set out in Table 10 in Appendix C. In summary:

> While the school takes steps to provide a safe and caring environment, there are important weaknesses in practice in relation to the approaches to and provision for meeting the mental, emotional, and social needs of children and young people. The school now requires to put in place a more coherent

933 Education Scotland and Care Inspectorate, Letter to parents/carers re. Joint Inspection of Merchiston Castle School, 20 January 2015, at MER-000000097.

934 Transcript, day 266: read-in statement of Stephen Campbell (former teacher, 1994–2020), at TRN-8-000000062, p.137.

935 Education Scotland and Care Inspectorate, Letter to parents/carers re. Joint Inspection of Merchiston Castle School, 20 January 2015, at MER-000000097.

936 Merchiston Castle School, Timeline of Education Scotland Engagement, at SGV-000064539, p.5.

937 Care Inspectorate, Inspection report, Merchiston Castle School, 11 May 2015, at SGV-000083778.

> and cohesive system to identify and meet the mental, emotional, and social needs of all learners in a more rigorous and robust manner. This includes setting clear outcomes, identifying interventions (with partner agencies if appropriate) with clear timescales, and tools to measure the effectiveness of such interventions against the initial outcomes.[938]

The next visit to the school was a follow-up by the HMI link inspector and took place on 22 October 2015.[939] By then the school had notified the Registrar of Independent Schools about 'Laura's' (RCQ) abuse of senior pupils.[940] The Registrar of Independent Schools requested a progress update from Iain Lamb,[941] which was provided on 22 October 2015. He wrote: 'I would say that the school is continuing to improve its child protection and general pupil welfare systems and has managed the recent allegations more effectively than it has dealt with previous incidents.'[942]

However, Education Scotland wrote to the Registrar on 26 October 2015 expressing its concerns.[943] While the school had notified the relevant bodies about 'Laura' (RCQ), it transpired that it was not offering direct personal support to the pupils involved but was simply keeping an eye on them. Further, it was unaware of whether the boys' parents knew about the abuse as it had not shared any information with them: 'HM inspectors are concerned about this lack of action … and the potential negative impact on the pupils and their parents. HM inspectors advised the school, as a matter of urgency, to offer personal support to the two pupils concerned.'[944]

More broadly, the inspector remained concerned about school leaders' ability to make the full range of necessary improvements and recommended that the Registrar:

- arrange a multi-agency meeting in order to share information about the school
- investigate with the Care Inspectorate whether the school is in breach of their corporate parenting duties by not informing the parents of the two pupils who made the recent disclosure
- consider applying conditions as a result of the findings of this recent engagement visit or following the next visit on 19 November.[945]

The Registrar accepted that advice and on 13 November 2015 wrote to Gareth Baird, Chair of the Board of Governors, informing the school that the Scottish Ministers were imposing conditions on the school as follows:

> The culture within the school was not conducive to staff and pupils to raise any welfare issues or concerns in a supported way. In addition, staff misconduct issues regarding welfare were not dealt with in accordance with disciplinary procedures. Further, the most recent visit identified that the school did not follow best practice …

938 Education Scotland, Record of Inspection Findings: Merchiston Castle School, June 2015, at SGV-000065183, p.13.
939 Education Scotland, Note to the Registrar of Independent Schools, 26 October 2015, at SGV-000064531.
940 See Sexual abuse chapter.
941 Education Scotland, Email to Iain Lamb, 22 October 2015, at SGV-000065133, p.2.
942 Care Inspectorate, Email from Iain Lamb, 22 October 2015, at SGV-000065133, p.1.
943 Education Scotland, Note to the Registrar of Independent Schools, 26 October 2015, at SGV-000064531.
944 Education Scotland, Note to the Registrar of Independent Schools, 26 October 2015, at SGV-000064531, p.3.
945 Education Scotland, Note to the Registrar of Independent Schools, 26 October 2015, at SGV-000064531, p.4.

Scottish Ministers are satisfied that it is necessary in terms of section 98E(1)(a) of the Education (Scotland) Act 1980 to impose conditions on the school to prevent it becoming objectionable on the ground set out in section 99(1A)(aa) of the 1980 Act, namely that the welfare of a pupil attending the school is not adequately safeguarded and promoted there.

The conditions imposed on the school are as follows:

1. That the school must by 21 December 2015 take appropriate steps to ensure that:
   a. Staff and young people at the school are aware of their roles and responsibilities in respect of safeguarding matters; and
   b. Young people at the school are informed about the support which the school will provide to them should they make a child protection disclosure.
2. That the Board of Governors must by 29 February 2016 conduct a review of how the school's safeguarding policies and procedures and internal disciplinary procedures are implemented by staff and consider any barriers that prevent those procedures being followed appropriately at the school.
3. That the Board of Governors must by 29 February 2016 provide to the Registrar a report on the review carried out under condition 2 and this report must, as well as conveying the methodology of the review and findings, also outline the steps the school's leadership (including the Headmaster and promoted staff) will take to (a) address any barriers considered as part of the review; (b) foster a culture within the school that is sensitive to care and welfare provision; and (c) bring the school's care and welfare provision into line with best practice.
4. That the Board of Governors must, by 31 April 2016, provide to the Registrar a report on the actions taken and outcomes achieved as a result of the review under condition 2.[946]

Pressure was maintained, and a further joint follow-up inspection carried out by Education Scotland and the Care Inspectorate followed within weeks, taking place from 30 November to 4 December 2015.[947] Education Scotland wrote a letter to parents/carers dated 9 February 2016.[948] The conclusions and requirements of the Care Inspectorate, over and above the conditions imposed by the Scottish Ministers, can be found in Table 10, Appendix C. These mentioned particular findings about the management and oversight of Pringle House, including inappropriate sanctions,[949] which had caused problems and considerable unhappiness during the inspection itself. It is to be noted that the bench which was said to have been used for inappropriate punishment had been in situ for years prior to 2015 and had not been commented on by many inspectors, including during the Rainy Brown era, when its use certainly was questionable and sometimes associated with nudity. It could be that over-enthusiasm and a lack of understanding on the part of the inspectors, allied to weak leadership on the part of the headmaster, made matters worse.

It is also to be noted that the police began inquiries in 2015, under the title Operation

946 Education Scotland, Letter to Chairman of the Board of Governors, 13 November 2015, at SGV-000064585, pp.1–2.

947 Care Inspectorate, Inspection report, Merchiston Castle School, 4 December 2015, at SGV-000083781.

948 Education Scotland, Letter to parents/carers, 9 February 2016, at SGV-000064561.

949 Care Inspectorate, Inspection report, Merchiston Castle School, 4 December 2015, at SGV-000083781, p.38.

Brecon, into possible further sexual offending by 21 male staff from the 1960s to the mid-2000s.

The school's response and further inspections

Merchiston took prompt action to meet the conditions imposed on it. In a letter dated 26 January 2016[950] Scottish Ministers revoked condition 1 in accordance with section 98E(1A)(aa) of the Education (Scotland) Act 1980, and in a further letter dated 6 September 2016[951] the remaining conditions were also revoked.

To address condition 2 the board of governors instructed WithScotland, who reviewed the school's key policies and procedures and held semi-structured conversations and discussions with a range of staff and pupils across the school, reporting back on 31 March 2016.[952] It concluded:

> It is clear from the policies and from discussion with the School's Leadership Team and Board of Governors that child protection is a key policy and a range of policies across child protection and disciplinary procedures have been developed to take account of the concerns raised within the school and by external agencies. The school has taken on board the language and principles for Getting It Right For Every Child (GIRFEC) and is committed to updating all policies by August 2016 in line with the implementation of the Children and Young People (Scotland) Act 2014.[953]

This conclusion was somewhat at odds with the view expressed by the Care Inspectorate in discussions with Education Scotland only a week before. A file note of a telephone conversation of 24 March 2016 records that:

> The school's approach to developing and maintaining Care Plans still requires to be improved. To support this, both ES and CI will be attending the school on April 20 to go over good practice at length with the school in order to bring improvements. The CI report that staff still do not fully understand GIRFEC.[954]

Nevertheless, the Care Inspectorate next carried out an unannounced inspection on 30 June 2016[955] and concluded that all requirements and recommendations made after the previous inspection had been met. It followed this up with another unannounced inspection on 29 September 2016, the report of which said:

> The Board had reflected in their role and responsibilities and had been proactive in determining the vision for the school. This has been strengthened by new appointments which have strengthened the breadth of expertise within the group. The Board has been proactive and involved in the journey the school needed to embark upon and had engaged with other agencies and professionals which had increased the understanding of current thinking about the welfare and protection of children … The overall leadership within the school had improved significantly, resulting in a cultural change that was beginning to be

950 Education Scotland, Letter to Chairman of the Board of Governors, 26 January 2016, at SGV-000064681.
951 Education Scotland, Letter to Chairman of the Board of Governors, 6 September 2016, at SGV-000064669.
952 WithScotland, An analysis of Merchiston Castle School's child protection policy, 31 March 2016, at MER-000000339.
953 WithScotland, An analysis of Merchiston Castle School's child protection policy, 31 March 2016, at MER-000000339, p.3.
954 Education Scotland, Telecon with the Care Inspectorate on Merchiston Castle School, 24 March 2016, at SGV-000064496, p.1.
955 Care Inspectorate, Inspection report, Merchiston Castle School, 30 June 2016, at SGV-000083780.

> embedded. The School Leadership Team had strengthened … Roles and responsibilities were clearly defined and were clearly impacting on the vision and cultural change within the school. The new Governor Child Protection and Compliance Committee was a positive development.[956]

Education Scotland followed up with an inspection in November 2016[957] and made similar findings, including that:

> The Board of Governors has provided astute and forward-thinking strategic direction in helping the school to continue to improve. A well-qualified and experienced external committee has been established to provide independent scrutiny and challenge to the Board and school leaders on their approaches to child protection and compliance. This innovative development demonstrates the school's commitment to continuous improvements in this area of their work … The school leadership team, with strong support from the Board of Governors, have continued to develop and embed the improving approaches to Child Protection, safeguarding and wellbeing. There are robust and rigorous procedures now in place to sample and monitor the effectiveness of the day-to-day running of the Boarding Houses.[958]

Thereafter, inspection of the school by the Care Inspectorate and Education Scotland returned to more routine cycles of inspection, as set out in Table 10, Appendix C. A torrid two-year period had come to an end for Merchiston.

Reflections by school leaders and others

Given the very different conclusions of inspection reports before and after 2014, the thoughts and experiences of school staff and inspectors are worth noting. They suggest that while all were trying to do their best, there were systemic deficiencies and a widespread lack of understanding of or clarity about changes to systems and what was actually expected by both sides.

Peter Hall observed:

> I was surprised by the level of weakness highlighted given the excellent gradings the school received for all areas, including quality of care and support for inspections carried out in 2012 and 2013. At the time of the October 2014 inspection we were aware of the National Guidance for Child Protection in Scotland, which had been published in May 2014, but were awaiting the Edinburgh and Lothians inter-agency child protection procedures to inform the revisions of our child protection policy and care planning. The Edinburgh and Lothians procedures were published in the autumn of 2015, so the school undertook its own review and rewriting of its child protection policy, which was completed by the spring of 2015.[959]

Andrew Hunter said:

> I've gone through in my mind umpteen times, how do you fall off the precipice of being sector-leading into, you know, the pit. I'm not going to blame anybody. I mean, I remember this inspector. I thought she was very gentle.

956 Care Inspectorate, Inspection report, Merchiston Castle School, 29 September 2016, at MER-000000337.

957 Education Scotland, Inspection of Merchiston Castle School, 15 November 2016, at SGV-000064556.

958 Education Scotland, Continuing Engagement – Record of Visit, Merchiston Castle School, 15 November 2016, at SGV-000000726.

959 Transcript, day 268: read-in statement of Peter Hall (former teacher, 1984–2017), at TRN-8-000000063, p.138.

> Was she searching enough? But, conversely, were we giving them the right information? We would never have hidden information from inspectors, ever. They were meeting pupils every time they visited. Because I can assure you I would not make a statement like that up … when they did all their inspections, you know, were we open and frank about all the challenges we were finding? I don't know the answer to that. Or were their processes not searching enough?[960]

On the evidence I am satisfied that the Care Commission and Care Inspectorate were not searching enough before 2014. I accept that Merchiston's HR practices, such as existed, were far too informal and did not allow for adequate audit trails. I have no doubt, however, that Merchiston would have provided them if asked, for the deficiency was understood in 2013 but simply not acted on properly by either side. Notes taken of conversations between Peter Hall, Andrew Hunter, and Marion Crawford in September 2013 demonstrate that all three recognised that it was necessary to form

> the links on a member of staff's records, i.e. a member of staff could keep his slate clean for a period of time, during which time a previous transgression can be forgotten. The links were not made with JRB's disciplinary record. So the tracking of staff misdemeanours must be even more highly effective.[961]

Yet that simply did not happen; instead, as noted above, Marion Crawford was more concerned that she should not have been looking back beyond six months, for to do otherwise would have been to engage on a 'fishing expedition'. That mentality may well reflect what was expected of inspectors in 2013 and before, but it makes no sense in the light of the conversations of September 2013, just as it makes no sense that Merchiston continued not to see links in staff behaviour thereafter, as evidenced by the mistakes made with 'Laura' (RCQ) before 2015.

One concern was the possibility that regulatory capture, in other words over-familiarity between inspector and school, may have played a part, but I accept that was not the case given Marion Crawford's evidence that she had received training on that and was conscious of the risk in 2013.[962] Nevertheless, on the evidence there was undoubtedly a more relaxed and informal approach to inspections before 2014 and that will not have helped matters.

Instead, there seems simply to have been a fundamental failure by both the inspectors and the school to see what was in front of them, namely poor systems that did not link instances of concerning behaviour which should have been linked, and an excessive focus on recent history even though there was an understanding of what had been missed with James Rainy Brown and why. My impression is that the school, in an era of rapid development of child protection, did not have an adequate understanding of what was required. Nor did the inspectorate and no doubt that was not helped by the fact that the inspection of boarding schools was (and is) such a small part of their remit. It seems that no one stopped to think about the overall picture.

960 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.120–1.

961 Merchiston Castle School, Notes taken from feedback meeting with Care Inspectorate, September 2013, at MER-000000289, p.86.

962 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, pp.111–13.

That is perhaps borne out by Marion Crawford's surprise on reading the November 2014 inspection report, for she maintained that:

> all the documents that I [had previously] reviewed were fit for purpose and up to date and reflected what I was looking at in terms of what I was inspecting against. The school came across – the pupils you spoke to were happy, they didn't have any concerns and the staff didn't raise any concerns either.[963]

In fairness, I well understood the point Marion Crawford made when she criticised the language used in the 2014 report as a little woolly and not detailed enough.[964] She also took issue with the language used in the November/December 2015 joint inspection report

> because I couldn't work out what they were actually saying … reading it … without any of the background knowledge, I was actually quite surprised by it because I didn't fully understand what they meant by it. Because I thought their safeguarding policies and procedures were sound at the time. The ones that they were using, when I inspected on those two occasions.[965]

While she better understood the criticisms, having been told of the wider deficiencies in Merchiston's approach to staff discipline and employment, her point about the language used is a fair one, and it is one that applies as much to policy documents. Language has to be used simply, sensibly, and clearly. If an experienced inspector cannot understand what a report is intended to convey, what hope is there for a member of staff, a parent, or a prospective parent or, indeed, a child?

The sudden change of approach by the Care Inspectorate from 2014

Sadly, I did not have the opportunity to hear from Iain Lamb, who became the Care Inspectorate's lead for Merchiston following the retirement of Marion Crawford, as he died before the Merchiston oral hearings. His detailed written statement is very helpful, for it sets out clearly how and why the approach to inspection improved and became more professional. It was a much less cosy approach with increased formality, relying on national guidance which schools did not yet fully understand:

> A lot of the changes came about in 2014/2015 when we made it clear to schools that we were the regulators and we wanted the whole story and factual information, rather than the school choosing the story they wanted to tell us. We would choose when we carried out inspections and stay for as long as we thought was necessary, including weekends and unannounced visits. We got access to all of the documentation and we chose who we wanted to speak to, including staff, pupils, parents, and governors. Now, all of our inspections that we do on our own, and not in conjunction with other organisations, are unannounced inspections.[966]

He went on: 'We now make it a point to speak to governors and to have more contact with them now than we used to'.[967] He acknowledged that there is 'no legal requirement for schools to have a governor

963 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.145.
964 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.142.
965 Transcript, day 269: Marion Crawford (former inspector, Care Inspectorate, 2002–13), at TRN-8-000000064, p.147.
966 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.22.
967 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.30.

in charge of child protection, but we make it very clear that we think it is good practice and recommend the school to have one'.[968]

As to process, he said:

> The inspection team would sit together as a team and pull the evidence together … discuss what the grades should be and what recommendations should be made for improvements. Then, we would meet … at the feedback meeting … I always try to have a feedback session at the end of the inspection visit because it can be stressful for schools and staff, and you don't want to drag it out. We also tell the school about any concerns we have so that they can be dealt with sooner rather than later. The school can make a comment about the content or grading, but that doesn't mean we would change it. We are the regulators and it is our responsibility to inspect the service … We are not trying to create a conflict situation but help them to improve their service. If the school is not happy with the grade, there is not really anything they can do to change it. It is unlikely that a grading would change after a discussion with the school, but I can't say that it would never happen. If we were presented with evidence that was different to what we had based our decision on, then we might look at changing a grade, but it would be very unlikely for that to happen.

He pointed out that factual errors could, however, be corrected.[969] He continued:

> Where the Care Inspectorate has a lot of concerns about a school, we will contact Education Scotland and suggest having a joint inspection to look at the issues as comprehensively as we can. The kind of concerns could include if there was information coming out of abuse that had taken place at the school, lack of checks being carried out on new staff coming in, or a lack of oversight of the boarding side of things … The visit would be an announced visit so the school would know when we were coming and arrive at the same time as Education Scotland. It would be a big team of four or five inspectors from us and about seven or eight from Education Scotland. The Care Inspectorate then decided that we wanted to have an unannounced visit before the scheduled announced one. This was introduced in 2018. The school would know that we were coming because we would have carried out the pupil survey, but they wouldn't know when. The unannounced visits were so that we could see what the boarding houses were like and whether any preparation was taking place with regards to the safety and decoration of the boarding houses in preparation for our visit. It was also so that we could have some informal contact with the boarding pupils before the joint inspection, which would be a large team. We would arrive towards the end of the day and chat to staff and pupils in the boarding house and get an idea of the ethos of the boarding house.[970]

Of the Merchiston inspection of September 2013, Iain Lamb said:

> I didn't feel that the school was being as detailed as they could have been. We spent more time with the staff than pupils during inspections at the time, which has since changed … The other inspector had done most of the feedback with the headmaster before some other senior managers and myself were invited in. I wasn't involved in

968 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, pp.30–1.

969 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.36.

970 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, pp.42–3.

> pulling the evidence together and deciding the outcomes. In those days, the lead inspector would write the report so I wasn't as included in the process as I might have wanted to be. I didn't see the content … until it went out. The lead inspector at each previous inspection would be the one who would have asked for a range of documents … In the early days, we didn't really focus on staff records in any great detail. We would have asked for more details … if we had heard of any allegations.[971]

However, his account does not explain why more critical thought was not given in 2013, particularly in light of what was then a recent allegation of abuse, police involvement, and the suicide of James Rainy Brown. By implication it was up to the lead inspector to ask for a range of documents, but it also suggests that the attention and intensity of subsequent visits was simply lacking and the system Iain Lamb described that was in place from 2014 had yet to become established.

What is clear is that in 2014 a different approach was taken. Iain Lamb explained:

> Due to the seriousness of the allegations and reported incidents, we decided to carry out a joint inspection and focus on the systems in place to safeguard the well-being of pupils as well as the staff recruitment processes. The systems in place for oversight of staff action and access to support for staff would also be looked at. The school was expecting an inspection due to the seriousness of the recent events. Most staff were happy to meet with us and discuss what had taken place and express their views on the systems in place. Most of the inspection was focused on the systems and processes used by the school and the oversight of the board of governors and their involvement in assessing the quality and effectiveness of these … We looked at policies for safety and well-being of pupils and examined how these had been put in place. We also looked at the recruitment processes for staff and the uptake of references from previous employers as well as the checks undertaken with relevant national bodies.
>
> During the inspection I spoke with a range of staff who were provided by the school and I looked at policy documents regarding child protection and safety processes for activities. We also spoke with pupils in groups and the pupils were chosen by the school. This has since changed … By that time, the school also wanted to do everything they could do help us with the issues that were around. They were not resistant to us accessing information. The process had already been evolving by the time we did the inspection in 2014 so we would have looked at more records than before, but because of all the allegations around Merchiston, we made sure we covered absolutely everything at that inspection.
>
> We looked at records that had been put together about individual pupil needs and the way their needs were being supported. We wanted to see correspondence between the school and parents, which is now electronic as opposed to letters. We wanted as broad a view as possible about what work had been undertaken to assess the individual needs of pupils and ensure their well-being as much as possible. We … could access any document we wanted to. If we came across a piece of information that referred to another document, we were able to access that other document and follow up lines of inquiry across the whole school that way. We looked at all records kept centrally in the school but also in the individual boarding houses as

971 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, pp.47–8.

> well. This was not something we had done in previous inspections … We were much more comprehensive in gathering evidence than had previously been the case.[972]

He continued:

> What became clear during that inspection was that the references had not been taken up when employing new people. We focused strongly on that so we spent enough time looking closely in detail at all the staff records and made sure we had access to all the records the school had. In previous inspections, looking at the recruitment process and references wasn't something that we had particularly focused on. There had not been allegations about the actions of staff prior to the previous inspections, therefore there was no perceived need to look at all the staff recruitment processes in such detail.[973]

This included 'John', although by the time of the joint inspection Merchiston had appropriately notified statutory bodies of the allegation of abuse against him received in July 2014:

> At the inspection in October 2014 … we went through as many staff files as we thought was necessary to get as much information as we needed for the inspection. [In relation to 'John'] Merchiston did have a reference from the previous school in England, but it hadn't mentioned the incident with the pupil at all. There was a telephone call between the headteacher of Merchiston to the previous employer in England … We were very pleased that Merchiston had followed this up, especially given everything that had happened in the past where they hadn't taken the action that we would have wanted them to.[974]

Iain Lamb also felt there should be greater governor involvement:

> In about 2015, we recommended that governors … spent a bit of time just dropping into the boarding houses and having informal chats with the boarders to get an idea of what they thought about their boarding experience and environment … we felt the governors were a bit more remote from the day-to-day life of the school and the views of the boarders to modernise things weren't getting back to them as clearly as they should have been … Ultimately, the boarders are the customers here.[975]

Gareth Baird, newly appointed to the board in 2014, and chair from 2015, said of this period

> with regard to child protection and well-being … it appeared to me that our policies in particular were way behind. So would I say that we were lacking in the board? I think the practices and the oversight of the pupils to me seemed to be relatively well-prepared and the oversight was reasonably good. My memory of it was that our written policies were very far adrift from what the Care Inspectorate – their models were adrift of what was laid down. And there was a – a difficult time in setting out policies, to get those corrected. I do think that Andrew Hunter and his team and the governors involved … their practices were

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972 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, pp.48–52.

973 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.58.

974 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.59.

975 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.60.

> in reasonably good order. I think from the paperwork side … it was … very clear that they needed upgrading.[976]

Andrew Hunter said:

> I tried to set the culture of the organisation of Merchiston. I tried to choose the right people for key roles. I tried to form a strategy and create the appropriate culture … I tried to act with integrity and display honesty with moral principles. I tried to work according to a clear agenda with a strong team and acting in a respectful yet also reflective fashion as the leader of the school. Some aspects of our safeguarding, child protection, and pupil well-being were systemically wrong. It saddens me greatly … that particularly in some aspects of safeguarding and child protection that sense of rigour was missing.[977]

I have no difficulty in accepting the reflections of Gareth Baird and Andrew Hunter. Improvements that occurred after the inspections of 2014 were undoubtedly welcome and necessary, but the processes used to achieve them remains a source of concern for me, and I can understand the feelings of bewilderment experienced by the Merchiston community at the way in which their world was turned upside down. It emphasises the need for consistency, cooperation, and communication between school and inspectors. Schools need to have an appetite for continuous improvement, to know what is expected of them, and be able to rely on changes in approach by inspectorates being well managed and shared in order that they are understood and can be applied successfully.

Looking to the future

All teachers I heard from at Merchiston welcomed and supported inspections and thought them a useful way to learn how to do things better. They wanted to work well with the inspectors.

Victoria Prini-Garcia said:

> They reinforced my understanding of how things had to be done or should be done or how the boys should be encouraged and how the boys should be listened to … They only want the best for the school anyhow. It's not as though they are in a different camp … and I just think that it was brilliant to have them doing what they wanted to do … It was brilliant.[978]

'Jane' said: 'I think inspections are good things to help – it's about engagement, it's about sharing best practice … it's about learning, it's about not thinking you already know everything. There's so much to inspections. They're not things you should be scared of.'[979]

Jonathan Anderson welcomed inspections and saw them as an opportunity to 'see things differently, yes, a fresh pair of eyes'.[980]

The evidence of staff mirrored Iain Lamb's observations about how inspections have improved. That included a greater understanding on the part of inspectors of what they are dealing with:

> Over time we have developed much more effective inspections of the boarding schools.

976 Transcript, day 271: Gareth Baird (former pupil, 1970–5; governor, 2014–15; Chair, Board of Governors, 2015–25), at TRN-8-000000066, p.29.

977 Transcript, day 270: Andrew Hunter (former headmaster, 1998–2018), at TRN-8-000000065, pp.144–5.

978 Transcript, day 267: Maria Victoria Prini-Garcia (former teacher, 1986–2016), at TRN-8-000000061, p.68.

979 Transcript, day 268: 'Jane' (former teacher, 2005–20), at TRN-8-000000063, p.105.

980 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.78.

> When we began to regulate them, there was little knowledge within the team of what boarding schools were like and what the experience was like for boarding pupils. At the start there was also a formal approach to inspection, which meant that pupils would be anxious and reluctant to speak with us about their experience. It was also the case that our inspection processes were focused on records and systems rather than the outcomes for the pupils. As time has passed we have developed our methodology and, in line with our overall ethos, we have begun to work with services to help them to improve the outcomes for the pupils.[981]

Jonathan Anderson's evidence, including his experience of the English inspection regime, was particularly helpful. He said:

> I think in years gone by when inspections had a degree of announcement to them, there was always the sort of building up to the inspection week or the inspection days and lots of preparation happening. The expectation is now that inspectors could walk through the door at any point and inspect, and I think that is absolutely a positive.[982]

He emphasised the importance of having a good relationship with the school's link inspector:

> It is something … that is different from my experiences with the Independent Schools Inspectorate south of the border. Having the capacity to pick up the phone and check with your inspector is a good thing. And the engagement visits, I have had two with my link inspector with Education Scotland. Those have been very, very positive experiences and very helpful experiences, certainly in my first year.[983]

He also supported the self-assessment approach of Education Scotland and the Care Inspectorate: 'I think self-reflection and self-assessment is a very powerful part of the inspection … a good inspection will assess how well a school knows itself, if that makes sense.'[984] He saw his first experience of inspection in 2019 by the Care Inspectorate as 'quite light touch, but at the same time the inspectors did a very good job of speaking to a wide range of stakeholders and feeding back some very useful recommendations for us'.[985]

However, he also discussed positives from the English system which are worth considering, in particular specific regulations that set out how independent schools are assessed and inspected, and, for boarding schools, national minimum standards that cover all aspects of boarding care, such as accommodation and guardianship arrangements. These allow heads to know if their practices are at least adequate.

He described

> two forms of inspection. There's a compliance-based inspection and then a qualitative inspection, and even with the education quality inspection, there is a need to be compliant as well. So the absolute … bare minimum is that you are compliant with all of the national minimum boarding standards if you are a boarding school.[986]

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981 Transcript, day 269: read-in statement of Iain Lamb (former inspector, Care Commission, 2002–22), at TRN-8-000000064, p.64.
982 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-00000008, p.86.
983 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-00000008, p.81.
984 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-00000008, p.82.
985 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-00000008, p.84.
986 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.80.

He continued:

> I think the criticism that might be levelled at it is that it's showing you the exam paper before you do the exam, but actually it allows you to see exactly what it is that you're being measured against and judged against, and I think that then encourages a greater dialogue in terms of wanting to understand how best to implement those minimum boarding standards when you're talking to … inspectors or when you're going to pre-inspection meetings with inspectors … they sometimes do sessions where they help you understand what might be required … You have something there to base your work on … a benchmark to work to.[987]

In Scotland, he pointed out,

> minimum boarding standards don't exist in that form, and I think it would be helpful to know … what it is that the inspectors will want you to have right as a bare minimum. That's not to say you should only be focusing on the bare minimum. I think it's for you to know that there are a core set of standards sitting at the middle of your service provision or your boarding provision that you have to get right.[988]

Jonathan Anderson was not willing to say whether inspections in England were more robust, for he thought his experience

> probably too limited north of the border to draw any real comparisons. But I think certainly it felt to me in my previous role that there were very clear expectations, whereas here, north of the border, I don't quite sense that same level of expectation. Although the inspection itself is very thorough, I don't see where we find our standards, if you like … I think with the specific relationship to boarding schools – a lot of the language that the Care Inspectorate uses is not necessarily something that is easily translated into boarding school speak, if you like.[989]

Given my experience of the language used in Scottish Government documents and policies, I do not find his views entirely surprising. It is also worth noting that, in the evidence provided in the Phase 8 study, there was support for the current Ofsted approach to inspections in England, for example as regards audits, from Amanda Hatton of the City of Edinburgh Council. Having experienced both, she thought: 'There are bits in both systems, that if you marry the two together, you'd have, like, you know, a really perfect system.'[990] That very much echoed the tone of the evidence of headmasters and is an obviously sensible step that should be seriously considered in Scotland. Amanda Hatton suggested it was something that was already under discussion at some level within the Care Inspectorate.[991]

Conclusions about inspections

Merchiston's experience of inspections was, overall, harsh and unpleasant but real improvements were achieved as a result. The inconsistency of those inspections was, however, unsatisfactory, and it is clear that there was inadequate consultation and communication given that the expectations

987 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.80.

988 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, pp.80–1.

989 Transcript, day 217: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000008, p.85.

990 Transcript, day 518: Amanda Hatton (executive director, Children, Education and Justices Services at City of Edinburgh Council, 2021–present), at TRN-12-000000151, p.174.

991 Transcript, day 518: Amanda Hatton (executive director, Children, Education and Justices Services at City of Edinburgh Council, 2021–present), at TRN-12-000000151, p.176.

of the inspectors involved changed so radically. If inspection is going to work there must be mutual respect and collaboration and that was absent, with the result that Merchiston staff could not have fully understood what was expected of them.

That said, and as Jonathan Anderson fairly recognised, collaboration is a two-way street:

> I think schools needed to help inspectors understand how they work and we like to think that we are very open … the school has always taken the attitude that we will make available anything that they want to see. But I think it's possibly also incumbent on them [the inspectors] to make sure that they're asking the right questions and, dare I say, listening to the answers, and if they don't understand it's okay to ask the question again until they get a clearer picture of exactly what is going on.[992]

I agree with that and consider that having inspectors with experience of the boarding sector would be sensible. That was recognised by both staff and Iain Lamb. As Jonathan Anderson observed, boarding schools 'are very different from day schools, and each and every school is very different from other boarding schools. So … having empathy, having an understanding of some of those idiosyncrasies really helps inspectors get past some of those things that they perhaps can't quite work out.'[993]

992 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.87.

993 Transcript, day 271: Jonathan Anderson (headmaster, 2018–25), at TRN-8-000000066, p.85.

Appendix A – Terms of Reference

Introduction

The overall aim and purpose of this Inquiry is to raise public awareness of the abuse of children in care, particularly during the period covered by SCAI. It will provide an opportunity for public acknowledgement of the suffering of those children and a forum for validation of their experience and testimony.

The Inquiry will do this by fulfilling its Terms of Reference which are set out below.

1. To investigate the nature and extent of abuse of children whilst in care in Scotland, during the relevant time frame.

2. To consider the extent to which institutions and bodies with legal responsibility for the care of children failed in their duty to protect children in care in Scotland (or children whose care was arranged in Scotland) from abuse, regardless of where that abuse occurred, and in particular to identify any systemic failures in fulfilling that duty.

3. To create a national public record and commentary on abuse of children in care in Scotland during the relevant time frame.

4. To examine how abuse affected and still affects these victims in the long term, and how in turn it affects their families.

5. The Inquiry is to cover that period which is within living memory of any person who suffered such abuse, up until such date as the Chair may determine, and in any event not beyond 17 December 2014.

6. To consider the extent to which failures by state or non-state institutions (including the courts) to protect children in care in Scotland from abuse have been addressed by changes to practice, policy or legislation, up until such date as the Chair may determine.

7. To consider whether further changes in practice, policy or legislation are necessary in order to protect children in care in Scotland from such abuse in future.

8. To report to the Scottish Ministers on the above matters, and to make recommendations, as soon as reasonably practicable.

Definitions

'Child' means a person under the age of 18.

For the purpose of this Inquiry, 'Children in Care' includes children in institutional residential care such as children's homes (including residential care provided by faith-based groups); secure care units including List D schools; Borstals; Young Offenders' Institutions; places provided for Boarded Out children in the Highlands and Islands; state,

private, and independent Boarding Schools, including state-funded school hostels; healthcare establishments providing long-term care; and any similar establishments intended to provide children with long-term residential care. The term also includes children in foster care.

The term does not include children living with their natural families; children living with members of their natural families; children living with adoptive families; children using sports and leisure clubs or attending faith-based organisations on a day-to-day basis; hospitals and similar treatment centres attended on a short-term basis; nursery and daycare; short-term respite care for vulnerable children; schools, whether public or private, which did not have boarding facilities; police cells and similar holding centres which were intended to provide care temporarily or for the short term; or 16- and 17-year-old children in the armed forces and accommodated by the relevant service.

'Abuse' for the purpose of this Inquiry is to be taken to mean primarily physical abuse and sexual abuse, with associated psychological and emotional abuse. The Inquiry will be entitled to consider other forms of abuse at its discretion, including medical experimentation, spiritual abuse, unacceptable practices (such as deprivation of contact with siblings), and neglect, but these matters do not require to be examined individually or in isolation.

Appendix B – Corporal punishment in Scottish schools and related matters

The parental right of chastisement

The common law of Scotland granted parents the right to inflict corporal punishment upon their children.[994] This right was statutorily acknowledged in 1889 by the Prevention of Cruelty to, and Protection of, Children Act, and repeated by its successors – including the Children Act 1908 and the Children and Young Persons (Scotland) Act 1937.[995] However, corporal punishment was only lawful if it were '(i) aimed at chastisement, in the sense of educative punishment, and (ii) within a moderate and reasonable level of severity. Acting in a manner beyond "reasonable chastisement" has long been a legal wrong.'[996] Although the concept of 'reasonableness' has changed over time according to society's changing views on the rights of children and their parents, 'cases from the earliest period indicate a judicial awareness of the dangers to vulnerable children of excessive physical punishment'.[997] Therefore, although parents did have the right to punish their children, this parental right was not without limits – it had to have a purpose and had to be reasonable.

Corporal punishment in Scottish schools and the views of the courts

Throughout much of the period examined in this case study, corporal punishment was permitted in Scottish schools. Traditionally, in state schools, it took the form of striking the palm of the pupil's hand with the Lochgelly tawse.[998]

A teacher's power to chastise was not delegated by parents 'but was a self-standing privilege arising from the obligation of the teacher to maintain school-room discipline' which in the boarding schools extended to the residential side. Nineteenth-century court cases involving teachers emphasised that corporal punishment had to be 'without any cruel or vindictive feeling or passion',[999] and that a 'schoolmaster is invested by law with the power of giving his pupils moderate and reasonable corporal punishment, but the law will not protect him when his chastisement is unnatural, improper, or excessive'.[1000]

Little changed for much of the twentieth century. In Gray v Hawthorn,[1001] in 1964, the

994 See Alexander Birrell Wilkinson and Kenneth McK. Norrie, *The Law Relating to Parent and Child in Scotland*, 3rd edn. Edinburgh: W. Green (2013). See also Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from Their Parents (November 2017), p.346.

995 See Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from their Parents (November 2017), p.346.

996 See Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from their Parents (November 2017), p.346.

997 See Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from their Parents (November 2017), p.347.

998 See 'How the Tawse Left its Mark on Scottish Pupils', *BBC News*, 22 February 2017. The Lochgelly tawse was so called because most teachers preferred tawses manufactured by a leather business based in Lochgelly, Fife.

999 Muckarsie v Dickson (1848) 11 D 4, p.5.

1000 Ewart v Brown (1882) 10 R 163, p.166.

1001 Gray v Hawthorn (1964) JC 69.

Court of Appeal emphasised the importance of discretion when it affirmed a teacher's conviction for assault:

> There is no doubt that a school teacher is vested with disciplinary powers to enable him to do his educational work and to maintain proper order in class and in school, and it is therefore largely a matter within his discretion whether, and to what extent, the circumstances call for the exercise of these powers by the infliction of chastisement … If what the schoolmaster has done can truly be regarded as an exercise of his disciplinary powers, although mistaken, he cannot be held to have contravened the criminal law. It is only if there has been an excess of punishment over what could be regarded as an exercise of disciplinary powers that it can be held to be an assault. In other words the question in all such cases is whether there has been dole[1002] on the part of the accused, the evil intent which is necessary to constitute a crime by the law of Scotland. The existence of dole in the mind of an accused person must always be a question to be decided in the light of the whole circumstances of the particular case … such matters as the nature and violence of the punishment, the repetition or continuity of the punishment, the age, the health and sex of the child, the blameworthiness and the degree of blameworthiness of the child's conduct, and so on, are all relevant circumstances in considering whether there was or was not that evil intent on the part of the accused at the time of the alleged offence.[1003]

The child was 11 and was belted eight times in the space of two hours for being dirty, having an untidy schoolbag, performing poorly in schoolwork, making spelling mistakes, and having poor handwriting, a factor exacerbated by the injuries caused by the repetitive belting. From today's perspective, aspects of the sheriff substitute's reasoning seem surprising:

> [I] found no fault with the appellant regarding the punishments inflicted for having dirty hands and knees. I attached no importance to the total number, as such, of strokes delivered on the morning in question. What I found fault with was the succession of punishments and reasons (or lack of just reasons) therefore, as narrated in my findings. At some stage their repetition amounted to what I can only describe as a degree of unjust persecution. I inferred dole only from the excess of punishment in the circumstances narrated.[1004]

I would not have considered it appropriate to belt a child for any of the reasons set out. I would consider it abusive.

The reasoning in Gray v Hawthorn was followed in the 1980 case of Stewart v Thain,[1005] which involved a headteacher smacking a 15 year old on the buttocks, apparently with parental approval. The Court remained loath to interfere in school discipline which was still very much a matter of educational discretion, where 'each case must be considered in the light of the whole circumstances relevant to it'.[1006]

Corporal punishment in boarding schools

In the boarding sector, the use of the cane by both staff and senior pupils was common, as

1002 In Scots law 'dole' means corrupt, malicious, or evil intention.
1003 Gray v Hawthorn (1964) JC 69.
1004 Gray v Hawthorn (1964) JC 69, p.72.
1005 Stewart v Thain (1980) JC 13.
1006 Stewart v Thain (1980) JC 13.

was the use of other implements, particularly the slipper or gym shoe.

Outwith the classroom, teachers' powers to use corporal punishment were commonly delegated, especially in the boarding houses, to senior pupils, usually school or house prefects.

That may have always been the norm given staffing numbers but might also reflect the language of both section 37 of the Children Act 1908 and section 12(7) of the Children and Young Persons (Scotland) Act 1937, both of which concerned cruelty to persons under 16. The 1937 provision, for example, which concerned behaviour of persons who had 'attained the age of sixteen years' stated: 'nothing in this section shall be construed as affecting the right of any parent, teacher, or other person having the lawful control or charge of a child or young person to administer punishment to him'.[1007]

This case study has demonstrated that there was inadequate, if any, consideration given by schools to the legal position. Individual institutions followed their own traditions and styles although there was a general understanding from witnesses that the maximum number of blows that could be given was six, even if that was not infrequently disregarded. As for the delegation of corporal punishment to pupils – as happened in most of the schools – it was simply the way that things were done and was often ill considered and inadequately supervised. And the lack of supervision exposed children to a risk of abuse; serious harm could obviously ensue.

Societal change in the approach to corporal punishment

While the courts and the boarding schools may have thought corporal punishment acceptable as a means of maintaining order until relatively recently, that was not the case in other areas of society.

Curtis Report

In September 1946, the Secretary of State for the Home Department, the Minister of Health, and the Minister of Education presented a report to Parliament from the Care of Children Committee, chaired by Miss Myra Curtis. It was the result of detailed inquiry into the provision for children in care and its recommendations, strongly urged on the government, included:

> We have given much thought to this question and have come to the conclusion that corporal punishment (i.e., caning or birching) should be definitely prohibited in children's Homes for children of all ages and both sexes, as it already is in the Public Assistance Homes for girls and for boys of 14 and over. We think that the time has come when such treatment of boys in these Homes should be unthinkable as the similar treatment of girls already is and that the voluntary Homes should adopt the same principle. It is to be remembered that the children with whom we are concerned are already at a disadvantage in society. One of the first essentials is to nourish their self-respect; another is to make them feel that they are regarded with affection by those in charge of them. Whatever there is to be said for this form of punishment in the case of boys with a happy home and full confidence

1007 Children and Young Persons (Scotland) Act 1937, section 12(7) as originally enacted.

> in life, it may, in our opinion be disastrous for the child with an unhappy background. It is, moreover, liable to … abuse. In condemning corporal punishment we do not overlook the fact that there are other means of enforcing control which may have even more harmful effects. We especially deprecate nagging, sneering, taunting, indeed all methods which secure the ascendancy of the person in charge by destroying or lowering the self-esteem of the child.[1008]

This showed remarkable insight and boarding schools should have had regard to it; they provided residential care for children living away from home – some from an early age – and their circumstances made them vulnerable. Had the Committee addressed the punishment practices at Merchiston Castle School, I conclude that it is likely that their criticisms of corporal punishment would have applied to them with equal force.

The Administration of Children's Homes (Scotland) Regulations 1959

Although not applicable to boarding schools, the Administration of Children's Homes (Scotland) Regulations 1959, which applied to both local authority and voluntary homes from 1 August 1959, reflected a shift in social attitudes to the punishment of children in any institution.

The Regulations 'contained rules for the administration of homes, the welfare of children accommodated therein, and for oversight of both these matters'.[1009]

Regulation 1 required those responsible for the administration of the home to ensure that it was 'conducted in such manner and on such principles as will secure the well-being of the children of the home'.[1010] Regulation 11 provided that corporal punishment may 'exceptionally be administered'.[1011]

Approved Schools (Scotland) Rules 1961

Again, though not applicable to boarding schools, the standards noted in the Approved Schools (Scotland) Rules 1961 should have had an impact on the thinking of boarding schools in relation to their use of corporal punishment.

Rule 31 dealt specifically with corporal punishment. Some of the conditions referred to were apt for all boarding schools in Scotland at that time:

> (a) for an offence committed in the course of ordinary lessons in the schoolroom the principal teacher may be authorised by the Managers to inflict on the hands not more than three strokes in all;
>
> …
>
> (c) except when the punishment is inflicted in the presence of a class in a schoolroom, an adult witness must be present;
>
> (d) no pupil may be called upon to assist the person inflicting the punishment;
>
> …

1008 The Curtis Report (1946), at LEG.001.001.8722, pp.168–9, paragraph xviii.

1009 Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from their Parents (November 2017), p.204.

1010 The Administration of Children's Homes (Scotland) Regulations (1959), regulation 1, at LEG.001.001.2719.

1011 The Administration of Children's Homes (Scotland) Regulations (1959), regulation 11, at LEG.001.001.2723.

(f) for boys under 14 years of age, the number of strokes may not exceed two on each hand or four on the posterior over ordinary cloth trousers;
(g) for boys who have attained the age of 14 years, the number of strokes may not exceed three on each hand or six on the posterior over ordinary cloth trousers;
(h) only a light tawse may be used: a cane or other form of striking is forbidden … and any person who commits a breach of this Rule shall be liable to dismissal or other disciplinary action.[1012]

Rule 32 provided that full particulars of any corporal punishments should be recorded in a punishment book by the headmaster.

It is not obvious that much regard was had to these rules in the operation of the boarding schools considered in this case study, and the approach taken to corporal punishment, just as with the recording of punishments, was variable. The tone of each school very much depended, for decades, on the outlook of the headmaster. Some were progressive, others not. Far too much was left to the discretion of individual teachers, some of whom had dreadful reputations amongst pupils for their excesses, which only demonstrates an absence of necessary oversight.

The position was even worse when corporal punishment by senior pupils is considered. While there was evidence of a change of outlook from pupils in some schools in the sector during the 1960s,[1013] there was often no oversight by those schools, on occasion, consciously.

Elimination of corporal punishment in state schools

By the late 1960s, following agreement in principle that the teaching profession should be encouraged to move towards the gradual elimination of corporal punishment, a consultative body – the Liaison Committee on Educational Matters – issued a booklet entitled *Elimination of Corporal Punishment in Schools: Statement of Principles and Code of Practice*.[1014] It set out rules designed to limit the use of corporal punishment including:

> It should not be administered for failure or poor performance in a task, even if the failure (e.g., errors in spelling or calculation, bad homework, bad handwriting, etc.) appears to be due not to lack of ability or any other kind of handicap but to inattention, carelessness or laziness. Failure of this type may be more an educational and social problem than a disciplinary one and may require remedial rather than corrective action.
>
> Corporal punishment should not be inflicted for truancy or lateness unless the head teacher is satisfied that the child and not the parent is at fault.
>
> Where used, corporal punishment should be used only as a last resort and should be directed to punishment of the wrong-doer and to securing the conditions necessary for order in the school and for work in the classroom.
>
> It should normally follow previous clear warning about the consequences of a repetition of misconduct.

1012 Approved Schools (Scotland) Rules (1961), rule 31, at LEG.001.001.2696, pp.9–10.

1013 See, for example, Transcript, day 220: Kenneth Chapelle (former pupil, Loretto School, 1961–6), at TRN-8-000000011, p.74.

1014 See Corporation of Glasgow, Education Department, Meeting of Schools and School Welfare Sub-Committee, 6 May 1968, at GLA.001.001.0703. The booklet was sent to all education authorities in February 1968.

> Corporal punishment should be given by striking the palm of the pupil's hand with a strap and by no other means whatever.[1015]

The Secretary of State for Scotland welcomed the issue of this booklet. The thinking as to what was acceptable even in the school setting had begun to shift significantly.

Further developments

In 1977 the Pack Committee, chaired by Professor D.C. Pack, and set up by the Secretary of State for Scotland, reported on indiscipline and truancy in Scottish schools. It reported that 'corporal punishment should, as was envisaged in 1968, disappear by a process of gradual elimination rather than by legislation'.[1016]

A working group appointed by the Convention of Scottish Local Authorities reviewed that process and produced a report entitled *Discipline in Scottish Schools* in 1981. The Secretary of State for Scotland considered the report and concluded, in a letter of 9 February 1982, 'that the way is now open for progress leading to the elimination of corporal punishment in Scottish schools within the foreseeable future'.[1017]

The case of Campbell and Cosans v UK[1018] was held just three weeks after the Secretary of State's conclusions. In its decision, the European Court of Human Rights, while rejecting an argument that the use of corporal punishment in Scottish schools was contrary to Article 3, 'found the United Kingdom in breach of Article 2 Protocol 1 for failing to respect the parents' philosophical conviction against corporal punishment. The Government … considered it impractical to prohibit corporal punishment only of children whose parents objected, and so instead, all pupils at public schools were granted protection from corporal punishment by their teachers.'[1019]

Consequently, section 48 of the Education (No. 2) Act 1986 introduced a new section 48A to the Education Act (Scotland) 1980 which came into force on 15 August 1987 and abolished corporal punishment for some pupils. Section 48A(5)(a) provided that a 'pupil' included a person for whom education was provided at

(i) a public school,

(ii) a grant-aided school, or

(iii) an independent school, maintained or assisted by a Minister of the Crown, which is a school prescribed by regulations made under this section or falls within a category of schools so prescribed.

Although the legislation did not apply to independent schools, specific provision was made to prescribe Queen Victoria School as a school covered by the abolition of corporal punishment provided for by section 48A(5)(iii) on 15 August 1987.[1020]

1015 Liaison Committee on Educational Matters, Elimination of Corporal Punishment in Schools: Statement of Principles and Code of Practice, February 1968, at GLA.001.001.0706.

1016 Scottish Council of Independent Schools, Corporal Punishment in Scottish Schools, at SCI-000000009, p.2.

1017 Scottish Council of Independent Schools, Corporal Punishment Abolition in Scotland – Timeline, at SCI-000000007, p.1.

1018 Campbell and Cosans v United Kingdom (1982) 4 EHRR 293.

1019 Kenneth McK. Norrie, Report to SCAI, Legislative Background to the Treatment of Children and Young People Living Apart from their Parents (November 2017), p.354.

1020 The Education (Abolition of Corporal Punishment: Prescription of Schools) (Scotland) Order 1987, paragraph 2.

In general guidance, issued by the Scottish Education Department on 17 June 1987, corporal punishment was defined as 'any act which could constitute an assault. This covers any intentional application of force as punishment and includes not only the use of the cane or the tawse, but also other forms of physical chastisement, e.g., slapping, throwing missiles such as chalk, and rough handling.'[1021]

Other than in the case of Queen Victoria School, the legislation did not prevent boarding schools from continuing with corporal punishment, although that would have led to a two-tier approach given the prohibition of its use for pupils on assisted places. However, consistent with the change in society, many independent boarding schools, as well as day schools, were either thinking of or had already abolished it.

The Independent Schools Information Service (Scotland), the forerunner to the Scottish Council of Independent Schools (SCIS), surveyed its members in 1984 and found that 36 no longer had corporal punishment while 24 retained it, although half of them were considering abolition. Looking to the schools in the case study, only Fettes Prep School had stopped using corporal punishment. Keil School, Loretto Junior School, Merchiston Castle School, Morrison's Academy, and Queen Victoria School retained it although were contemplating abolition, while Loretto senior school and Gordonstoun were not. The Edinburgh Academy did not feature in that survey.[1022]

A similar survey in October 1988 revealed that only five prep schools and two senior schools retained corporal punishment, though four either had unofficially abolished it or were phasing it out. That included The Edinburgh Academy. The only senior school to retain it was Loretto,[1023] although by 1991 a further SCIS survey confirmed that it was no longer used by any of its member schools.[1024] Loretto, it appears, had stopped the use of the cane in 1990.[1025]

Finally, section 16 of the Standards in Scotland's Schools etc. Act 2000 extended the prohibition against corporal punishment to all schools and repealed section 48A of the 1980 Act.

1021 Scottish Council of Independent Schools, Corporal Punishment Files, at SCI-000000023, p.8.

1022 Independent Schools Information Service (Scotland), 1984, at SCI-000000038.

1023 Independent Schools Information Service (Scotland), 1988, at SCI-000000039.

1024 Scottish Council of Independent Schools, at SCI-000000025, pp.4–10.

1025 Loretto School, Note on a comparison of witness observations/recommendations with Loretto School today, at LOR-000000771, p.6.

Appendix C – Inspection reports relating to Merchiston Castle School

Table 6: Care Commission and Care Inspectorate quality grades[1026]

Date	Wellbeing	Pastoral Care & Support	Environment	Staffing	Management & Leadership
5 Mar 2008		6 – Excellent	5 – Very good	Not assessed	Not assessed
31 Oct 2008		6 – Excellent	5 – Very good	6 – Excellent	6 – Excellent
12 Mar 2009		6 – Excellent	5 – Very good	Not assessed	Not assessed
17 June 2010		6 – Excellent	6 – Excellent	Not assessed	Not assessed
17 May 2011		5 – Very good	Not assessed	5 – Very good	Not assessed
13 Dec 2011		5 – Very good	Not assessed	5 – Very good	Not assessed
29 Oct 2012		6 – Excellent	6 – Excellent	6 – Excellent	6 – Excellent
4 Sept 2013		6 – Excellent	6 – Excellent	6 – Excellent	6 – Excellent
11 May 2015		2 – Weak	5 – Very good	4 – Good	3 – Adequate
4 Dec 2015		2 – Weak	4 – Good	4 – Good	2 – Weak
30 June 2016		4 – Good	Not assessed	Not assessed	4 – Good
29 Sep 2016		5 – Very good	5 – Very good	5 – Very good	5 – Very good
19 Sep 2019	5 – Very good	4 – Good	Not assessed	Not assessed	Not assessed
1 Dec 2021	5 – Very good	4 – Good	5 – Very good	5 – Very good	5 – Very good

Note: Before grading was introduced in 2008–9 inspections took place on 13 March 2007 and 5 November 2007.

1026 Care Inspectorate, Inspection Reports, Merchiston Castle School: School Care Accommodation, at CIS-000000003, p.3.

Table 7: Scottish Education Department inspections, 1930–84

Date of report: 2 and 3 June 1930[1027]
Key findings/conclusions
At the beginning of next session the school will be transferred from Merchiston Castle to Colinton. This will inevitably cause something of a break in tradition and association, but one may be confident that the old Merchistonian spirit will come to even fuller life in its new and brighter environment. It is however with some regret that one learns of the decision to discontinue the preparatory school.

Date of report: 4 July 1931[1028]
Key findings/conclusions
At the beginning of this session the school entered into possession of magnificent new buildings and grounds and all its activities are now carried on under ideal conditions. The general tone of the school is very satisfactory. An examiner cannot fail to be impressed by the alertness and keenness of the boys, even in the forms which are placed lowest in the scale of intellectual ability.

Date of report: 13 July 1932[1029]
Key findings/conclusions
From two days' observation of the school routine it was evident that the school is ably organised and conducted: both form work and change-over proceeded in an orderly fashion; the relations between masters and pupils are frank and friendly; and in all the forms visited, the boys were attentive and ready to respond to the best of their ability. The housing and equipment of the school are in all respects admirable.

Date of report: 4 July 1933[1030]
Key findings/conclusions
During the hundred years of its existence, the school has grown and advanced progressively, and its fame has justly spread, until boys have been sent to it from most parts of the world. Under the present regime it is in a high state of efficiency. The buildings and equipment are admirable. The general tone is excellent, and there is in every class a happy working spirit. Full use is made of the splendid playing fields; and in their out of class activities the boys are encouraged to develop many hobbies, for which facilities are provided.

1027 Scottish Education Department, Report, Merchiston Castle School, June 1930, at SGV-000000858, pp.2–9.
1028 Scottish Education Department, Report, Merchiston Castle School, July 1931, at SGV-000000858, pp.10–12.
1029 Scottish Education Department, Report, Merchiston Castle School, July 1932, at SGV-000000858, pp.18–20.
1030 Scottish Education Department, Report, Merchiston Castle School, July 1933, at SGV-000000858, pp.27–9.

Date of report: 29 June 1934[1031]

Key findings/conclusions

The excellent accommodation provided for all branches of instruction and the beautiful grounds in which the school is set cannot fail to have a marked effect on the pupils. They have much to occupy the whole of their time and the spirit of busy happiness was very evident … The team spirit is fostered by games.

Date of report: 29 May 1935[1032]

Key findings/conclusions

It is quite clear that the boys appreciate to the full the facilities provided for those periods not occupied by ordinary school routine. They enter whole-heartedly into the various forms of recreation and by their physique demonstrate its effect on their build and bearing. One safety-first feature deserves mention. There is a weekly inspection of the brakes on the pedal cycles.

Date of report: 25 June 1936[1033]

Key findings/conclusions

There are abundant opportunities for the sound physical development of the boys, and the best use is made of them. Free and organised games both play their part, in addition to the more exacting duties of the Officer Training Corps and the more formal exercises of the gymnasium … The lack of uniformity in the attainment of the pupils entering the school must add greatly to the difficulties of the staff. A surprising feature was the number of boys in the lower forms who were unable to express themselves clearly, to write satisfactorily, and to spell correctly.

Date of report: 16 May 1937[1034]

Focus on English and history

Key findings/conclusions

On the whole, the level of the boys' intelligence is well up to average standards, but on frequent occasions they are, in oral questioning, unable to do themselves justice, being hesitant in manner and reluctant to express themselves with any freedom.

In general, it should be said of this school that there is plenty of good human material with very considerable literary potentiality.

1031 Scottish Education Department, Report, Merchiston Castle School, June 1934, at SGV-000000858, pp.32–4.
1032 Scottish Education Department, Report, Merchiston Castle School, May 1935, at SGV-000000858, p.40.
1033 Scottish Education Department, Report, Merchiston Castle School, June 1936, at SGV-000000858, pp.49–50.
1034 Scottish Education Department, Report, Merchiston Castle School, May 1937, at SGV-000000858, p.58.

Date of report: 1 June 1938[1035]

Key findings/conclusions

The most striking feature of this year's inspection of English and History is the improvement effected in the response of the boys to oral questioning. The sense of dullness, of hesitation, of unwillingness to risk an answer has completely gone with the consequence that an altogether different atmosphere prevails in the classroom. They have, clearly, been taught with efficiency and in an enlightened manner.

Date of report: June 1943[1036]

Key findings/conclusions

The number of boys in the school, which dropped considerably after war began, has recently increased. Some 165 boys are now on the roll, and it is expected that the numbers will be even higher next session. The work in a number of subjects has been rearranged in order to meet the requirements of the School Certificate and of the Higher School Certificate.

Date of report: 16 and 17 July 1949[1037]

Key findings/conclusions

In the report for session 1942–43 it was noted that the roll stood at 165 and was expected to increase; with the number of boys now 226, the school has reached its full complement. The war-time difficulties of staffing have fortunately been overcome … The activities of the school in music, art, and drama are very strongly developed, and there is a wide variety of clubs, in the organisation of which the boys play a dominant part.

Date of report: November 1953[1038]

Key findings/conclusions

The roll this session is 258, the highest total in recent years. The life of the school continues very much as in previous sessions. Both the official school magazine and the unofficial one, which is produced on the boys' own initiative, speak of a wide variety of activities, including games and sports, the choral society, Scottish country dancing, and clubs of all kinds. The specialist inspectors whose reports follow are at one in commending the happy spirit of the school.

1035 Scottish Education Department, Report, Merchiston Castle School, June 1938, at SGV-000000858, p.60.
1036 Scottish Education Department, Report, Merchiston Castle School, June 1943, at SGV-000000858, p.68.
1037 Scottish Education Department, Report, Merchiston Castle School, July 1949, at SGV-000000858, p.91.
1038 Scottish Education Department, Report, Merchiston Castle School, November 1953, at SGV-000000858, p.115.

Date of report: 19 July 1963[1039]

Key findings/conclusions

- At the period of the inspection there were just under three hundred boys on the roll … They were well cared for. The matron is a qualified nurse and the school doctor visits the school frequently. A dentist is also available. Food was plentiful and well cooked.
- The premises and the equipment are good; an indoor swimming pool, built in 1961, has increased the facilities for recreation. The spacious grounds provide not only admirable amenities, but also give ample scope for a large variety of outdoor games. The main outdoor activities are rugby football, athletics, and cricket; facilities are also available for such sports as fencing, tennis, hockey, golf, badminton, and shooting.
- The staff are well qualified academically and consist of a pleasing blend of experienced and young masters. Standards throughout were found to be good and the boys showed interest in their various studies. The overall impression was of an efficient and happy school, ably organised and directed.

Date of inspection: March 1972[1040]

Key findings/conclusions

The roll of the School has increased by 40 pupils since the last inspection in July 1963. There are now 332 pupils in the School, of whom all but 18 are boarders.

Accommodation

All boarders are accommodated in comfortable boarding houses which are organised by age groupings, 12–13, 13–14, 14–15, 16–17, 17–18. Each of the five houses is administered by a resident Housemaster, assisted by House Tutors. Day boys are assimilated into the system according to their age. Since the last inspection the school buildings have been extended to provide additional boarding accommodation, a careers room, quiet rooms, and an increased number of study places for Sixth Form boys. Three new tennis courts have been constructed … The dormitories are large and airy, and the pupils are comfortably housed. Studies are provided for senior pupils; junior boys use the common room for private study and social activities.

Staff

The Staff, consisting of a blend of experienced and young Masters, are highly qualified academically and are ably led by the Headmaster. The boarders are supervised by Housemasters, House Tutors, and Domestic Staff. The Matron, who is a qualified nurse, maintains a daily surgery and a doctor visits the School regularly. The health and physical development of the pupils is very good.

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1039 Scottish Education Department, Report, Merchiston Castle School, July 1963, at SGV-000000848, p.55.

1040 Scottish Education Department, Report, Merchiston Castle School, March 1972, at MER-000000175, pp.1–3.

Date of inspection: March 1972

Curriculum

Academic standards are high throughout the school although there is room for continuing development in all departments … Evidence of the importance and value of games and sports in the life of the School can be seen in the provision of a wide range of opportunities for field games, athletics, and indoor and outdoor sports. Numerous clubs and societies, augmented by recreational activities, cater for other interests … The general impression is of an efficiently organised and happy school, where a sound education, based on careful and scholarly teaching and augmented by an impressive array of sports, games, and social activities of all kinds, is provided for all pupils.

Date of inspection: May/June 1984[1041]

Key findings/conclusions

The school in its community

The size of the school has remained fairly constant over the past 10 years. At the time of inspection the roll was 272 boarders and 52 day pupils. The total roll of 324 included 13 boarders and 10 day pupils attending the school under the Assisted Places Scheme. More than half of the pupils were of Scottish home background. Others came mainly from the north of England and from Northern Ireland. About 20% had parents working and living abroad.

With so wide a catchment area one of the school's foremost priorities was to achieve good communication with parents.

Resources

Most of the premises are purpose built and date from the 1930s or a building programme in the 1960s and 1970s. Some alterations have been carried out recently to improve the staff common room and the residential accommodation for house staff and pupils … Boarders were comfortably accommodated in each of the five boarding houses … Set in its own garden a short distance away from the main school buildings, the junior boarding house with its small dormitories provided the right sort of atmosphere for younger pupils, some of whom had not previously attended a school as a boarder. Lower and middle school pupils occupied large open dormitories in which the amenities had been recently improved. Other pupils were housed in dormitories which had been partitioned to afford a measure of privacy and all Sixth Form pupils had either a study cubicle or study bedroom … In general the standard of boarding accommodation was high and the school's arrangements took thoughtfully into account the changing needs of the pupils as they moved up the school. The boys themselves were well pleased with the facilities. All the areas inspected were clean and tidy … The state of the buildings overall was good.

1041 Scottish Education Department, Report, Merchiston Castle School, 1984, at MER-000000141, pp.1–10.

Date of inspection: May/June 1984

At the time of inspection the staffing complement was 32 full-time and 9 part-time teachers, giving a pupil teacher ratio under 10 to 1. The teachers were well qualified for the work they were undertaking and there were no staffing shortages or imbalance to affect the range of subjects being taught.

The school relied mainly on its own resources and its contacts with independent preparatory and secondary schools to keep up to date with developments in educational thinking and practice … but they were not in close contact with developments stemming from Scottish national working parties, Scottish curriculum development centres, or local groups meeting under the aegis of the regional educational authority.

Policy and management

The school was administered by a board of governors to whom the headmaster was responsible for all aspects of school policy and management. He was assisted in the running of the school by housemasters and heads of subject departments. Housemasters had a delegated responsibility for pupil care and guidance and were allowed freedom to develop their own individual styles of house management within the framework of the school rules and policies.

The headmaster met with housemasters once a week to go over any matters affecting the weekly routine … A prevalent view, however, along with the strongly held notion of individual teacher autonomy, was that the small size of the school made frequent daily contacts possible without the need for formal or elaborate machinery. It was clear that all staff regarded themselves as fully accountable to the headmaster for what they did, or failed to do, and all had easy access to the headmaster to deal with any urgent problems or to discuss any matters on a personal basis.

Policies with regard to teaching and learning programmes were variously expressed and documented, but seldom in any detail or in a form which made specific reference to learning objective, teaching methods, or the assessment of pupil performance.

The headmaster led the staff with purpose and a high degree of professional skill. He was actively involved in all aspects of school provision … He knew staff and pupils well … had been alert in identifying problems which needed to be solved either in the shorter or longer term … The work of the school was marked by excellent relationships between staff and pupils.

Summary

In virtually all respects the school was highly successful.

Table 8: Her Majesty's Inspectorate of Education (HMIe) inspections, 1996–2011

Date of inspection: March 1996[1042]

Key findings/conclusions

Positive features

- The school had significant strengths:
- The boarding accommodation for pupils at the junior and middle stages was very good.
- There were excellent playing fields and sports facilities.
- A good range of policies were in place including guidelines on the welfare and protection of pupils, and procedures for making complaints.
- Arrangements for medical care were very good.
- Academic and medical records were well organised.
- Good quality residential care was provided for pupils.
- Pupils were given good opportunities to take responsibility for themselves and to develop interpersonal and leadership skills.
- The provision made for pupils with special learning and emotional needs was appropriate and well organised.
- The general ethos of the school was very good.

Main points for action

- Accommodation in the senior boarding houses needed to be improved and toilet facilities and communal showers upgraded.
- Guidelines should be extended to include pupils' rights, equal opportunities, multi-cultural education, and personal and social education.
- Advice on the management of boarding houses should be developed and the deployment of house staff revised to ensure more effective supervision of all aspects of the academic and recreation programme.
- The school should obtain an updated fire safety letter from the Fire master and the system for recording pupils' day-time use of boarding accommodation should be improved.

1042 Scottish Office, Education and Industry Department, Letter to Merchiston Castle School, Summary of the outcomes of the HM inspection of the provision for the welfare of residential pupils at Merchiston Castle School in March 1996, 10 June 1996, at SGV-000011786, pp.9–10.

Date of inspection: 16 May 2000[1043]

Key findings/conclusions

Summary

- The school's ethos was very good. Pupils and staff identified very strongly with the school and took pride in it.
- The prefect system enabled pupils of different ages to know and care for one another within the school's horizontal house system … The Students' Forum offered a useful opportunity for pupils to express their views.
- Very supportive board of governors which was working closely with the headmaster in managing the school's operations and future developments.
- Overall accommodation for learning and teaching was good.
- A number of health and safety issues were brought to the attention of the headmaster.
- Overall boarding accommodation was fair. Some houses provided appropriate accommodation for pupils. However aspects of other houses had major weaknesses. Sanitary conditions and study bedroom arrangements did not meet minimum recommended standards.
- The school was well staffed and recent appointments had improved the balance between new and experienced staff.

School's key strengths

- Very good quality of attainment by pupils from Shell-Upper VI with strong performances in national examinations and a clear ethos of achievement.
- The good or very good lessons observed in almost all classes and the high quality of learning and teaching at the upper stages.
- Very good levels of teaching staff and the high degree of commitment to the school demonstrated by teaching and support staff.
- The very good partnerships with parents and the Board of Governors.
- The high-quality pastoral care and concern for pupils' welfare, and commendable opportunities for pupils to engage in extracurricular activities.
- A developing culture of self-evaluation in the school and improving procedures for the effective management of change.
- Headmaster who demonstrated very good leadership skills.

Main points for action

- The accommodation issues identified in this report should be addressed. As a matter of urgency, the standard of boarding accommodation should be improved in line with national advice.

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1043 HMIs, Inspection of Standards and Quality in Merchiston Castle School, 16 May 2000, at SGV-000007151, p.26.

Date of inspection: 16 May 2000

- Teachers should build more carefully on pupils' prior learning to ensure that targets for pupils provide appropriate and consistent challenge, particularly in Forms 1–4. More emphasis should be placed on the use of direct teaching to groups and individuals.
- The school should clarify the management and strategic role of support for learning. Provision should focus more on the specific needs of individual pupils, including those for whom English is a second language. Teachers should increase the approaches used to meet the learning difficulties encountered by pupils within subject classes.
- The remits of senior management team should be kept under review to ensure that they take full account of the changing needs of the school. Senior managers should be involved more directly in monitoring and evaluating the work of departments and houses. The aim should be to ensure a consistently high quality in pupils' experiences and maximise their attainment at all stages.
- The school should continue to strengthen the rigour of self-evaluation processes. School, department, and house development plans should focus on the quality of pupils' experiences and attainment and include clearer tasks and measures for success within defined timescales.

Date of inspection: 2002[1044]

Follow-up to inspection of May 2000

Key findings/conclusions

- Bedroom accommodation had been improved in the boarding house for pupils in the Lower 6th, so that most had single study bedrooms. Further improvements to the boarding accommodation scheduled for the summer break.
- Arrangements for meeting the language needs of pupils for whom English is an additional language had been improved and were now good.
- An academic management team had a very clear remit to evaluate the work of departments. Members of the senior management team now had explicit roles in monitoring the work of the houses. There was a clear focus on the quality of pupils' experiences.
- Departments had responded very positively to the priorities for action identified in the inspection report.
- Overall, the school had made very good progress in addressing the points for action in HM Inspectors' May 2000 report. In tackling the points for action, the school had taken an imaginative but rigorous approach.

1044 HMIe, Follow-up to the Inspection of Standards and Quality, Merchiston Castle School, 2002, at SGV-000006540.

Date of inspection: 17 June 2003[1045]

Key findings/conclusions

- School inspected as part of a national sample of residential provision. The inspection evaluated the effectiveness of pupil care and how well residential provision was managed. At the time of the inspection there were 279 boarders, organised into 6 residences. There were 135 day pupils.
- The school has made good progress in improvement of boarding accommodation. Additional showers, toilets, and wash-hand basins have been installed in several houses, and bedroom accommodation has been improved for senior pupils. Pupils felt safe and well cared for and believed that staff listened to their views and dealt effectively with bullying.
- The school's ethos was very good … Relationships between residential staff and pupils were very positive … They could express their views about their care and welfare through suggestion boxes and pupil committees … Housemasters and residential staff responded promptly to any parental enquiries or concerns.
- Younger pupils still used communal showers. While the sixth form pupils and prefects had their own bedrooms, younger pupils and a number of older pupils still shared dormitories. The school had made considerable efforts to improve these areas to ensure greater privacy for pupils but recognised that further improvements were needed. In one residence the standard of accommodation was only fair … Clear plans had been drawn up to install individual showers for younger pupils and build a new sixth form residence.
- Arrangements for the care of pupils very good … Boarders felt safe and well supported in the school. Staff knew them very well and responded effectively to their needs. There were effective arrangements in place for child protection and to prevent bullying. Each house had produced an anti-bullying charter which gave clear guidance to pupils. Teaching and non-teaching staff were familiar with the child protection policy and were confident in implementing child protection procedures. Prefects had received training in child protection issues to prepare them for contributing to the pastoral care of boarders. Staff kept good records of any incidents, including incidents of bullying, and records were readily accessible to appropriate staff. There was very effective liaison, both formal and informal, amongst staff to ensure that relevant information was shared.
- Helpful house handbooks provided clear, consistent guidance about boarding schools and school rules. Pupils, both boarders and day pupils, had very good opportunities to be involved in making decisions through regular house meetings, house councils, and the school council.
- Housemasters, pastoral and academic tutors, and members of the Academic Management Team worked together very effectively to monitor and support pupils' personal and academic progress.

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1045 HMIe, Inspection of the Care and Welfare of Residential Pupils, Merchiston Castle School, Edinburgh, 17 June 2003, at SGV-000007417.

Date of inspection: 17 June 2003

- Support for new boarders was very good. Each house provided a comprehensive induction pack and pupils received clear guidance about how they could access help and advice within and outwith the school. The school had good plans to develop further its induction procedures for overseas pupils.
- The headmaster provided very good leadership. The school had developed and implemented very effective policies and procedures for the care and welfare of residential pupils … All housemasters led and managed their residences well. School staff had developed a comprehensive range of very effective care and welfare policies. All residential staff had had their work reviewed under the school's scheme for staff review and development.
- The board of governors provided useful support to the school and met regularly with the headmaster to discuss issues relating to the care and welfare of residential pupils.

Main points for action

- The school should continue with its plans to improve the accommodation and facilities for residential pupils.
- The school should implement planned improvements to the programme for personal and social education.
- HM Inspectors have asked the school and board of governors to prepare an action plan indicating how they will address the main findings of the report … HM Inspectors will monitor progress to ensure improvements.

Date of report: October 2005[1046]

Key findings/conclusions

- The inspection was part of a programme of integrated inspections of mainstream school care accommodation services by the Care Commission and HMIe. It follows the commencement on 1 April 2005 of integrated inspection under the Regulation of Care (Scotland) Act 2001.
- At the time of the inspection there were 432 pupils on the roll, of whom 295 were boarders. Most pupils were generally positive about the boarding provision. Concern was expressed about the lack of privacy when showering or changing.
- Relationships between house staff, tutors and pupils were very good … Morale was high and staff worked hard to create a caring, safe and secure environment for pupils … Communications from house staff to parents were very good … Overall the standard of accommodation was good. Individual houses provided a safe, warm and attractive environment for boarders … However there was still a need to improve toilet arrangements, privacy in the shower areas and aspects of accommodation in some houses.

1046 HMIe and Care Commission, Joint inspection, Merchiston Castle School, October 2005, at MER-000000133.

Date of report: October 2005

- Effective arrangements were in place to record accidents and incidents in each individual house. Boarders felt safe and well supported in the school. At least one staff member was available on a 24-hour basis to supervise the pupils … Pupils felt house staff were approachable and very responsive to their needs. Support for new boarders was good. Each house provided a comprehensive welcome pack in which pupils received clear guidance about how they could access help and advice within and outwith the school.
- The school had an appropriate child protection policy in place and house staff had a clear understanding and awareness of the procedures. All staff received child protection training … Any incidents of bullying were dealt with quickly and effectively. Childline posters were displayed prominently beside telephones and on school notice boards.
- Helpful and comprehensive guides provided clear, consistent guidance about boarding house and school rules. Pupils had ample opportunities, both within their houses and through the pupils' forum, to raise matters of concern.
- Housemasters, pastoral and academic tutors, and members of the Academic Management Team worked together very effectively to monitor and support pupils' personal and academic progress. Senior staff offered very good support.
- The work of housemasters and tutors was formally appraised. New staff were appraised after their first year. Other staff underwent a job review as part of a three-yearly cycle. The school demonstrated a strong culture of self-evaluation and continuous improvement … Members of the senior management team regularly visited houses and made good use of reports drawn up by the housemasters … They used national quality indicators and national care standards effectively to review the school's work … The school consistently sought, and acted upon, the views of pupils, parents and carers through the pupils' forum, the parents' forum, and written questionnaires. The board of governors and in particular the Chair of the board provided very good support to the headmaster. They visited the houses on a regular basis and took time to ascertain the views of house staff and boarders.
- The inspection had regard to HMIe quality indicators. The school was evaluated as 'very good' against assessed quality indicators.

Main points for action

The school and board of governors should act on the following recommendation:

The school should continue with its plans to improve the accommodation and facilities for residential provision.

Date of report: 6 September 2011[1047]

Key findings/conclusions

- We found the school has strong and very effective approaches to develop each boy's personal achievement and ensure progress in their learning. The impact of the school's processes offers clear evidence of the value added by the school in ensuring each student reaches his full potential.
- Particular attention has been given to the school's aim of Boys First. Staff tailor approaches to the needs of an 'all boys' learning environment.
- The recently established boarding facilities for senior boys are having a positive impact on learning, with each student having personal/study bedrooms, and the general ethos of respect and expectations of responsibility of these older students.
- The school has very well developed and detailed approaches to ensuring the health and wellbeing of each and every student.

1047 HMIe, Letter to parents/carers, 6 September 2011, at SGV-000007456, p.1.

Table 9: Care Commission and Social Care and Social Work Improvement Scotland (SCSWIS) inspection reports, 2005–11

Date of inspection: June 2005[1048]

Key findings/conclusions

The inspection was part of a programme of integrated inspections of mainstream school care accommodation services by the Care Commission and HMIe. It follows the commencement on 1 April 2005 of integrated inspection under the Regulation of Care (Scotland) Act 2001.

See Key findings/conclusions at HMIe report in Table 8.

Date of report: 13 March 2007[1049]

Unannounced inspection

Follow-up on main points for action identified at the integrated Care Commission/HMIe inspection.

Key findings/conclusions

- Service users spoke very positively about their experience at Merchiston, about staff and accommodation.
- The school themselves have identified a need to review their mobile phone policy on a regular basis.
- The school recognised the limitations that the current boarding in Evans House gives them and looked forward to the new 6th form accommodation which aims to be completed by September 2008.

Date of report: 5 November 2007[1050]

Announced inspection

Key findings/conclusions

- The school is currently undergoing a process of change with regard to the organisation of its boarding facilities. A new sixth form house is under construction and this will lead to opportunities in other houses to reassess individual living and study space for pupils at other stages.
- During the inspection, the officers viewed policies, procedures, and records. These included incident records and pupil information held in boarding houses.

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1048 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, October 2005, at MER-000000133, p.7.

1049 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 13 March 2007, at CIS-000000061.

1050 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 5 November 2007, at MER-000000135.

Date of report: 5 November 2007

- Service users consulted during the inspection visit were positive in their comments regarding the service they received … Staff were said to be approachable and supportive, and many pupils regarded the house prefects as respected elders who could be approached for advice and guidance.
- The service had a comprehensive child protection policy informed by relevant legislation. Practice guidelines were in place to inform staff regarding procedures to follow and actions to be taken in the event of child protection issues arising. Policy documentation demonstrated links with local and national agencies to maintain awareness of child protection matters and developments. Documents were examined and discussions took place with staff which provided evidence that staff had followed procedures when incidents had arisen which required investigation and properly consulted the relevant authorities.
- Staff consulted during the inspection visit were aware of their responsibilities with regard to pupils' safety, and appropriate child protection training had been provided. Systems to maintain a safe and secure environment for boarding pupils were in place. Pupils reported feeling safe and well protected. The positive supportive role of prefects throughout the boarding houses was a theme which was consistently raised by pupils and staff.

Areas for development

Prefects received training from housemasters regarding their role and responsibilities but would benefit from a focussed input from the child protection coordinator to emphasise the importance of their role.

Strengths

- The school had a range of policies and procedures which informed the work done by staff. Training appropriate to individual roles was provided and staff encouraged to develop their skills and access up-to-date information.
- Lines of responsibility within the staff structure were well recognised, and staff members consulted said that they felt supported by managers and experienced colleagues. Individual staff within the boarding houses were aware of their roles and were held accountable for their performance through regular appraisals. Pupils were comfortable with the level of support they received from staff and felt that there was always access to staff when needed.
- During the inspection, staff were noted to be aware of individual pupils and their needs and preferences. Housemasters and house prefects provided a network on a variety of levels which helped pupils feel secure within the boarding environment.

Recommendations

Prefects should receive advice and guidance from the school's child protection coordinator with regard to their responsibilities for pupil safety and child protection.

Date of report: 5 March 2008[1051]

Unannounced inspection

Key findings/conclusions

Communication with Care Commission staff will be maintained in the time leading up to the completion of the new boarding house to ensure that all necessary safety checks are carried out prior to its occupation.

Date of report: 31 October 2008[1052]

Announced inspection

Key findings/conclusions

Strengths

- Parents and pupils had opportunities to give views and influence the service development through a variety of methods.
- From observation and discussion it was evident that all the staff took time to get to know the pupils on an individual level. Pupils were observed being kind and respectful towards each other. The school had an anti-bullying policy in place and ensured that the subject was a regular topic on all agendas.
- The service has in place a child protection policy which contained all the key information required by the National Care Standards. This policy and procedure was known to staff, and staff confirmed they had received child protection training.
- Staff members during the inspection visit confirmed that they were aware of their responsibility to keep children and young people safe and what they should do in the event of concerns arising. The school had access to appropriate information and legislation regarding child protection.
- The child protection coordinator was knowledgeable, had appropriate training, and was readily accessible to pupils for confidential discussion and advice.
- The pupils had access to a number of people besides school staff who provided independent support. For example, prefects within the houses were used by boarders to feed back comments to housemasters. Governors regularly visited the houses.

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1051 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 5 March 2008, at CIS-000000064, p.5.

1052 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 31 October 2008, at MER-000000174.

Date of report: 31 October 2008

- An established recruitment procedure ensured that staff were suitable to be employed in the service and able to demonstrate the necessary skills required by the job description. All staff were subject to annual appraisal … There was evidence that senior staff monitored staff practice and were responsive in addressing poor practice … Most staff held an appropriate qualification to care for children … The headmaster was aware of his responsibilities in relation to notifications to the Scottish Social Services Council and the Care Commission.
- Parents and pupils had opportunities to give views and influence the management of the service through a variety of methods.
- Pupils' needs were being addressed both within the boarding houses and in the school curricular programme.

Date of report: 12 March 2009[1053]

Unannounced inspection

Key findings/conclusions

- In the previous inspection report it was identified that the school was performing to an excellent standard.
- The school had continued to involve boarding pupils in a variety of forums and were open to suggestions from pupils regarding new ideas.
- At the previous inspection the school had identified a number of areas for improvement such as installation of CCTV, and at this inspection there was evidence that the CCTV had been extended around the school campus.

Date of report: 17 June 2010[1054]

Announced inspection

Key findings/conclusions

- Merchiston Castle School provides an excellent service which meets the diverse needs of boys from a range of different backgrounds and cultures. The views of boys and their parents are valued by the School Leadership and staff teams who are highly committed to ongoing and continuous improvement.
- There were excellent systems in place which ensured that parents and boarders were involved in the development and evaluation of the care and support provided by the service.

1053 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 12 March 2009, at MER-000000095.

1054 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 17 June 2010, at MER-000000138.

Date of report: 17 June 2010

- The main aspect for improvement lies in the ongoing programme of refurbishment to the individual Houses, with the exception of Laidlaw which is a new building.
- We found that all the staff took time to get to know the pupils on an individual level … Staff interacted with pupils in a respectful and caring manner and pupils stated that they found staff very approachable. Staff provided good role models in their behaviour … and were perceptive to the needs of the pupils in their care … Younger pupils stated that the introduction of prefects living in their house had been very beneficial as they looked on them as 'big brothers' and would go to them when they needed some support.
- The school had developed very effective systems to ensure that the pupils were able to share ideas and suggestions through house meetings, pupil council, and regular individual discussions.
- In discussion pupils said that they were aware of the anti-bullying message and that they were comfortable in seeking assistance if they needed help to manage difficult relationships. The boys confirmed that staff and senior pupils were available to speak to should they need to. The school had an anti-bullying policy in place and ensured that the subject was a regular topic on all agendas.
- The need for a senior House for senior pupils was identified by the board of governors and School Leadership Team in 1998. Senior pupils played a role in the design of the House and their own space. They had been consulted on the layout and the facilities. Senior boys told us of the popularity of the gym facilities as well as the shared spaces on each floor of Laidlaw House. The availability of rooms for flexible boarding was greatly appreciated by boys in supporting their friendships with day boys.
- The accommodation in the various houses was very good.

Date of report: 17 May 2011[1055]

Unannounced medium-intensity inspection[1056]

Key findings/conclusions

Strengths

- Boarding staff showed great commitment to delivering exceptional care to boarders.
- Pupils have ideal opportunities to express their views about the boarding provision in a wide range of forums within the school.
- The school has developed a caring ethos which is exemplified in the responsible attitude of its pupils.

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1055 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 17 May 2011, at SGV-000011401.

1056 A medium-intensity inspection is carried out 'where we have assessed the service may need a more intense inspection'.

Date of report: 17 May 2011

- There are excellent strategies to support and develop each pupil to achieve their potential, both academically and socially.
- Pupils said they were listened to and that their views were taken into account by staff. Pupils and parents had outstanding opportunities to make comments and suggestions for improvement. The school had a fully qualified counsellor who provided a confidential service for pupils throughout the school. The service is well used by pupils.
- The school had a designated child protection coordinator and deputy child protection coordinator in place. Both these members of staff had received additional child protection training. There was a clear child protection policy and procedure in place for all staff. Staff had a copy of the school's very good leaflet on child protection, which reminded them about their responsibilities in this area.
- There was a regular programme of training in child protection. The school has almost completed a review of the school's child protection policy. They had carried out an audit of pastoral care and produced an action plan from this. The crisis management policy was almost complete.

Areas for improvement

- The School Leadership Team may wish to consider some of the ideas that the senior pupils have to further promote their independence, prior to leaving school. To complete the review of the school's child protection policy and crisis management policy which covers pastoral incidents.
- To develop a written recruitment policy, in line with the best practice recruitment procedure already in place. Although a clear recruitment procedure was in place, it was not supported by a recruitment policy.

Conclusion

Merchiston Castle School continues to provide an outstanding boarding experience to pupils. Pupils are cared for by an enthusiastic, motivated, and highly experienced boarding staff team. Pupils are provided with ideal opportunities to develop their sense of responsibility to the younger pupils and to the school.

Recommendation

It is recommended as a good practice that the school develops a recruitment policy and reviews its current recruitment procedure to include a recording system for all stages of the recruitment process, including confirmation of physical and mental fitness and a written record of telephone references for domestic staff, if they are unable to obtain a written one.

Date of report: 13 December 2011[1057]

Unannounced inspection

Key findings/conclusions

Strengths

- The school's consultative approach with boarding pupils continues. This means that pupils actively contribute to the recruitment of new boarding house staff. Their views continue to be taken into account during the recruitment process.
- We reviewed the school's written policy for the recruitment of staff. This was comprehensive and clearly identified all stages of the recruitment process … The recruitment policy includes a checklist for recruitment. This means that each candidate goes through the same recruitment process … When we reviewed the recruitment files we found that they were of a high standard … the school had reviewed its recruitment policy and procedure in line with best practice guidance … the recruitment system in place is robust.

Areas for improvement

Continue to monitor progress in their review of the tutorial model and support for the Shell year group staff. The school should continue to be mindful of best practice guidance and regularly review its recruitment policy and procedures to ensure they meet best practice guidance.

Conclusion

Merchiston Castle School continues to offer its pupils a first-rate boarding experience. Boarding pupils are encouraged to give their views on the boarding experience. These views contribute, where appropriate, to decisions about the school's boarding policies and procedures.

1057 Care Commission, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 13 December 2011, at SGV-000011513.

Table 10: Education Scotland (ES) inspections and visits, 2012–16 and Care Inspectorate (CI) inspection reports, 2012–21

Date of report: 29 October 2012[1058]
ES unannounced low-intensity inspection[1059]
Key findings/conclusions **Strengths** • The quality of pastoral care, validated through an independent consultant's survey on Scottish boarding schools, is exceptional, as is the academic support. • Outstanding communication, consultation, and involvement of pupils and parents, supported by ideal reporting arrangements to parents. • The school's Koinonia[1060] – working in partnership with the local community, support for charities, and the very strong co-curricular programme and weekend activity programme – follow best practice guidance. • Pupils had outstanding opportunities to give their views about the day-to-day care in the boarding houses. There was an extremely well-developed prefect system. Prefects were given rooms in the houses and helped to mentor younger pupils. They were provided with training for this role. Pupils we spoke with told us that they would, and did, go to prefects if they required support. There was a wide range of other adults who supported the boarding pupils, including house tutors, housemothers, housemasters, the school counsellor, and members of the medical team. • Pupils were encouraged to discuss and agree on house rules. A very well-established student forum was in place. Pupils had exceptional opportunities to take part in school committees. Pupils were encouraged to give their views during the staff recruitment process. Pupils took part in 360-degree feedback as part of staff professional development review. • We found that parents had ideal contact with house staff, both formally and informally. The school was providing an exceptionally high level of care in a nurturing environment. • In an example of innovative practice, the school had a GIRFEC committee. This committee included the senior deputy headmaster and the school's child protection coordinator. The committee introduced a care plan for pupils who may require additional pastoral support … This meant that the school was dealing with each pupil's difficulties in a planned and supportive way, in consultation with parents.

1058 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 29 October 2012, at SGV-000083779.

1059 A low-intensity inspection is carried out 'when we are satisfied that services are working hard to provide consistently high standards of care'.

1060 A Greek word meaning Christian fellowship.

Date of report: 29 October 2012

- All accidents and incidents were appropriately recorded … The school was proactive in looking at how they could improve, particularly in the area of pupil welfare … The school provides exceptional pastoral care. Their practice in this area is innovative and supportive of pupils and their parents.
- The school had an excellent recording system in place, covering all aspects of safer recruitment … The school had an ideal system for the recruitment of staff. It followed best practice guidance on safer recruitment.
- A well-developed boarding system was exceptionally well supported by committed staff. They understood their responsibilities under current legislation and took account of the National Care Standards. The boarding house staff as a staff team were knowledgeable and skilled in providing exemplary care for boarding pupils.
- The school had a rigorous system in place to monitor the service it provides. The senior leadership team was open and transparent about this process. It involved staff at all levels. It helps the school to identify ongoing improvements.

Areas for improvement

- Continue the upgrade of Chalmers and Pringle Houses
- Continue to further develop a more robust audit system for co-curricular activities
- The rules for Pringle House were very extensive and prescriptive.

Conclusion

The school continues to provide an outstanding boarding experience … Boarding staff are enthusiastic and motivated about their roles in the boarding houses. Along with the medical team, domestic, and catering teams, they provide an exceptional level of care to boarding pupils. The staff teams are led in an ideal way by the school's leadership team.

Date of report: 4 September 2013[1061]

CI unannounced medium-intensity inspection

Due to the issues of a child protection nature that the school faced last term, which referred to historical events, this inspection focused on a review of the school's current safeguarding policies and procedures.

Key findings/conclusions

Strengths

- the school's outstanding pastoral care and support for pupils by staff and by senior pupils
- the school's high-quality leadership from the headmaster and the school's senior leadership team

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1061 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 4 September 2013, at CIS-000000089.

Date of report: 4 September 2013

- pupils' enthusiasm about the ideal boarding experience and the outstanding opportunities given to them e.g. development of leadership, learning journeys, sports experiences, trips and tours

The school was continuing to provide high-quality boarding for pupils. The care and support for pupils was exemplary. Pupils had a wide range of highly effective forums to give their views. They had outstanding relationships with house staff, who involved them in decisions about the day-to-day running of the boarding houses. Pupils told us that staff listened to their points of view, and, where appropriate, took forward their suggestions.

The staff teams, ably led by the school's senior leadership team, provided high-quality care and support for pupils. The school had robust systems in place to identify where pupils may need additional support. Information was used effectively by staff to ensure that appropriate care plans were in place.

We reviewed the audit that the school had carried out of historical child protection issues. We were satisfied that any lessons learned from this audit will be taken forward by the school in its action plan. The headmaster confirmed that lessons learned would inform any further amendments to the current robust policies and procedures already in place. We noted that, throughout the child protection concerns, the school had co-operated fully with external agencies, including the Care Inspectorate … the school was continuing to review and develop its safeguarding of pupils. The school's child protection policies and procedures were known and understood by staff. Appropriate child protection training was in place for all staff. They understood their responsibilities to report any safeguarding concerns.

Areas for improvement

- The school may wish to consider, as an ongoing area for improvement, reviewing the use of pupil profiles and GIRFEC care plans, to produce an integrated plan.
- The school should continue to develop a formal appraisal/evaluation system for activities.
- The school should continue to monitor the effectiveness of increasing pupil participation in the houses.

Conclusion

Merchiston Castle School continues to provide a high-quality boarding experience which takes account of individual pupils' development and health needs. The school is led in an exemplary way by the school's senior leadership team under the strong guidance of the headmaster.

Date of inspection: 3 September 2014[1062]

Visit by HMI link inspector

Key findings/conclusions

We found the school were open about the need to review and tighten up on their safeguarding policies and procedures. However, we remained concerned about the capability of the school's leaders in making their range of improvements that were necessary.

Date of inspection: 28–30 October 2014[1063]

Joint short-notice care and welfare inspection

Key findings/conclusions

Strengths

- Young people have established positive relationships with their teachers and with staff in the boarding houses. All young people spoken to were able to identify at least one member of staff who knows them well and to whom they would go with any worries or concerns. Many younger boys also talked about positive relationships with prefects and other senior boys whom they respect and relate well to.
- Young people are able to influence a number of aspects of school life. Their views are sought at the House forums, House meetings, prefect meetings, and the annual whole-school questionnaire as part of the self-evaluation process. Young people participate in the selection process for new staff.
- Positive and caring relationships between staff and young people were observed across the school … Nearly all (95%) young people felt safe and cared for in school … The school is appropriately reviewing and developing their PSHE programme, which is being delivered across the school at all stages.
- The school has appointed a governor responsible for child protection.
- Staff we consulted were aware of their responsibilities in passing information and concerns to senior staff. Staff are developing confidence in their safeguarding responsibilities and in recognising child protection issues. Key staff such as housemasters are confident about reporting concerns. Prefects with a role in boarding houses are trained in child protection. Prefects are positive role models for younger boys. The challenge is to ensure policy and procedures build on best current guidance and expertise.

Aspects for development

- Young people are not yet making a significantly strong enough contribution to the school … The school leadership team recognise that pupil voice could be further strengthened.

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1062 Merchiston Castle School, Education Scotland Engagement, Visit by HMI link inspector, 3 September 2014, at SGV-000064539.

1063 Education Scotland and Care Inspectorate, Joint Inspection of Merchiston Castle School, October and November 2014, at SGV-000064946.

Date of inspection: 28–30 October 2014

- Young people in focus groups talked about sanctions such as 'blue papers' and 'sides' which were reported to be issued by prefects as well as staff. These punishments are not routinely recorded within the school's overall summary of sanctions. The school should review its approaches to behaviour management to include a stronger focus on promoting positive behaviour and to ensure that purpose and level of any sanction is clear to young people.
- The role and expectations of the PSHE tutor requires to be clarified. Training for staff delivering this role needs to be strengthened to ensure consistency of practice so that all young people have access to high-quality learning experiences.
- The school's policy on child protection needs to be revised and reflect best practice. The CP pro forma was not consistently used, which led to a variety of formats of information recording, sharing, and storage, making it difficult to easily track an issue and resulting actions.
- School log for child protection was not fully updated. While the school records the number of incidents of bullying and racism harassment, the senior leadership team recognise that a more strategic approach is required to collecting and scrutinising the data to improve practice and outcomes for children. A significant minority of young people think that staff could improve the way in which they deal with bullying.
- Parents note that the approach and speed of response to complaints, issues, and concerns is variable across the school stages. Staff across the school require further professional learning in relation to communication regarding complaints and concerns raised by parents.
- The school needs to improve the quality and consistency of its practice, ensuring systems are working effectively and that the desired impact is achieved.
- The governors and school leadership team must take immediate positive action to devise a strategy of prevention, supported by robust monitoring and quality assurance systems. They recognise that this work must be given the highest priority in going forward.
- The headmaster, working with the governors and school leadership team should ensure all staff are clear about their roles and responsibilities in ensuring school policies are well understood and implemented to minimise the risk of any future events that may result in harm to pupils.
- Key policies relating to staffing should be revised. In particular the disciplinary policy should make clear the definitions of gross misconduct and be structured to make clear a staged escalation process.
- The school governors, and the school leadership team, in close collaboration with pupils, parents, and staff, now need to review [their] safeguarding arrangements at all levels.

Date of inspection: 28–30 October 2014

Care Inspectorate recommendations

- The provider should ensure that the school uses its HR systems efficiently and that employment applications are routinely checked to ensure they are complete before being considered.
- The provider should support the school to review its staff disciplinary procedures to ensure that pupils and staff are protected in the event of allegations being made.

Care Inspectorate requirement

The provider should put in place guidance which advises that any meeting of governors cannot make decisions about child protection matters without the presence of the governor charged with overseeing safeguarding and child protection in the school.

Date of report: 20 January 2015[1064]

Joint short-notice care and welfare inspection

Key findings/conclusions

- The school is aware that important changes are now required to ensure that policies and procedures in relation to safeguarding, including child protection documentation, are maintained to the highest standards and consistently implemented by all staff. HR systems have not always been used effectively enough in staff recruitment processes and in dealing with staff disciplinary matters. The governors and the school leadership team must now take immediate action to strengthen governance arrangements and professional leadership, and improve support and challenge in these areas.
- Overall, the school relies too heavily on informal approaches and now needs to consider where more formal systems for improvement are needed.
- We agreed with the governors and the school leadership team that, as a matter of urgency, they now need to implement a clear strategy focused on prevention supported by robust quality assurance and monitoring systems including:
  - clarifying and strengthening the roles and responsibilities of key staff involved in safeguarding pupils
  - improving procedures relating to staff recruitment, training, and disciplinary matters, building on best practice in relation to equalities and safeguarding legislation
  - reviewing the PSHE programme
  - strengthening leadership at all levels in improving safeguarding practices.

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1064 Education Scotland and Care Inspectorate, Joint Inspection of Merchiston Castle School, October and November 2014, at SGV-000064946.

Date of report: 20 January 2015

Care Inspectorate recommendations

- The provider should support the child protection coordinator to ensure that the pro forma documents developed to make the school's child protection systems as effective as possible are always used to report child protection concerns.
- The provider should ensure that the school uses its HR systems effectively and that employment applications are consistently audited to ensure they are complete before being considered.
- The provider should review its staff disciplinary procedures to ensure that pupils are safeguarded in the event of allegations being made.

Care Inspectorate requirement

By 31 March 2015 the service provider must demonstrate to the Care Inspectorate that all decisions made in the course of the business … are made in accordance with its safeguarding policies and procedures.

Date of inspection: 27 February 2015[1065]

Support visit to school by HMI link inspector and a colleague

Key findings/conclusions

Inspectors found that [the] school has made improvement in strengthening aspects of their policies and procedures. However, more requires to be done and the pace of implementation is slower than required.

Date of report: 11 May 2015[1066]

Joint announced, medium-intensity inspection

Key findings/conclusions

Strengths

- The service has comfortable and safe accommodation for boarding pupils.
- Staff working in boarding houses are highly committed and have a good understanding of their roles and responsibilities.
- They understand the need for nurturing individual children and providing emotional support. The service provides very good opportunities for young people to be involved in a range of outdoor activities that promote independence and wellbeing.

1065 Education Scotland, Establishment Contact/Visit Note, Merchiston Castle School, 27 February 2015, at SGV-000064499, p.1.

1066 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 11 May 2015, at SGV-000083778.

Date of report: 11 May 2015

We saw that interaction was very positive across the houses. There was an ethos of respect between pupils and between staff and pupils. We saw and heard of examples of pupils seeking out specific staff for advice and information on academic and sporting matters.

A system was in place to enable staff to express concerns about the wellbeing of pupils … The policy and procedures for child protection, wellbeing, and safeguarding had been updated since the last inspection. Further updates were completed during the inspection following further advice and guidance given by inspectors. The service now needs to ensure that all staff are familiar with the updated policy. The board had changed its ways of discussing child protection to ensure that it was given a high priority and that the relevant governor was present when CP issues were discussed.

A range of systems were in place to ensure that the school was a safe environment for pupils.

Anti-bullying initiatives had been put in place and were pupil led. Senior pupils and heads of houses were clear about their respective responsibilities and role in keeping younger pupils safe. Their effect as role models and mentors was valued across the school with particular mention of the contribution of the head of house for Pringle.

The service had updated its recruitment policy and procedure in order to ensure that the process around recruitment of staff was improved … The selection process for staff was comprehensive.

We observed that staff were highly motivated and committed in their support of young people residing in the boarding houses. They were … aware of the need to ensure that pupils were safe, comfortable, and well cared for.

Staff we spoke with said they felt consulted and listened to about the way the school cared for its pupils.

Areas for improvement

- The service needs to ensure that the assessment of young people's care and welfare needs is more robust to enable these needs to be fully met. How these needs are met needs to be communicated more effectively to all staff across the whole school.
- There was a need for a system to be put in place which would inform staff about the risks to individual pupils and how they could best be mitigated. Such a system would enable staff to easily access clear, accurate, and up-to-date guidance.
- There was a need to develop a file of information for pupils with identified needs which would contain the initial concern form, the GIRFEC plan, and up-to-date risk assessment, notes of contact with other agencies, including when they took place, and a facility for staff to log observations or information about any issues.
- We found the quality of the GIRFEC plans was poor … We noted that, even where there was a high level of vulnerability, the system for sharing information and ensuring that staff were effectively informed about the risk to the young person was not sufficiently robust. The emphasis was on confidentiality rather than protection.

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Date of report: 11 May 2015

- Staff were not always clear on the difference between child protection issues and wellbeing concerns and the consequent actions which were required to progress them. There was a need for further staff development work for this to be fully integrated into staff practice.
- There was a need for expertise in working with social care needs and mental health issues to be increased and added to staff team skills. This should include the compilation and use of risk assessments and the ways in which the needs of young people were met. Staff should be more aware of the methods of communication with other agencies.
- There was a need for self-assessment and reflection to have a clearer focus on the safety and wellbeing of pupils.

Conclusion

The systems for ensuring the safety and wellbeing of boarding pupils have been improved and updated. However, there is still further work to be done to confirm that all aspects of care and welfare are operating at the highest level, to ensure that where needs are identified, effective risk assessment is undertaken and GIRFEC plans are put in place. Communication in relation to these assessments and plans needs to improve further.

Requirements

The provider must demonstrate and ensure that where a young person has identified care or welfare needs which require a care plan:

- staff completing the care plan have appropriate knowledge and expertise to undertake the assessment of need or risk
- clear risk assessments are in place which identify the risk and action to be taken to address the risk. Sufficient detail regarding the need or risk must be recorded
- the care plan is communicated to staff involved in the day-to-day care and support of the young person including teaching staff
- the plan is reviewed at appropriate intervals, at least every six months, and that appropriate staff, professionals, and agencies are involved in the review process
- the review considers how effective the care plan has been and any other action that is needed to address the needs of the young person.

Recommendations

- The provider should review information systems to enable staff to easily access and contribute relevant information about the needs of pupils and the risks to their wellbeing from different aspects of school life.
- The provider should establish a system for storing information and care plans for pupils which would enable relevant staff to ensure it is kept up to date and that its content is of an appropriate quality.

Date of report: 11 May 2015

- The system for recording medication administration should be adapted to enable house staff to record the administration of medication when the health centre is not accessible.
- A dedicated email address should be considered as a means of all staff recording child protection issues and concerns for the wellbeing of pupils.
- The provider should ensure that a skills audit is carried out to ascertain training needs across boarding house staff. This should inform action to enable there to be appropriate skills and knowledge within the whole school to meet the care and support needs of all pupils.

Date of report: 23 June 2015[1067]

Follow-up to aspects of previous inspection report of January 2015 including safeguarding, care and welfare, and PSHE, as well as tracking and monitoring, and professional learning.

Key findings/conclusions

- Almost all children and young people feel safe and cared for in school.
- The child protection framework in place to support children and young people is now up to date and reflects recent Scottish legislation … The school has also begun to review its approaches to behaviour management to include a stronger focus on promoting positive behaviour … The headmaster is well respected by the governing board, pupils, parents, and staff. He is a very strong ambassador for the school here and abroad. He is very well supported by his senior deputy and the academic leadership team.
- The board of governors has taken action on the key recommendations arising from the inspection report of January 2015 … The school leadership team has therefore been restructured, and a new senior deputy of pupil support appointed for September 2015.
- Continue to improve practice in relation to main points for action from January 2015 inspection.
- While the school takes steps to provide a safe and caring environment, there are important weaknesses in practice in relation to the approaches to and provision for meeting the mental, emotional, and social needs of children and young people. The school now requires to put in place a more coherent and cohesive system to identify and meet the mental, emotional, and social needs of all learners in a more rigorous and robust manner. This includes setting clear outcomes, identifying interventions (with partner agencies if appropriate) with clear timescales, and tools to measure the effectiveness of such interventions against the initial outcomes.
- A minority of pupils indicated in the Education Scotland questionnaires, and in focus groups, that staff were not good at dealing with bullying behaviour. The school should continue to proceed with plans to tackle this important agenda through their working party.

1067 Education Scotland, Record of Inspection Findings: Merchiston Castle School, June 2015, at SGV-000065183.

Date of inspection/report: 22 October 2015[1068]

Follow-up visit

Key findings/conclusions

- Education Scotland is visiting the school on a monthly basis to gather more information about child protection practices and to monitor the school's progress in taking forwards the recommendations and areas for improvement identified at the last inspection. The original agenda for this visit was altered in response to the recent reporting by the school to the Registrar of Independent Schools of two alleged incidents related to a former member of staff.
- HM inspectors asked about the support being given to the two boys who had made the recent disclosures [about 'Laura' (RCQ)]. The school are not offering direct personal support to these pupils but are keeping an eye on them.
- The pupils made the disclosure on 5 October, but the school does not know if the boys' parents know about their disclosure. At the time of the meeting the school had not informed the boys' parents. HM inspectors are concerned about this lack of action on the part of the school and the potential negative impact on the pupils and their parents. HM inspectors advised the school, as a matter of urgency, to offer personal support to the two pupils concerned.
- Overall, whilst HM inspectors found that the school were open about their need to further review and tighten up their safeguarding and HR policies and procedures, inspectors remain concerned about the capability of the school's leaders in making the full range of improvements that are necessary.
- HM inspectors will continue to carry out monthly visits to support and challenge … A further inspection by Education Scotland will take place some time between January and March 2016.

Recommendations to the Registrar

- Arrange a multi-agency meeting with the chair of the board of governors in order to discuss the ongoing concerns re leadership and child protection/safeguarding and HR policies and procedures.
- Arrange a multi-agency meeting in order to share information about the school.
- Investigate with the Care Inspectorate whether the school is in breach of their corporate parenting duties by not informing the parents of the two pupils who made the recent disclosure.
- Consideration of applying conditions as a result of the findings of this recent engagement visit or following the next visit on 19 November.

1068 Education Scotland, Note to the Registrar of Independent Schools, 26 October 2015, at SGV-000064531, pp.1–4.

Date of report: 13 November 2015[1069]

Letter from ES as Registrar of Independent Schools to Gareth Baird, Chair of the Board of Governors.

Key findings/conclusions

- The theme which emerged from the inspections of May 2015 and most recent visit on 22 October is … the inadequacies in child protection policies and safeguarding procedures and the implementation of those policies. The culture within the school was not conducive to staff and pupils to raise any welfare issues or concerns in a supported way.
- In addition staff misconduct issues regarding welfare were not dealt with in accordance with disciplinary procedures. Further, the most recent visit identified that the school did not follow best practice in so far as no formal support was immediately offered to two young people who had made disclosures to staff about a child protection matter. Further, no immediate effort was made to contact the parents of the young people concerned.
- Scottish Ministers are satisfied that it is necessary in terms of section 98E(1)(a) of the Education (Scotland) Act 1980 to impose conditions on the school to prevent it becoming objectionable on the ground set out in section 99(1A)(aa) of the 1980 Act, namely that the welfare of a pupil attending the school is not adequately safeguarded and promoted there. The conditions imposed on the school are as follows:

  1. That the school must by 21 December 2015 take appropriate steps to ensure that

     a) staff and young people at the school are aware of their roles and responsibilities in respect of safeguarding matters

     b) young people at the school are informed about the support which the school will provide to them should they make a child protection disclosure.

  2. That the Board of Governors must by 29 February 2016 conduct a review of how the school's safeguarding policies and procedures and internal disciplinary procedures are implemented by staff and consider any barriers that prevent those procedures being followed appropriately at the school
  3. That the Board of Governors must by 29 February 2016 provide to the Registrar a report on the review carried out under condition 2 and this report must, as well as conveying the methodology of the review and findings, also outline the steps the school's leadership (including the headmaster and promoted staff) will take to (a) address any barriers considered as part of the review; (b) foster a culture within the school that is sensitive to care and welfare provision; and (c) bring the school's care and welfare provision into line with best practice.
  4. That the Board of Governors must, by 31 April 2016, provide to the Registrar a report on the actions taken and outcomes achieved as a result of the review under condition 2.

1069 Education Scotland, Letter to Chairman of the Board of Governors, 13 November 2015, at SGV-000064585.

Date of inspection: 30 November–4 December 2015[1070]

Simultaneous inspections by ES and CI of school and residential facilities to assess the extent to which the school has continued to improve the quality of its work, and to evaluate progress made in responding to the main points for action in the ES inspection letter of 23 June 2015 and of the recommendations outlined by CI in its report of 11 May 2015.

Key findings/conclusions

Strengths

- The collated information relating to each learner on One Note provides an accessible format for staff, with clarity on the documentation relating to each child's learning and pastoral needs.
- The increased focus on children's and young people's health and wellbeing is raising staff awareness of the importance of meeting the emotional and social needs of children and young people.
- The school leadership team and board of governors have considered how they can ensure greater challenge and accountability in relation to CP and safeguarding. As a result, the Board now has two nominated governors with a remit for CP and wellbeing, who report to the Education and Pastoral Committee.
- There is a growing culture within the school which acknowledges the importance of placing CP, safeguarding, and health and wellbeing as key priorities. The school's recruitment processes have been tightened considerably and are now much more focussed around CP and safeguarding.
- Young people continue to have positive relationships between the peers and staff in boarding houses. Wellbeing prefects and house prefects play an important and valued role in supporting others around the school.

Aspects for development

- Continue to emphasise the 'responsibility of all' approach to health and wellbeing and the principles of GIRFEC, in order that all staff across the school and boarding houses demonstrate in practice a clear understanding of their responsibilities to meet the learning, social, emotional, and behavioural needs of all learners.
- Some housemasters have targeted one-to-one discussions with individual young people on a regular basis, focussing on their health and wellbeing. This effective and proactive approach should be replicated across all boarding houses.
- Continue to strengthen the role and expectations of PSHE tutors to ensure consistency of practice so that all young people have access to high-quality learning experiences.

1070 Education Scotland, Record of Inspection Findings: Merchiston Castle School, November 2015, at SGV-000064927.

Date of inspection: 30 November–4 December 2015

- Recent incidents in relation to younger children boarding in Pringle House, and other areas of practice, suggest that not all staff have yet embraced a nurturing, open, and transparent approach to protecting children and young people. The school needs to now ensure consistency in the application of their CP and safeguarding policies. All staff need to work together to develop a culture where children feel safe to report unacceptable behaviour and have confidence that their concerns will be dealt with appropriately.
- The school needs to continue to ensure that bullying is addressed timeously and appropriately.
- Review the current leadership capacity and prefect practices within Pringle House to ensure that the youngest and most vulnerable children within the school feel safe, nurtured, respected, and treated with dignity and fairness.
- In order to improve the school's capacity for improvement, the board of governors should continue with their plans to establish a suitably skilled and effective wellbeing and CP leadership (pastoral) team to complement the strong academic leadership team and to review the remits and responsibilities of senior leadership teams across the school in order to sustain an appropriately brisk pace of improvement.

Agreed areas for improvement

- Building on existing good practice in some Houses, continue to develop a nurturing ethos and culture of openness, where all children and young people feel safe to report concerns to staff
- Improve approaches to individualised planning for learners who require additional support
- Further strengthen the leadership capacity within the school in order to continue to drive forward improvements in CP, safeguarding, and wellbeing.

Date of report: 4 December 2015[1071]

Announced joint full inspection

Key findings/conclusions

Strengths

- The service continues to provide comfortable, safe accommodation to boarding young people.
- Staff working in the residences are committed to ensuring a high quality of care and support to children and young people, including emotional and academic support.
- The service promotes the physical wellbeing of young people through a wide range of activities, well balanced diet and medical support.

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1071 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 4 December 2015, at SGV-000083781.

Date of report: 4 December 2015

Areas for improvement

- The service needs to ensure that care planning is effective for all children and young people requiring support. The review process needs to be strengthened to ensure that plans are detailed, up to date and progressing to meet individual needs.
- Improved quality assurance, carried out by suitably experienced staff, should be put in place to ensure that there is effective monitoring of staff practice in the boarding houses and that children and young people have further opportunities to comment on their experience of the care provided.
- Sanctions, which were inappropriate, were taking place in the residence and we were told by some boys that they were not able to speak to staff in the school about their concerns. We were concerned about the impact on the dignity and emotional wellbeing of young people who had received these sanctions.
- It was evident from concerns raised by young people during the inspection in relation to one of the boarding houses that senior staff did not have sufficient overview of the practices around the use of sanctions within the residence … We saw that some practice in this boarding house did not respect the dignity and emotional wellbeing of the boys.

Requirements

- The provider must review the criteria for the development of care plans to ensure that all young people with specific health needs have these needs met and reviewed on a regular basis. The provider must demonstrate and ensure that where a young person has identified care, health, or welfare needs which require a care plan
  - staff completing the care plan have appropriate knowledge and expertise to undertake the assessment of need or risk and improved understanding of the use of the GIRFEC framework
  - clear risk assessments are in place which identify the risk and action to be taken to address the risk. Sufficient detail regarding the need or risk must be recorded.
  - the care plan is communicated to staff involved in the day-to-day care and support of the young person, including teaching staff
  - the plan is reviewed at appropriate intervals, and appropriate staff, professionals, and agencies are involved in the review process
  - the review considers how effective the care plan has been and any other action that is needed to address the needs of the young person.
- The provider must carry out a review of the use of sanctions within Pringle House. The review must include:
  - an audit of the type of sanctions being used
  - the children receiving sanctions and the reason for imposing the sanction
  - members of staff or senior young people imposing the sanction.

Date of report: 4 December 2015

- As a result of the review the provider must ensure and demonstrate that appropriate and effective systems are put in place to protect the dignity and emotional wellbeing of children at all times.

Recommendation

The provider should ensure that a skills audit is carried out to ascertain training needs across the boarding house staff. This should inform action to enable there to be appropriate skills and knowledge within the whole school to meet and support needs of young people.

Requirements

The provider must review and improve procedures for the board and senior leadership overview of care being provided in the boarding houses to ensure that children and young people are receiving care which is nurturing and promotes dignity and wellbeing. The procedure must include:

- regular monitoring of the experience of young people
- regular monitoring and evaluation of the practice of staff
- review of sanctions used.

Conclusion

The service has made some improvements. However, the effective implementation of both care planning for some children and quality assurance processes needed to be addressed.

Date of report: 9 February 2016[1072]

HM Inspectors looked at particular areas that had been identified in the June 2015 inspection.

Key findings/conclusions

- Since the last inspection, the Board of Governors and school leadership team have taken steps to ensure there is greater challenge and clearer lines of accountability in relation to child protection and safeguarding approaches. The Board has nominated a second Governor to assist the existing Child Protection Governor; they have a specific remit for child protection and wellbeing and report to the Education and Pastoral Committee of Governors … and the full Board.
- In addition, the Board has well advanced plans to establish a separate Audit Committee, specifically to scrutinise and report on the effectiveness of child protection and wellbeing practices.
- The recent appointment of the skilled and dedicated Deputy Head for Pupil Support has had a clear and positive impact on the life of the school.

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1072 Education Scotland, Letter to parents/carers, 9 February 2016, at SGV-000064561.

Date of report: 9 February 2016

- The school must continue to embed these strengthened approaches to child protection, safeguarding and wellbeing … All staff need to work together to continue to develop a culture where all children and young people feel safe to report unacceptable behaviour and have confidence that their concerns will be dealt with appropriately.
- The school should now work towards centralising all of the information they maintain about individual children and young people in order to improve this new system further … Housemasters and form tutors have a critical role in ensuring the pastoral and academic needs of individual children and young people are met. A few housemasters have introduced a comprehensive programme of one-to-one discussions with all individual young people on a regular basis, focusing on their health and wellbeing. This effective and proactive approach should now be replicated across all boarding houses.
- Wellbeing prefects and house prefects play an important role in supporting their peers. Where this is working well, training and mentoring is provided for prefects, and regular reviews take place with house staff to ensure young people are fulfilling their responsibilities in these prefect roles. The school should ensure a more consistent approach is developed … within the boarding houses.
- Since the last inspection, senior leaders have implemented a more systematic approach to monitoring and evaluating aspects of the work of the school … the school has introduced a variety of ways to improve engagement with staff, learners and parents. The recently established student-led learning council is contributing very meaningfully to this discussion … Young people now participate in a range of staff committees and in Board of Governor meetings in order to contribute their views and opinions … There is now a strengthened approach to strategic leadership and direction at governance level in the school. Governors have clearer and higher expectations about the range and pace of improvements that are progressing in different areas of school life … the Board of Governors should continue with its plans to establish a suitably skilled and effective wellbeing and child protection leadership team and to review the remits and responsibilities of the school leadership team in order to sustain an appropriately brisk pace of improvement and streamline decision making.

Agreed improvements

- Building on existing good practice, continue to develop a nurturing ethos and culture of openness across the school and boarding houses, where all children and young people feel safe to report concerns to staff.
- Further strengthen the leadership capacity within the school in order to continue to drive forward improvements in child protection, safeguarding and wellbeing.

Date of report: 20 June 2016[1073]

Compliance visit to follow up on the condition placed on the school by the Registrar of Independent Schools, to be met by 31 May 2016.

Key findings/conclusions

The school presented to inspectors an extensive range of evidence which demonstrated the further improvements that have been made since the last inspection in November 2015. These improvements include in the areas of:

- culture and ethos – clarity around the roles and responsibilities of the whole school community in working together to keep boys safe
- governance – formulation of a new Child Protection and Compliance Committee … to scrutinise and monitor policy and practice in child protection, wellbeing, HR, health and safety
- leadership – the expansion of the overall leadership team to allow for the newly formed Pupil Support Leadership Team to be created, which is now equal in size, status and rigour as the existing Academic Leadership Team
- developing staff and pupils' understanding of GIRFEC and wellbeing
- child protection
- implementing a staged intervention approach to raising wellbeing and child protection concerns
- the continued development of positive behaviour management and restorative practices.

As a result of the improvements made, there is strong evidence that staff across the school and boarding houses are now confident in their knowledge of the policy and procedure; and that policies are clear and now becoming embedded in the school's day to day practices. Through a rigorous approach to staff and senior pupil training (including follow up training where necessary), staff teams across the school now feel confident to raise any child protection/ welfare concerns appropriately. Boys are confident they know who to raise any concerns with. They can articulate the importance of good health and wellbeing, and reflect on their own circumstances, using the language of GIRFEC and the wellbeing indicators. Boys of all ages are very well represented in a range of forums and committees set-up for them to have a voice.

Changes have also been made in the organisation and running of Pringle House.

Conclusion

The school has taken appropriate action to fully address the condition set by the Registrar of Independent Schools. The Leadership team and Board of Governors have demonstrated their clear commitments to improvement by going beyond the scope of the condition that was set. HM Inspectors found that the approaches and systems that are now in place for safeguarding and protecting children and young people are not only appropriate, but that many are examples of good practice.

1073 Education Scotland, Report on Compliance Visit to Merchiston Castle School, 20 June 2016, at SGV-000000615.

Date of report: 30 June 2016[1074]

Unannounced inspection

Key findings/conclusions

Strengths

- Pupils were generally happy and comfortable in the boarding houses. They said they felt safe at Merchiston and confirmed that they had trusted adults in whom they could confide. Individual pupils told us that they were able to express their views to staff in the boarding houses and that they had a range of contacts with staff across the whole school.
- Staff and pupils were consistently positive of the benefits of restorative practices instead of more punitive sanctions when dealing with issues or challenges in the behaviour of pupils. Staff in Pringle House had worked extremely hard at developing this new approach and the atmosphere in the house was now very relaxed, nurturing and fun.
- It was apparent that the wellbeing indicators from GIRFEC had become more integrated into daily practice.
- All requirements and recommendations identified in the previous inspection have been met.

Date of inspection/report: 29 September 2016[1075]

Unannounced inspection

Key findings/conclusions

Strengths

- Pupils described a safe environment where they were able to speak to trusted adults when they needed to. GIRFEC had increased pupils' awareness of their rights in relation to safety and wellbeing. Pupils were able to speak to adults about any concerns they had and felt that they had someone they could confide in if necessary.
- We observed significant improvement in care plans for individual pupils. They provided appropriate information at a variety of levels. They included parents and pupils and most were SMART (Specific, Measurable, Achievable, Realistic, Time-bound).
- The use of the wellbeing web was being implemented across the school for all pupils.
- The review and adjustment of the role of the prefect had been very significant. Prefects were now supporting younger pupils through mentoring, role modelling and emotional support. Prefects were felt to be much more supportive.

1074 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 30 June 2016, at SGV-000083780.

1075 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 29 September 2016, at MER-000000337.

Date of inspection/report: 29 September 2016

- The review of tutoring arrangements, linking tutors to year groups, was starting to have an effect.
- The training and support that all staff had received in relation to GIRFEC and the wellbeing indicators known as SHANARRI[1076] had improved understanding of the emotional and mental health needs of pupils and had resulted in a caring, consistent approach to their care. Training in Child Protection had clearly improved staff understanding of Child Protection issues and their responsibility to report any concerns to the School Leadership Team. A range of meetings between staff took place regularly across the school ensuring that any issues or concerns in relation to pupils in the boarding house could be picked up quickly and addressed.
- The Board had reflected on their role and responsibilities and had been proactive in determining the vision for the school. This has been strengthened by new appointments which have strengthened the breadth of expertise within the group. The Board has been proactive and involved in the journey the school needed to embark upon and had engaged with other agencies and professionals which had increased the understanding of current thinking about the welfare and protection of children … The overall leadership within the school had improved significantly, resulting in a cultural change that was beginning to be embedded. The School Leadership Team had strengthened … Roles and responsibilities were clearly defined and were clearly impacting on the vision and cultural change within the school. The new Governor Child Protection and Compliance Committee was a positive development.

Date of inspection/report: 15 November 2016[1077]

Follow-up inspection

Key findings/conclusions

- Staff have taken very effective steps to further embed a nurturing ethos and culture of openness across the school … all boys stated that they feel safe and that they are well cared for, both in school and in the boarding houses. Staff are successfully embedding positive approaches to dealing with discipline. A culture of restorative practice in the day-to-day life of the school and boarding houses is developing very well.
- Prefects have received comprehensive training in how to best support and mentor younger boys … Across the school, boys of all ages are confident they have adults and prefects they can talk to if they have a concern or worry.
- School has made important changes to tutoring arrangements … The school has taken very successful steps to improve pupil voice.

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1076 SHANARRI (Safe, Heathy, Achieving, Nurtured, Active, Respected, Responsible, Included) is part of the GIRFEC policy centred on children's wellbeing.

1077 Education Scotland, Continuing Engagement – Record of Visit, Merchiston Castle School, 15 November 2016, at SGV-000000726.

Date of inspection/report: 15 November 2016

- Systems of recording have been streamlined. There are clear procedures for key staff to share important information … The school is investing in a new electronic management system which will allow them to further develop their processes for effective planning to support pupils. Regular opportunities for all boys to talk about their own wellbeing with staff that know them well are now clearly built into school life.
- The Board of Governors has provided astute and forward-thinking strategic direction in helping the school to continue to improve. A well-qualified and experienced external committee has been established to provide independent scrutiny and challenge to the Board and school leaders on their approaches to child protection and compliance. This innovative development demonstrates the school's commitment to continuous improvements in this area of their work. In addition, a number of new leadership posts have been created in order to establish a strong Pupil Support Leadership Team, with responsibility for the wellbeing and support of boys.
- The strong leadership provided by the Headmaster and senior staff has led to more robust and rigorous monitoring of the effectiveness of the day to day running of the boarding houses. These procedures now match the existing highly effective approaches to monitoring the academic life of the school. Sound policies and procedures for child protection, safeguarding and wellbeing are in place and are clearly understood by all staff and pupils.
- The school has identified the need to continue to improve the perception of a few boys in relation to the school's more robust approaches to anti-bullying. They should continue, as planned, to explore this further and ensure the definition of bullying is well understood by the whole school community.

Date of report: 19 September 2019[1078]

Unannounced inspection

Key findings/conclusions

Strengths

- Pupils felt safe, happy and comfortable within the boarding houses and across the school campus … We heard and saw examples of positive support being provided by staff across the boarding houses and saw consistent evidence of warm, supportive relationships.
- The staff team provide a warm and nurturing environment and this should include the use of normal physical comfort and support in natural ways for all year groups, not just the younger pupils. There was a need for clarity of guidance for staff for physical contact with pupils including providing reassurance and comfort.
- The system in place to record outcomes of child protection incidents was not effectively used by all staff.

1078 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 19 September 2019, at MER-000000336.

Date of report: 19 September 2019

Areas for improvement

- The service provider should further develop its use of the system used to gather, store and share information. The system is accessible to all relevant staff and provides alerts when new information is added and it should now be used routinely to describe ways of helping individuals to feel safe, comfortable and happy.
- Support plans should be more consistently put in place for any pupil concerns. The purpose and content of these plans should be clear to best support the pupil with identified needs, including child protection concerns, and should be shared with the pupil, their parents and relevant staff.

Date of report: 1 December 2021[1079]

Announced inspection

Key findings/conclusions

Summary

Overall, the feedback was positive and indicated that concerns raised were listened to.

Support of children and young people's wellbeing

Overall, we found this to be positive and there was a very clear commitment and emphasis to ensure young people were at the centre in the provision of their support and wellbeing. We graded this aspect of the care service as very good.

Leadership

Overall, we found the leadership team to be committed, positive and having the capacity to continue with the goals identified within their continuous improvement programme. We found improvements undertaken were, continuously evaluated, well managed using research and best practice guidance … For the first time joint meetings of housemaster/year group heads were taking place to ensure information was passed on timeously in respect of young people's welfare. We graded this aspect of the care service as very good.

Staff team

Overall, we found this to be positive with a staff group that were closely committed and understood the aims and objectives of the school … We observed a genuine kindness of approach being undertaken by the care staff who had a commitment to treating the young people with compassion and respect.

We graded this aspect of the care service as very good.

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1079 Care Inspectorate, Inspection Report, Merchiston Castle School: School Care Accommodation Service, 1 December 2021, at CIS-000011050.

Date of report: 1 December 2021

Setting

Overall, this was seen as a positive and we gained the impression the young people were very much encouraged to become part of the local community … We graded this aspect of the care service as very good.

Care and support planning

Overall, this was positive with the school being proactive in gathering a significant amount of information for care plans and ensuring they were implemented … We heard of an assessment process which was conducted prior to attending the school which involved information sharing with previous schools, family and any other professionals who were relevant. This information was then collated on an online system with regular reviews, which involved in depth feedback from house parents, tutors, family and the young person. A chronology was developed from this information which was positive in identifying strategies which were working and monitoring improvements … We considered goals identified in the plans needed to be more SMART (Specific, Measurable, Achievable, Realistic, Time-bound).

Area for improvement

The service provider in continuing the progress made within the area of care plans for young people should ensure they are written in a child-friendly way, are meaningful and have specific measurable timescales incorporated to achieve desired outcomes.

Appendix D – Breakdown of numbers at Merchiston Castle School

School roll

The total school roll for the period 1930–2014 is 28,834.[1080]

Table 11: Pupil roll: number of admissions, 1930–2014

Date	Boarders	Day pupils	Total
1930	229	26	**255**
1931	239	21	**260**
1932	223	10	**233**
1933	209	7	**216**
1934	226	3	**229**
1935	209	1	**210**
1936	194	1	**195**
1937	183	0	**183**
1938	187	0	**187**
1939	180	1	**181**
1940	153	1	**154**
1941	152	7	**159**
1942	184	10	**194**
1943	227	13	**240**
1944	237	11	**248**
1945	237	8	**245**
1946	251	7	**258**
1947	256	8	**264**

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1080 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245 pp.28–30. Note that the figure provided by the school was 28,855, which is a miscalculation of the total breakdown of numbers.

Date	Boarders	Day pupils	Total
1948	262	6	**268**
1949	269	6	**275**
1950	279	5	**284**
1951	286	4	**290**
1952	291	5	**296**
1953	308	4	**312**
1954	308	5	**313**
1955	312	4	**316**
1956	316	4	**320**
1957	317	2	**319**
1958	318	5	**323**
1959	331	7	**338**
1960	337	12	**349**
1961	330	14	**344**
1962	333	13	**346**
1963	330	16	**346**
1964	322	15	**337**
1965	331	14	**345**
1966	331	11	**342**
1967	341	14	**355**
1968	355	13	**368**
1969	349	16	**365**
1970	369	18	**387**
1971	365	20	**385**
1972	367	23	**390**
1973	367	20	**387**
1974	361	23	**384**
1975	355	30	**385**

Date	Boarders	Day pupils	Total
1976	349	40	**389**
1977	356	46	**402**
1978	356	53	**409**
1979	346	50	**396**
1980	313	61	**374**
1981	258	51	**309**
1982	266	53	**319**
1983	286	59	**345**
1984	282	63	**345**
1985	294	56	**350**
1986	292	58	**350**
1987	288	62	**350**
1988	315	61	**376**
1989	304	71	**375**
1990	303	72	**375**
1991	291	87	**378**
1992	277	84	**361**
1993	280	87	**367**
1994	281	118	**399**
1995	269	122	**391**
1996	270	113	**383**
1997	252	116	**368**
1998	252	107	**359**
1999	263	113	**376**
2000	271	144	**415**
2001	276	137	**413**
2002	274	137	**411**

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Date	Boarders	Day pupils	Total
2003	273	135	**408**
2004	287	137	**424**
2005	289	137	**426**
2006	284	145	**429**
2007	281	156	**437**
2008	289	164	**453**
2009	283	163	**446**
2010	317	166	**483**
2011	297	171	**468**
2012	292	169	**461**
2013	301	160	**461**
2014	300	173	**473**

Staffing

The total staff numbers from 1930 to 1984 include estimates of the other staff employed (administrative, grounds, maintenance, domestic, and catering). Detailed records of individual roles, other than teaching and medical roles, are not held until 2008.[1081]

Table 12: Staff numbers and teacher-to-boarder ratios, 1930–2015

Date	Teachers	Medical	Other staff[1082]	House mothers	Total staff	Teacher: boarder ratio[1083]
1930	23	2	20	0	**45**	**1:9**
1931	24	2	20	0	**46**	**1:9**
1932	22	2	20	0	**44**	**1:9**
1933	20	2	20	0	**42**	**1:10**
1934	20	2	20	0	**42**	**1:10**
1935	25	2	20	0	**47**	**1:8**
1936	19	2	20	0	**41**	**1:9**
1937	18	2	20	0	**40**	**1:9**
1938	19	3	20	0	**42**	**1:9**
1939	18	2	20	0	**40**	**1:9**
1940	18	2	20	0	**40**	**1:8**
1941	21	3	20	0	**44**	**1:6**
1942	19	3	20	0	**42**	**1:8**
1943	22	3	20	0	**45**	**1:9**
1944	21	3	20	0	**44**	**1:10**
1945	25	3	20	0	**48**	**1:8**
1946	22	3	20	0	**45**	**1:10**
1947	23	3	20	0	**46**	**1:10**
1948	21	4	20	0	**45**	**1:10**

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1081 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, pp.51–3.
1082 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245, pp.56–7.
1083 Merchiston Castle School, Parts A and B responses to section 21 notice, at MER.001.001.0245 pp.58–60.

Date	Teachers	Medical	Other staff[1082]	House mothers	Total staff	Teacher: boarder ratio[1083]
1949	21	3	20	0	**44**	**1:11**
1950	23	3	20	0	**46**	**1:11**
1951	20	3	20	0	**43**	**1:12**
1952	21	3	20	0	**44**	**1:12**
1953	21	3	20	0	**44**	**1:13**
1954	24	3	20	0	**47**	**1:11**
1955	23	3	20	0	**46**	**1:12**
1956	21	3	20	0	**44**	**1:13**
1957	21	3	20	0	**44**	**1:13**
1958	22	3	20	0	**45**	**1:13**
1959	25	3	20	0	**48**	**1:12**
1960	23	3	25	0	**51**	**1:13**
1961	23	3	25	0	**51**	**1:13**
1962	24	3	25	0	**52**	**1:12**
1963	25	3	25	0	**53**	**1:12**
1964	24	3	25	0	**52**	**1:12**
1965	27	3	25	0	**55**	**1:11**
1966	27	3	25	0	**55**	**1:11**
1967	26	3	25	0	**54**	**1:12**
1968	28	3	25	0	**56**	**1:11**
1969	30	3	25	0	**58**	**1:11**
1970	32	4	35	0	**71**	**1:10**
1971	31	3	35	0	**69**	**1:11**
1972	31	3	35	0	**69**	**1:11**
1973	32	3	35	0	**70**	**1:10**
1974	36	3	35	0	**74**	**1:9**

Date	Teachers	Medical	Other staff[1082]	House mothers	Total staff	Teacher: boarder ratio[1083]
1975	35	3	35	0	**73**	**1:9**
1976	40	3	35	0	**78**	**1:8**
1977	38	3	35	0	**76**	**1:9**
1978	37	3	35	0	**75**	**1:9**
1979	42	3	35	0	**80**	**1:8**
1980	41	4	40	0	**85**	**1:7**
1981	40	3	40	0	**83**	**1:6**
1982	43	4	40	0	**87**	**1:6**
1983	43	3	40	0	**86**	**1:6**
1984	46	3	60	0	**109**	**1:6**
1985	47	3	60	0	**110**	**1:6**
1986	48	3	60	0	**111**	**1:6**
1987	53	4	60	0	**117**	**1:5**
1988	51	3	60	0	**114**	**1:6**
1989	55	7	60	0	**122**	**1:5**
1990	53	4	70	0	**127**	**1:5**
1991	54	4	70	0	**128**	**1:5**
1992	53	4	70	0	**127**	**1:5**
1993	49	5	70	0	**124**	**1:5**
1994	50	5	70	0	**125**	**1:5**
1995	50	5	70	0	**125**	**1:5**
1996	51	5	70	0	**126**	**1:5**
1997	55	5	70	0	**130**	**1:4**
1998	56	5	70	0	**131**	**1:4**
1999	53	5	70	0	**128**	**1:5**
2000	53	5	80	0	**138**	**1:5**

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Date	Teachers	Medical	Other staff[1082]	House mothers	Total staff	Teacher: boarder ratio[1083]
2001	53	5	80	0	**138**	**1:5**
2002	57	5	80	0	**142**	**1:4**
2003	56	5	80	0	**141**	**1:4**
2004	54	4	80	0	**138**	**1:5**
2005	58	4	80	0	**142**	**1:5**
2006	63	6	80	0	**149**	**1:4**
2007	66	4	80	0	**150**	**1:4**
2008	76	4	63	2	**145**	**1:2**
2009	70	4	70	2	**146***	**1:2**
2010	72	4	68	2	**146***	**1:2**
2011	71	4	68	2	**145**	**1:2**
2012	70	4	76	2	**152**	**1:2**
2013	71	4	70	2	**147**	**1:2**
2014	77	4	69	2	**152***	**1:2**
2015	76	4	64	2	**146***	**1:2**

*The totals originally provided had been miscalculated by the school. The figures given here have been corrected.

Appendix E – Number of complaints, civil actions, police investigations, criminal proceedings, and applicants to SCAI

Table 13: Breakdown of numbers

Number of complaints made to Merchiston Castle School relating to abuse or alleged abuse as of 6 April 2020 a) against staff b) against Outward Bound contractor c) against pupils	 a) 47 b) 4 c) 47
Number of civil actions raised against Merchiston Castle School relating to abuse or alleged abuse at the school as of 14 July 2017	1
Number of police investigations relating to abuse or alleged abuse at Merchiston Castle School of which the school was aware as of 6 April 2020 a) against staff b) against Outward Bound contractor c) against pupils	 a) 36 b) 4 c) 5
Number of criminal proceedings resulting in conviction relating to abuse at Merchiston Castle School of which the school was aware as of 14 July 2017	0
Number of SCAI applicants relating to Merchiston Castle School	20

Appendix F – Notice of draft findings

Individuals received notice of relevant findings in draft form and were afforded a reasonable time to respond, if they wished to do so.

Photo credits

p.4 National Galleries of Scotland; p.28 John Dick Leather Goods. All other photos Merchiston Castle School.